Dictionary of Trade Policy Terms

Fourth Edition

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The multilateral trading system represented by the GATT and the WTO is attracting more attention than ever. But the language used by trade negotiators can be difficult for the layperson and newcomers to trade policy to penetrate. This is an accessible guide to the vocabulary used in trade negotiations. Its nearly 2000 entries cover in simple language not only traditional GATT and WTO concepts, but also many of the trade-related activities, outcomes and terms used in other international organizations, such as UNCTAD, OECD, the Food and Agricultural Organization among others. It also explains the rules governing the formation of free-trade areas. Newer trades issues and developing-country concerns receive generous space. Its entries span the period from about 1947 when the GATT was formed to the present. Its emphasis is on current and recent developments.

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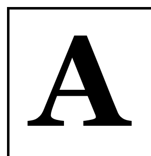


Absolute advantage: an idea described by Adam Smith in his *Inquiry into the Nature and Causes of the Wealth of Nations*, and developed further by others, that countries engage in international trade to obtain goods more cheaply from abroad than they could make them themselves at home. Smith argued that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

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

Accelerated tariff liberalisation: ATL. The ***APEC*** initiative for ***early voluntary sectoral liberalisation*** in another guise. APEC ministers decided in Kuala Lumpur in November 1998 to transfer the tariff elements of the first nine sectors of this initiative to the WTO. The nine sectors are forest products, fish and fish products, toys, gems and jewellery, chemicals, medical equipment and instruments, environmental goods and services, energy, and a telecommunications mutual recognition agreement. In the **Auckland Challenge** APEC members agreed to pursue the intiative until the end of 2000. That was the end of it.

Acceptable level of risk: defined in the ***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". 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 Organisation), or another international organisation or agreement. Accession

to the WTO requires negotiations between the existing members and the applicant to ensure that its trade regime will be in harmony with WTO rules and that that the applicant is able to observe these rules. On accession, the schedules of tariffs and services commitments it offers should also be similar to those of existing members which reflect their longer membership and participation in successive rounds of ***multilateral trade negotiations***. In other words, a country has to be prepared to offer roughly the same as it will enjoy from membership. Accession to the ***OECD*** requires new members to show that their economic regime is broadly in tune with those of existing members. Membership of ***UNCTAD*** or other United Nations bodies does not entail this sort of obligation. See also ***enlargement***, ***schedules of commitments on services*** and ***schedules of concessions***.

Access to medicines: an aspect of 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 expectations of developing countries for affordable medicines. Developing countries claim that ***compulsory licences*** and ***parallel imports*** are essential for their governments to carry out effective health policies. In their view, the TRIPS agreement is skewed in favour of developed countries and the pharmaceutical companies residing there. 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 ***Declaration on the TRIPS Agreement and Public Health*** adopted at the ***Doha Ministerial Conference*** is aimed at reducing this tension and at the same time maintaining the benefits of adequate protection of intellectual property rights.

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

ACP-EC Partnership Agreement: a framework for trade relations between the ***ACP states*** and the ***European Community*** which entered into force on 1 March 2000 as the successor to ***Lomé Convention***. The arrangements will be renegotiated after eight years to make it fully compatible with ***WTO*** obligations. During this time (called the preparatory period) the European Community will give non-reciprocal preferential access free of duty and charges to products from ACP states. Special provisions apply to some agricultural products. Support for national budgets in countries highly dependent on agriculture and/or mineral exports is available to ACP states if losses from export earnings jeopardise overall macroeconomic stability. The parties have also undertaken to use the preparatory period to remove progressively barriers to trade between them and to pursue cooperation in all areas relevant to trade.

ACP states: 71 African, Caribbean and Pacific states associated with the

European Community through the ***ACP-EC Partnership Agreement*** which gives them preferential access to the European Community markets.

Acquis communitaire*:** all legislation adopted under the treaties establishing the ***European Communities, including ***regulations***, ***directives***, ***decisions***, ***recommendations*** and ***opinions***. Title I of the ***Treaty of Maastricht*** sets maintaining and building the *acquis communitaire* as one of the objectives of the ***European Union***. When a country accedes to the European Union, its national legislation needs to be harmonised with the *acquis communitaire*. This can mean revising hundreds of parliamentary acts. See also ***enlargement*** and ***European Community legislation***.

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

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

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

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

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

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

***Ad* notes:** the notes and explantory 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.

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

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

Advance 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***.

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

African Growth and Opportunity Act: part of the United States *Trade and Development Act of 2000* which is valid until 30 September 2008. The Act is based on a congressional finding that it is in the mutual interest of the United States and the countries of ***sub-Saharan*** Africa to promote stable and sustainable economic growth and development in sub-Saharan Africa. It gives sub-Saharan countries duty-free access to the United States for most products. It also promotes the negotiation of free-trade agreements between the United States and sub-Saharan countries. Countries must meet certain eligibility requirements to benefit from this Act. Among these are that the country (a) has established, or is making progress towards a market-based economy, (b) enjoys the rule of law and political pluralism, (c) is eliminating barriers to United States trade and investment, (d) has economic policies to reduce poverty, (e) has a system to combat corruption and bribery and (f)

protects internationally recognised ***workers rights***. Activities undermining United States national security or foreign policy interests and engaging in gross human rights violations or international terrorism make a country ineligible for the benefits of this Act.

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

AFTA: *ASEAN Free Trade Agreement*. A preferential agreement covering trade in goods among the ***ASEAN*** countries. AFTA entered into force on 1 January 1993 and was realised for the six original signatories (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) on 1 January 2002. Vietnam participates in AFTA on a limited basis for the time being, but it will take on the full obligations by 2006. Burma and Laos, which joined ASEAN in July 1997, will fulfil their tariff reduction commitments by 2008. The six original signatories extend tariff preferences to the other four ASEAN members (Cambodia, Laos, Mynamar and Vietnam) through the ***ASEAN Integration System of Preferences***. Free trade under AFTA is assumed to be a tariff of up to 5%. The main mechanism for the tariff reductions under AFTA is ***CEPT*** (Common External Preferential Tariff). Goods traded preferentially are covered by the ***Inclusion List***. For goods on the ***Temporary Exclusion List*** the preferential tariff will be phased in by 2003 at the latest. Tariff reductions are expected to take rather longer for goods on the relatively small ***Sensitive List*** of unprocessed agricultural products adopted in December 1995. Implementation of the new agricultural tariff reduction schedules began on 1 January 1996. AFTA also has a work program for the elimination of ***non-tariff measures***. See also ***ASEAN framework agreement on services*** and ***ASEAN Investment Area***.

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

Agenda 21: a program of principles and actions relevant to ***trade and environment*** adopted on 14 June 1992 by ***UNCED*** (United Nations Conference on Environment and Development) in Rio de Janeiro. Program area A seeks to promote ***sustainable development*** through trade. Its objectives are (a) to promote an open, non-discriminatory and equitable trading system that will enable all countries to improve their economic structures and improve the standards of living of their populations through sustained economic development, (b) to improve access to markets for exports of developing countries, (c) to improve the functioning of commodity markets and achieve sound, compatible and consistent commodity policies at national and international levels with a view to optimising 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. This is to be done through a range of activities described in general terms and inspired to some extent by

traditional ***UNCTAD*** work on commodities. Program area B aims (a) at making trade and environment mutually supportive in favour of sustainable development, (b) to clarify the role of **GATT**, **UNCTAD** and other international organisations 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. These objectives are also supported by practical activities. Agenda 21 is mentioned in the terms of reference for the WTO ***Committee on Trade and Environment*** as a text relevant for its deliberations. See also ***commodity policy***, ***Rio Declaration on Environment and Development*** and ***World Summit on Sustainable Development***.

Agenda 2000: the ***European Community*** financial reform plan for 2000-06 aimed at strengthening European Union with a view to receiving new members. The strategy identifies three main challenges: (a) how to strengthen and reform the 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. The strategy foresees major changes to the ***Common Agricultural Policy*** since the envisaged eastward enlargement could lead to an increase of 50% in European Community agricultural land and a doubling of the farm labour force. See also ***Europe Agreements*** and ***Treaty of Nice.***

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

Aggressive multilateralism: 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 or 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***.

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

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 provides the first effective multilateral framework for the long-term reform and liberalisation of agricultural trade. The Agreement establishes new rules and commitments in ***market access***, ***domestic support*** and export competition (i.e. the handling of ***subsidies***). It encourages the adoption of domestic support policies that are less trade-distorting, and it allows actions aimed at easing domestic adjustment burdens. Some of the measures required by the Agreement are (a) a reduction by developed countries in export subsidy expenditures by 36% over six years in equal instalments, and a 24%-reduction over ten years for developing countries; (b) a cut by developed countries in the volume of subsidised exports by 21% over six years, 14% for developing countries over ten years; domestic subsidies, as calculated through the ***aggregate measure of support***, have to be cut by 20% over six years, calculated from 1986-88 as the ***base period***; and (d) all ***existing non-tariff measures*** have to be converted into tariffs and bound, followed by a reduction by an unweighted average of 36% over six years in equal tranches, again with 1986-88 as the base period. For developing countries the cut is 24% over ten years. The Agreement entails ***minimum access commitments*** where markets were closed before, and ***special safeguards*** under strictly defined conditions to deal with import surges after ***tariffication***. Members have some limited flexibility in the implementation of commitments as long as they meet the agreed end-points. Negotiations aimed at further liberalisation of agricultural trade resumed in 2000. See also ***agriculture and the GATT***, ***amber box***, ***blue box***, ***green box***, ***continuation clause*** and ***peace clause***.

Agreement on Basic Telecommunications Services: a WTO agreement first envisaged in the ***Uruguay Round*** outcome on ***trade in services*** and concluded on 15 February 1997. It contains ***market access*** commitments made by 69 member countries 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 ***Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade***. 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 also ***customs valuation***.

Agreement on Government Procurement: one of the ***WTO plurilateral agreements***. It contains rules for the purchase by governments of goods and services for their own use. Such purchases are not covered either by the rules of the ***GATS*** or the ***GATT***. The Agreement covers government purchasing contracts for goods, services and construction at the level of central government, state or provincial governments and utilities above a certain size. The Agreement aims to ensure that, subject to legitimate border measures (e.g. health and safety standards, ***intellectual property protection***, etc.), foreign suppliers receive no less favourable treatment than domestic suppliers for relevant government purchasing contracts, i.e. they give each other ***national treatment***. It also stipulates that the parties accord each other ***most-favoured-nation treatment*** regarding government procurement covered by the Agreement, but there is an element of direct reciprocity in the extent to which members allow firms from other members to compete in their government procurement. This applies particularly to purchases at the sub-federal or sub-central levels. The Agreement also seeks transparent government purchasing procedures and practices. See also ***second-level obligations*** and ***Working Party 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 ***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.

Agreement on Import Licensing Procedures: the agreement setting out the procedures to be followed by WTO members in their administration of ***import licensing*** regimes. One of its aims is to ensure that such regimes are administered fairly and equitably and under transparent conditions.

Agreement on Preshipment Inspection: a WTO agreement setting out the conditions and procedures under which members may carry out ***pre-shipment inspections*** to ensure that the cost of goods shipped corresponds to the invoiced cost. Such inspections are used mainly by developing countries to prevent capital flight, commercial fraud, evasion of ***customs duties*** and other similar practices. The Agreement requires user members to apply

GATT principles and obligations to the conduct of inspections. These include ***non-discrimination***, ***transparency***, protection of confidential business information, avoidance of unreasonable delay, the use of specific guidelines for conducting price verification and the avoidance of conflicts of interest by preshipment inspection agencies. Exporting members must apply their laws and regulations concerning preshipment activities in a non-discriminatory way. They must publish promptly all applicable laws and regulations and, if requested, they must afford user members technical assistance. In the case of disputes, the parties have access to independent review procedures mandated by the Agreement. These procedures are to be administered by an independent body made up of an organisation representing preshipment inspection agencies and an organisation 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 program of work by the Committee on Rules of Origin for the long-term harmonisation 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, i.e. it does not apply to products imported under ***tariff preferences*** available through ***free-trade agreements*** or ***customs unions***. The country of origin of the goods is either the country where the good has been wholly obtained or, if more than one country is involved, the country where the last ***substantial transformation*** was carried out. The Agreement stipulates that rules of origin should be administered in a consistent, uniform, impartial and reasonable manner. They should not themselves create restrictive, distorting or disruptive effects on international trade. Rules of origin must state what does confer origin rather than what does not. The Agreement contains an annex in the form of a declaration dealing with the administration of rules of origin admitted under preferential conditions. See also ***change in tariff heading*** and ***preferential rules of origin***.

Agreement on Safeguards: a WTO agreement setting out when and how members may resort to action under ***GATT*** Article XIX, also called ***escape-clause*** action. 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

safeguards 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 no longer possible. 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 liberalising 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*** and ***Transitional Product-Specific Safeguard Mechanism***.

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 ***equivalence***, ***International Office of Epizootics*** and ***International Plant Protection Convention***.

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 wich may only be maintained if they do not injure the domestic industry of another member, cause ***nullification or impairment*** of benefits, or 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 standardisation. 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 standardising bodies have to comply with it. Local government and non-government bodies may choose to do so. See also ***conformity assessment***, ***International Electrotechnical Commission*** and ***International Organisation for Standardisation***.

Agreement on Textiles and Clothing: a ***WTO*** agreement succeeding the ***Multi-Fibre Arrangement*** (MFA). It differs from the MFA in that it aims to bring international trade in textiles and clothing again under the normal liberalising and non-discriminatory WTO trade rules by 1 January 2005. On 1 January 1995 members had to integrate 16% of their 1990 trade in textiles. Another 17% had to be integrated by 1 January 1998, a further 18% by 1 January 2002 and the remainder by 1 January 2005. This means that there is considerable scope for ***backloading***, but some fairly precise conditions for implementation apply. For example, at each stage products have to be chosen from the following four groups: tops and yarns, fabrics, made-up textile products, and clothing. Progress is supervised by the ***Textiles Monitoring Body***, established under the Agreement, which has some ***dispute settlement*** functions in respect of the Agreement. The WTO dispute settlement mechanism is also available to members.

Agreement on Trade in Civil Aircraft: one of the ***WTO plurilateral agreements***, concluded as part of the ***Tokyo Round***. Signatories to 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.

Agreement on Trade-Related Aspects of Intellectual Property Rights: 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. It 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. See also ***industrial property*** and ***intellectual property***.

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

Agriculture and the GATT: 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 in order 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 this trade in agriculture did not cause any real difficulties. Western Europe was still recovering from the effects of the 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 its 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. It seemed to be unable to rein in its domestic over-production, and its import market was attractive to foreign suppliers. The 1951 Trade Act specifically held that new trade agreements could not be made in contravention of existing United States agricultural programs. The ***import restrictions*** permitted under GATT Article XI:2 appeared insufficient to deal with this problem. In 1951 the United States had been granted a ***waiver*** from the GATT rules to impose import restrictions on dairy products. This was superseded by a request in 1954, and granted in 1955, for a waiver without a time-limit until it would be able to bring the provisions of the *Agricultural Adjustment Act* into line with GATT obligations. This was the ***Section 22 waiver***. The United States was now permitted to impose import restrictions on agricultural products as it deemed necessary. This action set the tone for the future treatment of agriculture under GATT rules. The chances of dealing with it under normal disciplines had been dealt a serious blow. 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 be 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 industrialised 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 liberalisation***. Though the Report was universally welcomed, its influence turned out to be quite small. A committee was indeed established to consider the Report's recommendations in detail, and this led some to believe that a solution was nearer. Analysis and discussion there were, but the most that can be said about the longer-term effect of the

Haberler Report is that it can be regarded as the first step towards the launch of the ***Dillon Round*** in 1960. In any case, by that time Western Europe's complete recovery from the effects of the war and the establishment of the ***European Economic Community*** had led to a new situation in global agricultural trade. The introduction of the ***Common Agricultural Policy*** with its ***variable levies*** and domestic support measures produced a worthy competitor for global trade distortions until now seen mainly as the result of United States actions. Next, the ***Kennedy Round***, launched in 1963, appeared to offer another opportunity to sort out agriculture. One of its objectives was the adoption of measures for access to markets for agricultural and primary products. It began badly with the outbreak of the ***Chicken War***, a dispute between the United States and the European Economic Community over the sudden closure of German and other European markets for poultry through the operation of variable levies. The outcome on agriculture of the Kennedy Round was poor. Its main achievement was creating the impetus for the eventual conclusion of a new *International Grains Arrangement*. The mandate for the ***Tokyo Round*** (1973-1979) included negotiations on agriculture, taking into account the special characteristics and problems in this sector. These negotiations again ended in failure. The conclusion of the *Agreement Regarding Bovine Meat* and the *International Dairy Arrangement* introduced a fragile peace into these trades, but they did not deal with the underlying problems of domestic over-production, ***export subsidies***, import restrictions and other measures characterising agricultural trade. The Tokyo Round ended with agreement that there should be continuing negotiations on the development of a ***Multilateral Agricultural Framework*** aimed at avoiding endemic political and commercial confrontations in this area. Negotiations were rejoined, but not to any effect. As noted by Hudec, Kennedy and Sgarbossa, there had been 100 disputes in the GATT concerning agriculture between 1947 and the early 1980s, accounting for nearly 43% of all reported disputes. The United States and the European Economic Community had been involved either as a complainant or a respondent in 87 of them. A new start to finding a solution to the problems of agricultural trade was clearly necessary. The 1982 GATT ministerial meeting agreed on a work program for the examination of all matters affecting trade, market access, competition and supply in agriculture. A working party made recommendations in 1984 concerning better market access, greater export competition, clearer rules on quantitative restrictions and subsidies, and more effective special treatment for developing countries. The report containing these recommendations was adopted in the same year. They 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 liberalisation 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 inability to participate meaningfully in the agricultural negotiations was the direct cause of the collapse of the Brussels ministerial meeting in December 1990. Matters were not helped by adherence by the United States for far too long to its objective of zero subsidies, something it was not expected to 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 WTO 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.*** See also ***Baumgartner proposals***, ***Mansholt proposals*** and ***Ploughshares War***.

AITIC: Agency for international trade information and cooperation. An independent organisation based in Geneva which aims to assist ***less-advantaged countries*** to play a more active role in the work of the WTO and other trade-related organisations.

ALADI: 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.

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***, ***Caribbean Basin Initiative***, ***Enterprise for the Americas Initiative*** and ***FTAA***.

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

Alternative dispute resolution: a method of settling disputes through ***arbitration***, ***consultation***, ***dispute mediation***, etc., outside the formal framework of court proceedings. The parties to the dispute usually appoint a disinterested person who attempts to bring down an outcome based on fairness and equity. Alternative dispute resolution only works if the parties are genuinely committed to finding a solution and to accept a negotiated outcome since such awards are in most cases not enforceable through courts. 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: supports for agriculture considered to distort trade and therefore subject to reduction commitments. As a result of the ***Uruguay Round*** negotiations WTO members had to quantify the value of these supports and inscribe it in their ***schedules of commitment***. Members may not exceed this level. See also ***blue box*** and ***green box***.

Amendments to WTO agreements: the following WTO provisions may only be amended by agreement of all members: Article IX (Decision-Making) of the ***Marrakesh Agreement Establishing the World Trade Organization***, 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 ***GATS***, and Article 4 (Most-Favoured-Nation Treatment) of the ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. Amendments to other provisions of the WTO multilateral agreements may be made by a two-thirds majority. Each member then has to conclude separate formalities to accept the amendment. The Marrakesh Agreement enables the ***WTO ministerial conference*** to decide by a three-fourths majority that any member not accepting an amendment within a certain time may be free to withdraw from the WTO or to remain a member anyway. All WTO members have one vote. The ***European Communities*** are entitled to a number of votes equalling the number of their member states. Amendments to the ***WTO plurilateral agreements*** are made under the provisions contained in these agreements. See also ***decision-making in the WTO***.

American Selling Price: ASP. Until 1979 a method under the United States Fordney-McCumber Tariff Act of 1922, and carried over into the Tariff Act of 1930, for valuing some goods at the border for the purpose of levying customs duties. Duty assessments were based on the usual wholesale price, including preparation for shipping, at which an article manufactured in the United States was offered on the domestic market. The effect of this system could be a duty rate two to three times higher than if the method of valuation set out in GATT Article VII (Customs Valuation) had been chosen. Adherence to the old system was possible because of the ***grandfather clause*** which permitted laws pre-dating the GATT even if they violated its provisions. It appears, however, that less than 1% of United States imports was at any time affected by this system, mainly some chemicals. 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:** short for *amicus curiae* (friend of the court). An opinion offered to the judges by a disinterested party in the hope that this may assist the judges in arriving at the best possible outcomes. Courts don't always like being helped in this way.

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

Analogue country: 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***.

Analytical Index: a two-volume guide to the interpretation and application of the ***GATT*** *(General Agreement on Tariffs and Trade)* prepared by the Legal Division of the WTO. The *Analytical Index* contains at a highly detailed level the interpretations of the GATT articles made by its membership, dispute settlement panels, etc. It is an essential tool for those engaged in analysing the legal aspects of ***trade policy***. See also ***GATT Basic Instruments and Selected Documents***.

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

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

Andean Trade Preference Act: 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***.

Andean Trade Promotion and Drug Eradication Act: Gives trade preferences for these countries were renewed in August 2002 until 31 December 2006 through the *Andean Trade Promotion and Drug Eradication Act*. The preamble to this act assumes that the ***Free-Trade Area of the Americas*** will have been concluded by the end of 2005. See also ***Andean Trade Preference Act***.

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 then EEC Commissioner for Agriculture.

Animal welfare: a subject proposed mainly by European non-government organisations for inclusion as a ***non-trade concern*** in the WTO negotiations on agriculture. The aim of the proposal is to achieve recognition that compensation payments relating to animal welfare are not trade-distorting, and that it should be possible to include them 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, European Union, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and the United States.

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

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-competitive practices: often called ***restrictive business practices*** or unfair business practices. These are used by firms to limit their exposure to price mechanisms. This is possible when firms, or groups of firms, have ***market dominance*** or ***market power***. In some cases, it may involve collusion among firms. See also ***antitrust***, ***cartel***, ***competition law***, ***conduct*** and ***trade and competition policy***.

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

Anti-dumping measures: Article VI of the GATT 1994 permits the imposition of anti-dumping duties against dumped goods, if dumping causes injury to producers of competing products in the importing country. This is known as ***causality***. The WTO ***Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*** (the Anti-dumping Agreement) 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 utilisation of capacity; factors affecting domestic prices; the magnitude of the ***margin of dumping***; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments. Much has been written about the meaning of "like products", and whether it should be interpreted as the same product, a similar product or a different product put to the same use or achieving the same purpose. The Anti-dumping Agreement now leaves no doubt on this point. The like product must be identical, i.e. alike in all respects. If there no such product, another may be chosen 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 therefore be quite limited. It is not by any means automatic. Under the WTO rules, a good case for them has to be made, and there is provision for appeals by the affected parties. The Anti-dumping Agreement stresses that an application for the imposition of anti-dumping measures must include evidence of dumping, injury and a causal link between the two. A simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements. An application has to be made by domestic industry. No action may be taken if it is supported by firms representing less than 25% of total production of the like product. Under the rule on ***de minimis dumping margins***, no action may be taken if the margin of dumping is less than 2%. Anti-dumping action remains controversial. Affected firms and their home countries sometimes see them mainly as a means to restrain unwelcome imports. Doubtless, there is some truth in this. Some actions are frivolous and nothing more than ***trade harassment***. As a form of ***contingent protection***, they enable governments to influence the flow of imports. Anti-dumping enquiries can serve, however, an important ***transparency*** purpose by demonstrating to the exporting country suspected of dumping what its real cost structure is, and to suggest alternative approaches to production and trade regimes which might reduce or eliminate the need for anti-dumping measures. It is worth noting, too, as Gabrielle Marceau points out *Anti-Dumping and Anti-Trust Issues in Free-Trade Areas*, that dumping and anti-dumping laws are not just about price discrimination and predation. They are “buffers” between national systems of competition. Hoekman, in *Trade Laws and Institutions: Good Practices and the World Trade Organization*, commenting on the detailed procedural requirements set out in the Anti-dumping Agreement, notes that this has become a lucrative area of specialisation for the legal profession in territories that actively use anti-dumping measures. 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 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. 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, but this supposes that all WTO members would be willing to pursue effective competition policies. Until this happens, the anti-dumping rules offer a transparent, if legalistic and sometimes flawed, mechanism to deal with some of the concerns raised

by the trading community. The anti-dumping rules are to be clarified as part of the multilateral trade negotiations launched at Doha in November 2001. See also ***Agreement on Safeguards***, ***analogue country***, ***boomerang clause***, ***competition policy and anti-dumping measures***, ***de minimis dumping margins***, ***lesser duty principle*** and ***predatory pricing***.

Anti-globalism: a complex protest action 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***. Views abound on how this should be done, and there is no unanimity among its proponents on the best way to achieve this aim. However, adherents of such views seem to be convinced that, but for the efforts of the ***WTO***, the ***IMF***, the ***G-7*** or the ***G-8***, etc., their aims would be realised speedily. Many anti-globalists also oppose the validity of the principles included by the ***Washington consensus.*** See also ***globalisation***.

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 organised 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 the United States because the courts can impose ***treble damages*** on the offenders. See also ***cartel***, ***Clayton Act***, ***essential services doctrine***, ***extraterritoriality*** and ***Webb-Pomerene Act***.

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

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. ***Countervailing duties*** may still be imposed. The parties accord each other ***national treatment*** in ***government procurement***. Services were brought under the ambit of the free-trade agreement in 1988 through the ***ANZCERTA Protocol on Trade in Services***.

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

APEC: Asia Pacific Economic Cooperation forum. Established in 1989. The basic 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. The membership criteria adopted in 1997 are: (a) an applicant economy should be located in the Asia-Pacific region, (b) it should have substantial and broad-based economic linkages with the existing APEC members; in particular, the value of the applicant's trade with APEC members, as a percentage of its international trade, should be relatively high, (c) it should be pursuing externally oriented, market-driven economic policies, and (d) a successful applicant will be required to produce an ***Individual Action Plan*** (IAP) for implementation and to commence participation in the ***Collective Action Plans*** across the APEC work program from the time of its joining APEC. APEC's main agenda is to dismantle trade and investment barriers among all members by 2020. Developed country members have undertaken to do so by 2010. Several working groups have also been established to advance cooperation across a range of issues, especially in the areas of business facilitation and information exchange. Members of APEC are Australia, Brunei Darussalam, Canada, Chile, China, Chinese Taipei (Taiwan), Hong Kong, Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Thailand, Vietnam and the United States. ***APEC Economic Leaders*** agreed at their meeting in Vancouver in November 1997 that no new members would be admitted until 2008. APEC is supported by a small secretariat based in Singapore. APEC's main meetings are hosted by one of the member economies for an entire year. See also ***Bogor Declaration***, ***Manila Action Plan for APEC***, ***open regionalism***, ***Osaka Action Agenda***, ***Seoul Declaration***, ***Shanghai Accord***, ***strengthening the functioning of markets*** and other entries beginning with ***APEC***.

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

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

APEC Eminent Persons' Group: established in Bangkok in 1992 to form a long-term vision for ***trade liberalisation*** in the region. It consisted of prominent academics and business people, from the APEC economies. The EPG issued two annual reports covering issues such as trade liberalisation, dispute mediation, environmental issues, investment, and standards. The 1995 ***APEC leaders' meeting*** held in Osaka declared that its task had been completed. It may be re-formed if required.

APEC framework for liberalisation and facilitation: the APEC process of liberalisation 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. The APEC fora include the ***APEC Committee on Trade and Investment***, the Economic Committee and the ***APEC working groups***. See also ***Manila Action Plan for APEC***.

APEC individual action plans: these describe the voluntary actions by which APEC economies expect to reach the targets of the ***Bogor Declaration***. Individual action plans contain each economy's proposed action and, where appropriate, proposed collective action on trade and investment liberalisation and facilitation. They contain steps to be taken in fifteen 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, and information gathering and analysis. Individual action plans 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 non-binding investment principles: a voluntary code containing principles to be applied to investment flows, adopted in 1994. It is aimed at promoting a policy environment characterised by increased confidence, reduced uncertainty and the liberalisation and simplification of investment rules and policies. The principles include transparency, most-favoured-nation (MFN) treatment, establishment, national treatment, transfers, nationalisation and compensation, performance requirements, taxation and investment incentives, dispute resolution, etc. See also ***World Bank Guidelines on the Treatment of Foreign Direct Investment***.

APEC Pacific Business Forum: formed in 1993 to identify issues APEC should address to facilitate regional trade and investment and to encourage the development of business networks throughout the region. It consisted of senior business people representing the interests of small, medium and large enterprises. It published two reports on issues including dispute mediation, investment, standards, etc. In 1995 it was replaced by the ***APEC Business Advisory Council***.

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 minimise uncertainty to the trade and trade-related parties, (f) harmonisation, standardisation and recognition on the basis of international standards where possible, (g) modernisation and the use of new technology, (h) access to due process to enable seeking redress with respect to the administration of rules, and (i) cooperation among government authorities and business and trading communities. See also ***trade facilitation***.

APEC Principles to Enhance Competition and Regulatory Reform: a non-binding set of principles adopted in Auckland in 1999. The set contains seven broad principles grouped under non-discrimination, comprehensiveness, transparency and accountability. APEC members also agreed to make efforts to implement these principles.

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

information, tourism, trade promotion and transportation.

Appellate Body: a standing body of seven persons established under the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* to hear appeals arising from ***panel*** cases. The grounds for such appeals are confined to points of WTO law. The appellate body's members are persons of recognised authority with demonstrated expertise in law, international trade and relevant WTO agreements who are not affiliated with any government. When the Appellate Body was established, many thought that occasional cases only would be referred to it. That expectation was wrong. Today most WTO members tend to appeal against panel decisions. See also ***dispute settlement***, ***dispute settlement body***, ***panel*** and ***WTO understanding on dispute settlement***.

Appellations of origin: types of ***geographical indications*** of source. They are used when a product originating in a country, region or locality is deemed to have a quality or characteristic due exclusively or essentially to the geographical environment, including natural and human factors. Examples are *champagne* and *Emmental* cheese. Appellations of origin are covered by the WTO ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. See also ***traditional expressions.***

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

Appropriate level of sanitary or phytosanitary protection: defined in the ***Agreement on the Application of Sanitary and Phytosanitary Measures*** as the level of protection deemed appropriate by a WTO member establishing a new 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".

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

Arbitration: a way of settling disputes. It is more formal than ***dispute mediation*** which is aimed at bringing the parties together, and less legalistic than formal court proceedings which are adversarial. The parties agreeing to arbitration often bind themselves to well-defined rules of procedure. They also usually agree in advance that the award handed down by the arbitrator is binding on them. Arbitration proceedings are especially helpful when the parties in dispute seek an equitable and definitive solution to a problem. Article 25 of the WTO ***Understanding on Rules and Procedures Governing the Settlement of Disputes*** 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. ***NAFTA*** also 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 Chpters 11 and 15. See also ***Article 22.6 arbitration***, ***dispute settlement*** and ***International Court of Arbitration***.

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

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 ***transfer pricing***.

Arrangements for Consultations on Restrictive Business Practices: a GATT mechanism adopted on 18 November 1960 aimed at ensuring that ***restrictive business practices*** did not frustrate the benefits of tariff reductions and the removal of ***quantitative restrictions***. It recommends that contracting parties, i.e. the GATT members, should enter, as appropriate, into bilateral or multilateral consultations if any contracting party requests this. The party so addressed is enjoined to take measures to remove the harmful effects of restrictive business practices if there is agreement that these exist. This mechanism lay dormant until 1996 when the United States invoked it in a dispute with Japan concerning photographic materials.

Arrangement on Guidelines for Officially Supported Export Credits: a non-binding ***OECD*** arrangement concluded in 1978 and updated many times since. It aims to ensure an orderly ***export credit*** market and to avoid competition between countries for giving more favourable credit terms. It applies to export credits extended and supported directly by governments

or on their behalf under a government guarantee. It also covers concessional financing under aid programs if the granting of a loan is tied to purchases from the donor country. See also ***mixed credits*** and ***tied aid***.

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

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

Article XXIV: see ***customs unions***, ***free-trade areas***, ***free-trade agreements*** and ***regional trade agreements***.

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

Article 133 Committee: often referred to as the 133 Committee. It takes its name from Article 133 of the ***Treaty of Amsterdam***, one of the treaties amending the ***Treaty of Rome***. It permits ***European Community*** action based on uniform principles on tariffs, anti-dumping, trade agreements, trade liberalisation, etc. This is the ***Common Commercial Policy***. The ***European Commission***, which speaks and negotiates on behalf of member states in the WTO, must conduct its trade negotiations in consultation with the 133 Committee. See also ***subsidiarity***.

Article 20 of the WTO ***Agreement on Agriculture***: see ***continuation clause***.

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

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

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

ASEAN: Association of South-East Asian Nations. Established in 1967 to promote economic progress and political stability in the region. It consists of Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar (Burma), Philippines, Singapore, Thailand and Vietnam. Its main aims are (a) to accelerate economic growth, social progress and cultural development, (b) to promote regional peace and stability, and (c) to promote collaboration and mutual assistance in the economic, social, cultural, technical, scientific and administrative fields. In the WTO the ASEAN countries often speak as a group on general issues. See also ***AFTA*** and ***ASEAN Vision 2000***.

ASEAN framework agreement on services: adopted by ***ASEAN*** governments on 15 December 1995. The Agreement seeks (a) to enhance cooperation in services among member states to improve the efficiency and competitiveness of ASEAN services providers and to diversify production capacity and supply and distribution of services within and outside ASEAN, and (b) to eliminate substantially restrictions on trade in services among member states and to liberalise trade in services by expanding the depth and scope of liberalisation beyond the commitments made under the ***GATS*** with the aim of realising a ***free-trade area*** in services. Article II seeks cooperation through establishing or improving infrastructural facilities, joint production, marketing and purchasing arrangements, research and development, and exchange of information. Article III requires member states to liberalise trade in services in a substantial number of sectors within a reasonable timeframe through the removal of discriminatory measures and market access limitations and a prohibition of new restrictive measures. Under Article IV, member states are to enter into negotiations on measures affecting specific services sectors. Article V permits the ***mutual recognition*** of qualifications, education, experience and licences, but it does not require any member state to do so. The Agreement stipulates that the provisions of the GATS will apply on matters where it is silent. See also ***AFTA*** and ***ASEAN Investment Area***.

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

ASEAN Free Trade Area: the territory covered by the parties to ***AFTA*** (ASEAN Free Trade Agreement).

ASEAN Industrial Cooperation Scheme: AICO. An industrial development program adopted in 1995 by the ***ASEAN*** countries to promote investment in technology-based industries and to enhance value-adding activities in goods and services production. It replaced the ASEAN Industrial Joint Venture scheme. To be eligible for the benefits under AICO, a cooperative venture must consist of at least two companies located in different ASEAN countries, and the companies must have at least 30% of equity owned by ASEAN nationals. The approved output of AICO entities enjoys the preferential tariff rate for intra-ASEAN trade ranging from zero to 5%. All products except those falling under Article 9 (General Exceptions) of the ***CEPT*** arrangement may be produced under AICO.

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

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

ASEAN Investment Area: AIA. Entered into force on 21 June 1999. Its three main pillars are (a) cooperation and facilitation, (b) promotion and awareness, and (c) liberalisation of investment activities. In principle, members give each other ***national treatment***, except for investment in industries inscribed in the temporary exclusion lists, sensitive lists and general exceptions. Items included in the temporary exclusion lists will be opened to ASEAN members by 2003. Services are covered to the extent that they are incidental to manufacturing, agriculture, forstry, fisheries and mining. See also ***AFTA*** and ***ASEAN***.

ASEAN+3: the ***ASEAN*** countries plus China, Japan and the Republic of Korea. Its first summit meeting was held in Kuala Lumpur in December 1997. See also ***East Asia Study Group***.

ASEAN+3+2: the countries forming ***ASEAN+3*** plus Hong Kong and Taiwan.

ASEAN Vision 2000: an action plan adopted by ***ASEAN*** governments on 15 December 1997 to realise fully the original aims of ASEAN. Many of these aims are economic, such as the full implementation of ***AFTA*** and the free flow of investment between the ASEAN members by 2020. See also ***ASEAN Investment Area***.

ASEM: Asia-Europe Meeting. An informal process of dialogue and cooperation between the members of the ***European Union***, the ***European Commission*** and Brunei, China, Indonesia, Japan, Republic of Korea, Malaysia, Philippines, Singapore, Thailand and Vietnam. ASEM's three main work areas are economic (reducing barriers to trade and investment, and financial and social policy reform), political, and cultural and intellectual. Summit meetings are held every two years. The first ASEM was held in Bangkok in March 1996, the second in London in 1998, the third in Seoul in 2000, and the fourth in Copenhagen in 2002. ASEM does not have a secretariat. Coordination is done through foreign ministers and senior officials.

Asia-Europe Cooperation Framework 2000: adopted at the third ***Asia-Europe Meeting*** in Seoul in 2000. A rather tedious catalogue of principles and objectives as well as political and economic priorities to be undertaken by the ASEM members.

Assistance: a more genteel term than ***protection***, but it means the same and has the same effect.

Associated foreign direct investment: defined by ***UNCTAD*** as ***foreign direct investment*** triggered either by the establishment of an affiliate or the expansion of existing affiliates. See also ***sequential foreign direct***

investment.

Association Agreements: agreements, usually known as ***Europe Agreements***, which give the countries of Central and Eastern Europe and some developing countries preferential access to ***European Community*** markets. ***Sensitive sectors***, especially agricultural products, may be excluded from such agreements. Concluding one does not automatically imply future European Community membership. Some 70 ***ACP states*** are also separately associated with the ***European Community*** through the ***ACP-EC Partnership Agreement***. See also ***Agenda 2000***, ***enlargement*** and ***Mediterranean Agreements***.

Association of Caribbean States: entered into force in August 1995. It consists of 25 Latin-American and Caribbean countries. They are Colombia, Costa Rica, Cuba, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Surinam and Venezuela plus the members of ***Caricom***. The Association's aim is to form the world's fourth-largest trading group. In December 1995 it adopted an action plan to liberalise trade through measures for the economic integration among members, including trade liberalisation, investments, transport and other related areas; promote and facilitate trade and investment; and to promote the region's transport and tourism sectors. Its secretariat is located at Port-of-Spain, Trinidad and Tobago.

Association of Tin Producing Countries: established in 1983 with the objective of obtaining remunerative and equitable returns to tin producers and adequate to consumers at fair and stable prices. Members are Bolivia, Democratic Republic of Congo (Zaïre), Indonesia, Malaysia, Nigeria and Thailand.

Asymmetrical trade agreements: these are in the main bilateral trade agreements with unequal sets of obligations for the partners. This might mean different timetables for tariff reductions or the phasing out of ***non-tariff measures***. In other cases, one party might give free entry to the products of the other party without expecting similar treatment in return. See also ***Caribbean Basin Initiative***, ***GSP***, ***ACP-EC Partnership Agreement*** and ***SPARTECA*** as examples of such agreements.

Asymmetrical trade openness: describes a situation in which an exporting country with relatively closed markets can take advantage of relatively open markets elsewhere. This proposition gained currency particularly in the United States in the 1980s as a reason for a growing trade deficit. It was based on the assumption that the United States offered the most open market, and that it adhered fully to the multilateral trade rules. Other countries were seen to be less open to varying degrees and adhering to ***mercantilism***, but they benefited all the same from the United States openness. Some advocated market-opening measures as a remedy. See also ***aggressive unilateralism***, ***free and fair trade***, ***Section 301*** and ***Super 301***.

ATC: the WTO ***Agreement on Textiles and Clothing*** which integrates

trade in this sector back to GATT rules within a ten-year period.

Atlantic Charter: agreed at the August 1941 Atlantic Conference between President Roosevelt and Prime Minister Churchill. The Charter set out in paragraphs four and five an early definition of the ***multilateralism*** that was to guide post-war reconstruction. It expressed the wish of the United States and the United Kingdom "with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and the raw materials of the world which are needed for their prosperity". The words "existing obligations" were meant to give comfort to the United Kingdom regarding the ***imperial preferences arrangement***. Paragraph five read ". . . they desire to bring about the fullest collaboration between all nations in the economic field with the objective of ensuring, for all, improved labour standards, economic development and social security". In time, these sentiments led to the ***Bretton Woods agreements*** and, ultimately, the ***GATT***.

At-the-border barriers: these consist in the main of ***tariffs*** and ***non-tariff measures***, including ***import quotas***. Some add exchange rates to this category, but these are not usually the responsibility of trade ministries. See also ***behind-the-border issues***.

Auckland Challenge: the rather long declaration issued at the ***APEC Economic Leaders' Meeting*** at Auckland in September 1999. The ***APEC Principles to Enhance Competition and Regulatory Reform*** seem to be its only noteworthy part.

Audiovisual services: the production, distribution and exhibition of films and video tapes. Some sensitive policy areas converge on this sector. The include claims of ***cultural identity***, the protection of ***intellectual property rights*** and the aim to liberalise trade. These competing claims play themselves out against the broader canvas of rapid technological change and the new possibilities for distribution of audiovisual services it offers. Governments sometimes apply screening quotas and cross-ownership limitations on newspapers, radio and television stations in an attempt to preserve the local cultural characteristics. See also ***audiovisual services in the Uruguay Round***, ***broadcasting directive***, ***local content rules in broadcasting*** and ***trade and culture***.

Audiovisual services in the Uruguay Round: a contentious sector in the ***Uruguay Round*** services negotiations, with the ***European Community*** and the United States the main actors. The European Community, like many other participants, felt that it had important cultural interests to protect. The United States, on the other hand, has long been a major exporter of audiovisual services. It already enjoyed very good access for its audiovisual services. It vigorously sought the removal of remaining ***market access*** barriers. It contested the extension of the local quota regime outlined in the European ***Broadcasting Directive*** to new technologies, transmission mechanisms and distribution channels since this might cut it off from markets expected to expand rapidly as the new technologies and new services

become more commercial. A lesser irritant for the United States was the European practice of taxing cinema admission to subsidise local film production. These disagreements caused audiovisual services to be the only major services sector without any sectoral annex to the ***GATS*** at the end of the negotiations, though the GATS provisions of course apply to this sector also. Very few Uruguay Round participants made good ***commitments*** in this area. The question of covering new services and new technologies by the Broadcasting Directive remained unresolved until March 1995 when the European Community decided not to expand its scope to new services. See also ***audiovisual services*** and ***cultural identity***.

Australian argument for protection: the conclusion drawn in the ***Brigden Report*** that the "evidence available does not support the contention that Australia could have maintained its present population at a higher standard of living under free trade". It continued that " the same average income for the same population could not have been obtained without protection". The Brigden Report did not claim that protection would increase aggregate national income, and therefore it did not undermine the argument for free trade.

Australia and the third world: see ***Harries Report***.

Australian subsidy on ammonium sulphate: a ***non-violation*** case brought by Chile against Australia in 1950. It resulted from the discontinuation by Australia of its war-time subsidy for the sale of imported nitrate of soda of which Chile was a major supplier. A similar subsidy for ammonium sulphate was continued.The subsidy in both cases had been intended to balance war-time shortages of nitrogenous fertilisers, but it was continued for several years after the war because of a continuing shortage. The mechanism for creating eligiblity for the subsidy was inclusion in the pool of nitrogenous fertilisers. The working party established to look at this case found that the value of a ***concession*** granted to Chile at the time of the 1947 tariff negotiations had been impaired as the result of a measure which did not otherwise conflict with the provisions of the GATT. This happened because ammonium sulphate and nitrate of soda had for a long time been treated in the same way. Chile therefore had reasonable expectations that the war-time subsidy would be applied to both fertilisers as long as there was a local shortage of nitrogenous fertiliser.

Autarky: national self-sufficiency in production. Pure autarky is a theoretical construct. It is not attainable in the modern world. Where it has been tried, it has led to low standards of living. In North Korea, the pretended policy of autarky has only been possible through substantial assistance from friendly countries and, more recently, humanitarian help from others. The term is now also used loosely for economies that seek to produce the bulk of their requirements at home regardless of the cost through policies aimed at ***self-reliance***, ***self-sufficiency*** and ***techno-nationalism***.

Automatic import licensing: see ***import licensing***.

Automaticity: the “automatic” chronological progression in the WTO for

settling trade disputes in regard to panel establishment, terms of reference, composition and adoption procedures. See also ***dispute settlement*** and ***WTO understanding on dispute settlement***.

Automatic termination: see ***sunset clause***.

Autonomous liberalisation: countries often lower their **tariffs** or remove other market access restrictions without being asked by others. They do so because they envisage a flow of benefits for their economies. The extent to which they should be able to claim payment for their autonomous liberalisation in ***multilateral trade negotiations*** then becomes an issue for negotiators. A notional credit is created to exact payment from others, sometimes with the use of complicated formulas. The logic of using negotiating credit in this way is not always clear since the country benefiting most from autonomous trade liberalisation is the country doing it in the first place. Some say, however, that governments have to do this for presentational reasons.

Auto pact: see ***Canada–United States Automotive Products Agreement.***

Average tariff: a device used to give an informative picture at a glance of a complete tariff schedule, which will usually have troughs and peaks, in a single average rate. It is the unweighted mean of either all applied or all bound rates. Such rates are also used for comparing the treatment of product sectors in different countries. See also ***applied tariff rates***, ***bindings***, ***peak tariffs*** and ***trade-weighted average tariff***.

B

Backdoor protectionism: the use of measures such as unreasonable product standards or excessively stringent quarantine rules to influence the flow of imports. Ostensibly, such requirements are imposed to protect the public interest and, sometimes to their surprise, the consumers. See also ***protectionism***, ***sanitary and phytosanitary measures*** and ***technical barriers to trade***.

Backloading: the practice of ensuring that liberalising commitments do not fall due until late in whatever phase-in period has been agreed in trade negotiations. This is true of commitments by some developed countries under the WTO ***Agreement on Textiles and Clothing***. It may also refer to deferring mandatory trade liberalisation under an agreement or arrangement until the last possible legally acceptable moment. See also ***frontloading***.

Balance of advantages: a principle sometimes used in ***multilateral trade negotiations*** which holds that advantages derived from the ***exchange of concessions*** in trade negotiations should be broadly balanced among participants. The balance is usually

achieved through the ***requests-and-offers*** technique. This principle is not based on economic theory, and some surprising justifications for the existence or absence of a balance have been offered. The ultimate basis of this principle is the fallacious assumption that ***trade liberalisation*** entails a cost to the liberalising country. See also ***mercantilism***.

Balance of concessions: a judgement WTO members make in the course of negotiations and on their conclusion about the relative value of what they sought and were given. They usually try to ensure that the two are about equal. See also ***balance of advantages***.

Balance of payments: BOP. A statistical summary of a country's total trade, other economic transactions and financial flows at a given time. The BOP is made up of current account (current transactions), capital account (capital transactions) and a balancing item to even out difficulties in recording international transactions. The current and capital account components of the BOP may each either be in surplus or deficit, but the BOP itself must always be in balance. The current account is the component of the BOP showing trade in goods and services, income and unrequited transfers (e.g. foreign aid payments, workers remittances, etc.) over a specified period. The capital account records currency inflows and outflows due to international dealings in financial assets, such as investments and loans.

Balance-of-payments consultations: WTO members that have imposed balance-of-payments restrictions in accordance with Article XII of the GATT have to undergo regular consultations aimed at assessing the nature of their balance-of-payments difficulties, alternative measures they might take and the effect of their ***import restrictions*** on other members. These are the so-called full consultations which entail an obligation for detailed reporting by countries taking such measures. Consultations are done under agreed procedures with ***IMF*** participation. Developing countries in some cases also have the option of taking action under Article XVIII:B (Governmental Assistance to Economic Development). Consultations under this Article are less onerous because the documentation requirements are rather less complex. These are the so-called simplified consultations. Any WTO member may participate in such consultations.

Balance of trade: in standard usage, this is the balance between exports and imports in an economy. The concept conveys few analytical insights. The term also refers, however, to the occasional attempt or unstated longer-term aim of governments, rooted deeply in ***mercantilism***, to ensure that the value of imports does not exceed that of exports. Usually, the concern is much greater about merchandise trade than about services trade. Where countries have applied ***import restrictions*** to balance their trade, they have usually only succeeded in reducing the overall amount of trade and thus in reducing welfare. Whether a country imports more goods than it exports depends on many factors, including its stage of economic development and the structure of its economy. Balanced merchandise trade is not in itself an indicator of successful economic policies. As Schumpeter noted in his *History of Economic Analysis*, "an 'unfavorable' balance may be the symptom of

increasing wealth, but also of a process of impoverishment; a 'favorable' one may mean prosperity and employment, but just as well the reverse". See also ***beggar-thy-neighbour policies***, ***mercantilism***, ***trade deficit*** and ***trade surplus***.

Baltic states: Estonia, Latvia and Lithuania.

Banana cases: this refers to two trade disputes brought for adjudication in the GATT and the WTO. The first was a case launched in 1993 in the GATT by Columbia, Costa Rica, Guatemala, Nicaragua and Venezuela against the European Economic Community (EEC) and decided in early 1994. It arose from a change in the EEC import regime for bananas which resulted in differing ***market access*** depending on whether they originated within the EEC, traditional ***ACP states***, non-traditional ACP states or third countries. The complainants charged that this violated the non-discrimination provisions of the GATT, and the EEC also had broken its ***tariff bindings***. Altogether, the ***panel*** was asked to find on the consistency of the import regime with about ten GATT articles. On many of them it found that the EEC had no case to answer. Importantly, however, it decided that the manner of EEC's preferential tariff treatment of banana imports was contrary to the ***most-favoured-nation treatment*** required by GATT Article I. The second case had a wider ambit. It was initiated in early 1996 in the WTO by Ecuador, Guatemala, Honduras, Mexico and the United States concerning the European Community (EC) regime for the import, sale and distribution of bananas. The complainants alleged that the EC was in contravention of its obligations under the ***GATT***, the ***GATS***, the ***Agreement on Trade-Related Investment Measures***, the ***Agreement on Agriculture*** and the ***Agreement on Import Licensing Procedures***. The panel found that the EC had breached its commitments under the GATT, GATS and the import licensing provisions. One point of particular interest arising from this panel finding is that it applies aspects of the provisions relating to ***trade in services*** to trade in goods. The European Community lodged an appeal against the decision, but the ***Appellate Body*** upheld most of the contested findings.

Bangkok Agreement: formally *First Agreement on Trade Negotiation Among Developing Countries of ESCAP*. It aims at trade expansion among developing country members of the ***Economic and Social Commission for the Asia-Pacific*** (ESCAP) through mutually beneficial trade measures. It was signed on 31 July 1975. Members are Bangladesh, India, Laos, Republic of Korea and Sri Lanka.

Bangkok Declaration: part of the final report adopted at UNCTAD X in Bangkok on 19 February 2000. Its focus is ***globalisation*** and ***UNCTAD***'s contribution to the international debate on development-related global issues. The declaration is supplemented by a plan of action.

Bargaining tariff: the name accorded in popular parlance to the United States tariff once it could be used to bargain down the tariffs of others following the adoption of the ***United States Reciprocal Trade***

Agreements Program in 1934. The tariff then in force was the ***Smoot-Hawley tariff*** which was unalterable except through congressional amendment. The term is now used more commonly to refer to the practice of keeping an obsolete tariff in the hope that it may be used to exact a tariff reduction from others. Sometimes it works, but it is a poor negotiating tool. See also ***autonomous tariff***, ***conventional tariff***, ***multi-column tariff*** and ***single-column tariff***.

Barter trade: an exchange of actual goods or services estimated to have the same value. Each party's contribution may be valued for accounting purposes in terms of a third-country currency, but the principal trait of barter trade is that no money changes hand between the parties to the transaction. See also ***compensation trade*** and ***countertrade***.

Basel Convention: *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal*. Adopted on 22 March 1989 under the auspices of the United Nations Environment Program (UNEP). It entered into force on 5 May 1992. The Convention aims to reduce and control the international movement of hazardous waste and to ensure that these wastes are disposed of in an environmentally sound manner. Its two trade-related provisions state that (a) the parties have the right to ban the import of hazardous wastes, and (b) they may not export to or import hazardous wastes from non-members of the Convention. In September 1995 the parties decided to amend the Convention to include a ban on the movement of hazardous waste for recycling from developed to developing countries starting on 1 January 1998. However, some developed countries believe that the Convention continues to allow environmentally sound trade between developed and developing countries. See also ***mutlialteral environment agreements*** and ***trade and environment***.

Base period: the time period, rather like a snapshot, agreed during the ***Uruguay Round*** agricultural negotiations as the basis on which all reductions and commitments were to be made. For market access and domestic support commitments, the base period was 1986-88. For export subsidy commitments, it was 1986-90. See also ***Agreement on Agriculture***.

Base rate: a term often used to describe the tariff levels that form the starting point for reductions to be made through tariff negotiations. The levels concerned are those in force on a certain date. A decision whether to use ***bound tariff rates*** or ***applied tariff rates*** is necessary. Agreement on what constitutes base rates permits an easy comparison of envisaged or desirable reductions.

Basic agricultural products: defined in the WTO ***Agreement on Agriculture*** as "the product as close as practicable to the first sale". This definition leaves room for dispute. If one were to follow it strictly, cheese made on the farm would be a basic agricultural product, but if it was made in an industrial dairy it would be a processed product.

Basic Instruments and Selected Documents: see ***GATT Basic***

Instruments and Selected Documents.

Basic telecommunication services: includes voice telephony, telex, facsimile and data transmission. See also ***Agreement on Basic Telecommunications Services, International Telecommunication Union***, ***Negotiating Group on Basic Telecommunications*** and ***value-added telecommunications services***.

Basket tariff quota: a ***tariff quota*** covering a range of closely related internationally traded products. If a tariff quota is applied at the four-digit level under the ***Harmonised Commodity Description and Coding System*** (HS), it is still possible to give additional protection to sensitive products by splitting the four-digit level into six digits or more. Quota rights can then be allocated selectively within the entire four-digit range. In this way, a tariff quota can be used as a protectionist measure even if it is ostensibly allocated fully to importers.

Baumgartner proposals: a set of ideas suggested for action in the GATT in 1961 by the then French Minister for Finance and Economic Affairs, M Baumgartner, for the management of world trade in agricultural products. The essence of the proposals was an extension of the ***Common Agricultural Policy*** model to global markets, supplemented by the United States ***Food for Peace program***, to dispose of surplus production. The cost of this plan would have been met by the importing countries. The key component of the pricing mechanism was the "normal price" which would have been set at a level well above what then was the price on the open market. See also ***agriculture and the GATT*** and ***PL 480***.

Beef hormones: see ***hormone growth promotants***.

Beer II: see ***second beer panel***.

Beggar-thy-neighbour policies: trade or economic measures, such as export subsidies, import quotas and tariffs, taken with the aim of improving domestic economic conditions, e.g. raising employment, and the intention of making them a cost to other countries. Such policies may lead to similar measures by others in response. Beggar-thy-neighbour policies are considered to have been a major factor in deepening and prolonging the Great Depression of the 1930s. See also ***balance of trade***, ***mercantilism*** and ***Smoot-Hawley tariff***.

Behaviour: a term used in the administration of ***antitrust laws*** or ***competition laws***. It is virtually synonymous with ***conduct***, and it describes the actions of firms that may fall within the ambit of the applicable laws.

Behind-the-border issues: policies and measures adopted by governments which are aimed primarily at the domestic economy, but which have an impact on imports and exports. These include domestic ***subsidies***, ***competition policy***, ***standards***, labour conditions, and many others. See also ***at-the-border barriers***.

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

Character. Adopted under ***United Nations Educational, Scientific and Cultural Organisation*** (UNESCO) auspices in 1948. The agreement provides that the parties do not levy import duties or impose ***quantitative restrictions*** on the import of defined materials.

Belgian family allowances*:** a case brought against Belgium by Norway and Denmark in 1952 under the GATT. It concerned the imposition of a levy on foreign goods purchased by Belgian public bodies when these goods came from a country whose system of family allowances did not meet specific Belgian requirements. The ***panel concluded that, as the levy was charged at the time the purchase was paid by the public body rather than when it was imported, the point at issue was ***national treatment***. It considered, however, that arriving at a very definite ruling would be difficult, partly because it found the concept of a levy to offset the absence of family allowance payments in other countries difficult to reconcile with the spirit of the GATT. It noted with evident relief that in the meantime the Belgian Government had decided to make its measures consistent with the GATT. ***Japanese measures on leather*** deals with another attempt to defend a social policy in the GATT. See also ***social clause*** and ***trade and labour standards***.

Benefit: under the WTO ***Agreement on Subsidies and Countervailing Measures*** this is a criterion necessary to establish whether a ***subsidy*** exists. The Agreement describes six types of governmental measures that may be considered benefits or subsidies. These are (a) a financial contribution by a government or public body, (b) a government practice involving a direct transfer of funds, (c) government revenue foregone or not collected, (d) provision by a government of goods and services other than infrastructure, (e) payments made by a government through a funding mechanism payments made through a private body on behalf of a government, and (f) any form of income or price support in the sense of GATT Article XVI (subsidies) which confers a benefit.

Benefits of trade: refers to benefits different to the ones postulated in the ***gains-from-trade theory*** which states that two countries with different price structures will get better economic returns if they trade with each other than if they adhere to ***autarky***. The theory of ***comparative advantage*** also points to the benefits of international specialisation. There are some other benefits. Trade gives access to capital goods, machinery and raw materials. It leads to the transfer of technology through the commercial and cooperative spread of new techniques, ideas and skills. Trade promotes the transfer of capital as firms seek to produce in the country best suited to their needs. Trade also brings about an additional benefit not always seen as that: anti-monopolist policies and an environment of competition.

Benelux: a ***customs union*** formed in 1948 between Belgium, the Netherlands and Luxembourg. Plans for the three to enter into an economic union were superseded by their founding membership of the ***European Economic Community*** on 1 January 1958.

Benign mercantilism: see ***mercantilism***.

Berne Convention: the *Berne Convention for the Protection of Literary and Artistic Works* protects the rights of authors of literary and artistic works. It was concluded in 1886 and revised several times since, the last time in 1971. The primary aim of the latest revisions was to move the convention towards according substantially uniform protection in all member countries. It is administered by ***WIPO***. The 1971 revision of the Berne Convention is one of the standards to be observed under the ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. See also ***intellectual property***.

Best-endeavour undertakings: conditional promises to take certain actions, or to consider the possiblity of taking certain action. If they are part of a trade agreement, they are an aspect of ***soft law***. In trade negotiations best-endeavour undertakings are often the first step towards more binding obligations. See also ***nagging rights***.

Best information available: a concept used in the administration of ***anti-dumping measures***. It means that even though the information provided by a party to a dumping investigation may not be ideal in all respects, this is not a reason for disregarding it, as long as the other party has acted to the best of its ability. If the evidence or information is not accepted, the supplying party should be given the reasons for it. It should also be given an opportunity to supply further explanations, taking account of the time-limits for the investigation.

Bicycle theory: the proposition that the ***multilateral trading system*** must keep moving forward through successive liberalising rounds and agreements if it is to remain liberal. On this analogy, the system would fall over like a bicycle if long gaps between liberalising moves were to permit protectionist sentiments and actions to become dominant. The evidence for this proposition is not strong. See also ***protectionism***.

Bilateral air services agreements: air traffic agreements concluded between governments in accordance with Article 6 of the ***Chicago Convention***. They specify, sometimes in great detail, matters such as names of the carriers, the number of scheduled flights and the maximum number of passengers the other country may direct to one's own country. They also list the airports that may be used. See also ***freedoms of the air*** and ***open skies***.

Bilateral investment treaties: a name given by many countries to their ***investment promotion and protection agreements***. The model United States agreement contains rights and obligations concerning the application of ***most-favoured-nation treatment*** and ***national treatment***, whichever is the better; fair and equitable treatment more generally; permission for aliens to enter the other party's territory to establish, develop, administer and advise on an investment and to engage top managerial personnel regardless of nationality; an undertaking not to impose performance requirements; the provision of effective means for asserting

claims and enforcing rights; transparency of regulation; procedures to be followed in case of expropriation; and freedom to transfer funds. See also ***international investment agreements***.

Bilateralism: a preference for conducting international trade policy mainly through bilateral negotiations. Bilateralism assumes that results are more easily obtained if only two parties are involved, partly because available economic or political pressure would be less diluted. In principle, fewer diverting factors are involved. This is true in cases where it is possible to isolate the the purely bilateral dimension. Often this cannot be done since at least one of the parties may have obligations in the same matter towards third parties. Some advocates of bilateral negotiations see them as the only valid way for achieving results. The history of bilateral negotiations since the mid-1980s casts doubt on the general validity of this proposition, but bilateralism has been used with success for the resolution of some selected issues. The effectiveness of bilateral approaches depends on the amount of negotiating coin a country has to influence the behaviour of the other. It is largely an approach which works more in favour of the strong and against the interests of small and medium-sized countries. Bilateralism can also introduce additional tensions into the multilateral system. One form of bilateralism is used in the ***multilateral trade negotiations***. WTO members negotiate tariff ***concessions*** bilaterally, but they apply the results on multilaterally in accordance with the ***most-favoured-nation*** obligation. See also ***aggressive reciprocity***, ***Section 301***, ***Special 301*** and ***Super 301***.

Bilateral restraint agreement: see ***voluntary restraint arrangement***.

Bilateral trade agreement: an agreement between two countries setting out the conditions under which trade between them will be conducted. If both parties are already WTO members enjoying the attendant ***non-discrimination***, ***market access*** and other benefits, the main additional reason for a bilateral agreement may be a program of bilateral ***trade facilitation*** and ***trade promotion*** activities. If one party is not a member of the WTO, the agreement will normally provide for ***most-favoured nation treatment*** and ***national treatment***, protection of ***intellectual property rights***, ***consultation*** and ***dispute settlement***, and other principles and mechanisms necessary for ensuring smooth trade flows and the speedy resolution of problems. Bilateral trade agreements usually contain a provision for periodic reviews of trade developments at ministerial or officials level, such as a ***Joint Trade Committee*** or a ***Mixed Commission***.

BIMP-EAGA: Brunei–Indonesia–Malaysia–Philippines East ASEAN Economic Growth Area, proposed at a meeting of ***ASEAN*** economic ministers in October 1993. It covers Labuan, Sabah, Sarawak (Malaysia), North, Central, South and South-East Sulawesi, Maluku, Irian Jaya and East, West and Central Kalimantan (Indonesia), Mindanao and Palawan (Philippines) and all of Brunei. BIMP-EAGA is aimed at developing trade and investment between contiguous underdeveloped areas of separate countries.

See also ***AFTA***.

Binding commitments: binding (sometimes *bound*) commitments are a legal obligation not to make ***market access*** conditions for services more restrictive than described in a country's ***schedule of commitments on services*** submitted to the WTO. Bindings are enforceable under WTO rules and may only be breached through negotiation with affected trading partners. A country breaching a binding may have to offer ***compensation*** to other trading partners in the form of ***commitments*** in other services.

Binding: a binding (also called ***concession***) is a legal obligation not to raise tariffs on particular products above the specified rate agreed in GATT negotiations and incorporated in a country's ***schedule of concessions***. Bindings are enforceable through the WTO. Their purpose is to provide greater commercial certainty through a ceiling on tariffs which cannot be breached without an offer of ***compensation*** to affected trading partners. These ceilings are often higher than the ***applied tariff rates***.

Biochemical prospecting: see ***UNCTAD BIOTRADE initiative***.

Biopiracy: the unauthorised search in the wild by biotechnology companies for plants or genes that may be useful for the development of, for example, new pharmaceuticals or improved strains of commercial crops. Some developing countries in particular consider that they are disdvantaged by this practice because they may not receive proper compensation for the use of plants that occur naturally in their territories. The biotechnology companies, on the other hand, are seen to be benefiting commercially through their application for ***patents*** for discoveries made in this way. This is the basis for the argument that there should be a new class of ***intellectual property rights*** to curb biopiracy. The entire concept remains contentious.

Bioprospecting: the search for plants or genes that may be useful for the development of, for example, new pharmaceuticals or improved strains of commercial crops. See also ***biopiracy***.

Bipartisan Trade Promotion Authority Act of 2002: see ***Trade Promotion Authority***.

Blair House Accord: an agreement reached on 20 November 1992 between the United States and the European Community on three changes to the draft ***Uruguay Round*** outcome on agriculture. First, there would be a reduction in the cutback of the volume of subsidised exports from 24% to 21%. Second, some domestic subsidies paid directly by governments to producers would be exempt from the reduction commitment. Third, the ***peace clause*** giving immunity against complaints on subsidies being reduced was extended. These changes left intact the principles to govern trade in agriculture following the conclusion of the Round, but they gave participants greater flexibility in implementing them. The Blair House Accord enabled a restart of the multilateral negotiations, but its initial favourable reception faded away once it became clear that it had not resolved the fundamental differences on ***market access*** between the two parties. The Accord was revised in December 1993, and this removed the final difficulty standing in the way of

the Uruguay Round outcome on agriculture. See also ***Agreement on Agriculture***, ***agriculture and the GATT*** and ***market access for agriculture***.

Block exemptions: a term used to describe the practice of the ***European Community*** to exempt some ***sensitive sectors***, most often agricultural and textile products, from the full application of the provisions of its ***preferential trade arrangements***. Block exemptions may also be used in the administration of ***competition policy*** to exempt certain sectors or practices from the applicable laws. See also ***Association Agreements*** and ***Europe Agreements***.

Blocking statutes: national legislation aimed at countering the attempted extraterritorial use of ***antitrust laws*** by others. Such legislation typically forbids nationals of the country concerned to cooperate in antitrust investigations launched by a foreign country. See also ***extraterritoriality***.

Blue box: agricultural supports linked to production, but subject to production limits and therefore minimally trade-distorting. They are exempt from the reduction commitments under the WTO ***Agreement on Agriculture***. See also ***amber box*** and ***green box***.

Bogor Declaration: adopted by APEC Leaders on 15 November 1994 at Bogor (Indonesia) in which they agreed to achieve free trade covering goods and services as well as investment among APEC members. Developed country members will achieve the target by 2010, developing countries by 2020. Leaders emphasised their strong opposition to the creation of an inward-looking bloc that would impair the pursuit of global free trade. Leaders also said that they would give particular attention to their trade with non-APEC developing countries to ensure that they would also benefit from APEC's trade and investment liberalisation, in conformity with GATT/WTO provisions. See also ***APEC*** and ***open regionalism***.

Bona fides: see ***good faith***.

Bonus: see ***Dairy Export Incentive Program*** and ***Export Enhancement Program***.

Boomerang clause: Article 91.2 of the ***Treaty of Rome*** deals with ***dumping*** practices by member states of the ***European Economic Community*** towards other member states during the 12-year transition period (1958-1970) leading to full implementation of the Treaty. Protective measures against dumping were possible during the transition period, but the ***European Commission*** decided what action to take. One of the possibilities open to companies found to have dumped products was to take them back. Article 91.2 made this possible with minimum friction. It states that products originating or having been entered for consumption in one member state that are exported to another member state had to be admitted free of all charges or ***quantitative restrictions*** when they were re-imported into the territory of the first member state. The Article did not prohibit dumping, but it reduced the incentive for doing so. In 1970 the members of the European Community stopped using anti-dumping action

against each other. See also ***competition policy and anti-dumping measures***.

Boomerang effect: the possibility that policies executed by a government may rebound on it. Trade policy generally seeks to avoid the boomerang effect by treating exporters from other jurisdictions and their products in a manner equivalent to that given to domestic producers and their products. The boomerang effect is more likely to occur under laws and regulations not subject to the ***national treatment*** provision. See also ***beggar-thy-neighbour policies*** and ***retaliation***.

Bootlegging: the unauthorised recording of concert performances for later broadcasting or other commercial gain. Such recordings are often cheap, and their quality almost certainly inferior. See also ***copyright***, ***intellectual property*** and ***piracy***.

Borderless world: originally the title of a book written in 1990 by Kenichi Ohmae which is more concerned with ways in which a firm can make the best of competing in an interlinked global economy. It represents an aspect of the literature on ***globalisation***. In the meantime, the idea of a world without national borders to trade has taken hold in some quarters. However, like the paperless office, this will take some time to achieve.

Border measures: see ***tariff*** and ***non-tariff measures***.

Border protection: any measure which acts to restrain imports at the point of entry.

Border tax adjustments: refunds of, or additions to, indirect taxes (e.g. excise tax) or non-collection of dues borne by an article destined for domestic consumption if that article is exported. Such adjustments are sometimes also called ***drawbacks*** or remissions. Adjustment can also be a charge levied on an imported article that equals indirect taxes (e.g. sales tax) imposed on similar domestic products. Such adjustments are not illegal under the GATT. See also ***export incentives***.

Border trade: see ***frontier traffic***.

Bottleneck facilities: see ***essential services doctrine***.

Bottom-up approach: preparing an agenda for trade negotiations by agreeing on negotiating subjects item by item. As agreement is reached on each item, the shape of the final agenda gradually becomes apparent. See also ***top-down approach***.

Bottom-up multilateralism: a negotiating process resulting in bilateral and minilateral outcomes which are extended multilaterally from the bottom up. Cowhey and Aronson, proponents of this process, stress that such deals must encompass the basic principles of the multilateral trade regime, and they must be open to the scrutiny of third parties. They say that multilateral negotiations will only yield slow incremental progress towards liberalisation, and that ***regionalism***, and in some cases the sectoral approach, can provide a superior solution to many issues if appropriate consultative mechanisms between regions exist. See also ***bilateralism***, ***hub and spokes***, ***minilateralism***, ***multilateralism*** and ***sectoral trade negotiations***.

Bound: see ***concession***.

Bounty: a subsidy available to domestic producers, usually to help an ailing industry. It can be aimed at bridging the gap between domestic and imported prices of a manufacture (e.g. shipbuilding), or the use of a specified input in a production process (i.e. superphosphate for agriculture). Many prefer bounties to tariffs as a method for supprting or protecting industries because the amount paid, and therefore the cost to other industries and consumers, is clearly evident. Budgetary pressures are likely to keep bounties in check. Another argument is that bounties can be targeted more accurately, and they do not become a charge on inputs to other industries except through the general taxation system. See also ***protection*** and ***subsidies***.

Box: a form of domestic support for agriculture. See ***amber box***, ***blue box*** and ***green box***.

Boycott: the refusal to supply a country or a firm, to import or buy from it, or to deal with it in other ways. This may in certain cases constitute an ***anti-competitive practice*** or a ***restrictive business practice***.

Bracketed language: a section of a negotiating text put in square brackets either because the language is disputed or because its adoption will depend on agreement being achieved elsewhere in the text.

Brain drain: see ***reverse transfer of technology***.

Brandt Report: published in 1980 as *North-South: A Programme for Survival* by the Independent Commission on International Development Issues. This commission was convened in 1977 under the chairmanship of Mr Willy Brandt, a former chancellor of the Federal Republic of Germany. The report covered, among other topics, commodity trade and development, energy, industrialisation and world trade, transnational corporations, investment and the sharing of technology, the world monetary order and development finance. It sought greater participation by developing countries in the processing, marketing and distribution of commodities, ***compensatory financing arrangements*** and the conclusion of ***international commodity agreements***. It also advocated a ***rollback*** of ***protectionism*** by the industrialised countries, positive adjustment programs (***structural adjustment***), an easing of the rules of the ***GSP***, and fair labour standards in order to prevent unfair competition and to facilitate ***trade liberalisation***. The quality of the report, its timeliness and the composition of the commission ensured wide coverage and public discussion of its proposals. Its proposals found their way into the agenda of all important conferences at the time, but the problems giving rise to them evaded a successful resolution. In 1983, the Brandt Commission published *Common Crisis: North-South: Co-operation for World Recovery* in response to what members of the commission saw as an inadequate response to the issues raised in its first report. The commission was formally disbanded in February 1983. See also ***Cancun Summit*** and ***North-South dialogue***.

Brazilian unroasted coffee: a case brought before the GATT in 1980 which centered on the meaning of ***like product***. Brazil complained that changes in

the Spanish ***tariff schedule*** meant that Brazilian unroasted non-decaffeinated coffee was now treated less favourably than "mild coffee". The distinction between these coffee types was based on a statistical method used by the International Coffee Organisation which broadly graded coffee into mild Arabicas, unwashed Arabicas and Robustas. Brazil claimed that Spain was contravening GATT Article I:1 (General Most-Favoured-Nation Treatment) in that it treated like products from different countries in a discriminatory way. Spain argued that "unwashed Arabica" and "mild coffee" were different products in terms of quality, taste and cultivation methods. The ***panel*** disagreed with Spain. It accepted the existence of different types of coffee, but it held that these differences were not enough to allow for a different tariff treatment. It also found that unroasted coffee was mostly sold in blends, and that "coffee, in its end-use, was universally regarded as a well-defined and single product for drinking". Accordingly, the panel found in favour of Brazil and suggested that Spain remove its discriminatory treatment of Brazilian coffee.

Bretton Woods agreements: the United Nations Monetary and Financial Conference held at Bretton Woods, New Hampshire, in 1944 produced charters for the World Bank (International Bank for Reconstruction and Development or IBRD) and the International Monetary Fund (IMF). It also proposed the establishment of the International Trade Organisation (ITO) for which negotiations were held separately, but which ultimately resulted in a less ambitious outcome in the form of the ***GATT***. The three are sometimes called the Bretton Woods institutions. See also ***Havana Charter***, ***IBRD***, ***IMF*** and ***ITO***.

Bribery in international transactions: see ***Convention on Combating Bribery of Foreign Public Officials in International Business Transactions***, ***Draft International Agreement on Illicit Payments*** and ***trade and illicit payments***.

Brigden Report: commissioned in 1927 by the Australian Government to report on the effects of the tariff on the economy. It was named after Professor J B Brigden of the University of Tasmania who headed the enquiry. The report, published in 1929, recommended moderate levels of protection and warned that protection levels at the time had probably reached their economic limit. In the long run, the influence of the report was much greater on approaches to the assessment of protection levels than the actual making of tariff policy. See also ***Australian argument for protection***.

Broadband services: communications services using still images, video, sound, text and data either separately or in combination. Broadband generally denotes the ability to communicate information at a high transmission rate. See also ***audiovisual services***.

Broadcasting Directive: the *Television-Without-Frontiers* ***directive***, issued by the ***European Commission*** in 1989 and amended in 1997. Its main aim is to create the conditions for the free movement of television broadcasts, i.e. European works, within the Community. Television broadcasting is defined

as the initial transmission by wire or over the air, including that by satellite, in unencoded or encoded form, of television prgrams intended for reception by the public. European works are those originating from European Community member states, from European countries that are parties to the *European Convention on Transfrontier Television* and some co-productions involving Community producers and other European countries. Broadcasters must reserve, where practicable, a majority proportion of their transmission time for European works, but there are no numerical targets. This excludes time for news, sports events, games, advertising, teletext services and teleshopping. Member states may draw up a list of events considered of major importance for society that must be available for live or deferred free-to-air transmission. See also ***audiovisual services***, ***audiovisual services in the Uruguay Round*** and ***cultural identity***.

Broader competition policy: see ***competition policy*** and ***wider competition policy***.

Brundtland Commission: see ***World Commission on Environment and Development***.

Brussels Declaration: the statement resulting from the Third United Nations Conference on the Least Developed Countries, held in Brussels from 14 to 20 May 2001. Among other matters, participants agreed that they would use the WTO ***Doha Ministerial Conference*** to "advance the development dimension of trade". One aim would be to improve preferential market access for ***least developed countries*** (LDCs) through working towards the objective of duty-free and quota-free access for LDCs in developed countries. The conference also adopted an action plan for the least developed countries. See also ***everything but arms***.

Brussels Definition of Value: BDV. A standard for valuing goods at the border to fix the ***customs duties*** to be paid, developed under the auspices of the Customs Cooperation Council, now the ***World Customs Organisation***, located in Brussels. It is the price goods would fetch on sale in the open market in the importing country at the time and in the place the import occurs. It sets out a number of considerations aimed at arriving at a decision on whether the actual sales price of the product corresponds with the notional standard of value. The BDV has now been superseded by the methods set out in the WTO ***Agreement on Implementation of Article VII*** *[customs valuation]* ***of the General Agreement on Tariffs and Trade 1994***. See also ***customs valuation***.

Brussels ministerial meeting: see ***Uruguay Round***.

Brussels Tariff Nomenclature: a product classification for the purposes of structuring a national tariff. Developed by the Customs Cooperation Council, now the ***World Customs Organisation***, based in Brussels. This nomenclature was superseded by on 1 January 1988 by the ***Harmonised Commodity Description and Coding System***.

BSE: bovine spongiform encephalopathy, or “mad cow disease”.

Budapest Treaty on the International Recognition of the Deposit

of Microorganisms for the Purposes of Patent Procedure: concluded on 28 April 1977. It aims to simplify patenting procedures for applicants whose invention involves a microorganism or the use of a microorganism not available to the public. In a growing number of countries, ***patent*** procedure not only requires the filing of a written description of the invention, but also a deposit, with a specialised institution, of a sample of the microorganism. This is complex and costly when it has to be repeated in several countries. Parties to this treaty agree that one deposit with any international depository authority is sufficient, regardless of the location of the authority. See also ***intellectual property***.

Buffer stocks: holdings usually established under some ***international commodity agreements*** to influence and stabilise the price of ***commodities***. Buffer stocks are sold when the price moves above a defined price band. They are accumulated when the price moves below a band reflecting current market prices. Buffer stocks can work when price fluctuations are short-term, and when high prices more or less cancel out low prices within a reasonable period. The price range covered by the agreement normally is structured so that the buffer stock manager must buy when the price is in the lowest band, assuming funds are left to do so. Then follows a band in which the manager may buy. That decision is based on the commercial outlook, available funds, the size of the existing buffer stock, etc. At yet a higher price level, the manager may sell. Once the commodity price enters the highest price band set out in the agreement, the manager must sell, assuming that there are stocks. Buffer stocks are intended to be self-financing. The maximum size of the stock and the method of financing it are usually contentious. Proponents of such mechanisms hold that a large buffer stock operation compared to the size of the market and endowed with strong financial resources can much more easily deal with market fluctuations than a smaller one. It also would be much more expensive to run. In the case of secular changes to demand and supply the magnitude of the operation large buffer stocks may hinder production adjustments. The success of buffer stock arrangements tends to be temporary because they are often not flexible enough to deal with longer-term market moves. Problems arise from long-term low prices if producers are not at the same time encouraged to restrain production. The obligation to continue buying may then send buffer stocks out of business. If the price band for triggering buffer stock purchases or sales is too wide, the effectiveness of international commodity agreement as a tool for market intervention is greatly diminished. On the whole the record of buffer stocks has been disappointing. The ***IMF*** maintains a Buffer Stock Financing Facility to assist the financing of member contributions to approved international buffer stocks, but it has not been used since 1984. See also ***commodity policy***, ***Common Fund for Commodities*** and ***Integrated Programme for Commodities***.

Building-block approach: first, building blocks may be the elements ultimately making up a free-trade agreement. Some easy elements, such as

trade facilitation activities, might be tackled first as confidence-building measures. The more difficult economic provisions would come later. Second, free-trade areas are seen by some as the building blocks of the ***multilateral trading system***. Individual areas could ultimately be combined to bring down trade barriers between ever larger areas. See also ***stumbling blocks***.

Built-in Agenda: BIA. The extensive WTO work program resulting from the provisions contained in the instruments negotiated during the ***Uruguay Round***. Part of the BIA reflects the fact that agreement on some issues was not possible during the Round itself. In these cases, the BIA authorised or mandated new negotiations. The BIA contains the mandate for the negotiations on agriculture and services which started in 2000.

Burden-sharing: the idea that the cost of new trade measures should be borne by the widest possible group of affected countries. Some also use the term when they erroneously see ***trade liberalisation*** as a cost to economies doing so. Burden-sharing is not the same as ***reciprocity***, which demands roughly equivalent action from others. See also ***balance of advantages***.

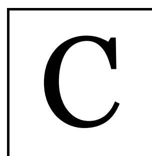
But for* test:** a method adopted by the ***panel in *Canada - measures affecting the export of civil aircraft* to establish whether a link existed between a governmental grant "to the Canadian regional aircraft industry and anticipated exportation or export earnings". The test asks whether assistance would not have been given *but for* anticipated exportation or earnings. The panel found that assistance to the Canadian regional aircraft industry constituted ***export subsidies*** inconsistent with the ***Agreement on Subsidies and Countervailing Measures***.

Butter mountain: the name given in common parlance to the dairy product surpluses caused by the ***Common Agricultural Policy*** of the European Community. See also ***wine lake***.

Buy American Act: a United States act passed in 1933 to ensure (a) that only unmanufactured and manufactured articles, materials and supplies produced in the United States would be bought for public use and (b) that in the case of construction of public buildings and public works only articles, materials and supplies produced in the United States would be used at all construction stages. The Act does not apply to goods used outside the United States or not produced domestically. There are some other exceptions, including one where the public interest would demand otherwise or where the cost would be unreasonable if American materials were used. Members of the WTO ***Agreement on Government Procurement*** are exempt from significant aspects this Act. Many of the American states have their own Buy American law. See also ***buy-local policies***.

Buy-local policies: a way of giving advantages to domestic producers of goods and services under the ***government procurement*** rules of some countries. Such policies are often expressed in terms of a preference margin favouring the home-grown product, but sometimes they may be limited to decision to purchase locally if all other things are equal. Buy-local policies at times are used to promote the development of domestic industries.

Byrd Amendment: the *Continued Dumping and Subsidy Offset Act* passed by the United States Congress in October 2000. Named after Senator Robert Byrd who proposed it as an amendment to an appropriation bill for agriculture. The Act seeks to ensure that proceeds from anti-dumping and countervailing duty cases are paid to the United States companies that initiated the cases. Companies receiving such payments may use them for items such as plant modernisation and pension expenditures.



Cabotage: shipping or air services between domestic ports and airports, respectively. In most countries, such services are reserved for ships or aircraft owned and registered locally. Their crews must be hired under local employment conditions. In the United States ships providing cabotage services must also be built in domestic shipyards. See also ***freedoms of the air*** and ***Jones Act***.

Cairns Group: a group of agricultural exporting nations lobbying for agricultural trade liberalisation. It was formed in 1986 at a ministerial meeting in Cairns, Australia, just before the beginning of the ***Uruguay Round***. Current members are Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand and Uruguay. See also ***Agreement on Agriculture*** and ***agriculture and the GATT***.

Calvo doctrine: a doctrine prevalent in Latin American legal systems. It holds that foreign nationals, and particularly foreign investors, are not entitled to seek protection from their governments in excess of that available to nationals of host countries. In other words, it rejects any suggestion of privileged treatment for foreign investors. The doctrine in effect prevented countries ahering to it from concluding treaties for the protection of investment, and it had therefore a direct influence on investment flows. It is named after Dr Carlos Calvo, an Argentinian lawyer and diplomat, who enunciated it in 1868.

Canada – Administration of the Foreign Investment Review Act: see ***FIRA panel***.

Canada – Import, distribution and sale of certain alcoholic drinks by provincial marketing agencies: see ***second beer panel***.

Canada – Measures affecting exports of unprocessed herring and salmon: see ***herring and salmon***.

Canada–United States Automotive Products Agreement: concluded in 1965 and entered into force in September 1966. It permitted some motor vehicle manufacturers to bring vehicles, parts and accessories into Canada from the United States free of import duties. Some **performance requirements** had be met by companies participating in the scheme. The

last time new applicants were given permission to to participate in the scheme was on 31 July 1989. This has become an irritant especially for Japanese car manufacturers who began operations in the United States in the 1980s. In 2000 a WTO ***panel*** ruled that certain elements of the agreement violated Canada's WTO obligations. The ensuing revisions have removed most of the reasons for the original agreement.

Canada–United States Free Trade Agreement: abbreviated to CUSFTA or CUSTA. Signed on 2 January 1988. It provided that all tariffs between the two countries would be phased out by 1 January 1998. Canada's ***foreign investment screening*** threshold was increased from $C5 million to $C150 million, but some other restrictions on investment remained. The Agreement's provisions services regard are less liberal than those for goods. This Agreement has largely been superseded by ***NAFTA***.

Canadian periodicals*:** a WTO case brought by the United States against Canada in 1996. Canada had maintained measures designed to prohibit the import of certain editions of foreign periodicals or to favour domestic periodicals through lower ***excise duties and postal rates. An important element of these measures was the aim of protecting Canadian ***cultural identity***. In June 1997 the ***panel*** found against Canada on most counts, especially in relation to its obligations under GATT Article III (National Treatment) and Article XI (General Elimination of Quantitative Restrictions). This case is relevant to any work on ***trade and culture***.

Cancun Summit: a meeting of 22 heads of state and heads of government held at Cancun, Mexico, in 1981. It aimed to find a way to restart the stalled ***North-South dialogue***. It was organised in the favourable climate created by the first ***Brandt Report***, issued in 1980. Although the meeting ended in an apparent consensus, it turned out to be a failure in bringing about its stated objective. Like all other North-South initiatives, it was not able to overcome the competing views of the main participants concerning the best way to implement any proposed measures.

CAP: see ***Common Agricultural Policy.***

Capacity-building: support for developing countries to improve their ability to implement and observe their international treaty obligations. Capacity-building programs are usually provided through multilateral and regional organisations, such as the ***WTO*** and ***APEC***, or through bilateral programs. Various methods and principles have been devised to make capacity-buiding more effective. The OECD ***Development Assistance Committee***, for example, has adopted the following principles: (a) coordinate trade capacity-building efforts among donors, both bilateral and multilateral, (b) ensure that trade capacity-building activities are comprehensive in scope and integrated in execution by going, for example, beyond trade ministries, (c) foster local ownership and participation in trade-related development cooperation activities, (d) devise and embrace approaches that will strengthen sustainability, (e) strengthen donors' own trade-related capacities through a systematic exchange of information on programs and experiences,

and (f) commit greater financial and personnel resources to efforts to build trade policy frameworks in developing countries – with the prospect of substantial returns. See also ***implementation***.

Caribbean Basin Initiative: CBI. Originally a United States 12-year plan which began on 1 January 1984 under the *Caribbean Basin Economic Recovery Act* of 1983 to promote the development of Caribbean Basin nations. It was made permanent in 1990. The CBI extends tariff-free treatment to all products from the Caribbean area, and reduced tariffs for textiles, some leather goods and petroleum products. Sugar imports are subject to ***quotas***, but Caribbean sugar enters the United States free of tariffs. The 2000 *United States Caribbean Basin Trade Partnership Act* (CBTPA), part of the *Trade and Development Act of 2000*, offers Caribbean Basin beneficiary countries that are prepared to join ***NAFTA*** or another free-trade agreement tariff treatment roughly equal to that accorded to the NAFTA partners. CBTPA expires in 2008. See also ***Alliance for Progress*** and ***Enterprise for the Americas Initiative***.

Caribbean Common Market: founded in 1973 as the replacement for the Caribbean Free Trade Association (CARIFTA). It currently is a ***customs union*** with a ***common external tariff***. It consists of Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St Christopher and Nevis, St Lucia, St Vincent and the Grenadines, Suriname, and Trinidad and Tobago. The British Virgin Islands and the Turks and Caicos Islands have associate membership. Members have also agreed to a free internal market in air services. Its secretariat is located at Georgetown, Guyana.

Caribbean Community: CARICOM. Consists of all the members of ***Caribbean Common Market*** except the Bahamas.

Caribbean Free Trade Association: see ***Caribbean Common Market***.

Caricom: see ***Caribbean Community***.

Carousel effect: used to describe some attempts to escape the effects of **anti-dumping** or **safeguards**. Some say that manufacturers or exporters will change periodically the make-up of a product subject to these measures in order to evade retaliatory action.

Carousel legislation: Section 407 of the United States *Trade and Development Act* adopted on 18 May 2000 to encourage implementation by trading partners of the United States of WTO ***dispute settlement*** decisions that have gone against them. In such cases, the WTO rules permit the suspension of ***concessions*** or other obligations, though the procedures for doing so are carefully defined. A list of products is usually prepared and maintained for this purpose. The United States has a different approach. The carousel legislation requires a mandatory and unilateral revision of this list of products 120 days after the application of the first suspension and then every 180 days after that. Many trading partners consider that this goes beyond the intentions of the ***WTO understanding on dispute settlement***.

Carry forward: the use in the current year of part of next year's textiles and

clothing export quota. See also ***Agreement on Textiles and Clothing*** and ***flexibility mechanism***.

Carry over: the use in the current year of unused textiles and clothing export quota from the previous year. See also ***Agreement on Textiles and Clothing*** and ***flexibility mechanism***.

Cartagena Agreement: Agreement on Andean Subregional Integration. See ***Andean Community***.

Cartagena Protocol on Biosafety: a protocol to the ***Convention on Biological Diversity***, adopted 29 January 2000. The protocol seeks to protect biological diversity from the potential risks posed by living modified organisms resulting from modern biotechnology. It establishes a procedure for ***advance informed agreement*** and it refers to the ***precautionary principle*** (principle 15 of the ***Rio Declaration on Environment and Development***. See also ***multilateral environment agreements***.

Cartel: a formal or informal agreement between firms to manage domestic or international markets by lessening competition between the firms. Methods include agreement not to compete on price, limitations on the total output by the members to the agreement, market-sharing arrangements, etc. To what extent such activities are legal depends on a country's ***competition policy***. Cartel arrangements work best when few firms dominate an activity. Agreements are divided into public and private cartels. A public cartel is one where the government forms and administers the rules for its own reasons. This may include acceptance of export cartels aimed at strengthening the competitiveness of domestic firms. An example of this is the United States ***Webb-Pomerene Act***. *Pure export cartels*, directed exclusively at foreign markets, enjoy considerable freedom from the application of ***competition laws***. *Mixed export cartels* affect domestic and export markets. Import cartels are much rarer. In many cases competition authorities do not approve their formation or operation. Public cartels might also be permitted to promote ***structural adjustment***. Private cartels, or arrangements between firms, are usually kept secret, particularly if they are against the law or if they would lead to higher prices for consumers. See also ***antitrust laws***, ***rule of reason*** and ***trade and competition policy***.

Carve-out: an agreement among participants in negotiations to exempt for the time being a set of measures or a defined economic activity from the application of new or proposed trade rules. Examples of carve-outs are the exemption from the ***GATS*** rules of bilateral aviation rights and ***prudential regulations*** applying to ***financial services***.

Cascading tariffs: sometimes used instead of ***tariff escalation***. It describes the practice of setting low tariffs on relatively simple components of a final product and to increase tariffs as the degree of processing increases. The aim is to add as much value as possible domestically.

Cassis de Dijon* case:** see ***mutual recognition arrangements.

Causality: the existence of a causal link between increased imports and serious ***injury*** to domestic industry or the threat of serious injury. WTO members

taking ***safeguards*** action must be able to demonstrate that increased imports resulted in injury because of liberalisation commitments undertaken in the GATT. Likewise, members imposing ***anti-dumping measures*** must show that the harm to industry has been caused by ***dumping*** and not some other reason.

Causal linkage: see ***causality***.

CBD: see ***Convention on Biological Diversity***.

Ceiling bindings: the practice in the WTO of binding all, or large sections, of a tariff at a specified level, often with a comfortable cushion above the ***applied tariff rates***. Bindings are normally the result of negotiations. Countries that undertake to bind their tariffs are under a legal obligation not to increase these bound levels but ceiling bindings allow them to make many desired increases. See also ***bindings*** and ***peak tariffs***.

Central African Customs and Economic Union: often referred to as UDEAC (Union douanière et économique de l'Afrique centrale). Established in 1964 with the ultimate aim of turning into a ***common market***. Its members are Cameroon, Central African Republic, Chad, Congo, Equatorial Guinea and Gabon. UDEAC's secretariat is located at Bangui, Central African Republic.

Central American Common Market: CACM. One of the ***preferential trade arrangements*** of the ***first regionalism***. The *General Treaty on Economic Integration* establishing it entered into force on 4 June 1961. Its members are Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. The task of promoting CACM has now been revitalised through the formation of ***SIECA***.

Central European Free Trade Agreement: CEFTA. An omnibus term for a complex structure of plurilateral and bilateral agreements linking the Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia. The Czech and Slovak Republics also form a ***customs union***. The original agreement between the Czech Republic, Hungary, Poland, Slovakia entered into force on 1 March 1993. Target dates for complete liberalisation were renegotiated at least twice after that. Slovenia joined on 1 January 1995 and Romania on 1 July 1997. Trade in industrial products between the Czech and Slovak Republics and Slovenia is free. Poland and Hungary have not yet liberalised some ***sensitive sectors***. Liberalisation of trade in agriculture between the CEFTA partners has made little progress.

Centrally-planned economies: CPE. A name until the late 1980s or early 1990s for the countries of Central and Eastern Europe, the USSR, China, Vietnam and some others in which economic activity was based on yearly plans usually elaborated by a body like the State Planning Commission. These countries were also known as non-market economies. Most CPEs have now turned into ***market economies*** or are on the way towards that goal. See also ***economies in transition*** and ***Partners in Transition***.

CEPAL: see ***Economic Commission for Latin America and the Caribbean***.

CEPT: Common Effective Preferential Tariff. The mechanism established under ***AFTA*** for achieving the goal of reducing tariffs applicable to trade between the six original ***ASEAN*** members (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) to between zero and 5% by 1 January 2001. Products traded in this way are entered into the ***Inclusion List***. See also ***ASEAN Integration System of Preferences***, ***Senstive List*** and ***Temporary Exclusion List***.

CER: Closer Economic Relations [between Australia and New Zealand]. See ***ANZCERTA***.

CER Protocol on Trade in Services: see ***ANZCERTA Protocol on Trade in Services***.

Certificate of origin: a document giving written proof of the country of origin of imported goods. Certificates of origin are an aspect of the administration of ***rules of origin***. Insistence on certificates of origin could be used as a barrier to international trade. The GATT membership agreed as early as 1953 that they should only be used where they are strictly indispensable.

***Chaebol* enterprises:** large Korean conglomerate firms of post-war origin. They are characterised by single-family ownership, and control remains concentrated even into the second or third generation of owners. They are prevalent particularly in manufacturing and construction. The share of total economic output of *chaebol* firms appears to have been falling since the 1970s, but they remain significant economic actors.

Change in tariff heading: a principle used in the application of ***rules of origin***. It says that an article produced in country A from materials originating in country B is considered a product of country A if it was made into a substantially different product there. Simply repackaging or painting it, for example, would not do. The tariff classification referred to is the ***Harmonised Commodity Description and Coding System***. See also ***substantial transformation***.

Charter for an International Trade Organisation: see ***Havana Charter***.

Charter of Economic Rights and Duties of States: an initiative launched at ***UNCTAD*** III (1972) ostensibly aimed at protecting the economic rights of all countries, but really promoting a change in what was seen as the entrenched lower status of developing countries in the international economic system. The draft Charter, originally intended to be binding on signatories and to become part of international law, was adopted by the United Nations General Assembly as Resolution 3281 (XXIX) on 12 December 1974. The Charter has 34 articles grouped in four chapters. Chapter I sets out 15 principles that should govern the fundamentals of international economic relations among states. These are (a) sovereignty, territorial integrity and political independence of states, (b) sovereign equality of all states, (c) non-aggression, (d) non-intervention, (e) mutual and equitable benefit, (f) peaceful coexistence, (g) equal rights and self-determination of peoples, (h) peaceful settlement of disputes, (i) remedying of injustices which have been

brought about by force and which deprive a nation of the natural means necessary for its normal development, (j) fulfilment in good faith of international obligations, (k) respect for human rights and fundamental freedoms, (l) no attempt to seek hegemony and spheres of influence, (m) promotion of international social justice, (n) international cooperation for development, and (o) free access to and from the sea by land-locked countries within the framework of these principles. Chapter II contains 28 articles describing the economic rights and duties of states. In abbreviated form they are (1) the right to choose economic, political, social and cultural systems in accordance with the will of the people, (2) full permanent sovereignty over all wealth, natural resources and economic activities, (3) if two or more countries share natural resources, they must cooperate in their exploitation, (4) the right to engage in international trade and other economic cooperation irrespective of political, economic or social systems, (5) the right to associate in organisations of primary commodity producers, (6) the duty to contribute to the development of international trade of goods, particularly through the conclusion of long-term multilateral commodity agreements, (7) responsibility of the state to promote the economic, social and cultural development of its people, (8) cooperation in achieving a more rational and equitable system of international economic relations, (9) responsibility to cooperate in the economic, social, cultural, scientific and technological fields, (10) the right to participate fully as equals in the international decision-making process to solve world economic, financial and monetary problems, (11) cooperation to improve the efficiency of international organisations, (12) the right to participate in subregional, regional and interregional cooperation in the pursuit of development, (13) the right to benefit from the advances in science and technology, (14) the duty to cooperate in promoting steady and increasing expansion and liberalisation of world trade, (15) the duty to promote achievement of general and complete disarmament, (16) the right and duty to eliminate colonialism, racial discrimination, neo-colonialism and all forms of foreign aggression, (17) the duty to cooperate internationally for development, (18) developed countries to improve and enlarge the system of generalised non-reciprocal and non-discriminatory tariff preferences, (19) developed countries to grant generalised, preferential, non-reciprocal and non-discriminatory treatment in fields of international and economic cooperation where it may be feasible, (20) developing countries to increase their trade with socialist countries, (21) developing countries to promote the expansion of their mutual trade, (22) promotion of increased net flows of real resources to the developing countries, (23) developing countries to strengthen their economic cooperation and expand their mutual trade to accelerate their economic and social development, (24) the duty to conduct mutual economic relations through taking into account the interests of other countries, (25) special attention to be paid to the least-developed countries, (26) the duty to coexist in tolerance and live together in peace, (27) the right to enjoy fully the benefits of world invisible trade and to engage in its expansion, and (28) the

duty to cooperate in achieving adjustments in the prices of exports of developing countries compared to import prices. Chapter III details in two chapters the common responsibilities of states towards the international community, i.e. towards each other. Article 29 states the seabed and ocean floor beyond the limits of national jurisdiction, as well as the resources of the area, are the common heritage of mankind. Article 30 makes the protection, preservation and enhancement of the environment for the present and future generations the responsibility of all states. Chapter IV observes, *inter alia*, that the prosperity of the international community as a whole depends upon the prosperity of its constituent parts. The majority of developed countries either abstained or voted against the Charter. The countries refusing to support the Charter were concerned that it did not contain a commitment to international law or a reference to the relevance of international law. Considerable debate developed over the legal standing of the Charter, but it slowly faded away as an international issue in any case. Some are of the view that although the Charter failed to bring about the intended changes in international economic relations, the controversy over it ensured that the concerns of developing countries would be given more attention in future. See also ***Global Negotiations***, ***New International Economic Order*** and ***North-South dialogue***.

Cherry-picking: the attempt to choose from a menu of obligations or negotiating options only those likely to cause one the fewest difficulties. The vigilance of others often prevents this. See also ***forum-shopping***.

Chiang Mai Initiative: adopted at a meeting of ***ASEAN+3*** finance ministers in Chiang Mai, Thailand, in May 2000. It created a network out of the currency swap arrangements then in existence among the ASEAN+3 members, with Japan at the centre. See also ***New Miyazawa Initiative***.

Chicago Convention: the *Convention on International Civil Aviation*, concluded in 1944 with the aim of promoting a regime for safe and orderly international air services. Its provisions govern the methods of allocating bilateral air traffic rights, a basic feature of the global aviation system. The Convention is administered by the International Civil Aviation Organisation (ICAO), located in Montreal. See also ***bilateral air services agreements***, ***freedoms of the air*** and ***open-skies agreements***.

Chicken War: a period of trade tension between the United States and the ***European Economic Community*** lasting from July 1962 to January 1964. It overshadowed the start of the ***Kennedy Round***. It was triggered by the extension of ***variable levies*** under the ***Common Agricultural Policy*** to poultry which trebled German import charges. This led to an immediate and drastic decline in the export of United States poultry to Germany where up to that time United States exporters had been spectacularly successful. Claim and counterclaim for ***compensation*** followed. The establishment of a panel of experts by the GATT in November 1963 provided the basis of a solution. Both parties accepted that poultry trade worth $26 million was affected. To settle the score, the United States then imposed additional

import duties affecting mainly French cognac, German trucks and Dutch dextrine and starch, thus ensuring that the United States retaliatory action would be noticed among members of the European Economic Community more broadly. The influence of the Chicken War on the remainder of the Kennedy Round is hard to judge, especially since it was followed by several other difficult periods. It provided a pointer, however, to the increasingly vexing problem of international agricultural trade facing efficient exporters as the Common Agricultural Policy first led to European ***self-sufficiency*** and then to subsidised exports in many products. See also ***Ploughshares War***.

Chief supplier provision: one of the main features of the ***United States Reciprocal Trade Agreements Program***. It stipulated that no tariff concession would be made to any country unless it was the chief supplier of the product. The provision was intended to preserve United States bargaining power with countries yet to conclude a reciprocal trade agreement after earlier reductions had been applied to other trade agreement partners under the ***most-favoured-nation*** rule. The chief supplier provision was carried forward into the GATT in the form of the ***principal supplier right***.

Child labour: Convention No 138 (Minimum Age Convention) of the ***International Labour Organisation*** states that the minimum age of employment in acceding countries must not be less than fifteen years. This may be lowered to thirteen years for some forms of light work and twelve years for developing countries, provided that employment does not interfere with the child's education. Convention No 138 aims to raise the minimum age progressively, and ILO Recommendation No 146 suggests that the minimum age of employment should be sixteen years. See also ***core labour standards***.

China-ASEAN free-trade agreement: CAFTA. Proposed in November 2001 for conclusion within ten years.

Chinese Economic Area: a term sometimes used to denote the area comprising the People's Republic of China, Hong Kong, Macao and Taiwan.

Chinese Taipei: the formal name for Taiwan in ***APEC***, the ***WTO*** and some other international organisations.

CHOGM: the ***Commonwealth*** Heads of Government Meeting, held every two years. ***Trade policy*** issues are usually on its agenda, but it does not make rules. CHOGRM (Commonwealth Heads of Government Regional Meeting), which meets infrequently, is composed of the Asia-Pacific Commonwealth members.

CIPEC: Intergovernmental Council of Copper Exporting Countries. Established in 1967 to coordinate research and to exchange information, including statistics, among member countries. Full members are Chile, Democratic Republic of Congo (Zaïre), Indonesia, Peru and Zambia. Australia and Papua New Guinea are associate members.

Circumvention: measures taken by exporters to evade ***anti-dumping measures*** or ***countervailing duties***. It can refer also to the evasion of

rules of origin, etc. Circumvention consists of disguising the true origin of the product, sometimes through manufacturing operations whose sole purpose it is to provide sufficient evidence to meet the requirements of an agreement. These sometimes fall into the category of ***screwdriver operations***. The ***Agreement on Agriculture*** seeks to prevent circumvention of commitments to rein in export subsidies. Circumvention in the textile trade refers to avoiding quotas and other restrictions by altering the country of origin of a product. See also ***anti-circumvention***.

CITES: *Convention on International Trade in Endangered Species of Wild Fauna and Flora*. Concluded in 1973 under the auspices of the International Union for the Conservation of Nature and Natural Resources (IUCN). The Convention entered into force on 1 July 1975. The IUCN is not part of the United Nations, but closely associated with it. CITES regulates international trade in wild animals and plants. It classifies threatened species into three categories: (i) those threatened with extinction that are or could be affected by trade, and it prohibits trade in these cases, (ii) species not necessarily threatened with extinction, but which could become so unless trade in them is strictly regulated, and (iii) species protected by states listing them and for which the cooperation of others is sought. Where trade is allowed under the Convention, it takes place through a permit system. See also ***multilateral environment agreements*** and ***trade and environment***.

Civil aircraft code: see ***Agreement on Trade in Civil Aircraft***.

Civil society: those who are not directly involved in the discussions and negotiations in inter-governmental organisations, but who may be affected by their decisions or who may have points of view to put across. Most often *civil society* appears to refer to non-government organisations (NGOs), but it is also taken to mean, by ***UNCTAD***, for example, parliamentarians, trade unions and academics. Most inter-governmental organisations now have a website aimed at the needs of civil society.

Clawback provisions: the ability of a party ordered to pay ***treble damages*** in extraterritorial proceedings conducted under United States ***antitrust laws*** to recover through the national court system the amount in excess of actual damages. If the party ordered to pay treble damages is successful in its counterclaim, the party receiving the treble damages will be ordered to repay the amount deemed to be excessive. Recovery of damages really is only possible if the company receiving them in the first place has assets in the country conducting clawback proceedings. See also ***extraterritoriality***.

Clayton Act: a United States ***antitrust law*** first passed in 1914. It seeks to prohibit a range of restrictive business practices and to "arrest the creation of trusts, conspiracies, and monopolies in their incipiency and before consummation". It also permits the imposition of ***treble damages***. The Act in general applies to foreign trade, but some provisions are limited to interstate commerce. See also ***competition policy***, ***Robinson-Patman Act***, ***Sherman Act*** and ***Webb-Pomerene Act***.

Clean Development Mechanism: see ***Kyoto Protocol***.

Climate change: a term summarising the concern that increased concentrations of ***greenhouse gases*** in the atmosphere because of human interference will lead to accelerated changes in climate patterns. See also ***trade and environment***, ***Kyoto Protocol*** and ***United Nations Framework Convention on Climate Change***.

CLMV: Cambodia, Laos, Myanmar and Vietnam. See ***ASEAN***.

Cobden-Chevalier Treaty: a commercial treaty concluded in 1860 between England and France. It brought **most-favoured-nation treatment** into general use within Europe for a few decades.

COCOM: Co-ordinating Committee for Multilateral Export Controls. It was formed in response to a 1951 United Nations General Assembly recommendation for an embargo on the shipment of "arms, ammunition and implements of war, atomic energy materials, petroleum and items useful in the production of implements of war" to communist countries. In 1958, the list of prohibited articles was reduced to strictly strategic goods, and there were several changes afterwards in the list of prohibited articles. COCOM's membership consisted of NATO (North Atlantic Treaty Organisation) countries, except Iceland, plus Japan. The ***Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies***, effective from 1 November 1996, has superseded the COCOM arrangement.

Code-conditioned most-favoured-nation treatment: describes situations where ***most-favoured nation treatment*** only has to be extended to members of the same GATT code or WTO agreement. An example of this is the WTO ***Agreement on Government Procurement***. See also ***conditional most-favoured-nation treatment***.

Code of conduct: usually a non-binding intergovernmental instrument that seeks to regulate certain types behaviour by governments or private corporations. Codes of conduct are as difficult to negotiate as binding agreements since signatories normally expect to observe them in good faith. Sometimes, codes of conduct are in fact the first step towards a binding agreement.

Code of Good Practice for the Preparation, Adoption and Application of Standards: this is contained in Annex 3 to the WTO ***Agreement on Technical Barriers to Trade***. Central government standardising bodies must comply with its provisions, but it is open also to local government and non-government bodies. The Code contains fourteen substantive provisions aimed at the non-discriminatory and transparent preparation and administration of standards. See also ***conformity assessment***, ***International Electrotechnical Commission*** and ***International Organisation for Standardisation***.

Code on Commercial Counterfeiting: an instrument proposed by the United States in the ***Tokyo Round***. It was designed to combat ***counterfeiting*** of products traded internationally. There was no agreement then on its feasibility or desirability, but the ***Uruguay Round*** produced the

Agreement on Trade-Related Aspects of Intellectual Property Rights.

Codex Alimentarius*:** a program managed jointly by the ***Food and Agricultural Organisation (FAO) and the World Health Organisation for initiating, preparing, publishing and revising international food standards. The program is administered by the Codex Alimentarius Commission, established in 1962.

Co-existence and diversity: a principle underlying the Japanese negotiating position in the WTO negotiations on agriculture and enjoying a degree of support by some European countries. It means that the traditional social and community functions of agriculture should be allowed to co-exist with the function of agriculture as a provider of food and industrial raw materials. The implication is that a measure, sometimes quite a lot, of agricultural ***protectionism*** will be necessary in some economies to ensure continuing diversity. See also ***continuation clause***, ***Friends of Multifunctionality***, ***multifunctionality***, and ***non-trade objectives***.

Collective action: a term used in ***APEC*** to describe activities aimed at liberalising or expanding trade that can, by definition, only be carried out jointly. These include ***mutual recognition of qualifications and standards***, customs cooperation, etc. See also ***concerted liberalisation action***.

Collective rights: see ***community rights***.

Colorado Group: a group active in the ***WTO*** consisting of Australia, Canada, Chile, European Community, Hong Kong-China, Israel, Japan, New Zealand, Singapore, Switzerland and the United States as core members. It seeks to develop multilateral principles for ***trade facilitation***.

Comecon: see ***Council for Mutual Economic Assistance***.

COMESA: see ***Common Market for Eastern and Southern Africa***.

Comity: a term used in international law to signify the reciprocal courtesy or mutual respect which one member of the family of nations owes to the others in considering the effects of its official acts. See also ***negative comity*** and ***positive comity***.

Commerce: usually, but by no means exclusively, refers to activities related to the production, sale and distribution of goods and services within the ***internal market***. See also ***trade***.

Commercial defence mechanisms: see ***contingent protection***.

Commercial policy: a term now disappearing and in general use being replaced by ***trade policy*** with which it has co-existed for decades. It covers governmental acts, policies and practices which influence trade in goods and services. The drafters of the ***GATT*** thought of commercial policy as the subjects covered in Part II of the GATT which includes, among others, ***national treatment***, ***anti-dumping and countervailing duties***, ***customs valuation***, import and export fees and formalities, ***marks of origin***, ***quantitative restrictions***, ***subsidies***, ***state trading*** enterprises, ***safeguards***, and consultation and ***dispute settlement***. Title VII of the

Treaty of Maastricht retains the wording "common commercial policy" from the ***Treaty of Rome*** which defines it in Article 113 (Article 133 in the amended treaty) as "based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade, such as those to be taken in the event of dumping or subsidies". See also ***Article 133 Committee*** and ***Common Commercial Policy***.

Commercial presence: any type of business or professional establishment within the territory of a member of the ***GATS*** *(General Agreement on Trade in Services)* for the purpose of supplying a service. This includes ***juridical persons***, branches and representative offices. See also ***modes of services delivery***, ***right of establishment*** and ***right of non-establishment.***

Commercial treaty: see ***bilateral trade agreement***.

Commission on Enterprise, Business Facilitation and Development: established at UNCTAD IX. Its mandate covers assistance to developing countries on policy-related issues and training activities concerning the development of entrepreneurship, promoting the best use of the ***Trade Efficiency Programme***, assessing the practical implications of the ***Global Information Infrastructure***, examining successful development experiences and monitoring the implementation of the Programme of Action for the Least Developed Countries for the 1990s. The Commission meets once a year. See also ***UNCTAD***.

Commission on Investment, Technology and Related Financial Issues: established at UNCTAD IX. Its mandate covers issues aimed at an improved ability of developing countries to attract and utilise ***foreign direct investment***, examining issues related to ***competition law*** of particular relevance to development, undertaking analysis of science, technology and innovation policies as well as providing technical assistance in technology development, and examining specific development challenges regarding effective participation in international trade and investment. The Commission meets once a year. See also ***UNCTAD***.

Commission on Science and Technology for Development: a subsidiary body of ***ECOSOC***, but serviced by ***UNCTAD***. It has a work program with a strong development perspective covering technology for small-scale economic activities, gender implications of science and technology, science and technology and the environment, the contribution of technologies to industrialisation in developing countries, and information technologies and their role in science and technology. The Commission meets every two years.

Commission on Trade in Goods and Services, and Commodities: established at UNCTAD IX. It has a wide mandate covering assistance to developing countries to enable them to benefit from and adjust to the ***Uruguay Round*** outcomes, assisting countries acceding to the WTO, identifying impediments to trading success, analysing issues related to trade

preferences, assisting developing countries to strengthen their capacities in the services sector, work on ***trade and environment*** issues, and addressing issues of particular relevance to commodity-dependent countries. The Commission meets once a year. See also ***UNCTAD***.

Commission on Transnational Corporations: previously a subsidiary body of ***ECOSOC***, but now integrated into the ***Commission on Investment, Technology and Related Financial Issues*** of ***UNCTAD***.

Committee of Permanent Representatives: see ***Coreper***.

Committee on Regional Trade Agreements: see ***regional trade agreements***.

Committee on Rules of Origin: see ***Agreement on Rules of Origin***.

Committee on Trade and Development: a WTO committee established on 26 November 1964. It is concerned with developing-country issues, and one of its main tasks has long been the administration of ***Part IV of the GATT*** and the ***Enabling Clause***. See also ***developing countries and the GATT***.

Committee on Trade and Environment: a WTO committee established in response to the ***Rio Declaration on Environment and Development*** and ***Agenda 21***. Its task is to identify the relationship between trade measures and environmental measures in order to promote ***sustainable development*** and to make recommendations on possible changes to the rules of the multilateral trading system concerning goods, services and ***intellectual property rights***. According to the Committee's terms of reference, any suggested changes ought to be compatible with the open, equitable and non-discriminatory nature of the multilateral trading system. See also ***multilateral environment agreements*** and ***trade and environment***.

Commitment: a legally binding undertaking specific to a country under one of the agreements administered by the WTO. Examples of commitments are tariff ***bindings*** and inscriptions in the ***schedules of commitments on services***. Such commitments usually stem from negotiations between two or more parties and are then made available in a non-discriminatory way to all parties of the agreement concerned.

Commitment mechanisms: as argued in the *Asian development Outlook 2002* and elsewhere, ***preferential trade agreements*** can hasten or lock in economic policy reforms. Whether an agreement does this depends greatly on the robustness of its provisions, including the credibility of the applicable dispute settlement system, and the reputation of the other partners in observing international trade rules.

Commodity: any article exchanged in trade, but most commonly used to refer to raw materials. Examples are wheat, tin, copper, manganese, coffee, tea and rubber. See also ***buffer stocks***, ***commodity policy***, ***commodity terms of trade*** and ***international commodity agreements***.

Commodity cartels: public or private ***cartels*** formed to maintain the price of a commodity above what it would fetch on open markets. The usual

mechanisms are the imposition of ***export quotas*** and collusion to maintain prices above real market levels. Such cartels can only be successful if they include all of the important producers and if no commodity can be readily substituted. ***OPEC*** was a successful cartel for more than a decade, but its ability to keep prices up led to the entry of higher-cost producers into the market. The international diamond cartel based in South Africa has also operated profitably for many years, but it is being challenged increasingly by diamond producers selling on alternative markets. See also ***commodity policy***, ***international commodity agreements***, ***international steel cartel*** and ***resources diplomacy***.

Commodity Credit Corporation: CCC. A government corporation within the United States Department of Agriculture charged with stabilising, supporting and protecting farm incomes. The main functions of the CCC are (a) to assist producers through loans, purchases and payments and through providing materials and facilities needed in the production and marketing of agricultural commodities, and (b) to permit the sale of agricultural commodities to other government agencies and foreign governments as well as to donate food to domestic and international relief agencies. The CCC also has a role in developing new domestic and international markets. Main commodities receiving CCC support are wheat, corn, oilseeds, cotton, rice, tobacco, milk and milk products, barley, oats, grain sorghum, mohair, honey, peanuts and sugar. Farmers can receive commodity loans in return for pledging and storing part of the commodity as a security. This mechanism is called the ***loan rate***. Farmers may also be eligible for ***deficiency payments***. CCC also finances sales made under the ***Export Enhancement Program*** (EEP) and the ***Dairy Export Incentive Program*** (DEIP). See also ***Food for Progress program*** and ***PL 480***.

Commodity policy: the part of ***trade policy*** dealing with governmental actions affecting international trade in commodities. Its principal objectives are to secure fair and remunerative returns to producers and reliable and competitive supplies to consumers. Neither of these aims can be defined objectively. Commodities have always been classified by some as needing special measures because of unpredictable supply and demand fluctuations and the attendant price changes and export income fluctuations. One of the reasons for this is that in some commodities relatively small changes in supply and demand can lead to considerable price fluctuations. In other cases, particularly agricultural products, the livelihood of large population segments is to a greater or lesser extent influenced by developments in the market. Governments tend to be alert to such concerns and to seek ways and means to alleviate them. Modern international commodity policy began with the drafting of the ***Havana Charter*** which essentially favoured free-market principles. The draft Charter allowed the creation of ***international commodity agreements*** (ICAs) with price and trade controls, called intergovernmental control agreements, only if normal market forces were unable to deal rapidly with adjustments between production and

consumption, and widespread unemployment in connection with a primary commodity was either happening or expected to happen. The free-market principle was, however, compromised in many ways as drafting proceeded to permit, for example, government planning by those who saw a need for it. Developing countries were allowed to maintain import restrictions to protect domestic industries. In the end, the Havana Charter did not enter into force. In 1947, ***ECOSOC*** established an Interim Co-ordinating Committee for International Commodity Arrangements (ICCICA) with a mandate to convene commodity study groups and to recommend calling conferences to negotiate commodity arrangements. Several ICAs with stabilisation mechanisms were negotiated under its auspices. The ***Haberler Report***, prepared under GATT auspices in 1958, gave cautious support to the conclusion of international commodity agreements and limited compensatory financing schemes. When ***UNCTAD*** was established in 1964, ICCICA's functions were transferred to it. This was followed in the early 1970s by proposals for a ***New International Economic Order*** which envisaged a massive transfer of resources to developing countries, partly through commodity arrangements and schemes to deal with export earnings shortfalls. UNCTAD was from the beginning much more interventionist in its views of commodity policy, and at UNCTAD IV (1976) it developed the ***Integrated Programme for Commodities*** and the ***Common Fund for Commodities***. These are mechanisms on a grand scale to regulate and stabilise international commodity trade through ***buffer stocks*** and ***compensatory financing***. UNCTAD was indirectly assisted in its aims by the short-lived concerns of ***resources diplomacy*** of the 1970s, through which countries poor in commodities sought secure access to suppliers. More sober assessments of the issues attaching to international commodities trade from the mid-1980s onwards cast increasing doubt on the merits of large-scale market intervention, both from the producer and consumer perspective. Now we appear to have returned to basically free-market principles which limit international cooperation to the promotion of ***transparency*** mechanisms and the financing of research and development to make commodities more attractive to markets. See also ***compensatory financing arrangements*** and ***single commodity producers***.

Commodity terms of trade: an index showing the ratio of commodity prices to prices for manufactured goods. Commodity terms of trade have improved if fewer commodities have to be sold to pay for a given amount of manufactures. They have deteriorated when more commodities have to be sold. See also ***terms of trade***.

Common Agricultural Policy: CAP. The ***European Community's*** comprehensive system of production targets and marketing mechanisms designed to manage agricultural trade within the Community and with the rest of the world. The mechanism for financing the CAP is the ***European Agricultural Guidance and Guarantee Fund***. The CAP's stated aim is to encourage stable agricultural market conditions, a fair standard of living for farmers, reasonable prices for consumers, increased agricultural yields

and better labour productivity. Its implementation was always difficult because of the attempt to mix social and economic policies. The CAP succeeded spectacularly in increasing yields and returns for many farmers, but it led to widespread disruption of global markets because the increased output, produced at high cost, could only be exported with the aid of massive ***export subsidies***. It did little to stem the trend towards amalgamation of smaller farms. The CAP also led to high consumer prices in the EEC for agricultural products and has contributed to fiscal deficits there. See also ***Agenda 2000***.

Common Commercial Policy: under Article 133 of the ***Treaty of Amsterdam*** (which amends Article 113 of the ***Treaty of Rome***), the member states of the ***European Community*** conduct a common commercial policy based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade, such as those to be taken in the event of dumping or subsidies. Agreements on trade in services and the commercial aspects of intellectual property are subject to the common commercial policy, but only to the extent that they do not go beyond the Community's internal powers. The policy is administered by the ***European Commission***. Member states do not have the authority to change unilaterally the ***common external tariff*** or to enter into trade agreements with other countries. There are highly developed internal consultative mechanisms, such as the ***Article 133 Committee***, under which member states may bring forward proposals for changes to the common commercial policy. See also ***common agricultural policy***.

Common Crisis : *North South : Cooperation for World Recovery:* see ***Brandt Report***.

Common customs tariff: see ***common external tariff***.

Common external tariff: the uniform tariff rates applied by the members of a ***customs union*** against non-members. Members of a customs union agree to eliminate or phase out all tariffs among themselves. At the same time, they replace their individual tariffs by a single tariff. Membership of a customs union may therefore entail an unchanged, higher or lower tariff by individual members on a given product. Under WTO rules, the resulting changes may not be used to increase the level of protection overall. ***Free-trade areas*** do not have a common external tariff.

Common Fund for Commodities: usually known as the Common Fund. It was originally proposed at UNCTAD IV in 1976 as the financing mechanism for the ***Integrated Programme for Commodities***. Negotiations on its structure were completed in 1980. It entered into force in 1989 and now has 105 members. The Common Fund has three main functions. The first is aimed at supporting the financing through the ***First Account*** of ***buffer stock*** operations and internationally coordinated national stocks. This function is not yet active. The second is aimed at financing of research and development

in the commodities area, productivity improvements and the promotion of consumption through the ***Second Account***. Its third function is to promote coordination and consultation in the field of commodities other than stocking and their financing. Funding is available for projects identified by ***international commodity bodies***. Projects supported by the Common Fund are usually commodity-oriented rather than country-specific. Its secretariat is located in Amsterdam. See also ***commodity policy***, ***international commodity agreements*** and ***UNCTAD***.

Common market: a more developed type of ***customs union*** in which, in addition to the free movement of goods between member states, labour, capital and services can also move without restriction. Common markets led to highly integrated economies. See also ***four freedoms***.

Common Market: see ***European Economic Community***.

Common Market for Eastern and Southern Africa: COMESA. The treaty establishing COMESA was signed at Kampala on 5 November 1993. It is the successor to the Preferential Trade Area for Eastern and Southern African States (PTA). Its members are Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe. The aims of COMESA are (a) to attain sustainable growth and development of member states by promoting a more balanced and harmonious development of its production and marketing structures, (b) to promote joint development in all fields of economic activity and the joint adoption of macro-economic policies and programs to raise the standard of its peoples and to foster closer relations among members states, (c) to cooperate in the creation of an enabling environment for foreign, cross-border and domestic investment, including the joint promotion of research and adaptation of science and technology for development, (d) to cooperate in the promotion of peace, security and stability among the member states in order to enhance economic development in the region, (e) to cooperate in strengthening the relations between the Common Market and the rest of the world and the adoption of common positions in international fora, and (f) to contribute towards the establishment, progress and the realisation of the objectives of the ***African Economic Community***. In trade liberalisation and customs cooperation, members undertake to (i) establish a ***customs union***, abolish all ***non-tariff barriers*** to trade among themselves, establish a ***common external tariff***, and cooperate in customs procedures and activities, (ii) adopt a common customs bond guarantee scheme, (iii) simplify and harmonise their trade documents and procedures, (iv) establish conditions regulating the re-export of goods from third countries within the Common Market, and (v) grant a temporary exemption to Lesotho, Namibia and Swaziland from the full application of some the provisions. COMESA's secretariat is located at Lusaka.

Commonwealth: an association of 54 independent states established in its

present form in 1949 through the London Declaration. Its members were at one time or another part of the British Empire. It is administered by the Commonwealth Secretariat located in London. Among its many functions, the Secretariat runs programs aimed at the economic and trade development particularly of developing members. The Commonwealth's current membership consists of Antigua and Barbuda, Australia, The Bahamas, Bangladesh, Barbados, Belize, Botswana, Britain, Brunei, Cameroon, Canada, Cyprus, Dominica, Fiji, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Mozambique, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, St Christopher and Nevis, St Lucia, St Vincent and The Grenadines, Samoa, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Zambia and Zimbabwe. See also ***CHOGM*** (Commonwealth Heads of Government Meeting) and ***Trade and Investment Access Facility***.

Commonwealth of Independent States: formed in late 1991 with many of the republics that had made up the Soviet Union. Its members are Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. In 1993 its members agreed on the creation of an Economic Union allowing the free movement of goods, services, labour and capital. See also ***Newly Independent States***.

Commonwealth preferences: the name for empire preferences used especially in the postwar years, but it was already in use between the wars. See also ***historical preferences*** and ***imperial preferences arrangements***.

Community Charter of Fundamental Social Rights for Workers: see ***Social Charter***.

Community interest clause: this clause is part of a ***regulation*** issued in 1979 by the ***European Community*** which makes the imposition of anti-dumping or countervailing duties dependent on the existence of a Community interest in the matter. Importantly, "Community interest" includes the interests of consumers and processors of the imported product as well as the need for an internal competitive market. See also ***anti-dumping measures*** and ***countervailing duties***.

Community rights: also known as collective rights. The terms describe the fact that communities may develop and/or own aspects of ***traditional knowledge***. There is a view that these rights need new forms of ***intellectual property protection***.

Comparability: a term used in the ***APEC*** discussions denoting arrangements which ensure a broad and perceived equivalence between individual APEC contributions towards the implementation of the ***Bogor Declaration***. See also ***comprehensiveness*** and ***Osaka Action Agenda***.

Comparative advantage: the theory first proposed by David Ricardo in 1817

that a country is more likely to export goods that it can produce relatively efficiently. The relative efficiency measure compares production costs of different goods in each country concerned, not the production cost of the same good in different countries. A country's comparative advantage is reflected in its unsubsidised exports to world markets which is then said to be a country's revealed comparative advantage. Comparative advantage is seldom static. Countries can acquire a comparative advantage through, for example, investing in the acquisition of skills by their workforces. Hence the concept of dynamic comparative advantage. See also ***absolute advantage***, ***competitive advantage***, ***gains-from-trade theory***, ***Heckscher-Ohlin theorem***, ***kaleidoscopic comparative advantage*** and ***Stolper-Samuelson theorem***.

Compensation: a remedy available to members of the WTO in cases where another member breaks a bound commitment on services or imposes a tariff on a good above its bound rate. Such an action may be possible under the terms of the agreement, but the member taking it must then compensate others in some fashion, usually through making a tariff concession in another product or a commitment on another services activity. See also ***binding commitments***, ***bindings*** and ***safeguards***.

Compensation trade: a trading arrangement whereby the supplier of raw materials, manufactures or services to a foreign enterprise agrees to be paid in the form of part of the output of that enterprise. For the buyer enterprise in question, the advantages are that it does not need foreign exchange to import production components, there is no need to make any repayments until the operation is up and running, and it has a ready market for some of its products. It may, however, find that sometimes it will be competing against its own products if they have only a limited market, and that it has to make its products available to its suppliers at a discount. See also ***barter trade*** and ***countertrade***.

Compensatory financing arrangements: intergovernmental schemes designed to minimise the effects of shortfalls in commodity export earnings and export earning fluctuations, particularly those of developing countries heavily dependent on commodity exports. Access to the main arrangement, the ***IMF Compensatory and Contingency Financing Facility***, is subject to a range of conditions largely aimed at promoting ***structural adjustment*** and improvements in the ***balance of payments***. The ***STABEX*** and ***SYSMIN*** schemes, which were available to ***ACP states*** under the ***Lomé Convention***, have not been renewed in the ***ACP-EC Partnership Agreement***. However, some budgetary assistance is still available to ACP countries heavily dependent on export earnings from agricultural and mineral products if losses in earnings are likely to jeopardise macroeconomic stability. See also ***Common Fund for Commodities***.

Competence: the constitutional empowerment given to governments to enact laws and enter into binding international commitments. In federated states, there is usually a division of power between the central government and the

states or provinces, but in all cases the central government has control over foreign affairs and defence matters, including ***international economic relations***. The ***European Community*** is a particularly interesting example of a division of power. The ***European Commission*** has exclusive external competence in any field where internal common rules have been established. This, for example, applies to the ***common commercial policy***. In the case of ***services*** and ***intellectual property rights*** the competence of the Commission may be more circumscribed. The broad trend, however, since the establishment of the Community has been for the Commission's competence to expand. See also ***subsidiarity***.

Competition: the way firms behave in the market place and how they respond to the actions of other suppliers and consumers. Underlying the idea of competition is the assumption that supply and demand are limited, at least in the short term, and that firms must strive obtain their share of the available resources. In ideal conditions, competition between firms would be based on price and the ability to innovate and respond to changes in the market. There would be no impediments to the operation of the price or market systems. In the real economy, human ingenuity, high entry barriers to some industries, efficiencies of scale obtainable from large-scale operations and other factors combine to impair perfect competition in various ways. This may lead to economic rents being accorded to some firms, but without any obligation on their part to let the consumer benefit from this situation. Governments recognise this, and in many countries they seek to protect, where necessary, competition through ***antitrust laws*** and ***competition policy***. Most economies are becoming internationalised, and government approaches to ***trade policy***, i.e. their assessment of the extent to which foreign firms and their products should be allowed to compete in the market, therefore can be of critical importance to the level of competition prevailing in the market.

Competition law: rules and regulations, also known as ***antitrust laws***, to foster the competitive environment in an economy, partly through the more efficient allocation of resources. The competition laws of most countries deal with four main groups of behaviour by firms: (a) horizontal arrangements (mainly arrangements between firms t maintain and control prices), (b) vertical arrangements (can include exclusive dealing, resale price maintenance, geographical limitations on activities and tied dealing), (c) misuse of market power by monopolies and large firms, (d) and control of mergers and acquisitions to ensure that they do not impair competitive overall conditions in the market. Measures dealing with horizontal and vertical restraints as well as the enforcement of laws concerning them are sometimes called ***conduct*** policies. Those dealing with mergers may be known as structural policies. Rules covering these matters are sometimes described as ***narrow competition policy***. Many say that four variables affect the relative strength or weakness of competition laws: (a) scope of application to governmental entities and to government-encouraged or sanctioned conduct of state enterprises and private firms, (b) substantive

rules governing specific business practices and arrangements, (c) scope of sectoral coverage and (d) enforcement.

Competition policy: approaches of governments to the promotion and protection of competition. It consists of ***competition laws*** and policies achieving similar aims. Since the 1980s the term "competition policy" has broadened in scope in many industrial economies. It now may be concerned also with the welfare-enhancing effects of opening non-tradeable sectors to competition, the so-called ***wider competition policy***. This includes gas, water and electricity utilities which once were considered natural monopolies. Competition policy is often seen as promoting especially the interests of the consumer, and comparisons are made with ***trade policy*** which, especially in the case of ***trade remedies***, tends to favour the producer. See also ***antitrust laws*** and ***trade and competition policy***.

Competition policy and anti-dumping measures: an issue relevant to a study of the feasibility of multilateral rules on ***trade and competition***, one of the ***new trade issues***. Some say that there is a fundamental conflict between the concurrent administration by a government of anti-dumping laws and competition or ***antitrust laws***. This view is based partly on the assumption that trade policy may confer benefits to domestic producers through ***anti-dumping measures*** that allow them to secure additional returns by enabling them to raise prices. Exporters who make price undertakings to evade the imposition of anti-dumping duties may in this way also be able to obtain economic rents. The contention is that such actions are legal under trade policy, but illegal under ***competition policy***. Another conflict is seen as resulting from an underlying principle that anti-dumping laws are designed to protect domestic producers and sellers of goods, whereas competition laws are meant to protect consumers and importers. It really comes down to the question of what anti-dumping laws are meant to achieve. Some of the early anti-dumping laws were intended to deal with ***predatory pricing***, an anti-competitive practice banned by many competition laws. But current anti-dumping laws do no longer seem to have this motivation. They are seen rather as a means of promoting fairer trade, often in the sense of the ***level playing field***. This division remains to be resolved. Countries and industries disadvantaged by anti-dumping measures tend to argue that such measures should be replaced by competition laws to the extent that they are actionable in this way. This has already happened in trade between Australia and New Zealand under ***ANZCERTA***, between the members of the ***European Community*** and within the ***European Economic Area***. These are special cases where the ground was carefully prepared over many years. There is widespread agreement among analysts that a measure of convergence in competition laws and their adequate enforcement will be necessary to achieve this goal more widely. The problem in the global trading community is that there is not only a great diversity of competition and enforcement regimes, but additionally many developing countries may not have adequate means to enforce such rules.

Competitive advantage: a contentious theory of industrial development popularised by Michael Porter and others in the *Competitive Advantage of Nations*. The origins of the theory itself appear to go back to the economist Alfred Marshall (1842-1924). It states that the success of a firm or an industry is based on cost advantages in the production of a relatively standardised product or product-based advantages related to the development of differentiated products. Firms with a competitive advantage are often concentrated geographically, which in turn assists the development of a workforce with the relevant skills. Critics of this theory have noted that through its emphasis on high-technology firms in advanced countries, and its devaluation of the importance of comparative costs, it appears to give legitimacy to public expenditure and protection policies designed to promote the premature development of high-technology industries. See also ***comparative advantage*** and ***strategic trade theory***.

Competitive-need limitation: an aspect of the administration of the United States ***GSP*** scheme. If in any calendar year imports of a given product from a beneficiary country account for more than 50% of United States imports of that product, the exporting country's eligibility for benefits for that product is terminated. Similarly, once a country's share of exports to the United States of a given product exceeds a specified value, benefits will also be terminated. The specified value varies from year to year. The competitive-need limitation may be waived in certain circumstances, especially if the exporting country gives reasonable access to United States goods and services, and if it offers proper protection for United States-owned ***intellectual property rights***. Many ***least-developed countries*** enjoy automatic waivers from the limitation. See also ***graduation***.

Competitiveness: the ability of a firm, a production sector or even a country to hold its own in terms of economic efficiency against other firms, sectors or countries. Governments sometimes try to improve the competitiveness of a sector through the use of ***export targeting***, ***subsidies***, ***protection*** or other measures. This can only be done at the expense of the remainder of the economy, and the longer-term effects of such practices is to reduce the economy's competitiveness overall.

Competitive neutrality: a concept relevant to the examination and administration of the nature of competition between private-sector firms and deregulated government monopolies. The need for competitive neutrality arises from the fact that removing barriers to market entry and ending government monopolies may not be enough to achieve genuine competition in that sector. In such a situation, the advantage may still lie with the enterprise that previously was a government monopoly or part of one. The remedy usually is some form of pro-competitive regulation. See also ***deregulation*** and ***re-regulation***.

Composite tariff: see ***compound tariff***.

Composition of trade: usually a statistical analysis of a country's trade in terms of product groups which shows what kinds of goods and services it

imports from and exports to a given country.

Compound tariff: a rate of duty on a product which consists of two components. The first is an *ad valorem* rate, expressed as a percentage of the value of the product. The second component is a specific rate, expressed as a monetary value per article regardless of the value of the product. A hypothetical example would be one where each compact disc incurs a ***specific tariff*** of one dollar plus an ***ad valorem tariff*** set at 10%.

Comprehensiveness: a principle agreed by ***APEC*** leaders to signify that the commitment to free and open trade and investment by 2010/2020 will apply within the target dates and across all sectors and impediments. The principle allows for some flexibility on the timing of liberalising across or within the different areas of an economy. See also ***Bogor Declaration*** and ***Osaka Action Agenda***.

Compulsory licensing: a procedure for authorities to license companies or individuals other than the ***patent*** owner to use the rights of the patent — to make, use, sell or import a product under patent (i.e. a ptented product or a product made by a patented process) — without the permission of the patent owner. Article 31 of the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** sets out the framework under which this may be done. Compulsory licensing may only be pursued if efforts to obtain the right to use the intellectual property on reasonable commercial terms have not been successful. See also ***Declaration on the TRIPS Agreement and Public Health***, ***exhaustion doctrine*** and ***forced technology transfer***.

Computed value: one of the methods for ***customs valuation*** permitted by the WTO ***Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade*** (the *Customs Valuation Agreement*) if no reliable price information is available. A computed value consists of the sum of (a) the cost or value of the materials and their processing, (b) a normal amount for profit and general expenses, and (c) the cost or value of all expenses necessary, such as transport, port handling, charges and insurance.

Concealed dumping: see ***hidden dumping***.

Concerted liberalisation action: sometimes also called concerted unilateralism. The basic approach used by ***APEC*** economies to achieve the goal of free and open trade and investment by 2010/2020 as envisaged in the ***Bogor Declaration***. Economies aim at roughly equal progress through the observance of ***comparability***, and they seek to ensure that all sectors are included in the liberalisation, as envisaged in the ***comprehensiveness*** principle. See also ***APEC***, ***APEC individual action plans***, ***collective action*** and ***Osaka Action Agenda***.

Concerted unilateralism: see ***concerted liberalisation action***.

Concession: in the WTO, the lowering of a ***tariff*** or the removal of an impediment to ***trade in services***, generally at the request of another party. In its narrowest sense, it may only cover the ***binding*** of a tariff item. Some

commentators have suggested that this term should be replaced by ***commitment*** to remove the false impression that countries make a sacrifice by lowering tariff rates, and that ***trade liberalisation*** is a cost on the economy. The ***GATS*** already refers to commitments. See also ***requests and offers***, ***schedules of commitments on services*** and ***schedules of concessions***.

Conditional most-favoured-nation treatment: also called ***code-conditioned MFN***. It means the granting of ***most-favoured-nation treatment*** (MFN) subject to conditions being met by the country receiving it. Membership of an agreement may be such a condition. In the case of the WTO ***Agreement on Government Procurement***, for example, MFN on government purchases only has to be extended to the other members of the Agreement. There are also cases where a country decides to grant MFN to another country only if some conditions unrelated to trade are met. Such a situation arose when the United States Congress adopted the ***Jackson-Vanik Amendment*** to the 1974 Trade Act which limited the granting of MFN to countries operating a liberal emigration policy.

Conditional national treatment: the imposition of conditions foreign-owned companies as part of giving them ***national treatment*** in other respects. For example, foreign-owned companies may have to comply with ***performance requirements***, ***reciprocity*** conditions or ***local content requirements*** not applying to others.

Conditional offers: offers made in trade negotiations either in the expectation that others will make offers of equivalent value or on the assumption that one's own offer will be seen as matching those already on the table. Conditional offers may be withdrawn or modified at any time until a general settlement has been reached. See also ***ad referendum agreement***.

Conduct: in ***competition policy***, the behaviour of a firm in the market place, particularly in terms of the applicable ***competition laws*** or ***antitrust laws***.

Conference on International Economic Cooperation: CIEC. A meeting of developed and developing countries convened by the French Government between December 1975 and June 1977 to discuss international economic issues, including energy, raw material prices, development, and finance. Some say that this was the true start of the ***North-South dialogue***. France received much praise for this initiative, but it is not possible to point to any concrete results from the conference.

Conflict diamonds: defined by the United Nations as "diamonds that originate from areas controlled by forces or factions opposed to legitimate and internationally recognised governments, and are used to fund military action in opposition to these governments, or in contravention of the decisions of the Security Council".

Conflict of laws: see ***private international law***.

Conformity assessment: includes, among other things, procedures for sampling, testing and inspection; evaluation, verification and assurance of

conformity; and registration, accreditation and approval. The WTO ***Agreement on Technical Barriers to Trade*** sets out a ***Code of Good Practice for the Preparation, Adoption and Application of Standards*** which should be used by government and non-government bodies for framing and using technical regulations. It requires that procedures for determining conformity of products with national standards are fair and equitable, particularly where domestic and comparable imported products are involved. See also ***International Electrotechnical Commission*** and ***International Organisation for Standardisation***.

Consensus: the usual method for taking decisions in the WTO. Provision exists for formal voting, but such votes are rare or taken only when consensus has already been achieved. Consensus decisions reduce the scope for disputes arising from differing understandings of the rules. The search for consensus can, however, add to the negotiating period, and it can give rise to delays because of ***foot draggers***. The ***Doha ministerial declaration*** refers several times to decisions having to be made by explicit consensus. It is not yet clear whether this will affect the way consensus is reached. See also ***convoy problem*** and ***decision-making in the WTO***.

Conservative social welfare function: one of the factors governing the actions of governments in their consideration of trade-liberalising policies. It was first identified by Max Corden in *Trade Policy and Economic Welfare*. He says that, put in its simplest way, it means that governments feel that in an income distribution target any significant absolute reductions in real incomes should be avoided. In other words, he says, increases in incomes are given relatively low weights and decreases very high weights. The conservative social welfare function would therefore partly explain why governments sometimes are cautious about reducing tariffs or removing other trade measures which may affect adversely the operations of industries.

Constructed value: a method available under the WTO ***Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994***, usually known as the Anti-dumping Agreement, to calculate the production cost of a product in the exporting country. This method may only be used if there is no export price or if the export price is considered to be unreliable because of doubts about the existence of ***arm's-length pricing***. It is not normally used for ***market economies***. See also ***analogue country***, ***anti-dumping measures*** and ***normal value***.

Consular formalities: the requirement that firms exporting goods to some countries obtain an endorsement by the consular representations of the importing country of invoices, ***certificates of origin***, shipping manifests and other documents. Endorsement was subject to the payment of a fee often related to the value of the consignment. Fee structures and bureaucratic delays and procedures frequently became irritating factors in international trade relations. Most countries have now abolished consular formalities, and in others they have fallen into desuetude. See also ***preshipment inspection***.

Consultation: the first stage in the WTO ***dispute settlement*** procedure, aimed at resolving issues cooperatively, sometimes through the good offices or mediation of a disinterested party. The fact-finding nature of consultation between parties often leads to a solution. If the consultations fail to settle a dispute within sixty days after a request has been made, the complaining party may request the establishment of a dispute settlement ***panel***. The parties may go to a panel earlier if they conclude that the consultations will not settle the dispute. WTO members receiving a request for such consultations must therefore treat them seriously. They cannot use them to gain extended breathing space. See also ***WTO understanding on dispute settlement***.

Consultative Group of Eighteen: an informal mechanism within the GATT, established on 11 July 1975 with a membership of eighteen, broadly representing developed and developing countries. Initially, it was chaired by one of its members, but in 1979 the Director-General of the GATT was given that task. The CG-18, as it was usually known, was meant to assist the GATT membership in carrying out its responsibilities through an early discussion of trade issues likely to cause difficulties. It had no decision-making responsibilities. Its membership was meant to rotate from time to time, but in practice there was hardly any movement once the initial slate had been agreed. Instead, the custom arose of admitting alternates to meetings also. The CG-18 fell into disuse during the ***Uruguay Round***. It has not been reconstituted, but there have been calls for a similar body in the WTO. See also ***Invisibles Group*** for a more recent consultative mechanism in the WTO.

Consumer subsidy equivalent: usually abbreviated to CSE. For an agricultural commodity, the CSE is defined as the amount that consumers would need to be paid to compensate them for the effect of removing agricultural support programs. Expressed as a percentage, it is the ratio of the total value of transfers received by consumers to total consumer expenditure on the product. When the consumer receives net assistance, CSEs are positive. When they are negative, the consumer is being taxed. See also ***producer subsidy equivalent***.

Contact points: see ***enquiry points***.

Contestability of markets: see ***international contestability of markets***.

Contingent multilateralism: an American term to mean that multilateral action should be taken whenever possible to improve ***market access***, but sometimes preferential liberalisation in the form of ***free-trade agreements*** and unilateral action would be better. See also ***unilateralism***.

Contingent protection: protective mechanisms, also called commercial defence mechanisms, that are legal under the WTO agreements. They may be triggered to counter the effects of ***dumping***, ***subsidies*** and unexpected import surges causing ***injury*** to domestic industry. Such mechanisms include ***anti-dumping measures***, ***countervailing duties*** and

safeguards.

Continuation clause: a provision contained in Article 20 of the WTO ***Agreement on Agriculture*** which calls for the resumption of multilateral negotiations on agriculture one year before the end of the agreed implementation period, i.e. by 1 January 2000. The long-term objective of the continuation clause is substantial progressive reductions in support and protection. The resumed negotiations also take into account (a) the experience up to then from implementing the reduction commitments, (b) the effects of the reduction commitments on world trade in agriculture, ***non-trade concerns***, ***special and differential treatment*** to developing countries, (c) the objective to establish a fair and market-oriented agricultural trading system, and (d) other objectives needed to achieve the long-term objectives. See also ***WTO built-in agenda***.

Continued Dumping and Subsidy Offset Act of 2000: see ***Byrd Amendment***.

Contraband: refers to neutral cargo in times of war capable of being used to assist the military operations of an enemy. Rules concerning contraband have always been flexible and subject to interpretation on the spot, but in principle, upon interception goods found to be peacetime commodities would be allowed to continue. War material could be stopped. The elaboration and administration of rules on contraband has always been difficult because many goods and commodities are capable of either civilian or military goods. In popular parlance, contraband is often used where smuggling or smuggled goods would be the more appropriate term. See also ***dual-use exports***.

Contracting party: the formal term for members of the ***GATT 1947***. When the contracting parties acted jointly to adopt a decision, GATT documents denote this by the use capital letters (the CONTRACTING PARTIES). GATT contracting parties are now WTO members.

Conventional tariff: a tariff in which most or all duty rates are the result of negotiations under international conventions or treaties. This term is now largely forgotten. See also ***maximum-minimum tariff***.

Conventional wisdom: words used by J K Galbraith in *The Affluent Society* to describe "beliefs that are at any time assiduously, solemnly and mindlessly traded between the pretentiously wise". He assesses the phrase as being nicely balanced between approval and ridicule. A description of the origin of this expression may be found in *A Life in our Times*, by the same author. See also ***QWERTY principle*** and ***vestigial thought***.

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour: ILO Convention No 182, adopted on 17 June 1999. It seeks to prohibit and eliminate the ***worst forms of child labour*** as a matter of urgency. The United States ***Trade Promotion Authority*** seeks to prmote universal ratification and full compliance with this Convention.

Convention of Stockholm: see ***EFTA***.

Convention on a Code of Conduct for Liner Conferences: more often

known as the UNCTAD Liner Code. An intergovernmental "best-endeavours" agreement concluded in 1987 under ***UNCTAD*** auspices which seeks to develop the share of commodities and goods carried in developing country ships in order to improve their ***balance of payments***. The Code's underlying principle is the 40-40-20 ratio which, although not specified in the Convention, allocates informally 40% of trade to shipping lines of the importing country, 40% to those of exporting country and 20% to third-country shipping lines. Liner code member countries have had difficulties achieving these figures in the face of commercial reality and changing directions of trade. See also ***MFN exemptions***.

Convention on Biological Diversity: concluded on 5 June 1992, entered into force on 29 December 1993. Its objectives are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. It contains provisions concerning appropriate access to genetic resources and transfer of relevant technologies. See also ***Cartagena Protocol on Biosafety***, ***mutlilateral environment agreements*** and ***trade and environment***.

Convention on Combating Bribery of Foreign Public Officials in International Business Transactions: entered into force on 15 February 1999. All 29 ***OECD*** countries plus Argentina, Brazil, Bulgaria, Chile, the Slovak Republic and Slovenia have acceded to it. The Convention makes it a crime to offer, promise or give a bribe to a foreign public official in order to secure a business transaction. Separately, OECD members also agreed to end the tax deductibility of bribery payments. See also ***Draft International Agreeent on Illicit Payments*** and ***trade and illicit payments***.

Convention on International Civil Aviation: see ***Chicago Convention***.

Convention on International Trade in Endangered Species of Wild Fauna and Flora: see ***CITES***.

Convention on Persistent Organic Pollutants: adopted in Stockholm on 23 May 2001. It is not yet in force. Persistent organic pollutants are chemical substances that remain intact in the environment for a long time, become widely distributed geographically, accumulate in the fatty tissue of living organisms and are toxic to humans and wildlife. The convention aims to eliminate or reduce the release of persistent organic pollutants into the environment. See also ***multilateral environment agreements***.

Convention on the Law of the Sea: see ***United Nations Convention on the Law of the Sea***.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property: a convention adopted by the ***United Nations Educational, Scientific and Cultural Organisation*** (UNESCO) in 1970. The parties designate the types of property, religious or secular, that are important for archaeology,

prehistory, history, literature, art or science. They agree to oppose the illicit import, export or transfer of ownership of cultural property. Licit exports of cultural property are made under a system of certification.

Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade: adopted on 11 September 1998 in Rotterdam. The convention assists governments in preventing imports of chemicals that they cannot manage safely. If governments allow imports of a hazardous chemical or pesticide, exporters are obliged to provide extensive information on the chemical's possible health and environmental dangers. The convention covers 22 pesticides and five industrial chemicals. This list can be extended through further negotiations. The convention will enter into force when fifty countries have ratified it. It is administered jointly by the ***Food and Agricultural Organisation*** and the United Nations Environment Program (UNEP). See also ***multilateral environment agreements*** and ***prior informed consent***.

Convention on the Settlement of Investment Disputes between States and Nationals of Other States: see ***ICSID***.

Convoy problem: this problem arises in ***multilateral trade negotiations*** when participants ready to move forward have to wait for the party least prepared or least willing to proceed. The slowest party, like the slowest ship in a convoy, then determines the pace of progress. Some prefer the analogy of a V-shaped flying-geese formation. An observer of such formations would have to conclude, however, that there is no obvious evidence of the lead goose adjusting to the slower fliers. Ornithologists may disagree. See also ***foot dragger*** and ***consensus***.

Copenhagen Declaration and Programme of Action: a set of non-binding undertakings by the 117 countries that attended the World Summit for Social Development in March 1995 in Copenhagen. Some of its provisions draw attention to the role of trade and investment in promoting social development and have relevance to the debate on ***trade and labour standards***.

Copyright: the exclusive right to do certain things with an original work, including the right to reproduce, publish, perform the work in public and to make adaptations of it. Copyright does not protect ideas themselves, but only the original expression of ideas. In literary, dramatic, musical or artistic works, it generally lasts for the lifetime of the author plus fifty years. See also ***Agreement on Trade-Related Aspects of Intellectual Property Rights***, ***Berne Convention***, ***fair-use doctrine***, ***intellectual property rights***, ***neighbouring rights*** and ***Universal Copyright Convention***.

Copyright Treaty: an instrument concluded under ***WIPO*** auspices on 20 December 1996. It updates the ***Berne Convention*** by, for example, giving ***copyright*** protection to computer programs and databases (but not the material making up the database). It also covers rental rights and legal protection against the circumvention of effective technological measures used

by authors. See also ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** and ***parallel importation***.

Core labour standards: a concept relevant for a discussion of whether ***trade and labour standards*** should be should be part of ***trade policy***. A study on labour standards issued by the OECD in 1995 suggests that core labour standards should include (a) freedom of association and collective bargaining, (b) elimination of exploitative forms of child labour, (c) prohibition of forced labour, in the form of slavery and compulsory labour, and (d) non-discrimination in employment, i.e. the right to equal respect and treatment for all workers. All of them are considered basic human rights standards, but there is no single international instrument grouping them in this way. Some also consider the right to work under acceptable working conditions (minimum workplace safety and health standards, minimum wages, maximum hours per week, etc.) a core standard, a view taken by the ***United States Omnibus Trade and Competitiveness Act***. This is more controversial. Core labour standards are defined in ***International Labour Organisation*** (ILO) and United Nations conventions and recommendations. Alejandro Portes has suggested the following typology of labour standards: (1) *basic rights* (rights against use of child labour, involuntary servitude and physical coercion), (2) *survival rights* (rights to a living wage, accident compensation and a limited work week), (3) *security rights* (right against arbitrary dismissal and rights to retirement compensation and survivors' compensation) and (4) *civic rights* (rights to free association, collective representation and free expression of grievances). See also ***pauper-labour argument***, ***race-to-the-bottom argument***, ***social clause***, ***social dumping***, ***social labelling***, ***social subsidies*** and ***wage-differential argument***.

Coreper: a ***European Union*** mechanism responsible for preparing meetings of the ***Council of the European Union*** (the Council of Ministers). It consists of the Ambassadors representing ***European Union*** member states in Brussels. Coreper I is made up of the Deputy Permanent Representatives and Coreper II of the Permanent Representatives. Coreper often deals with contentious issues, but it has no power to make decisions. Although it became very early on one of the Community administrative mechanisms, it was only established formally by the ***Treaty of Maastricht***.

Core-periphery thesis: a theory of ***international economic relations*** flourishing from about the 1950s to the 1980s. It postulates that the international economic system consists of an economically advanced core (the developed countries) and a less advanced periphery (the developing countries). It also assumes that the periphery is dependent on the core as markets for its products, especially primary commodities, and as a source of know-how. The theory is dynamic in that it assumes that in the long term the periphery itself may form new cores. Some have observed that the initial advantage of the core over the periphery may be whittled away. This process then creates new opportunities in the periphery which has become relatively

more competitive. See also ***dependence theory*** and ***North-South dialogue***.

Corn laws: a set of laws first enacted in England in the twelfth century to protect agricultural production. These laws were repealed in 1846. Their repeal, together with that of the equally protectionist Navigation Acts in 1849, marked the victory of the free-traders and the beginning of the liberal regime characterising England's trade policy for the next fifty years or so. It also meant the final acceptance of economic "science" as an instrument of policy-making. See also ***Cobden-Chevalier Treaty***.

Corruption: see ***Convention on Combating Bribery of Foreign PublicOfficials in International Business Transactions***, ***Draft International Agreement on Illicit Payments*** and ***trade and illicit payments***.

Cotonou Agreement: see ***ACP-EC Partnership Agreement***.

Council for Mutual Economic Assistance: usually known as Comecon. Established in January 1949 with Bulgaria, Czechoslovakia, Hungary, Poland, Romania and the Soviet Union as members. They were joined later by Cuba, the German Democratic Republic, Mongolia and Vietnam. Albania was a member between 1949 and 1961. Yugoslavia was an associate member. The purpose of the Comecon was to facilitate the planned economic development of member country economies, acceleration of economic and technical progress, a rise in the level of industrialisation in countries with less developed industries, uninterrupted growth of labour productivity, and a steady advance in the welfare of each member's people. The Comecon was dissolved in February 1991. See also ***economies in transition***.

Council for Trade in Goods: the body supervising the operation of the 13 WTO multilateral agreements governing trade in goods included in Annex 1 to the ***Marrakesh Agreement Establishing the World Trade Organisation***. The most important of these is the GATT. All WTO members are automatically members of this Council. It meets about once a month.

Council for Trade in Services: the body administering the ***GATS*** *(General Agreement on Trade in Services)*. All members of the WTO are automatically members of the Council. It meets about once a month.

Council for TRIPS: the body administering the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** (TRIPS). Its role is to supervise the operation of the Agreement and members' compliance with it. All WTO members are automatically Council members.

Council of Europe: established in 1949. It aims to strengthen democracy, human rights and the rule of law in member countries. It now has forty members. Its secretariat is located in Strasbourg. See also ***Council of the European Union*** from which it is organisationally distinct, though there is close cooperation between them.

Council of the Entente: an association with political and economic aims consisting of Benin, Burkina Faso, Côte d'Ivoire, Niger and Togo. It was established in 1959. One of the Council's main activities is the operation of the

Mutual Aid and Loan Guarantee Fund which finances projects intended to promote regional economic development and integration. Its secretariat is located at Abidjan, Côte d'Ivoire.

Council of the European Union: a decision-making body, usually known as the Council of Ministers, which consists of representatives at ministerial level of all fifteen members of the ***European Union***. The presidency of the Council rotates every six months among the member states. Meetings are held frequently. Participation depends on the subjects to be discussed. Foreign Ministers meet as the General Affairs Council. Nearly all decisions are made by qualified majority. This means that at least 62 votes out of a possible total of 87 must be cast in favour of a proposal if it is to be adopted. Germany, France, Italy and the United Kingdom have ten votes each, Spain eight, Belgium, Greece, the Netherlands and Portugal five each, Austria and Sweden four each, Ireland, Denmark and Finland three each, and Luxembourg has two votes. See also ***European Commission***.

Counterfeiting: unauthorised representation of a registered trademark carried on goods identical or similar to goods for which the trademark is registered, with a view to deceiving the purchaser that he/she is buying the original goods. See also ***Agreement on Trade-Related Aspects of Intellectual Property Rights***, ***intellectual property*** and ***intellectual property rights infringements***.

Countermeasures: the means available to WTO members for dealing with exceptional circumstances and alleged breaches of the rules fall into two main categories. The first is made up of ***trade remedies***, also known as trade defence mechanisms and contingent protection. They include ***safeguards***, ***anti-dumping measures*** and ***countervailing duties***. This group of measures can be initiated by any WTO member as long as it follows the relevant rules. The second group of countermeasures, i.e. the ***suspension of concessions and obligations***, can only be taken with the authorisation of the ***Dispute Settlement Body***. In other words, to obtain redress for an alleged breach of the rules by another member one has to launch a case. As the ***Appellate Body*** observed in *Canada - measures affecting the export of civil aircraft* ". . . no member is free to determine whether a *prima facie* case or defence has been established by the other party. That competence is necessarily vested in the panel under the DSU, and not in the Members that are parties to the dispute".

Countertrade: a more sophisticated and sometimes highly complex form of ***barter trade***. For example, a country may export coal and accept mining equipment in payment. No money changes hands in this transaction. The buyer of the coal then seeks to place it in a third market in exchange for payment or some other product. Goods to be traded in this way are usually valued in a third-country currency, e.g. Swiss Francs, for accounting purposes. Countertrade is an inefficient way to trade, but it has sometimes been attractive to countries experiencing severe foreign exchange shortages. See also ***compensation trade***.

Countervailing duties: action taken by the importing country, usually in the form of increased duties, to ofset subsidies given to producers or exporters in the exporting country. GATT Article VI and the WTO ***Agreement on Subsidies and Countervailing Measures*** set out the rules for imposing such duties. Countervailing duties can be applied under certain restrictive conditions and subject to material ***injury*** being caused to a domestic industry. See also ***anti-dumping measures*** which are aimed at the actions of private firms rather than governments and ***de minimis subsidies***.

Country-hopping: an informal name for the practice by importers currently subject to ***anti-dumping measures*** of changing their sources of supply of dumped products to a country or a company not under investigation. See also ***carousel effect***, ***circumvention*** and ***Persistent Dumping Clause***.

Country of origin: see ***rules of origin*** and ***preferential rules of origin***.

Cradle-to-grave assessment: see ***life cycle assessment***.

Creative ambiguity: used in the WTO, and probably elsewhere, to skirt around a difficult issue by leaving some aspect of it undefined. A compromise that leaves all more or less satisfied.

Creative minilateralism: a trade strategy for the opening of markets by the United States proposed by Thomas O Bayard and Kimberley Ann Elliott in *Reciprocity and Retaliation in U.S Trade Policy*. It involves (a) bilateral talks, if necessary with the support of ***Section 301*** or the threat of antitrust action, (b) a much stronger analytical capacity for assessing structural and access impediments, and (c) the use of favourable constituencies in target markets. This would be combined with publicity campaigns and technical assistance to developing countries to allow them to design and implement more effective regulatory frameworks. See also ***minilateralism***.

Crisis cartel: also known as emergency cartel, rationalisation cartel, depression cartel and similar names. This is a form of industry cooperation available in abnormal circumstances under some ***antitrust laws***. Conditions for its use tend to include factors such as a permanent and severe decline of an industry, the promise of efficiency gains which are in the public interest and the assumption that the improvements would not be attainable through other means. See also ***cartel*** and ***failing-firm doctrine***.

Critical mass: jargon probably borrowed from physics. Its achievement is every trade negotiator's dream. It is the point at which support for negotiating proposition becomes so strong that indifference or opposition by others no longer matter much.

Cross-border alliances: see ***strategic business alliances***.

Cross-border investment: see ***foreign direct investment***.

Cross-border trade: the movement of goods from one ***customs territory*** into another. For ***WTO*** members, the ***GATT*** is the main set of rules governing their mutual trade. Other countries often conduct their trade under a ***bilateral trade agreement***. See also ***border trade***.

Cross-border trade in services: mode 1 under the ***GATS***. The producer and the consumer do not have to meet in order to conclude the transaction.

Usually such services are traded electronically. In ***NAFTA***, where the definition is much broader, it includes items such as the sale or purchase of a service, access to distribution systems, presence of a service provider of another party and the provision of a bond where this is needed to trade in services. See also ***commercial presence***, ***modes of services delivery*** and ***trade in services***.

Cross-compensation: this can occur as part of ***dispute settlement*** when, for example, the WTO member found to be in breach of an undertaking does not withdraw the offending measure or practice, but offers ***compensation*** in some other area of trade instead. See also ***suspension of concessions or other obligations***.

Cross-retaliation: an avenue open in certain circumstances to a WTO member whose rights under one agreement administered by the WTO have been infringed, to retaliate against the offending member under another agreement also administered by the WTO. The ***WTO understanding on dispute settlement*** makes this possible.

Crow-bar theory of trade policy: see ***aggressive reciprocity***.

CTD: see ***Committee on Trade and Development***.

CTG: see ***Council for Trade in Goods***.

Cuban Liberty and Democratic Solidarity (LIBERTAD) Act: see ***Helms-Burton legislation***.

Cultural identity: the idea that countries have cultural characteristics that set them apart from other countries. There is nothing controversial about this, but it can become contentious in ***trade policy*** when countries seek trade rules to preserve or enhance their cultural traits. Many suspect that this would give countries the right to inpose ***import restrictions***, ostensibly for cultural reasons, but in reality to achieve other aims. For example, some may wish to protect a traditional production process and the workforce employed in this way even though more modern technology may produce an identical product more competitively. See also ***audiovisual services in the Uruguay Round***, ***Canadian periodicals***, ***local content rules in broadcasting*** and ***trade and culture***.

Cumulative assessment of dumping: the investigation by the importing country of alleged concurrent ***dumping*** by several countries of the same product. Under the WTO rules such an assessment is allowed only if (a) the ***margin of dumping*** for each country is more than *de minimis* and the imports from each are not negligible, and (b) the assessment would be appropriate in the light of competitive conditions between imported and domestic products. See also ***anti-dumping measures*** and ***de minimis dumping***.

Cumulative rules of origin: a system of ***rules of origin*** which permits the production or transformation of a product in two or more specified countries in order to satisfy the access rules of the importing country. This method is sometimes used under the ***GSP*** regimes to allow preferential treatment for developing countries that might not by themselves qualify for it because they

have insufficient processing capacity. See also ***substantial transformation***.

Cumulative subsidies: the WTO ***Agreement on Subsidies and Countervailing Duties*** provides that if imports of a product from more than one country are concurrently the subject of a ***countervailing duty*** investigation, authorities may assess the cumulative effect of these subsidies. However, they may only do this if (a) amounts greater than ***de minimis subsidies*** are involved and (b) if such an assessment is appropriate in the light of the competitive conditions in the import market.

Currency Board: pegging the value of a currency to that of another or a basket of currencies. This is usually done to stabilise a volatile currency and to give the government time to devise and institute macro-economic reforms. A currency board may of course lead to market-driven reforms. Argument rages among economists whether stabilisation of a currency should come before or after the establishment of a currency board.

Current access tariff quotas: access opportunities to be opened for agricultural products where ***non-tariff measures*** have been converted into ***tariffs***. A formula was devised during the ***Uruguay Round*** negotiations whereby the level of access to be opened for a given product was determined through a comparison of the level of imports with consumption during the ***base period***. Current access levels were adopted to ensure that imports represented at least 5% of domestic consumption applying in the Uruguay Round base period of 1986-88. See also ***Agreement on Agriculture*** and ***minimum access tariff quotas***.

Current account: see ***balance of payments***.

Current domestic value: a method for valuing goods to be imported for the assessment of ***customs duties***. The value of the goods for duty purposes is the price at which goods comparable with those imported are sold under fully competitive conditions on the domestic markets of the country from which the goods were exported. This method has been superseded by the procedures contained in the WTO ***Agreement on Implementation of Article VII*** *[customs valuation]* ***of the General Agreement on Tariffs and Trade***. See also ***customs valuation***.

Customs Convention on Temporary Admission: see ***Istanbul Convention***.

Customs Cooperation Council: see ***World Customs Organisation***.

Customs duties: charges levied at the border on goods entering or, much less often, leaving the country. These charges are specified in the national ***tariff schedule***. They are usually based on the value of the goods, known as ***ad valorem tariff*** and sometimes as a cost per unit in the form of a ***specific tariff***. See also ***compound tariff***, ***multi-column tariff*** and ***single-column tariff***.

Customs territory: under the WTO rules, any territory with a ***tariff*** or other regulations of commerce of its own which governs its trade with other territories. A customs territory need not be a sovereign state. See also

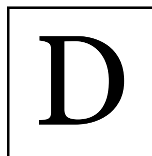
customs union.

Customs union: an area consisting of two or more individual economies or ***customs territories*** which remove all tariffs and sometimes broader trade impediments between them. The members making up the area then apply a ***common external tariff***. See also ***common market*** and ***free-trade area***.

Customs valuation: methods used by customs authorities to allocate a value to imported goods for the purpose of striking the correct import duty. The WTO ***Agreement on Implementation of Article VII*** *[customs valuation]* ***of the General Agreement on Tariffs and Trade*** aims to set out a fair, uniform and neutral system for the valuation of goods that precludes the use of arbitrary or fictitious customs values. The basic rule is that the customs value of imported goods in the case of unrelated parties is the ***transaction value***, i.e. the price actually payable for the goods when sold for export to the importing country. Freight, packaging, commissions, goods and services supplied to the buyer free of charge and some other costs may be added to the customs value. The Agreement also sets out the measures that may not be used to establish a value. These include, for example, ***minimum customs values***, the price of goods on the domestic market of the exporting country, the selling price of goods produced in the importing country, a system which provides for the higher of two values, etc. If there are suspicions that the transaction value is false, customs authorities may determine the value by going sequentially through five options: (a) the value of identical goods, (b) the value of similar goods, (c) the imported price of identical or similar goods less applicable deductions for costs, (d) computed value and (e) if none of these methods work, other reasonable means may be used. Additional considerations apply where the importer and exporter are related entities.

Customs valuation agreement: see ***Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*** and ***customs valuation***.

Cyclical dumping: see ***dumping***.



DAC: see ***Development Assistance Committee***.

DAC principles for developing the capacity for trade: see ***capacity-building***.

D'Amato legislation: see ***Iran and Libya Sanctions Act***.

Dairy Export Incentive Program: DEIP. A United States subsidy program first authorised by the 1985 Farm Act. Through this program, the United States Department of Agriculture pays a cash bonus to exporters of some

dairy products to allow them to sell these products on world markets for less than they bought them. Payments are made by the ***Commodity Credit Corporation***. Commodities able to benefit from DEIP are milk powder, butter fat, cheddar, mozzarella, Gouda, feta, cream, and processed American cheeses. See also ***Export Enhancement Program*** and ***Farm Security and Rural Investment Act*** of 2002 which extended the program to 2007.

Data protection in trade in services: the ***GATS*** contains several provisions to ensure confidentiality of records and data. Article IIIbis suspends the ***transparency*** requirement if disclosure of information would impede law enforcement, otherwise contravene the public interest or prejudice the legitimate commercial interests of private or public enterprises. Article IX (Business Practices) only requires the supply of publicly available non-confidential information concerning anti-competitive business practices. Other information may be made available if the requesting member undertakes to safeguard its confidentiality. Article XIV (General Exceptions) permits the suspension of obligations under the Agreement to protect the privacy of individuals in relation to personal data and the confidentiality of individual records and accounts.

Davignon Plan: a plan adopted in 1978 by the ***European Economic Community*** to revitalise its steel industry. The plan was aimed mainly at putting a cap on production capacity. It also had a longer-term segment for restructuring and rationalising the steel industry. ***State aids*** and ***import restrictions*** were an important factor in achieving the planned targets. The plan was named after Viscount Etienne Davignon, the then European Commissioner for Internal Market and Industrial Affairs. See also ***Multilateral Steel Agreement*** and ***Multilateral Specialty Steel Agreement***.

Decision: one of the means available to the ***European Community*** to enforce its mandate. A decision is binding only on those to whom it is addressed. This may be a member state, a single company or an individual. See also ***European Community legislation***.

Decision in Favour of Least Developed Countries: see ***least developed countries***.

Decision-making in the WTO: WTO members nearly always make their decisions by ***consensus***, but they may vote if a consensus is not possible. The majority required for adoption of a measure varies with the subject. An interpretation of the agreements administered by the WTO, excepting the ***plurilateral agreements***, requires a three-fourths majority of the ***WTO ministerial conference*** or the ***General Council***, as does agreement to a ***waiver***. Amendments to the ***most-favoured-nation*** articles in the ***GATT***, the ***GATS*** and the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** may only be made through unanimity. Each WTO member has one vote. The ***European Communities*** are entitled to a number of votes equalling the number of their member states. Interpretation of the plurilateral agreements is done according to the provisions contained in

these agreements. See also ***amendments to WTO agreements***. The ***Doha ministerial declaration*** has introduced the term "explicit consensus". It is not yet known what this means for achieving consensus.

Declaration giving effect to the provisions of Article XVI:4: adopted in 1960. GATT members agreed that from 1 January 1958 they would cease to grant, either directly or indirectly, any form of subsidy on the export of a product which would result in the sale of the exported product at a lower price than comparable prices charged for similar products in the importing market. ***Primary products*** were exempted from this Declaration.

Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking: one of the outcomes of the Marrakesh Ministerial meeting in April 1994 which formally ended the ***Uruguay Round***. The Declaration says that the positive outcome of the Uruguay Round is to be seen as a major contribution towards more coherent international economic policies. It notes that difficulties originating outside the trade field cannot redressed through trade measures alone. The Declaration accordingly invites the Director-General of the WTO to discuss further with the ***IMF*** and the ***IBRD*** the possible forms of cooperation between the three with a view to achieving greater coherence in global economic policymaking.

Declaration on the Establishment of a New International Economic Order: see ***New International Economic Order***.

Declaration on the TRIPS Agreement and Public Health: adopted at the ***Doha ministerial conference*** on 14 November 2001. The declaration affirms that the TRIPS agreement can and should be interpreted flexibly to promote access to medicines for all. Key elements of the declaration are that each member has the right to grant ***compulsory licences***, to determine what constitutes a national emergency or extreme urgency in public health, and to establish its own regime handling ***exhaustion*** of ***intellectual property rights***. See also ***access to medicines***.

Decompilation: the analysis of a computer program to discover the ideas or principles on which it operates. This normally involves a substantial recreation or reproduction of the program. National jurisdictions have differing views on its legality under ***copyright*** acts. The practice is accordingly controversial. A United States court held that ***reverse engineering***, including decompilation of a program, to uncover its unprotected ideas and concepts was permissible under the relevant laws as "fair use", but in Australia decompilation may involve an infringement of the copyright owner's reproduction rights. See also ***fair-use doctrine***.

Découpage: a procedure adopted during the ***Kennedy Round*** in the negotiations on tariff reductions on chemicals. It arose from the need to separate the concessions made under the existing United States negotiating authority (the *Trade Expansion Act* of 1962) from those that required additional congressional approval. The latter group was centred around the proposed abolition of the ***American Selling Price*** system, a method of

valuing some chemicals at the border for the purpose of ***customs duties***.

Deep amber: see ***serious prejudice***.

Deep integration: the integration by two or more countries of national policy frameworks that usually are the preserve of national governments. These include ***competition policy***, technical standards, ***subsidies***, monetary and fiscal policies, regulation and supervision of financial institutions, environmental issues, ***government procurement*** and more. The ***European Community*** has moved ahead farthest in deep integration, most recently through the establishment of the Single Market and the implementation of measures deriving from the ***Treaty of Maastricht***, but ***ANZCERTA*** and ***NAFTA*** are also examples of deep integration. A contrast is usually drawn with shallow integration which may range from a preferential trade area to a ***customs union*** or ***free-trade area***, but where each member retains a completely free hand concerning all other policies. Shallow integration also promotes a degree of harmonisation of policies as has happened in the ***multilateral trading system***. See also ***European Community Single Market***, ***negative integration*** and ***positive integration***.

De facto: existing, whether legally or not. See also ***de jure***.

De facto* discrimination:** a term first used in the report by the WTO ***Appellate Body on the 1996 banana panel decision. The Appellate Body contrasts *de facto* discrimination with *de jure*, or formal, discrimination. Its meaning appears to be close to that of ***implicit discrimination*** in that it is based on practice rather than a legislative requirement. See also ***banana cases***.

***De facto* GATT membership:** former colonies used to be able, upon independence, to participate in the GATT as *de facto* members if they agreed to administer their trade regimes in accordance with the GATT rules. This could only be done if the parent countries had been GATT members. *De facto* membership is not possible in the WTO.

Deficiency payments: paid by governments to producers of certain commodities and based on the difference between a target price and the domestic market price or ***loan rate***, whichever is less. This difference is met through taxation or through the consumer in the form of higher prices. See also ***blue box*** and ***green box***.

Definitive anti-dumping duties: the anti-dumping duties imposed once all the investigations have been completed. They have to be ended after five years unless a review initiated beforehand indicates that ***dumping*** would continue or recur. See also ***anti-dumping measures*** and ***provisional anti-dumping duties***.

Degressivity: generally the principle that ***protection*** should be reduced over time. It has been an issue particularly in the administration of ***safeguards*** where governments were supposed to initiate ***structural adjustment*** policies resulting in lower protection in the sectors given safeguard protection. Often they preferred to continue ***import restrictions*** at the

same level.

Deindustrialisation: a phenomenon associated by many with ***globalisation*** and seen as a negative development. Sometimes also called "hollowing-out". It is defined generally as the long-term decline in the share of manufacturing employment in the advanced or industrialised economies. In the view of many, the most important factor accounting for deindustrialisation is the systematic tendency for productivity in manufacturing to grow faster than in services. In many countries, perceived deindustrialisation is one of the important forces driving the formulation of ***trade policy***, and governments often seek to stem its tide through imposing ***protection*** for ***sensitive sectors***. See also ***delocalisation*** and ***structural adjustment***.

DEIP: see **Dairy Export Incentive Program**.

De jure: existing in law. See also ***de facto***.

***De jure* discrimination:** discrimination among trading partners formally embodied in legislation or regulations.

Delocalisation: a term used by advocates of negotiations concerning ***trade and labour standards***. It means that a company may decide to relocate its production facilities from a high-cost location to a low-cost country because it expects to save on expenses for the support of social conditions for the workforce. This claim is scarcely based on reality. With the shift towards advanced, flexible production systems and the need to assure quality and reliability, increasing importance is attached to such factors as infrastructures, educational standards and skill levels. Wage levels then are of much less importance. See also ***deindustrialisation***, ***globalisation***, ***race-to-the-bottom argument*** and ***workers rights***.

De minimis* dumping margins:** ***dumping margins of less than 2% expressed as a percentage of the export price in the country of origin. In the case of such margins, a country may not take ***anti-dumping measures***. See also ***negligible imports***.

De minimis* imports:** the provisions of the WTO ***Agreement on Trade-Related Aspects of Intellectual Property Rights do not apply to small quantities of goods of a non-commercial nature contained in personal luggage or sent in small consignments.

De minimis* safeguards rule:** safeguards action may not be taken against a developing country if its share of the imports of the product concerned is less than 3%. This rule only applies if the collective share of developing countries accounting for less than 3% each of imports of the product concerned is no more than 9%. See also ***Agreement on Safeguards, ***safeguards*** and ***selectivity***.

De minimis* subsidies:** the WTO ***Agreement on Subsidies and Countervailing Measures defines these as subsidies amounting to less than 1%. Authorities investigating the effect of an alleged subsidy are required to terminate their enquiries immediately if the volume of the subsidy falls into this category. If developing countries are involved, the *de minimis* level is set

at 2% in the case of individual countries. This provision also applies if the volume of subsidised imports of the same product from developing countries does not exceed 4%, unless imports from developing countries with a share of less than 4% of imports exceed 9% of total imports of the same product by the country making the investigation.

Denial of benefits: GATS members may deny the benefits of the Agreement to another member if they can show that a service does not originate in the territory of a GATS member or if a company supplying the service is not a national of a GATS member. See also ***non-application***.

Dependence theory: a theory much in vogue in the 1960s and 1970s holding that developing countries are economically, socially and politically dependent on power groups in developed countries, especially ***transnational corporations***. The theory is now not considered to give a satisfactory account of the causes of development and underdevelopment and hence the policy choices available to developing countries. See also ***core-periphery thesis***.

Deregulation: the process by which governments dismantle the regulatory structure of industries or professions to promote competition and hence improve the efficiency with which goods and services are delivered. See also ***privatisation***, ***re-regulation*** and ***wider competition policy***.

Devaluation: a change in a country's ***exchange rate*** through a government decision with the result that more units of that country's currency are needed to buy the same amount of the foreign currency.

Developed country: a term usually applied to ***OECD*** member countries, though some of the more recent members might not consider themselves wholly so. The term "developed country" tends to convey a picture of an economically and socially advanced country, but the differences between the poorest and the wealthiest members of this group are great. Sometimes, developed countries are collectively referred to as the North because most of them are located in the northern hemisphere.

Developing country: an imprecise term based as much on economic and social foundations as on political perceptions and aspirations. It is applied to a country that does not consider itself, or is not considered by others, in some or many respects as matching the characteristics of a ***developed country***. Developing-country status remains largely self-declared. No objective standard is avilable to judge whether a country is truly a developing country. Often, developing countries are said to be those countries that are not ***OECD*** members. To others, developing-country status equates with membership of the ***Group of 77***. Sometimes, developing countries are referred to collectively as the South since many of them are located in the southern hemisphere. Various attempts have been made to put assessments of developing-country status on a firmer footing. The ***World Bank***, for example, refers to ***low-income economies*** and ***middle-income economies***. This is useful, but it leaves out indicators such as schooling, life expectancy, etc. Agreed criteria exist in ***ECOSOC*** for the identification of the poorest of developing countries,

the so-called ***least-developed countries***. See also ***developing countries and the multilateral trading system***, ***graduation*** and ***special and differential treatment***.

Developing countries and the multilateral trading system: when the text of the GATT was negotiated in 1947, there was an assumption among developed countries that on the whole it should apply equally to countries at different stages of development. At the same time, there was a strong developing-country view that they should not have to accord full ***reciprocity*** in ***trade liberalisation*** to others, and that they should have preferential access to developed-country markets. In the end, provision was made in Article XVIII (Government Assistance to Economic Development) to facilitate the progressive development of developing country economies, especially the ones that could only support low standards of living and that were in the early stages of development. An interpretative note to the Article adds that the phrase "low standards of living" is to be taken to mean normal economic circumstances and not exceptionally favourable temporary conditions resulting from good export markets for primary commodities. The phrase "in the early stages of economic development" may apply not only to countries at the initial stages of economic development, but also to those which are undergoing a process of industrialisation to correct an excessive dependence on primary production. Article XVIII permits developing countries to maintain tariff structures permitting the promotion of infant industries and to apply ***quantitative restrictions*** for ***balance-of-payments*** purposes. The administration of this Article has always been difficult because the criteria it uses are rather flexible. First, the Article assumes that countries will know when they are to be considered developing economies, and it does not contain a mechanism for them to graduate to developed-economy status. Second, the provisions relating to the development of infant industries can be quite complex in practice. Third, the criteria for ***import restrictions*** under the balance-of-payments provisions are not all that well defined. Restrictions may not be more severe than necessary (a) to forestall the threat of, or to stop, a serious decline in monetary reserves and (b) in the case of a member with inadequate monetary reserves, to achieve a reasonable rate of increase in its reserves. As the ***Korean beef*** case showed, however, the temptation exists to maintain balance-of-payments restrictions much longer than would objectively be necessary. In practice, developing countries have not found Article XVIII as useful to them as they had expected. Nor have developed countries viewed it as having great merit. A fundamental difficulty with the Article is in the eyes of some that it is based on the ***import substitution*** theory, the antithesis of the policies adopted by outward-looking, export-oriented economies. As economists have since pointed out, the capital goods imports required by import substitution policies will invariably ensure a shortage of foreign exchange without an adequate balancing by export income. GATT articles are difficult to change, and the ***GATT review session*** of 1955 left this situation largely intact. Indeed, until the advent of

the ***Kennedy Round***, the developing countries as a whole played a minor role in major GATT negotiations. The years between 1948 and 1963 were dominated by tariff negotiations rather than the consideration of systemic issues. Some of the primary commodities developing countries produced and in which they were important traders faced few entry barriers to developed-country markets. Agricultural products, textiles and ***tropical products*** were, of course, a different matter. On the other hand, the system of ***requests and offers***, used to bring down many of the high tariffs for manufactured articles, and the associated rule of ***principal supplier rights***, meant that developing countries with their small market shares in most countries effectively were excluded from playing any role in the early tariff negotiating rounds. Despite their persistent efforts to show that they were not being drawn into the post-war trading system as had been expected, it was not until late 1957 that the GATT membership as a whole decided to study this problem more carefully. The result was the ***Haberler Report***, issued in 1958, which concluded that there was some justification in developing country views that current rules and conventions on ***commercial policy*** were relatively unfavourable to them. A committee was then established to look at the matter further, and to this can be traced in part the inclusion of specific developing-country issues in the Kennedy Round. In the meantime, decolonisation led to the accession to the GATT of more developing countries. Some of them, and others outside it, began to view to United Nations system as a better potential mechanism for improvements in issues of interest to them. This eventually led to the convening of ***UNCTAD*** (United Nations Conference on Trade and Development) in 1964 and its establishment in the same year as a permanent body. Later, this was followed by calls for a ***New International Economic Order*** and a ***Charter of Economic Rights and Duties of States***, both to be negotiated under United Nations auspices. In the GATT, the big breakthrough for developing countries came with the launch of the Kennedy Round in 1963. For the first time, the negotiating mandate for a round referred specifically to developing countries. According to the Ministerial declaration launching the Round, one objective was the adoption of measures for the expansion of trade of developing countries as a means of furthering their economic development. Results of the Round for developing countries were mixed. They benefited from tariff cuts particularly in non-agricultural items of interest to them. They also obtained ***Part IV of the GATT*** which freed them from the requirement to accord reciprocity to developed countries in trade negotiations. This, however, could be no more than a symbolic gesture, and its value to developing countries was debated strongly. On the other hand, the ***Long-Term Arrangement Regarding International Trade in Cotton Textiles***, which put severe restrictions on their ability to expand their exports of cotton textiles, was extended for another three years and was well on its way to becoming a feature of the ***multilateral trading system*** in the form of the ***Multi-Fibre Arrangement*** until its replacement by the

WTO ***Agreement on Textiles and Clothing*** more than thirty years later. In 1968, UNCTAD II adopted a resolution calling for the establishment of a ***GSP*** (Generalised System of Preferences) which would give developing countries preferential access to developed-country markets. The idea had been around for some years. In 1963, the ***European Economic Community*** had signed the ***Yaoundé Convention*** which gave special benefits to some African countries. The GATT faced up to the new reality in 1971 when it adopted a ten-year waiver for such schemes. The developing countries had therefore achieved formally both of their main aims of non-reciprocity and preferential market access. They succeeded in buttressing their gains in the ***Tokyo Round*** through the adoption of the ***Enabling Clause*** which put ***special and differential treatment*** on a firmer footing. It also was seen as providing a permanent waiver for the GSP. However, neither of these achievements seemed to take the developing countries further in the direction of achieving fuller participation in the multilateral trading system. Some of them certainly did very well as exporters of manufactures and as destinations for investment, but they had effectively given away their influence over the rules of the game. As far as developed countries were concerned, there was little point in agreeing on rules with players who were not obliged to play by them. The years following the conclusion of the Tokyo Round therefore led to many calls for new GATT rules for developed countries, the so-called ***GATT plus*** proposals. Their adoption would have formalised the outsider role of developing countries further. The opposite was true of the ***Leutwiler Report*** of 1985 which called for greater emphasis on encouraging developing countries to take advantage of their competitive strength and to integrate them more fully into the trading system. In other words, they should look towards adopting more of the GATT's obligations in order to benefit more from its rights. This view gained some support from the more outward-looking developing countries. The ***Uruguay Round*** outcome reversed the trend. Developing countries now appear to be accepting the fact that they will only have bargaining power if they are bound by all the results of negotiations. Some indications of this can be gained from the negotiations under the ***GATS*** (General Agreement on Trade in Services) where the obligations of developing countries are nearly equal to those of developed countries, the difference being the relative number of listings to be made in the ***schedules of commitments***. Some have seen the mandate for the multilateral trade negotiations launched at Doha in November 2001 as amounting a development agenda. It is true that some of the concerns voiced by developing countries have been treated prominently in the ministerial declaration. However, it is not clear yet whether this will result in a systemic bias in the WTO towards developing countries. See also ***graduation*** and ***infant-industry argument***.

Development agenda: see ***Doha Development Agenda***.

Development assistance: aid given to developing countries in the form of loans, grants, credits or in kind, regardless of whether this is done by non-

governmental organisations or as ***official development assistance***. See also ***trade-related technical assistance***.

Development Assistance Committee: DAC. A body established within the ***OECD*** as a forum for the consideration of bilateral and multilateral ***development assistance*** activities of member countries. See also ***capacity-building*** and ***official development assistance***.

Development box: a proposal for an amendment to the WTO ***Agreement on Agriculture*** made by the ***Like-minded Group of Developing Countries*** in 2000. The main aims of the development box would be (a) to protect and enhance domestic food production, (b) to sustain and enhance employment, (c) to allow flexible support for small farmers, (d) to protect poor farmers from subsidised imports and harmful fluctuations in import prices and quantities, and (e) to promote improved internal distribution and exports of surplus production. Proponents of the development box argue that it would give developing countries more effective means to promote rural development, food security and alleviation of poverty. See also ***amber box***, ***blue box***, ***green box*** and ***food security box***.

Development Round: a name for the mutlilateral trade negotiations launched at Doha, Qatar, on 14 November 2001. The work program for this round reflects the concerns of developing countries more than any previous round. See also ***developing countries and the multilateral trading system*** and ***Doha Development Agenda***.

Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries: see ***Enabling Clause***.

Differential export tax: the reverse of ***tariff escalation*** in the case of imports. Raw materials for export are taxed heavily, but processed materials made from the same raw material are taxed lightly. The purpose of this practice is to ensure that raw materials are processed before export.

Diffuse reciprocity: see ***reciprocity at the margin***.

Dillon Round: the fifth round of ***multilateral trade negotiations***, held in Geneva from 1960-61. It was named after Douglas C Dillon, the then United States Under-Secretary of State. Much of the Dillon Round was concerned with tariff renegotiations resulting from the establishment of the ***European Economic Community*** and its ***common external tariff***, but more general tariff negotiations were conducted also. Despite the use of the term "round", it really was the last of the old-style tariff negotiating conferences. Its results were modest. About 4,400 tariff ***concessions*** were exchanged, compared to about 45,000 during the ***Geneva Tariff Conference, 1947***.

Diminished giant syndrome: a term coined in the 1990s by Jagdish Bhagwati to describe what then appeared to be an erosion of the prominent status of the United States in the world economy. He saw the diminished giant syndrome as one of the indirect causes "encouraging the notion that other countries are trading unfairly and that this calls for aggressive trade legislation, tougher and more restrictive interpretation of unfair trade

practices, 'hardball' international negotiations, and confrontational tactics". See also ***aggressive unilateralism*** and ***Section 301***.

Direction of trade: a term describing the set of a country's trading partners, and how important its trade with single or groups of countries is. The principal statistical work containing this information is the ***IMF** Direction of Trade Statistics Yearbook*, published annually.

Directive: an official ***European Community*** act which is binding on the member states to which it is addressed. Member states are then free to implement the directive in their preferred manner, provided that they give complete effect to its content. See also ***European Community legislation***.

Dirty Dozen: a group of developed countries first established during the ***Uruguay Round*** when it really had twelve members and apparently named after an American motion picture. Its core participants now include Australia, Canada, European Community, Hungary, Iceland, Japan, Norway, New Zealand, Switzerland and the United States.

Dirty quotification: excessive discretion used in setting and administering ***tariff rate quotas*** for trade in agricultural products.

Dirty tariffication: see ***water in the tariff***.

Disguised trade barriers: measures taken by governments ostensibly to achieve a goal unrelated to trade, but which can have a direct impact on imports. Among the measures sometimes so used are consumer protection laws, product standards and quarantine rules. See also ***sanitary and phytosanitary measures***, ***shelf-life restrictions*** and ***technical barriers to trade***.

Dispersed tariff rates: a ***tariff schedule*** in which there is a wide discrepancy between low rates and high rates. Also, relatively few concentrations of similar tariff rates appear in such a schedule. See also ***flat-tariff structures*** and ***peak tariffs***.

Dispute settlement: resolution of conflict arising between governments over the interpretation of trade or other rules, often through a compromise between opposing claims, sometimes through an intermediary. Dispute settlement can acquire a strongly adversarial or rules-based. Dispute settlement in the WTO usually starts after ***consultation*** has failed. The basic rules for consultation and dispute resolution are set out in Articles XXII and XXIII of the ***GATT*** for goods, Articles XXII and XXIII of the ***GATS*** for services and Article 64 of the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** for intellectual property. The detailed rules to be followed in all cases are those contained in the ***WTO understanding on dispute settlement***. See also ***appellate body*** and ***Dispute Settlement Body***.

Dispute Settlement Body: DSB. The WTO ***General Council***, when it convenes to settle disputes arising between members. The DSB has the sole authority to establish ***panels***, adopt panel and appellate reports, maintain surveillance of implementation of rulings and recommendations, and

authorise ***retaliation*** in cases where its recommendations are ignored. The WTO secretariat says that a case should normally take about one year to complete, and fifteen months if it goes to the ***appellate body***. See also ***dispute settlement*** and ***WTO understanding on dispute settlement***.

Distortion: a measure, policy or practice that shifts the market price of a product above or below what it would be if the product were traded in a competitive market. Measures causing distortions include ***subsidies***, ***import restrictions*** and ***restrictive business practices***.

Distribution foreign direct investment: this refers to ***foreign direct investment*** by a firm with the aim of finding outlets for its products. This happens, for example, when an oil company invests in a chain of service stations.

Diversionary dumping: the export of a product at dumped prices to an intermediate country from where it is exported to its true destination. The purpose of diversionary dumping may be to take advantage of the pricing structure of the intermediate country in order to avert ***anti-dumping measures***. See also ***circumvention*** and ***dumping***.

Doha Development Agenda: the parts of the work program resulting from the multilateral trade round launched at the ***Doha ministerial conference*** in November 2001 which are of special interest to developing countries. Foremost among them is the ***Declaration on Implementation-Related Issues and Concerns***. Virtually all other negotiating and review areas contain references to ***special and differential treatment***. Technical assistance and ***capacity building*** also are prominent in the work program.

Doha Development Agenda Global Trust Fund: a fund established in March 2002 by WTO members to provide technical assistance to developing countries and to assist them with capacity-building efforts. See also ***Integrated Framework for Trade-Related Assistance to Least Developed Countries***

Doha ministerial conference: the ***WTO Ministerial Conference*** held in Doha, Qatar, from from 9 to 13 November 2001. It resulted in the Doha ministerial declaration which launched the first round of multilateral trade negotiations under the auspices of the ***WTO***. The negotiations are to be completed by 1 January 2005. Main areas for negotiations are ***implementation*** issues, agriculture, services, market access for non-agricultural products, WTO rules on anti-dumping and subsidies, and the creation of a multilateral system of ***geographical indications***. Exploratory work will continue on ***trade and investment***, ***trade and competition policy***, ***transparency in government procurement***, ***trade facilitation*** and ***trade and environment***, especially the relationship between existing WTO rules and specific trade obligations set out in ***multilateral environment agreements***. The fifth ministerial conference, to be held in 2003, will decide on negotiations in these areas. Separately, the WTO Committee on Trade and Environment will examine the effect of environmental measures on market access for goods and services, provisions

in the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** relevant to trade and environment, and labelling requirements for environmental purposes. The fifth session of the ministerial conference will also decide whether negotiations on these three issues are desirable. Other subjects listed for examination or review and possible future negotiations are electronic commerce, small economies, trade, debt and finance, trade and transfer of technology, technical cooperation and ***capacity building***, ***least-developed countries*** and ***special and differential treatment***. The conference also issued a ***Decision on Implementation-related Issues and Concerns*** and a ***Declaration on the TRIPS Agreement and Public Health***.

Doha ministerial declaration: see ***Doha ministerial conference***.

Doha Round: an unofficial name for the multilateral trade negotiations launched at Doha, Qatar, on 14 November 2001. See ***Doha ministerial conference***.

Domestically prohibited goods: see ***export of domestically prohibited goods***.

Domestic content requirements: see ***local content requirements***.

Domestic exports: goods for export that are wholly or mainly of domestic origin, either because they have been grown or manufactured there, or because that is where they have undergone ***substantial transformation***. See also ***re-exports***.

Domestic International Sales Corporation: a corporate structure used in the United States until 1984, generally known as DISC. The principal benefit conferred by it was permission to defer payment of federal taxes on income from export profits until these had been distributed to their shareholders. DISCs covered mainly goods trade. In services, they were more or less confined to activities related to construction. In 1973, the ***European Economic Community*** notified the GATT of a dispute over the alleged subsidies DISCs enjoyed in steel exports. The ***panel*** found against the United States which then launched a retaliatory action on certain types of tax treatment available in the European Economic Community. The dispute was finally settled in 1982. In 1984, the DISC legislation was replaced by the ***Foreign Sales Corporation*** (FSC) program, thought to be more in keeping with the GATT rules. A WTO panel then found that some aspects it too are against the WTO rules.

Domestic support: another term for ***assistance*** or ***subsidy***. See also ***Agreement on Agriculture*** and ***Agreement on Subsidies and Countervailing Duties***.

Dominant supplier provision: a provision in the United States *Trade Expansion Act* of 1962 which permitted a reduction to zero in the tariff of any category of products in which the United States and the European Economic Community together had 80% or more of the global market. See also ***zero-for-zero tariff reductions***.

Domino theory of regionalism: proposed by Richard Baldwin in 1993. He

postulated that the growing interest in the early 1990s in the United States-Mexico free-trade agreement and the European Community's single-market program was not due to dissatisfaction with the slow progress in the ***Uruguay Round*** as some claimed. Rather, in his view, it was due to fears by countries outside these arrangements that they would be disadvantaged once they became operational. These fears then prompted them to seek membership also. Baldwin says that in any country the political equilibrium detrmines the country's stance on regional liberalisation. If enough exporters feel they are threatened by an emerging free-trade arrangement, they can bring about a change in the country's policy towards that agreement. The expanding membership of the arrangement so prompted would then induce yet others to seek membership also because they in turn might now be harmed or at least feel disadvantaged as non-members. See also ***European Community Single Market*** and ***NAFTA***.

Double écart* formula:** a formula for linear tariff negotiations proposed by the ***European Economic Community (EEC) during the ***Kennedy Round***. It was based on the identification of significant disparities in the tariff rates of the major participants, particularly the EEC, Japan, the United Kingdom and the United States. Under this formula, tariff rates would have been considered disparate if there was a ratio greater than 2 : 1 between the rates compared. It would only have applied if the difference was at least 10 percentage points *ad valorem*. See also ***ad valorem tariffs***, ***écrêtement***, ***tariff negotiations*** and ***thirty-ten formula***.

Double pricing: the practice of ensuring that domestic processors and manufacturers can purchase raw materials at a lower price than they are sold in export markets. This aim may be achieved through ***export quotas***, ***export tariffs*** and other measures with a similar aim.

Double-zero reductions: see ***zero-for-zero tariff reductions***.

Downpayment: an initial conditional offer of tariff reductions, an undertaking to follow an agreed negotiating plan or another stratagem demonstrating a serious interest in the outcome of proposed negotiations. In ***APEC***, an initial instalment on the longer-term commitment to free and open trade and investment as shown in an ***APEC individual action plan***. This was agreed as part of the November 1995 ***Osaka Action Agenda***.

Downstream dumping: a name given to the practice of selling a component of a product at less than full cost to a home country producer. This producer then transforms the component or incorporates it in another product, thereby gaining a price advantage on export markets. See also ***anti-dumping measures*** and ***dumping***.

Dracula effect: explained by Jagdish Bhagwati as "exposing evil to sunlight helps to destroy it". See also ***notification***, ***surveillance*** and ***transparency***.

Draft International Agreement on Illicit Payments: an instrument produced under ***ECOSOC*** auspices in 1979, but not adopted by the United Nations General Assembly. It would have made punishable by criminal

penalties under national laws (a) the bribing of any public official to influence his actions in connection with an international commercial transaction, and (b) asking for a bribe by any public official for the same purpose. The Agreement would have required each party to it to establish a system of appropriate criminal penalties. See also ***Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*** and ***trade and illicit payments***.

Draft International Antitrust Code: produced in 1993 by the International Antitrust Code Working Group, consisting of twelve scholars. Four principles governed the approach of the Working Group: (a) national laws should be used to deal with international competition issues, (b) national treatment should be accorded to any party, (c) there should be recognised minimum standards for national antitrust rules, and (d) an International Antitrust Authority should be established. The Working Group also proposed that the Draft Code should be developed into a ***plurilateral agreement*** under the WTO. The Draft Code has not yet attracted sufficient international support for any kind of intergovernmental consideration. See also ***antitrust laws***, ***competition policy*** and ***trade and competition***.

Draft International Code of Conduct on the Transfer of Technology: an instrument under negotiation in ***UNCTAD*** between 1976 and 1985. The aim of the Draft Code is to establish general and equitable standards for the conduct of parties engaged in the ***transfer of technology***. Substantial differences remained when negotiations were suspended. There are no current plans to resume discussions. See also ***trade and transfer of technology***.

Draft United Nations Code of Conduct on Transnational Corporations: a proposed multilateral instrument aimed at guiding the behaviour of ***transnational corporations*** in countries other than their home country. Work on it began in the late 1970s. The latest version of the Draft Code is that of 1990. Much detailed drafting has been done, but substantial differences remain among negotiators, including the extent to which the Draft Code should be mandatory.

Drawback: the practice of refunding customs, sales and excise duties on goods imported and then re-exported either in processed form or after having been incorporated in other products. See also ***border tax adjustments***.

DSB: the ***Dispute Settlement Body***, i.e. the WTO ***General Council*** meeting to settle trade disputes.

DSU: the Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes. See ***WTO understanding on dispute settlement***.

Dual pricing: the practice by countries of maintaining different prices for a product, depending on whether it is sold on domestic or export markets. It is also called ***double pricing***.

Dual purpose exports: trade in goods, services and technologies suitable for civilian and military use. There can be disagreements over the extent to which

products clearly made for civilian mass markets, such as advanced personal computers, can be applied to military purposes. Much depends on one's perception of the strategic balance at the time. See also ***COCOM***, ***strategic exports*** and ***Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies***.

Dual-use products: goods or services which may be applied to more than one purpose. An example from the negotiations towards the ***Information Technology Agreement*** may illustrate the point. Some said that a certain type of glue was only used in the production of motherboards, etc., but others said glue was a chemical substance and therefore not an information technology product. The question of dual-use products therefore arises mainly in ***sectoral trade negotiations***.

Dumping: occurs when goods are exported at a price less than their normal value, generally meaning they are exported for less than they are sold in the domestic market or third-country markets, or at less than production cost. GATT Article VI, which deals with anti-dumping and countervailing duties, does not actually prohibit dumping. It merely says that GATT parties recognise that dumping is to be condemned if it causes or threatens material ***injury*** to an established industry or retards the establishment of a domestic industry in the territory of another member. If enquiries in the importing country show that dumping is taking place and causing material injury to an industry, governments may take ***anti-dumping measures***. The basis of comparison is usually the ex-factory price in the exporting country and the transaction price of the goods at the border of the importing country, less transport and other costs incurred after the good has left the factory. It appears, however, that some equate sales below the domestic price with sales below cost. This interpretation is strictly speaking incorrect. Dumping has on occasion been confused with the import of products benefiting from the payment of ***subsidies***. In ***trade policy***, dumping refers to the conduct of individual firms that see some advantage in discriminatory pricing arrangements and that finance these from their own resources. Subsidies, on the other hand, are paid, directly or indirectly, to industries by governments. The effect of subsidised and dumped products on the importing market can of course be the same. Commentators are wont to point out that the apparently simple concept of dumping has led to innumerable disputes over its application in practice. A simple comparison between the two prices may be impossible when the pricing and accounting mechanism of a firm is so opaque as to prevent any meaningful insight into its cost structure. At other times, comparisons may be inappropriate because the exported product is not sold on the home market at all or only in small quantities. In any case, few other trade policy topics are surrounded as much by emotion as they are by rational analysis. The literature on this subject is accordingly voluminous. Dumping as a perceived trade problem has been around for a long time, but it only turned into a major trade policy issue after World War I and particularly during the Great Depression of the 1930s. At the time of the negotiations

leading to the ***Havana Charter***, participants identified four categories of dumping: (a) ***price dumping*** for which the rules ultimately appearing in GATT Article VI were made; (b) ***service dumping***, where a price advantage for a product comes about because dumping occurs in the provision of shipping services; (c) ***exchange dumping***, based on manipulation of the exchange rate to achieve a competitive edge; and (d) ***social dumping***, caused by the import at low prices of goods made by prison or sweated labour. No rules were made for latter three categories. Sometimes, a firm may be able to sell at a higher price abroad, a condition called *reverse dumping*. Much effort has gone into investigations of the reasons for dumping. Three examples of motivational classifications will suffice. In 1923 Jacob Viner devised a classification according to motive and to continuity in his *Dumping: A Problem in International Trade*. First, *sporadic dumping* disposes of surplus stocks and is unintentional. At any rate, most businesses would it at some time. Second, *short-run or intermittent dumping* arises when a firm is meeting temporary low prices in existing markets, is attempting to develop new markets, forestalls competition and retaliates against dumping in the reverse direction. Third, *long-run or continuous dumping* occurs when firms maintain full production without cutting domestic prices, when they wish to obtain economies of larger-scale production without cutting domestic prices, and when they do it for purely mercantilistic reasons. Greg Mastel *(American Trade Policy Afterthe Uruguay Round)* divides motivations for dumping into *overcapacity dumping* (prevalent in industries that face longer-term reduced demand), *government-supported dumping* (firms are able to take advantage of below-cost inputs supported by governments), *tactical dumping and discriminatory pricing* (selling the same product in different markets at different prices, partly in order to meet the competition) and *predatory dumping* (undercutting the competition in order to drive it out of business). Robert Willig has devised one of the most useful approaches to the analysis of dumping, particularly because it provides some useful insights into the motivations for dumping, though his approach does not enjoy wholehearted support from the trade policy community. He divides the activity into non-monopolising and monopolising dumping. Non-monopolising dumping includes *market-expansion dumping* (higher prices in the home market support lower prices in the export market), *cyclical dumping* (aimed at eliminating substantial excess production to a down-turn in demand) and *state-trading dumping* (practiced particularly by economies in which exchange rates have little meaning or price signals do not matter). Monopolising dumping includes *strategic dumping* (injury caused in the importing market through an overall strategy or general anti-competitive circumstances prevailing in the exporting country) and *predatory-pricing dumping* (exporting at low prices aimed driving rivals out of business to achieve monopoly power in the importing country). These categories are not usually taken into account in national anti-dumping legislation. They should

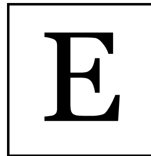
be seen mainly in the context of attempts to reform anti-dumping activities. For the trade policy community today, the main sub-categories of dumping are (a) ***hidden dumping***, defined in an addendum to GATT Article VI as the sale by an importer at a price below that corresponding to the price invoiced by an exporter with whom the importer is associated, and also below the price in the exporting country, i.e. dumping is achieved through transfer pricing; (b) ***indirect dumping,*** where a product is imported via a third country where it would not be considered as having been dumped; and (c) ***secondary dumping*** which is the export of a product containing components imported at what would normally be considered dumped prices. K W Dam has drawn attention to an apparent contradiction in the dumping concept. He says that according to the rules, local firms suffer injury whenever the import price is the same or lower than the price they charge. Yet, he says, the injury is no greater when dumping is present than when the import price merely reflects the comparative advantage of the exporter. Professor Deardorff has pointed to the close connection between dumping and the degree of competition in the home market. He notes that if both the market and the firm are protected, they will almost certainly have to resort to selling at less than the domestic price if they are to make any export sales at all. Gabrielle Marceau *(Anti-Dumping and Anti-Trust Issues in Free Trade Areas)* sums it up well when she says that the origin of dumping remains the existence of different national economic and legal policies between two national markets. She adds that national differences are normal and reasonable unless internationally agreed standards exist. See also ***anti-circumvention***, ***circumvention***, ***de minimis dumping margins*** and ***persistent dumping clause***.

Dutiable goods: goods subject to ***customs duties*** on entering or leaving a ***customs territory***.

Duty: a levy, tax tax or impost charged by governments within their entire jurisdiction on production, transactions and, less frequently, the ownership of an asset. The amount of duty levied is usually related to the value of the transaction. ***Customs duties***, consisting of import and export tariffs, are such charges. They are levied at the border. A WTO requirement is that duties must not be used to discriminate against imported products once have passed legally through the border. Whatever clear distinction there may have been once between a duty and a tax has now become blurred in day-to-day use. To the economist, their impact is the same, but for the lawyer and the tax administrator the distinction may be important. See also ***Lerner's symmetry theory***.

Duty drawback: see ***border tax adjustment***.

Dynamic comparative advantage: see ***comparative advantage***.



EAEC: East Asia Economic Caucus. A consultative group proposed in the early 1990s by Malaysia which, if implemented, would consist of East Asian countries. See also ***ASEAN+3***.

EALAF: East Asia-Latin America Forum. Now replaced by the ***Forum for East Asia-Latin America Cooperation***.

E-APEC strategy: a framework aimed at creating a digital society adopted in 2001 at the Shanghai ***Economic Leaders' Meeting***. Its three pillars are: to create an environment for strengthening market structures and institutions, to facilitate an environment for infrastructure investment, and to enhance human capacity building and promote entrepreneurship.

Early harvest: agreement among negotiating partners that some of their targets should be reached and implemented without waiting for the formal end to negotiations.

Early Voluntary Sectoral Liberalisation: EVSL. A program for tariff liberalisation initiated at the November 1996 ***APEC Economic Leaders' Meeting***. Economies agreed to identify sectors where early voluntary liberalisation would have a positive impact on trade, investment and economic growth in the individual APEC economies as well as in the region. 41 sectors were originally proposed for EVSL, of which 15 were adopted for further action by the APEC Ministerial Meeting held at Vancouver in November 1997. Nine sectors were then selected for implementation in 1999: environmental goods and services, energy sector, fish and fish products, toys, forest products, gems and jewellery, medical equipment and instruments, chemicals and a telecommunications mutual recognition arrangement. More preparatory work was to be done on the remaining six sectors: environmental goods and services, natural and synthetic rubber, fertilisers, automotive, oilseeds and oilseed products, and civil aircraft. The program covered tariff and non-tariff measures as well as elements of trade facilitation and economic and technical cooperation. Soon arguments developed over its scope. Some members claimed that the program was voluntary. In November 1998 the initiative was converted into **accelerated tariff liberalisation** and forwarded to the **WTO** for further work. That was the end of it. See also ***individual action plans***.

East African Cooperation: EAC. A mechanism within the ***Common Market for Eastern and Southern Africa*** established in 1996. It aims to promote faster trade and investment liberalisation. Its longer-term objectives are the establishment of a ***customs union*** and an East African Federation. Main areas for economic cooperation are harmonisation of fiscal and monetary policies, trade and industry, transport and communications, energy, agriculture and animal husbandry, environment and natural resources, and tourism and wildlife conservation. Cooperation is also

proceeding in political matters, immigration, law and justice, and security. EAC also seeks to encourage interest from the private sector. The three partners making up the EAC are Kenya, Tanzania and Uganda.

East ASEAN Growth Area: see ***BIMP-EAGA***.

East Asia Free-Trade Agreement: EAFTA. Proposed in November 2001 by President Kim Dae Jung of Korea. It would consist of the ***ASEAN*** countries, China, Japan and Korea. See also ***ASEAN+3***.

East Asia Economic Caucus: see ***EAEC***.

East Asia Study Group: a group consisting of representatives of the members of the ***ASEAN+3*** countries, established in March 2001. Its mandate to examine ways to promote regional cooperation.

East Caribbean Common Market: see ***Organisation of Eastern Caribbean States***.

East-South trade: described trade between the ***Comecon*** members and developing countries. The term is now obsolete in that meaning.

East-West trade: described trade between the ***OECD*** countries and the ***Comecon*** countries. Such trading posed special problems arising largely from the non-convertibility of the currencies of Comecon countries and the ***transfer of technology***. The term is now obsolete in its original meaning, but some continue to use it for trade between Eastern and Western Europe. See also ***dual purpose exports***.

EC: European Communities. The official name of the ***European Union*** in the WTO. See also ***common commercial policy*** and ***European Community***.

ECAFE: see ***ESCAP***.

ECDC: Economic Cooperation between Developing Countries. A mechanism operating mainly within the United Nations system designed to promote the economic advancement of developing countries through cooperative activities. See also ***Committee on Trade and Development*** and ***GSTP***.

ECLAC: see ***Economic Commission for Latin America and the Caribbean***.

Eclectic theory of international investment: a theory of ***foreign direct investment*** that assumes that investment decisions are driven by the identification of ownership, location and internalisation advantages, and these three components are viewed as interacting. First, direct investment gives the investor control over the asset. Second, it allows the investor to choose the location of a production facility that fits in best with the company's aims. Third, foreign direct investment allows the investor company to utilise its existing intellectual capital in the best way.

EC measures concerning meat and meat products (hormones): see ***hormone growth promotants***.

Eco-dumping: used in common parlance for the production of goods for export under substandard environmental conditions. The term does not have proper standing in trade policy formulation. The practice is assumed to give producers a cost advantage in export markets where more stringent

conditions apply. It appears, however, that production costs that can be ascribed to environmental regulations are a much smaller factor in total costs than other production costs. Generally, it is likely that they account for no more than 2% of total production cost. See also ***eco-duties*** and ***trade and environment***.

Eco-duties: proposed levies on imported products to compensate for a perceived unfair competitive advantage arising to producers operating under less stringent, and therefore less expensive, environmental standards for industry. This is a contentious concept which has considerable potential to be misused as a protectionist device. See also ***eco-dumping*** and ***trade and environment***.

Eco-labelling: a voluntary market mechanism designed to encourage industry to produce goods which have a reduced environmental impact and to encourage consumers to buy them in preference to others. A trade concern about eco-labelling schemes is that they can include production-related criteria discriminating against imports which only reflect the environmental preferences of the importing country. See also ***eco-duties***, ***genetic labelling***, ***social labelling*** and ***trade and environment***.

Economic and Social Commission for the Asia-Pacific: see ***ESCAP***.

Economic and Social Commission for Western Asia: ESCWA. Originally established in 1973 as the Economic Commission for Western Asia (ECWA) and given its present name in 1985. It is one of the ***United Nations regional economic commissions***. It seeks to improve the economic well-being of its members states and their economic relations with each other. Its secretariat is located in Amman.

Economic Commission for Africa: ECA. One of the ***United Nations regional economic commissions***. Established in 1958. It seeks to promote economic advances in African countries. Its secretariat is located in Addis Ababa.

Economic Commission for Europe: UN-ECE. One of the ***United Nations regional economic commissions***. Established in 1947. It has done much useful work, particularly in the area of standards affecting international trade and in ***trade facilitation*** more generally. Its secretariat is located in Geneva.

Economic Commission for Latin America and the Caribbean: ECLAC. One of the ***United Nations regional economic commissions***. It was established in 1948 as the Economic Commission for Latin America (ECLA) and given its current name in 1985. It aims to promote economic progress in Latin American countries. Its secretariat is located in Rio de Janeiro.

Economic-complementarity agreements: another name for ***partial-scope trade agreements*** and ***sectoral free-trade areas*** sometimes negotiated by developing countries under the ***Enabling Clause***.

Economic cooperation agreement: a bilateral or plurilateral agreement to promote deeper economic cooperation between the partners. Such

agreements do not follow a set pattern, but usually they do not contain ***market access*** provisions.

Economic Cooperation Area of Black Sea Countries: ECABS. Established in 1992. It includes Armenia, Azerbaijan, Bulgaria, Greece, Roumania, Russia, Turkey and Ukraine.

Economic Cooperation between Developing Countries: see ***ECDC***.

Economic Cooperation Organisation: ECO. Established in 1985 to promote the economic development of its members, at that time Iran, Pakistan and Turkey. Since 1992 the members of ECO have been Afghanistan, Azerbaijan, Iran, Kazakhstan, Kyrgyz Republic, Pakistan, Tajikistan, Turkey, Turkmenistan and Uzbekistan. Trade and customs, transport and communications and money and finance form major parts of its work program. The ECO secretariat is located in Teheran.

Economic impact criterion: a test sometimes suggested for use in the ***GATT*** to assess whether a domestic measure is impairing ***national treatment***. Under this criterion, the proof for a finding that the national treatment obligation had been breached would have to be found in changing trade flows. Finding the proof might pose many practical difficulties because there may be other reasons why a country's imports of a product might have changed. GATT dispute settlement panels have rejected the use of this criterion in favour of a test assessing whether there is ***equality of competitive opportunity***.

Economic integration: all economies, except those practising ***autarky***, are to some extent integrated, but the term is usually reserved for groups of economies that are manifestly combining their activities more quickly among themselves than with others. It is usual to distinguish between ***market-led integration*** (spontaneous integration without the formal involvement of governments) and ***policy-led integration*** (integration through intergovernmental frameworks). Another distinction is that between shallow and ***deep integration***. The former is confined, for example, to the formation of a ***free-trade area*** in which each member retains autonomy in economic policies. The latter implies cooperation or harmonisation of matters such as ***competition laws***, monetary and financial policies, standards and other regulations, etc., as would be the case in a ***common market***.

Economic integration agreements: used in Article V of the ***GATS*** to cover free-trade arrangements in services. This term was chosen because free trade in services requires the possibility of ***commercial presence*** in the importing country as well as the free movement of consumers and producers of services. This is seen as involving a greater degree of economic integration than might occur under conditions of free trade in goods. Economic integration agreements must have ***substantial sectoral coverage*** and provide for the absence or elimination of substantially all discrimination between its members to conform to WTO rules. See also ***free-trade areas*** and ***trade in services***.

Economic international commodity agreements: these are

international commodity agreements that seek to influence the price of the commodity through ***buffer stocks***, ***export quotas*** and other measures manipulating the amounts reaching the market. See also ***administrative international commodity agreements***.

Economic nationalism: the view that economic advances can only be achieved at the expense of other participants in the international economy. See also ***beggar-thy-neighbour policies***, ***mercantilism*** and ***zero-sum nationalism***.

Economic needs test: a mechanism controlled by government, industry or professional associations to decide whether the entry into the market of new foreign, and sometimes domestic, firms is warranted on economic grounds. Such mechanisms are often opaque. They may be discretionary and protectionist. Sometimes economic needs tests purport to protect the interests of consumers, but these are not always asked whether they would like to see additional competition in the market. Article XVI of the ***GATS*** setting out ***market access*** rules proscribes the use of economic needs tests.

Economic partnership agreement: a bilateral or plurilateral agreement. The content of such agreements varies greatly. Some merely promote voluntary economic cooperation between the partners. Others are proper ***free-trade agreements***.

Economic regulation: see ***regulation***.

Economic sanctions: economic and commercial measures sometimes taken by governments to achieve their foreign policy objectives. These measures include ***trade embargoes***, investment restrictions or prohibitions, travel restrictions, etc. Most commonly such measures are taken in the pursuit of ***United Nations economic sanctions***. In their analysis of economic sanctions imposed over a long period, Hufbauer and his colleagues have concluded that is not true to say that sanctions "never work" *(Economic Sanctions Reconsidered: History and Current Policy)*. Rather, they consider that sanctions are of limited utility in achieving foreign policy goals that depend on compelling the target country to take actions it is determined to resist. Nevertheless, they consider that in the case of small target countries and comparatively modest policy goals, sanctions have brought about changes in behaviour. See also ***security exceptions*** and ***retaliation***.

Economic summits: see ***G8***.

Economic unity theory: an element of the ***competition policy*** of the ***European Community***. It holds that for the purposes of an ***antitrust*** action under Community law against a subsidiary of a company located within the Community, the two are considered a single economic unity. In other words, the parent company is deemed itself to be involved.

Economies in transition: economies making the transformation from ***centrally-planned economies*** to ***market economies***. Sometimes, the expression is used also for developing countries that have embarked upon substantial economic ***deregulation***.

Eco-packaging: the use of packaging materials that have the smallest impact

on the environment, either because their production is environmentally friendly or because they can easily be re-used or recycled. Insistence on certain types of non-standard eco-packaging could result in protectionist effects if the supplying country cannot meet the required standards. See also ***trade and environment***.

Eco-protectionism: measures aimed protecting local industries under the guise of protecting the environment. See also ***trade and environment*** and ***trade and labour standards***.

ECOSOC: United Nations Economic and Social Council. Does not make rules. Its annual high-level sessions of ***WTO***, ***IBRD*** and ***IMF*** heads are considered to be helpful in promoting coherence of economic policy between countries. See also ***ECOSOC and the GATT*** and ***Draft International Agreement on Illicit Payments***.

ECOSOC and GATT: the Charter of the United Nations gave ***ECOSOC*** a range of responsibilities in international economic and social cooperation, including the ability to call international conferences on matters falling within its competence. The United States, the main power in the immediate post-war years promoting multilateral trade agreements, accordingly proposed that ECOSOC should convene what became the ***United Nations Conference on Trade and Employment***. The United States distinguished, however, between the aims of establishing an international trade organisation and the negotiation of a multilateral tariff agreement. This was because it derived its mandate for negotiating the tariff agreement from the *Reciprocal Trade Agreements Act* of 1934 which did not envisage the establishment of any permanent institution for the oversight of international trade. Once ECOSOC had passed the resolution calling for a conference, it effectively was given no further role in the negotiations. From its inception, the GATT therefore was virtually independent of the United Nations system. This principle has been carried forward into the WTO. Of course, the WTO has a close working relationship with many United Nations bodies. See also ***United States Reciprocal Trade Agreements Program***.

Eco-standards: product, production or consumption standards imposed to reduce or eliminate damage to the environment. See also ***technical barriers to trade*** and ***trade and environment***.

ECOWAS: Economic Community of West African States. Established in 1975. It consists of the members of the West African Economic Community (Benin, Burkina Faso, Côte d'Ivoire, Mali, Mauritania, Niger and Senegal), the members of the ***Mano River Union*** (Guinea, Liberia and Sierra Leone), and Cape Verde, The Gambia, Ghana, Guinea-Bissau, Nigeria and Togo. ECOWAS was only partly successful in achieving its trade liberalisation aims. It was relaunched in 1993 with a program for free trade in all unprocessed products and progressive liberalisation of trade in industrial products. Members are also working towards the creation of a ***customs union***. A program is also under way for the free movement of persons throughout ECOWAS. Its secretariat is located in Lagos.

Ecrêtement: removing the peaks. A proposal made early in the ***Kennedy Round*** (1963-67) by the ***European Economic Community*** for tariff harmonisation through targeted reductions. The proposal stemmed from an EEC view that its own tariffs were mostly in the 10% to 20% range, whereas the United States tariffs in many cases ranged from 30% to 50%, with some going up to 100%. The EEC therefore proposed lowering tariffs by half to target levels of 10% for manufactures, 5% for semi-manufactures and zero for raw materials. The proposal was not acceptable to the United States because it would have forced it to accept much larger tariff cuts in the face of an EEC unwillingness to do something on agriculture. See also ***double écart formula*** and ***thirty-ten formula***.

EC-92 program: see ***European Community Single Market***.

EEC minimum import prices: a complicated case brought by the United States against the ***European Economic Community*** (EEC) in 1978. It took two years to sort it out. The United States made three claims: (a) that the EEC system of minimum import prices for tomato concentrates was not consistent with its GATT obligations, (b) that the EEC licensing and surety systems were similarly inconsistent with GATT obligations, and (c) that the EEC systems of minimum import prices, licensing and surety deposits nullified or impaired benefits accruing to the United States. The complaint followed the adoption by the EEC of several regulations setting a minimum import price for tomato concentrates. These required importers to obtain an import certificate and to lodge a security to guarantee that the products would be imported by a certain date. The import security was forfeited if there were no imports within the specified time. There was an additional security for tomato concentrates which was aimed at ensuring that the price of the imported product would at least equal the minimum internal price. The ***panel*** first considered the import certificate and the associated security system. It found that the EEC system of issuing import certificates was not different to similar systems operated by other GATT members, and that it was in keeping with the rules applicable to automatic ***import licensing***. As automatic licensing did not fall under Article XI (General Elimination of Quantitative Restrictions), the import certificate and security system was not inconsistent with the EEC's obligations under this Article. The panel then looked at the implications of the system in terms of Article VIII (Fees and Formalities connected with Importation and Exportation). In particular, it examined whether the fees and charges levied were limited in amount to the approximate cost of services rendered, as required by Article VIII:1(a). The panel found that this was the case. It considered that the forfeiture of import deposits did not fall within the ambit of this provision since it only applied when no imports had been made. Nor was the obligation to obtain an import certificate an onerous requirement. It also concluded that the ability of the EEC to stop issuing certificates in response to safeguard action was not inconsistent with its obligations under Article VIII. In relation to Article II (Schedules of Concession), it considered that the interest charges and costs

connected with the lodgement of securities did not contravene the requirement that fees or other charges are commensurate with the cost of services rendered as required by Article II:2(c). Next, the panel considered the minimum import price and associated additional security system. It concluded that tomato concentrate qualified as an "agricultural or fisheries product, imported in any form" as intended by Article XI:2(c) which, under certain conditions, suspends the requirement for the general elimination of quantitative restrictions. One of these conditions is the need to enforce governmental measures. The panel found that the minimum import price and associated system for tomato concentrate satisfied this criterion. It examined in some detail whether fresh tomatoes and tomao concentrate could be considered ***like products***. On balance, it thought that this was not the case, and it found that this system was inconsistent with the EEC's obligations under the GATT. It then also found that the interest charges and costs and the possibility of forfeiture associated with the system were in excess of the bound tariff rate as decribed in Article II. Finally, the panel concluded that, regardless of whether a guarantee had to be given by the importer or the government of the exporting country, there would be no discrimination terms of Article I:1 (General Most-Favoured-Nation Treatment) if the guarantee was necessary for all imports from all potential third-country suppliers. See also ***variable levies***.

EEP: see ***Export Enhancement Program***.

Effective market access: defined by some as the absence of domestic regulatory policies and other ***structural impediments*** that unintentionally limit competition or transparency. ***Tariff*** and ***non-tariff measures*** such as ***subsidies*** and ***voluntary restraint arrangements*** would be assessed separately.

Effective market presence: defined by some as the ability of foreign firms to compete in the market through investing, i.e. through enjoyment of the ***right of establishment***. See also ***trade and investment***.

Effective rate of assistance: ERA. Sometimes also called effective rate of protection. It is a framework for making clear the difference between the hypothetical situation of no domestic assistance to industry and the situation actually obtaining. The ERA concept is useful because it can measure government interventions such as subsidies or purchasing preferences that may influence trade flows without actually restricting flows at the border, including ***tariffs*** and ***non-tariff measures***. It also shows the additional costs borne by consumers because of domestic assistance. The ERA does not distinguish between measures that may be considered legal or illegal under the WTO agreements. During the ***Uruguay Round*** Australia proposed that the ERA framework should be used in negotiations for ***trade liberalisation***, but this did not receive widespread support. See also ***nominal rate of protection*** and ***tariff escalation***.

Effective rate of protection: see ***effective rate of assistance***.

Effects doctrine: the principle that a state may have ***antitrust laws***

covering ***conduct*** outside of its territory if such conduct has an actual or potential effect on commerce within its territory. For example, the 1986 *Third Restatement of the Foreign Relations Law of the United States* says that "any agreement in restraint of United States trade that is made outside of the United States, and any conduct or agreement in restraint of such trade that is carried out predominantly outside of the United States, are subject to the jurisdiction to prescribe of the United States, if a principal purpose of the conduct is to interfere with the commerce of the United States, and the agreement or conduct has some effect on that commerce". The effects doctrine is subject to a test of reasonableness. Other jurisdictions, including the ***European Community***, apply a version of the effects doctrine. See also ***competition policy***, ***extraterritoriality*** and ***implementation doctrine***.

Efficiency-seeking investment: a term for ***foreign direct investment*** undertaken to supply other markets in the most competitive manner. See also ***market-seeking investment***.

EFTA: European Free Trade Association. Entered into force on 3 May 1960 through the Convention of Stockholm. Founding members were Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the United Kingdom. Iceland joined in 1970. Finland became a full member in 1986 after having been an associate member. Denmark and the United Kingdom left on 31 December 1972 to join the ***European Economic Community***. They were followed by Portugal in 1985 and Austria, Finland and Sweden on 1 January 1995. EFTA now comprises Iceland, Liechtenstein, Norway and Switzerland. EFTA has always had much more modest aspirations for economic integration than the European Economic Community. Nevertheless, it has provisions on ***restrictive business practices*** and the ***right of establishment*** of enterprises of member countries. Agricultural products are for the most part exempt from the provisons of the Convention. See also ***European Economic Area***.

Egregious: defined in the *Concise Oxford Dictionary* as "shocking". An adjective which, but for the efforts of United States legislators, might well be unknown among ***trade policy*** makers. See ***Special 301*** and ***Super 301***.

E-IAP: the electronic version of the ***individual action plans*** prepeared periodically by ***APEC*** members.

Electronic commerce: the production, advertising, sale and distribution of products via telecommunications networks. See also ***Global Trade Point Network***.

Embodied services: services embodied in a physical product, such as the intellectual component of computer software sold in the form of floppy disks or CD-ROMs. Some say that the estimated share of services in global trade statistics would double if embodied services were included in service trade statistics. This proposition may well be true, but a demonstration of it could only be achieved with great additional reporting burdens. Reporting embodied services separately would mean, for example, that iron ore exports

would consist at least of a commodity component and services components involving, for example, transport, marketing and management. It of course makes sense for a manufacturing firm to know what the services components of its products are worth, but it cannot sell its products separately from these. The customer therefore is charged a single unit price. See also ***trade in services statistics***.

Emergency protection: see ***escape clause***.

Empire preferences: see ***imperial preferences arrangement***.

Enabling Clause: the agreement on *Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries*, one of the outcomes of the ***Tokyo Round***. It allows developed WTO members to take action favouring developing countries without according the same treatment to other members. Main measures covered by it include the ***GSP***, ***non-tariff measures*** covered by the GATT, regional and global trading arrangements between developing countries and special treatment for the ***least-developed countries***. The Enabling Clause was intended to promote greater participation of developing countries in the world trading system, but there is doubt that it achieved its purpose. See also ***developing countries and the GATT***, ***GSTP***, ***Part IV of the GATT***, ***regional trade arrangement*** and ***special and differential treatment***.

Energy Charter Treaty: concluded in December 1994 with the signature of the Final Act of the European Energy Charter Conference. It has been signed by more than 50 countries. Membership includes most OECD countries, Central and East European countries and members of the ***Commonwealth of Independent States***. The purpose of the treaty is to establish "a legal framework in order to promote long-term co-operation in the energy field, based on complementarities and mutual benefit". It covers broadly trade, investment and other matters relevant to energy. In Article 3 members agree to promote access to international markets on commercial terms, and generally to develop an open and competitive market for energy materials and products.

Enforcement: see ***consultations***, ***cross-retaliation***, ***dispute settlement*** and ***retaliation***.

Enlargement: used especially for the ***accession*** of new member states to the ***European Union***. In 1958 the original six members of the ***European Economic Community*** were Belgium, Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands. The first enlargement came on 1 January 1973 when Denmark, Ireland and the United Kingdom brought its membership to nine. Greece joined in 1981. The enlargement to twelve came in 1986 when Portugal and Spain acceded. The last enlargement occurred on 1 January 1995 when Austria, Finland and Sweden brought its membership to fifteen. Others are awaiting their turn. Membership criteria used to be informal, but in June 1993 the European Council adopted three criteria to judge the readiness for membership of new applicants. These are (a) the applicant country must have achieved stability of institutions

guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, (b) it must have a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the European Union, and (c) it must have the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union. See also ***Agenda 2000*** and ***Treaty of Nice***.

Enquiry points: some of the WTO agreements require members to establish points in their trade administrations where other members can obtain information on the sector covered by the agreement. Sometimes they are called contact points. The exchange of information is at the governmental level. Examples of such agreements are the ***GATS***, the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** and the ***Agreement on Technical Barriers to Trade***. The GATS also requires developed-country members to establish contact points where private firms from developing countries can find out about trade opportunities.

Enterprise for the Americas Initiative: a United States program launched in June 1990 by President Bush to strengthen Latin American and Caribbean economies. The main components of the initiative are trade, investment and debt reduction programs. The proposed ***FTAA*** had its origin under this initiative. See also ***Alliance for Progress***, ***Andean Trade Preference Act***, ***Andean Trade Promotion and Drug Eradication Act*** and ***Caribbean Basin Initiative***.

Entrepôt trade: shipping goods through a port in one country for re-export to another country as, for example, is the case for the export of some Chinese products through Hong Kong. Goods entering and leaving as entrepôt trade are not subject to tariffs. Apparent discrepancies in bilateral trade statistics may arise because goods may be recorded first as entering the intermediate country and then as re-exports to the final destination without any indication of the true country of origin. See also ***rules of origin***.

Environmental dumping: see ***eco-dumping*** and ***eco-duties***.

Environmental rules under the WTO: The WTO has does not have a system of rules specifically dealing with environmental matters, but that does not mean that it is indifferent to evironmental concerns. The basic WTO tenet is that governments are free to set and enforce their own environmental standards in their territories if they do it without discriminating against other members, either by contravening the ***most-favoured nation rule*** or the ***national treatment*** principle. ***GATT*** Article XX (General Exceptions), which permits the suspension of obligations under the Agreement to the extent necessary in narrowly-defined circumstances, can be used to enforce some environmental objectives. Article XX(b) can be invoked to adopt or enforce measures necessary to protect human, animal or plant life or health. Article XX(d) can be used to ensure compliance with laws and regulations otherwise consistent with the GATT. Article XX(g) enables adoption or enforcement of measures relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions

on domestic production or consumption. Some have argued that Article XX should be supplemented by a provision permitting the suspension of GATT obligations to further environmental protection, but this proposition remains contentious. ***GATS*** Article XIV permits in some cases suspension of the Agreement's provisions to protect human, animal or plant life or health. The WTO forum for the consideration of environmental matters is the ***Committee on Trade and Environment***. The ***Doha ministerial conference*** launched negotiations on the relationship between existing WTO rules and specific trade obligations set out in ***multilateral environment agreements***. It also extended the WTO work program on ***trade and environment*** by establishing a work program to examine (a) the effect of environmental measures on market access, (b) the environmental provisions of the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** and (c) labelling requirements for environmental purposes. Some prominent GATT and WTO disputes with an environmental components were ***reformulated gasoline***, ***shrimp/turtle***, ***superfund***, ***tuna I*** and ***tuna II***. See also ***Agreement on Sanitary and Phytosanitary Measures***, ***eco-labelling***, ***general exceptions***, ***race-to-the-bottom argument*** and ***sanitary and phytosanitary measures***.

Equality of competitive opportunity: the basic principle underlying the ***national treatment*** obligation contained in Article III of the ***GATT***. It means that national laws and regulations have to be drafted so that imported products to compete effectively with domestic products. Normally, this means that regulations for imported and domestic products are identical, but there may be formally different rules for imports if this is the only way to achieve equal opportunity. See also ***competitive neutrality***, ***economic impact criterion*** and ***implicit discrimination***.

Equitable competition: a concept based on the assumption that there ought to be some degree of international harmonisation of labour, environmental and other standards seen to affect the cost of production to achieve a framework in which firms compete on more equal terms. The wisdom underlying this concept is that countries permitting inadequate standards give their firms a cost advantage which translates into enhanced international competitiveness for them. See also ***fair competition***, ***level playing field***, ***social clause***, ***trade and labour standards*** and ***trade and the environment***.

Equitable share of the market: an elusive concept enshrined in GATT Article XVI:3 (Subsidies) concerning allowable subsidies for ***primary products***. Its meaning is not precise. One of the reasons for this was an understanding among GATT members at least since 1955 that it was desirable to satisfy world requirements of primary commodities in the most effective and economic manner, and that account should be taken of any special factors regarding the exporting country's share of world trade in the product concerned during a representative period. The ***panel*** in the ***French wheat***

and wheat flour case in 1958 made useful observations on the concept of "equitable share", but these have not been developed and refined by later panels. Article 9 of the ***Tokyo Round*** *Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade* (the Subsidies Code) notes that with regard to new markets, traditional patterns of supply of the product to the region in which the new market is located must be taken into account in determining "equitable share of world export trade". GATT Article XIII (Non-discriminatory Administration of Quantitative Restrictions) also seeks to ensure the principle of fair market share. It requires the distribution of trade in a product subject to ***quantitative restrictions*** to approach as closely as possible the shares exporting countries might obtain in the absence of restrictions, and it sets out ways of how this might be done.

Equivalence: a principle set out in the WTO ***Agreement on the Application of Sanitary and Phytosanitary Measures***. It says that if an exporting country demonstrates objectively to an importing country that its sanitary and phytosanitary measures achieve the levels set by the importing country, the levels should be considered equivalent. The measures taken by the two coutries need not be identical.

Equivalence of advantages: achieved through the granting of a benefit to another party in return for a benefit of about the same size. See also ***reciprocity***.

Equivalent measure of support: EMS. A term used in the WTO ***Agreement on Agriculture***. It describes an annual level of support to agricultural producers, expressed in monetary terms, which cannot be calculated in accordance with the methods used for determining the ***aggregate measure of support***.

Erga omnes: *Lat.* “against all” or “in relation to all”. It is a term sometimes used in trade agreements, as in “If a party lowers its tariffs *erga omnes* . . .”

ESCAP: the Economic and Social Commission for the Asia-Pacific. One of the ***United Nations regional economic commissions***. It was established in 1947 as the Economic Commission for Asia and the Far East (ECAFE) and given its present name in 1974. It has major work programs on regional economic cooperation, environment and sustainable development, poverty alleviation, transport and communications, statistics and issues concerning least developed, land-locked and island developing countries. ESCAP's secretariat is located in Bangkok. See also ***Bangkok Agreement***.

Escape clause: a provision in trade agreements which permits a party to suspend its obligations when imports cause or threaten to cause serious harm to the domestic producers of similar goods. GATT Article XIX contains the escape clause for trade in goods used by WTO members. It allows a member to supend its obligations or to modify liberalising commitments if there are unforeseen circumstances and if any product is imported in such increased quantities likely to cause or causing harm to domestic producers. The Article is supplemented by the detailed rules of the ***Agreement on Safeguards***.

The ***GATS*** does not yet have an escape clause, though Article X establishes the mandate for this. Two main reasons are usually given for the inclusion of safeguard provisions in agreements. First, they encourage greater liberalisation since countries making liberalising commitments will have the opportunity to step back from them if they have unwittingly provoked a surge in imports clearly harming domestic industry. Second, they increase the flexibility of the ***multilateral trading system*** by promoting its longer-term stability. The immediate reason for including an escape clause in the GATT was United States Executive Order 9832 of February 1947 which made it mandatory for American trade negotiators to include in all future trade agreements an escape clause similar to that contained in the United States-Mexico Trade Agreement of December 1942. See also ***safeguards*** and ***Section 201***.

Essential facilities doctrine: an ***antitrust*** term meaning broadly that the owner of an "essential" or "bottleneck" facility, such as a public electricity or water utility, a telecommunications network or a railway, must give access to competitors at a reasonable price so that they in turn can conduct their own businesses. The interpretation of this doctrine varies from country to country.

Essential products: WTO members may in defined circumstances impose restrictions on imports under GATT Article XII to safeguard their balance of payments. Developing-country members may also use Article XVIII. In doing so, they may give priority to the import of products deemed more essential than others. The ***Understanding on the Balance-of-Payments Provisions of the GATT***, concluded during the ***Uruguay Round***, defines "essential products" as those which meet basic consumption needs or those which contribute to an improvement of the balance-of-payments situation, such as capital goods or other inputs into production.

EST: environmentally–sound technology.

EST&P: environmentally–sound technology and products.

Establishment: see ***pre-establishment*** and ***right of establishment***.

Euro-Mediterranian Economic Area: EMEA. A ***free-trade area*** proposed in November 1995 at a meeting in Barcelona which will cover the fifteen members of the ***European Union*** and twelve Mediterranean Rim countries (Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Palestine, Syria, Tunisia and Turkey). The EMEA is expected to become effective by 2010. See also ***Mediterranean Agreements***.

Europe Agreements: a type of ***Association Agreement*** used by the ***European Community*** for its political and economic relations under preferential conditions with the countries of Central and Eastern Europe. They were first concluded in 1991. Under these agreements, Central and Eastern European Countries undertake to adopt laws similar to those of the European Community concerning ***competition policy*** and ***intellectual property protection***. Europe Agreements allow for the possibility of eventual full membership of the Community, but they do not guarantee it. See also ***enlargement*** and ***Mediterranean Agreements***.

European Agricultural Guidance and Guarantee Fund: the mechanism through which the ***European Community*** finances the ***Common Agricultural Policy***. The Fund is in two parts: (a) the Guidance part which funds structural policy, and (b) the Guarantee part which supports markets and prices. Historically, the Fund has spent the bulk of its resources on supporting markets and prices.

European Coal and Steel Community: ECSC. Established in 1951 by the Treaty of Paris. It created a single market for coal and steel among member countries. Members delegated their powers in this regard to a newly created High Authority, a supra-national authority. The successful working of the ECSC was one of the factors leading to the negotiation of the ***Treaty of Rome*** which created the ***European Economic Community***. In 1965, the *Treaty Establishing a Single Council of the European Communities* (the Merger Treaty) unified the High Authority with the Commission of the European Economic Community. The Treaty establishing the ECSC expired on 23 July 2002. See also ***European Communities***.

European Commission: one of the ***European Union*** institutions in which political authority resides. The Commission is responsible for ensuring that the provisions of the various treaties making up the legal framework of the European Union are observed. It is the formal initiator of policy and legislative proposals, the implementer of European Union policy and the enforcer of ***European Community*** law. It consists of 20 commissioners, each appointed for four years, who are responsible for defined subject areas. They are chosen because of their general competence, and their independence must not be in doubt. The Commission is reappointed every five years. Every member state is entitled to one commissioner, but France, Germany, Italy, Spain and the United Kingdom have two. The Commission is divided into more than 20 Directorates-General (DG). Not all of them are active. DG-I is concerned with external economic relations, including negotiations in the ***WTO***, DG-IV deals with competition and DG-VI with agriculture. Under Article 228 of the ***Treaty of Rome*** and some other articles, external agreements are to be negotiated by the Commission and concluded by the ***Council of the European Union*** (the Council of Ministers). In broad terms, the Council of Ministers lays down general negotiating guidelines which the Commission then follows in the negotiations. Through the ***Treaty of Nice***, when it enters into force, European Union members have agreed that from 2005 each member will have one Commission member only. Once European Union membership reaches 27, the number of commissioners will be permanently capped at less than 27. The nationality of the Commissoners will then be determined by a system of rotation.

European Communities: a term created with the adoption of the Merger Treaty *(Treaty Establishing a Single Council of the European Communities)* in 1965 which created, among other institutional changes, a single Commission of the European Communities. The Commission unified the bodies administering the European Atomic Energy Community, the

European Coal and Steel Community (ECSC) and the ***European Economic Community***. These communities continue to exist as separate legal entities. Article XI of the ***Marrakesh Agreement Establishing the World Trade Organisation*** refers to the European Communities as a member of the WTO. This is because there were doubts at that time whether the ***European Community*** had ***competence*** over matters falling within the ambit of the ECSC and the Atomic Energy Community. These doubts proved unjustified. See also ***European Commission***.

European Community: created as a legal entity by the ***Treaty of Maastricht*** as the successor of the ***European Economic Community*** (EEC or the ***Common Market***). Often shortened to EC. The term "European Community" was often used before the entry into force of the Treaty of Maastricht to mean the EEC, but other authors meant the ***European Communities*** by it. The exact meaning is usually clear from the context. See also ***enlargement***, ***European Union*** and ***Treaty of Maastricht***.

European Community and European Union treaties: this entry outlines the main treaties underlying the European Union. The ***European Economic Community*** was established on 1 January 1958 through the ***Treaty of Rome***. The ***Merger Treaty*** of 1965 unified the separate bodies heading the European Atomic Energy Community, the ***European Coal and Steel Community*** and the European Economic Community into the ***European Commission***. The ***Single European Act*** of 1987 eliminated remaining barriers between the member states. The ***Treaty of Maastricht*** established the ***European Union*** on 1 November 1993. The ***Treaty of Amsterdam*** which entered into force on 1 May 1999 simplified and consolidated the treaties constituting the law of the European Union. The ***Treaty of Nice***, expected to enter into force in 2002, is aimed at preparing European Union institutions for the ***enlargement*** likely to occur over the next few years.

European Community legislation: the ***European Community*** has five legislative avenues to carry out its mandate. *Regulations* are official European Community acts which are binding in their entirety and which apply directly in all member states. Regulations therefore promote legislative harmonisation, since community law prevails over national law where there is a conflict. *Directives* are official European Community acts which are binding on the member states to which they are addressed as far as their objectives are concerned, but member states are free to decide how to give effect to directives. This approach can make the implementation of controversial measures more acceptable. *Decisions* are binding in their entirety on those to whom they are addressed. *Recommendations* and *opinions* have no binding force, but they can be as effective as other measures.

European Community Single Market: launched in 1987 through the ***Single European Act***, an amendment to the ***Treaty of Rome***, and achieved in 1992. It entailed the elimination of the remaining physical

(customs), technical (standards and licensing) and fiscal barriers between the then twelve members of the ***European Community***. This not only meant that goods and services produced in one member state had unhindered access to the other member states if they were wanted there, but also that foreign goods and services, once they were lawfully imported by one member state, could then be transferred to any other member state. Even then, there was a view at the time of its creation that it would not lead to a single market, and that without further reforms the European Community market would remain a collection of twelve national markets. A 1985 ***European Commission*** White Paper contained 282 draft directives seen as essential for achieving the Single Market. See also ***European Community legislation*** and ***four freedoms***.

European Court of Justice: the judicial organ charged with ensuring that the law is observed in the interpretation and application of the treaties establishing the ***European Communities*** as well as the provisions laid down by the various Community institutions. The Court of Justice is the pre-eminent legal body in the Community, but the courts of the member states retain a role in the application of Community laws, especially where the member states are charged with carrying out certain functions and where Community instruments confer directly individual rights on nationals of member states. The European Court of Justice is located in Strasbourg.

European Economic Area: EEA. Established on 1 January 1994. It comprises the 15 members of the ***European Community*** (EC) and three of the four members of ***EFTA*** (Iceland, Liechtenstein and Norway) in a single market. Switzerland decided in December 1992 not to join the EEA. For the EFTA countries, membership of the EEA represents an intermediate step between a separate EFTA and its full EC membership. However, applying to join the EEC would be a separate step. The agreement establishing the EEA covers the ***four freedoms*** (free movement of goods, persons, services and capital), but agriculture and fisheries are covered in rather limited way. Members of the EEA must adopt the ***acquis communitaire*** dealing with competition. EFTA states are also bound by the European Community rules on social policy, consumer protection, environment, company law and statistics.

European Economic Community: EEC. Established by the ***Treaty of Rome*** which was signed on 25 March 1957. It entered into force on 1 January 1958. The Treaty was intended to "lay the foundations of an ever closer union among the peoples of Europe". Among its principal aims were the elimination of tariff and non-tariff barriers among member states and the formation of a common market entailing also the free movement of persons, services and capital. The EEC consists of a number of elements, including the ***Common Agricultural Policy***, the ***Common Commercial Policy*** and a common transport policy. The EEC has been replaced by the ***European Community*** through the ***Treaty of Maastricht***. See also ***enlargement***, ***European Union*** and ***four freedoms***.

European Economic Community – Payments and subsidies paid to processors and producers of oilseeds and related animal-feed proteins: see ***oilseeds panel***.

European Economic Community – subsidies on exports of pasta products: see ***pasta case***.

European Economic Community: – subsidies on export of wheat flour: see ***wheat flour case***.

European Free Trade Association: see ***EFTA***.

European Patent Convention: the *Convention on the Grant of European Patents* concluded on 5 October 1973. It establishes a common system of law for the grant of patents in member states. These European patents have the effect of national patents granted by member states.

European Recovery Program: see ***Marshall Plan***.

European Union: created by the ***Treaty of Maastricht***, signed in February 1992. It entered into force on 1 November 1993. The European Union consists of three parts: (i) the ***European Community*** (which remains the principal pillar), (ii) a common foreign and security policy and (iii) cooperation in the fields of justice and home affairs. Only the European Community has a legal personality and can sign international agreements. The fifteen members of the European Union are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the United Kingdom. See also ***Treaty of Amsterdam*** and ***Treaty of Nice***.

European Union-Mercosur Cooperation Agreement: adopted on 15 December 1995 in Madrid. It sets out the process for future cooperation between the two groups of partners. The areas to be covered include economic, commercial, industrial, customs, statistics, ***intellectual property***, investment, energy, transport, science and technology, telecommunications and information technology, environment, education, culture and drug trafficking. The work will be done through a Council of Cooperation at ministerial level. The cooperation agreement may lead to a ***free-trade agreement*** between the two groups, possibly by 2005. See also ***Mercosur***.

European works: see ***broadcasting directive***.

Everything but arms: a European Union initiative for duty-free and quota-free access to all products except arms originating in ***least developed countries***. It took effect on 5 March 2001 for most products. Sugar, rice and bananas will receive free access in stages by 2009.

EVSL: see ***Early Voluntary Sectoral Liberalisation***.

Ex ante: before a measure is applied.

Exchange controls: conditions or limits imposed by governments on the extent to which residents may have access to foreign exchange reserves. WTO members may use exchange controls imposed in accordance with the Articles of Association of the ***IMF***, but they may not use them to frustrate the intent of the GATT. For ***trade in services***, they may not apply restrictions on

international transfers and payments for current transactions where they have made ***specific commitments***. In both cases, exchange controls may be possible to safeguard the balance of payments under strictly defined conditions. See also ***balance-of-payments consultations*** and ***trade and foreign exchange***.

Exchange dumping: suggested in the past by some as a category of ***dumping***. This was assumed to occur through manipulation of the exchange rate to give exporters an advantage in the importing market. So-called exchange dumping was discussed at the time of the ***Havana Charter*** negotiations, but no rules were established to deal with this practice. Some of the calls for negotiations on ***trade and foreign exchange*** appear to be based on the view that some forms of exchange dumping still persist.

Exchange of concessions: agreed bilateral outcomes arrived at as the result of ***requests and offers*** in ***multilateral trade negotiations***. A ***concession*** is in its narrow sense a ***binding***, but it is also used for tariff reductions more generally.

Exchange rate: the cost of currency in terms of another currency. Some exchange rates are fixed. This is done through a government decision, usually against a currency showing moderate fluctuations in value. Floating exchange rates are determined by free markets in response to supply and demand. See also ***currency board***.

Excise duty: a ***duty*** sometimes levied by governments on the production, purchase, sale or use of a commodity. A typical example is the duty levied on the distilling and sale of alcohol. Foreign and domestic products have to be given the same level of excise duty under the WTO rules on ***national treatment***.

Exclusive Economic Zone: see ***United Nations Convention on the Law of the Sea***.

Exclusive export rights: the right given to governmental and non-governmental enterprises to be the sole exporter of, usually, an agricultural commodity. See also ***single-desk selling***.

Exclusive import rights: the practice of giving holders of ***patents***, ***copyright*** and other ***intellectual property rights*** the ability to stop ***parallel importation*** of products embodying the same intellectual property rights. Some countries assign exclusive importing rights in particular products to ***state trading*** operations. See also ***trading rights***.

Exclusive marketing rights: EMRs. A concept used in the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** relating to ***patent*** protection for pharmaceuticals and agricultural chemical products. EMRs may be available for five years in cases where defined transitional arrangements are used to bring the provisions of the Agreement into effect.

Exhaustion doctrine: the principle that once a product has been sold on a market, the intellectual property owner no longer has any rights over it. Laws vary as to whether the right continues to be exhausted if the product is imported from one market into another, which affects the owner's rights over

trade in the protected product. WTO members are now debating whether exhaustion applies to products put on the market under ***compulsory licences***. See also ***parallel importation***.

Exon-Florio amendment: Section 5021 of the ***United States Omnibus Trade and Competitiveness Act*** of 1988 which authorises the President to block on national security grounds mergers, acquisitions and joint ventures involving foreign investment. It offers considerable flexibility in its application. See also ***foreign investment screening***, ***national interest*** and ***security exceptions***.

Ex parte* communications:** the WTO ***Understanding on Rules and Procedures Governing the Settlement of Disputes expressly prohibits *ex parte* communications (communications with one party only to a dispute) with a ***panel*** or the ***Appellate Body*** concerning a matter they may be considering. Written submissions to a panel or the Appellate Body are treated as confidential, but they must be available to the parties to the dispute.

Explicit consensus: see ***consensus*** and ***decision-making in the WTO***.

Explicit harmonisation: a form of cooperation between governments to achieve defined and legally binding uniform bilateral, regional or global standards. It entails some movement away from complete national autonomy for the making of standards towards decision-making in an international framework or within international institutions. See also ***harmonisation*** and ***zero-margin harmonisation***.

Export: a good or a service sold by residents of one country to residents of another in return, usually, for foreign exchange. See also ***barter*** and ***countertrade***.

Export cartel: see ***cartel***.

Export competition: the practice of competing internationally in markets for agricultural commodities through subsidised export credits, state-trading enterprises, abuse of food aid and non-transparent market support systems.

Export controls: measures instituted by exporting countries to supervise export flows. Reasons for them include compliance with ***United Nations economic sanctions***, adherence to ***voluntary restraint arrangements***, observance of ***export quotas*** under ***international commodity arrangements***, management of ***strategic exports*** and administration of rules concerning ***dual purpose exports***, as well as a policy of preserving some raw materials and other articles for domestic production or consumption. See also ***grey-area measures*** and ***Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies***.

Export credits: the granting to the importer (purchaser) of goods and services an extended term to pay for them. ***OECD*** members handle their government-supported export credits according to the ***Arrangement on Guidelines for Officially Supported Export Credits***. The accepted practice today is to consider repayment terms of less than two years as short-term, between two and five years as medium-term and above five five years as long-term.

Many exporting countries have mechanisms to manage, support or guarantee export credits since, especially in the case of large contracts like power stations or port facilities, favourable terms of credit can influence considerably the competitiveness of a bid. The WTO ***Agreement on Subsidies and Countervailing Duties*** declares export credits prohibited if they are made at less than commercial rates. Export credits extended by OECD members in accordance with the OECD Arrangement are exempt from this prohibition.

Export culture: a recognition among individuals, firms and governments that competitive exports contribute significantly to national economic welfare, and that participation in international markets must be a high priority. Promoting and sustaining an export culture requires a consistent effort to abolish domestic structural impediments to exporting and to ensure the availability of non-discriminatory ***market access*** in other countries.

Export Enhancement Program: EEP. A United States subsidy program introduced in 1985. Its objective is to help American exporters in competing against subsidised prices in specific markets. Commodities able to benefits from this program are wheat, wheat flour, rice, frozen poultry, barley, barley malt, table eggs and vegetable oil. EEP enables exporters to sell these products abroad for less than the price they paid for them. The subsidies, called bonuses under the program, are paid in cash by the ***Commodity Credit Corporation*** (CCC). See also ***Dairy Export Incentive Program*** and ***Farm Security and Rural Investment Act*** of 2002 which extended the program until 2007.

Export earnings guarantee schemes: mechanisms usually aimed at ensuring that individual commodity producers or countries mainly dependent on export earnings from commodities are not exposed fully to sharp drops in their incomes. They are also known as ***compensatory financing arrangements***. Examples of such mechanisms were ***STABEX*** and ***SYSMIN***, both operated by the ***European Community*** under the ***Lomé Convention***. They have been replaced in the ***ACP-EC Economic Partnership Agreement*** by a scheme to support national budgets in defined cases. The ***IMF Compensatory and Contingency Financing Facility*** has a broader scope.

Export Expansion and Reciprocal Trade Agreements Act: the ***fast-track*** proposal tabled by President Clinton in September 1997. It was not adopted. See also ***Trade Promotion Authority*** and ***United States trade agreements legislation***.

Export incentives: measures adopted by governments to promote the expansion of exports by domestic companies. Such measures can include direct subsidies, bounties, reduced import tariffs for components where they are incorporated into exported products, taxation concessions, etc. The ***Agreement on Subsidies and Countervailing Duties*** makes some types of export incentives illegal, including subsidies related to the export of products. See also ***bounty*** and ***export subsidies***.

Export inflation insurance schemes: schemes operated by governments particularly in the high-inflation environment of the 1970s. They were designed to minimise or eliminate the effects of monetary inflation on the cost of export contracts. Countries not maintaining such schemes held that they conferred a competitive advantage to exporters benefiting from them. These exporters could bid more aggressively in international markets, since they were secure in the knowledge that they would not have to bear the cost of inflation alone. A ***panel*** established by the GATT in 1978 to examine whether such schemes amounted to a ***subsidy*** concluded that this would be true if the premium rates were "manifestly inadequate to cover long-term operating costs and losses". It also noted that the meaning of "long-term" still would have to be defined. In the current environment of low inflation any schemes of this nature which might still exist appear to be unused.

Exporting unemployment: the woolly idea that domestic economic activity can be raised, and employment thereby increased, if the flow of imports is stemmed in some way. In other words, proponents of this idea hold that it is possible to transfer the unemployment burden to some other country and protect and increase employment at home through keeping imports at bay. Generally, the more acceptable term of ***import substitution*** is used for this practice. Such policies may work in the short term, but only at the expense of lower competitiveness of the domestic industry. Factors to consider in the imposition of import substitution policies are that many imported products are inputs into the production process. Raising their prices raises the costs of domestic producers. Increased costs are a disincentive to purchasers, and this may lead to a dampening of economic activity. The aim of exporting unemployment can therefore lead to increased unemployment. See also ***beggar-thy-neighbour policies***, ***local content rules*** and ***optimal-tariff argument***.

Export of domestically prohibited goods: allowing the manufacture of goods for export, but not for domestic consumption. Said to be done for reasons of health, safety, etc. Practical examples are hard to find. Views differ on the extent to which importing countries should agree to open their markets to these exporters. Some say that if a country does not allow such products in its domestic market, it should ban their export also. Others say that importing countries have no obligation to accept such products. At its worst, the arguments therefore amount to blatant ***protectionism*** on the part of those who dispute the right of countries to engage in such exports, but in many cases the reality is not so simple. This difficult issue has been on the GATT work program since 1982. A solution is not readily apparent.

Export of jobs: the erroneous view sometimes expressed sometimes by trade unions and manufacturers in ***sensitive sectors*** that the import of products means the export of jobs because any order placed abroad means that someone in a foreign country now has a job. The remedy usually suggested is higher tariffs to promote ***import substitution***. However, such policies lead to higher costs for the economy overall, and they therefore make it less

competitive with resulting higher unemployment. See also ***exporting unemployment***.

Export participation rate: a measurement indicating how many firms in a given industry in an economy are engaged in exporting or attempting to export goods and services. The export participation rate is a useful device for assessing the extent to which a country has acquired an ***export culture***.

Export performance measure: see ***export performance requirements***.

Export performance requirements: conditions imposed by the country authorising foreign investment within its territory that are aimed at expanding that country's exports. At its simplest, the enterprise established with foreign investment has to export a certain percentage of its output, expressed either in value or quantity. Wholesale and retail traders may have to balance their imports with exports. The ***Agreement on Trade-Related Investment Measures*** bans most of these requirements.

Export pessimism: a view prevalent particularly in the 1950s in the heyday of ***import substitution*** policies by developing countries in the Latin-American region. It was based on the assumption that the smallness of their exports would not be able to promote economic development, and that international integration would undermine whatever competitiveness an economy might have achieved. The conclusion was that import substitution was the only realistic policy. See also ***dependence theory***.

Export propensity: the share of domestic production of goods and services that is exported. See also ***export participation rate***.

Export processing zones: see ***free-trade zones***.

Export quotas: restrictions or ceilings imposed on the total value or volume of certain exports. They are designed to protect domestic producers and consumers from temporary shortages of these products or to improve the prices of specific products on world markets by shortening their supply. The latter is only possible where a country, or a group of countries, is the dominant exporter of a product. ***International commodity agreements*** with economic provisions can underpin their aim of price stabilisation through export quotas, sometimes together with a ***buffer stock***. Article XX(h) (General Exceptions) of the GATT specifically allows members to adopt measures in support of obligations they have accepted under any intergovernmental commodity agreements conforming to the 1947 ***ECOSOC*** principles. This is also reflected Chapter VI of the ***Havana Charter***. GATT Article XX(i) permits members to maintain "restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilisation plan", but such restrictions must not be used to increase exports of the commodity concerned or to give it greater protection. Reasons adduced at one time or another against export quotas include (a) their tendency to discriminate against low-cost producers and new entrants into the market, (b) their inability to alleviate shortages, (c) they may lead to unreasonable

expectations of defensible price levels among producers, (d) they may work against the aim of putting less on the market by guaranteeing less efficient producers a minimum price, (e) artificially high prices encourage consumers to use substitutes, synthetics or new technologies reducing the need for that commodity, (f) the general difficulty of negotiating and policing quotas, especially when there are structural changes in the market brought about, for example, by a shift in consumer preferences or the entry of new producer-based technologies, (g) ensuring that all significant producers are members of an agreement with export quotas is always difficult, and (h) in times of even minor oversupply a small additional exporter can have a disproportionate effect. Some argue that the ***Integrated Programme for Commodities*** would offer a defence against most of these perceived difficulties because of the universality of its membership, but the history of commodity negotiations since 1976, when the integrated programme was negotiated, does not support this claim adequately. See also ***commodity policy***.

Export restitution: an export subsidy under the ***Common Agricultural Policy*** which bridges the gap between domestic and world prices.

Export restraint arrangement: see ***voluntary restraint agreement***.

Export subsidies: government payments or other financial contributions by governments provided to domestic producers or exporters if they export their goods or services. They are illegal for manufactured products under the ***Agreement on Subsidies and Countervailing Measures***. See also ***export incentives***.

Export targeting: the practice by an exporting country of selecting some countries as particularly promising markets for its products. The practice becomes reprehensible in the eyes of producers in importing countries when ***unfair trading practices*** are used. The ***United States Omnibus Trade and Competitiveness Act*** includes export targeting in the category of unreasonable acts, policies and practices. As such, they may give grounds for action under ***Section 301***. See also ***import targets*** and ***voluntary import expansion programs***.

Export tariffs: a levy on goods or commodities at the time they leave a ***customs territory***. Reasons for imposing export tariffs include raising revenue, the desire to promote further processing of commodities within the country and a policy of ensuring that commodities perceived as scarce and necessary for domestic production are reserved as much as possible for local industry. See also ***double pricing***, ***export quotas***, ***Lerner's symmetry theorem*** and ***short-supply products***.

Ex post: after a measure is applied.

Expressions of folklore: see ***folklore***.

Expropriation: confiscation by the host country of property owned by foreign nationals or taking action to nullify the value of property, usually under the guise of some public policy goal. Article III of the United States model bilateral investment treaty says that parties may only expropriate an investment for a public purpose, in a non-discriminatory manner, upon

payment of prompt, adequate and effective compensation, and in accordance with due process of law. ***Bilateral investment treaties*** and ***investment promotion and protection agreements*** seek to establish procedures for just compensation of former owners.

External trade: this can mean the same as foreign trade generally. It can also refer to the foreign trade conducted by members of a ***preferential trade arrangement*** with non-members. The trade between the partners to such an arrangement is then called internal trade.

Extraterritoriality: the enforcement of the laws of a country outside its territory. This is much disliked except by those economically powerful enough to benefit from it. See also ***antitrust laws***, ***effects doctrine***, ***Iran-Libya Sanctions Act*** and ***Helms-Burton legislation***.

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Factor proportion theory: see ***Heckscher-Ohlin theorem***.

Failing-firm doctrine: a doctrine established under United States and some other ***antitrust-laws***. It permits mergers that might otherwise be illegal, if some conditions are met. These usually are (a) a grave possibility of a business failure, (b) a lack of any other prospective buyer and (c) a small chance for a successful reorganisation of the firm. See also ***crisis cartel***.

FAIR Act: see **Federal Agriculture Improvement and Reform (FAIR) Act**.

Fair and equitable treatment: an obligation found in Article XVII (State Trading Enterprises) of the GATT concerning the conduct of ***state trading*** in relation to government import purchases. This obligation does not have the same force as ***most-favoured-nation treatment***, but it was originally meant to give non-discriminatory treatment to the maximum extent possible.

Fair competition: in ***trade policy*** the proposition that international trade should be conducted within the non-discriminatory rules of the ***multilateral trading system***. Sometimes this is also known as the ***level playing field***. One element of fair competition in trade is that competition is kept within certain bounds. Otherwise, ***anti-dumping measures***, ***countervailing duties***, etc., may apply. In ***competition policy***, fair trade means the conduct of business in conformity with usually pro-competitive laws. See also ***equitable competition*** and ***fair trade***.

Fair labour standards: see ***core labour standards*** and ***social clause***.

Fair trade: this has several meanings. It can be a trading system in which rights and obligations are balanced and observed by participants in the system. To others it means trade without reliance on ***dumping*** or ***subsidies***. In the 1980s, fair trade came to be defined by some as meaning something more akin to ***managed trade***, such as the effort to achieve forced

bilateral ***balance of trade***. In ***competition policy***, fair trade refers to the conduct of commercial activities without resort to anti-competitive behaviour as described by a country's competition laws. The context usually makes clear the intended meaning.

Fair-use doctrine: the proposition that works under ***copyright*** may be drawn on to a limited extent through quotation of excerpts, particularly for scholarly purposes, without leading to claims of ***piracy***. Whether use would be considered fair in a particular instance would depend on the circumstances of the case. See also ***intellectual property rights*** and ***intellectual property right infringements***.

Fallacy of composition: the dilemma, as explained for example in the 2002 ***Trade and Development Report*** that "on its own a small developing country can substantially expand its exports without flooding the market and seriously reducing the prices of the products concerned, but this may not be true for developing countries as a whole". Proponents of this view often use the analogy of spectators in a football stadium. If the people in the front rows stand up to see better, those in the seats behind also have to stand up. The result is that hardly anybody is better off.

Farmers' rights: a concept developed in the ***Food and Agricultural Organisation*** (FAO). It defines farmers' rights as "rights arising from the past, present and future contribution of farmers in conserving, improving and making available plant genetic resources, particularly those in the centres of origin/diversity". The FAO says that farmers' rights are not assigned to specific varieties, types of plants, or to specific farmers as, for example, ***intellectual property rights*** are. The purpose of farmers' rights is to encourage farmers and farming communities to nurture, conserve, utilise and improve plant genetic resources. Farmers' rights are therefore seen as a way to compensate farmers for improvements they have made over a long time, and for which they may not be able to benefit from protection through intellectual property rights. Seea also ***traditional knowledge***.

Farm Security and Rural Investment Act: the United States agricultural law, signed by the President on 13 May 2002, which replaces the ***Federal Agriculture Improvement and Reform Act*** of 1996. Among many other provisions, it extends the ***Eport Enhancement Program***, the ***Food for Progress*** program and the ***Food for Peace*** program until 2007. This Act seems to manage to authorise substantial handouts to anyone engaged in farming and related activities without apparently promoting structural adjustment. Its provisions can be seen both as a cause of and a reaction to the problems caused by distorted agricultural production and trade policies elsewhere in theworld.

Fast-track: a mechanism available since the passage of the 1974 United States Trade Act under which Congress can only approve or disapprove in its entirety a regional or multilateral trade package negotiated by ***USTR***. The main conditions are (a) that Congress is informed of the likely outcome of negotiations well before they are concluded to allow for consultations with

the Administration, (b) that committees would report on the bill within a short time, and (c) that debate over the bill in both houses would be limited. Some WTO members think that the United States cannot negotiate seriously in ***multilateral trade negotiations*** until it has received fast-track authorisation. In other words, fast-track would remove internal impediments to negotiation. That view may not give the full picture since Congress tendsto take a strong interest in all phases of the negotiations and makes its views known to the Administration. Others see the main benefit of fast-track authority as giving other countries the signal that the United States is ready to negotiate. See also ***reverse fast-track*** and ***trade promotion authority***.

Favourable-balance-of-trade objective: see ***mercantilism***.

FEALAC: see ***Forum for East Asia and Latin American Cooperation***.

Federal Agriculture Improvement and Reform (FAIR) Act: the formal name of the comprehensive farm bill covering both production and trade aspects passed by Congress on 28 March 1996 and signed into law by the President on 4 April. The Act largely retained the existing export subsidy programs, such as the ***Dairy Export and Incentive Program*** and the ***Export Enhancement Program***, but it put a ceiling on expenditure on them. The Act also envisaged a seven-year program to remove the link between production and payments to some farmers, particularly those growing rice, cotton, feedgrains, wheat and oilseeds. It has now been succeeded by the ***Farm Security and Rural Investment Act***. See also ***Commodity Credit Corporation***.

FEEEP: Food, Energy, the Environment, Economic Growth and Population. A long-term ***APEC*** work program initiated in 1995 to ensure that the region's future economic growth would be sustainable in the longer term.

FEOGA: Fonds européen d'orientation et de garantie agricole. See ***European Agricultural Guidance and Guarantee Fund***.

Fetish of industrialisation: an expression used by Clair Wilcox in *A Charter for World Trade* to describe what he calls an insistent demand in undeveloped countries that standards of living be improved, and an irrational belief that this improvement is to be obtained only through a rapid industrialisation of their economies. He notes that this is almost always accompanied by severe restrictions on foreign trade. See also ***developing countries and the GATT***, ***import substitution*** and ***infant-industry argument***.

Fifth Protocol to the General Agreement on Trade in Services: gives effect to the commitments on trade in ***financial services*** following negotiations in 1996 and 1997. It entered into force on 1 March 1999.

Final goods and services: goods and services bought by end-users. They are not used in any further production process. This distinguishes them from intermediate goods and services. The distinction depends entirely on who buys them. A teapot bought for use at home is a final product, but teapots bought by hotels for the provision of breakfast tea are clearly an intermediate good for the provision of a final service.

Financial services: banking, general insurance, life insurance, funds management, securities trading and advisory services related to these activities. See ***Understanding on Financial Services***.

FIRA* panel:** formed in 1982 in the GATT to consider a complaint by the United States concerning the *Canadian Foreign Investment Review Act* (FIRA) of 1973. Under this Act foreign investors had to enter into agreements with the Canadian authorities requiring them to give preference to the purchase of Canadian goods over imported goods and to meet certain ***export performance requirements. Undertakings to purchase goods were in many cases conditional on goods being available, reasonably available or competitively available in Canada with respect to price, quality, delivery or other factors. None of the agreements had been enforced through the court system. Both parties agreed that FIRA itself was not an issue, nor was Canada's right to regulate the entry and expansion of ***foreign direct investment***. The ***panel*** found that mandatory undertakings to purchase goods of Canadian origin in preference to imported goods where imported goods are clearly treated less favourably than domestic products were not consistent with GATT Article III:4 (National Treatment). It found that this applied also when the undertakings were informal, i.e. conditional on goods being available, because this would entail giving preference to the domestic product. It considered that the sole purpose of Article III:4 was to ensure the treatment of domestic and imported products on equivalent terms. The panel also found that undertakings to buy from Canadian suppliers were equally inconsistent with Article III:4.

First Account: the program under the ***Common Fund for Commodities*** which finances international ***buffer stocks*** and internationally-coordinated national stocks, but only if they are operated in the framework of ***Integrated Programme for Commodities***. This program is inactive. See also ***Second Account***.

First Agreement on Trade Negotiation Among Developing Countries: see ***Bangkok Agreement***.

First-difference negotiations: another name for the technique of bilateral ***requests and offers*** followed in the WTO system for trade in goods and services.

First-difference reciprocity: see ***first-difference negotiations***.

First-mover advantage: the benefits said to be available to a firm because it is the first in the market with a new technology or a new process.

First-order protectionism: the trade-restrictive measures falling broadly into the category of ***voluntary restraint arrangements***. This term is based on the incontrovertible intention that any such measures should be protectionist. See also ***protectionism***.

First regionalism: used by Jagdish Bhagwati to describe the wave of ***preferential trade arrangements*** concluded during the 1950s and 1960s. The two main surviving arrangements from that time are the ***European Community*** and ***EFTA***.

First-to-file: a procedure to determine priority of ***patent*** rights. Most countries, the United States and the Philippines being the main exceptions, accord priority of invention to the person registering first regardless of when the invention took place. The United States and the Philippines use the "first-to-invent" principle to accord priority. The main advantage of the first-to-file method is that, if a dispute arises about the precedence of claims, it establishes a clear starting point for any determination of which inventor may have priority rights. Under the first-to-invent method, the applicable date may have to be established laboriously through the use of notebooks and other records. See also ***intellectual property rights***.

First-to-invent: see ***first-to-file***.

Fixed exchange rate: see ***exchange rate***.

Fixed quota: a quota set for the volume of import of goods that may not be exceeded in set period. See also ***tariff rate quota***.

Flat-tariff structure: a ***tariff schedule*** in which all tariff rates are equal or nearly equal. The famous example is that of Chile which in 2003 will have a tariff rate of 6% for nearly all imports. See also ***dispersed tariff***.

Flexibility provisions: these relate to the reductions to be made in agricultural export subsidies as a result of the ***Uruguay Round*** negotiations. If a country's export subsidies increased since the 1986-90 ***base period*** on which the negotiations were based, it had the option of using 1991-92 as the base period. However, the end-points for achieving the reductions remain the same. Flexibility provisions are also contained in the ***Agreement on Textiles and Clothing***. They permit swing (transfer of part of an export quota for one product to another product), carryover (the use in the current year of an unused export quota from the previous year) and carry forward (the use of part of next year's quota during the current year). The flexibility provisions mentioned in the Agreement on Textiles and Clothing had their origin in the ***Multi-Fibre Agreement***. See also ***Agreement on Agriculture***.

Floating exchange rate: see ***exchange rate***.

Floating initial negotiating rights: see ***initial negotiating rights***.

Floor price: a guaranteed price level for commodity producers. It may be higher or lower than the world market price for that commodity. In ***international commodity agreements*** the floor price may be the level at which the ***buffer stock*** manager must buy in an effort to reduce supply and in this way prop up the market price. See also ***Common Agricultural Policy***, ***loan rate*** and ***trigger price mechanism***.

Florence Agreement: *Agreement on the Importation of Educational, Scientific and Cultural Materials*. Adopted under ***United Nations Educational, Scientific and Cultural Organisation*** (UNESCO) auspices in 1950. Parties to the Agreement undertake not to levy import duties on books, publications, documents and educational, scientific and cultural materials listed in the annexes. A protocol to the Agreement adopted in 1977 modernised the lists of materials covered.

Flying-geese formation: see ***convoy problem***.

Folklore: an aspect of ***traditional knowledge***.The protection of folkloric expressions against illicit exploitation has been discussed in the ***United Nations Educational, Scientific and Cultural Organisation*** and ***WIPO*** for many years. Some have suggested that it should also become part of the ***WTO*** agenda.

Food Aid Convention: see ***International Grains Agreement***.

Food and Agricultural Organisation: FAO. Established in 1945 as one of the ***United Nations specialised agencies***. Its aims, as set out in the preamble to its constitution, are (a) raising levels of nutrition and standards of living of the peoples of member states, (b) securing improvements in the efficiency of the production of all food and agricultural products, (c) bettering the condition of rural populations, and (d) in this way contributing toward an expanding world economy and ensuring humanity's freedom from hunger. The FAO has, among others, committees on commodity problems, agriculture, and world ***food security***. It is active in land and water development, plant and animal production, forestry and fisheries. Together with the World Health Organisation, the FAO administers the ***Codex Alimentarius*** Commission, intended to promote the harmonisation of requirements for food and thereby facilitate international trade. The FAO is located in Rome. See also ***World Food Programme***.

Food, Energy, the Environment, Economic Growth and Population: see ***FEEEP***.

Food for Peace **program:** see ***PL 480***.

Food for progress **program:** a United States program established under the *Food Security Act* of 1985. It encourages agricultural policy reform in developing countries through food donations and sales at concessional prices. Commodities are provided under this program to developing countries and emerging democracies that have committed themselves to some elements of free enterprise in their agricultural economies. All edible commodities managed by the ***Commodity Credit Corporation*** are eligible for exports under this program. The ***Farm Security and Rural Investment Act*** of 2002 renewed the program until 2007.

Food-importing Group: this was established early in the ***Uruguay Round*** to represent the interests of developing countries dependent on imports of food.

Food security: a concept which discourages opening the domestic market to foreign agricultural products on the principle that a country must be as self-sufficient as possible for its basic dietary needs. See also ***Food and Agricultural Organisation***, ***food security box*** and ***World Food Programme***.

Food security box: a proposal made in 2001 by India to amend the WTO ***Agreement on Agriculture***. Key elements of the box would be: (a) government service programs, food security stocks, domestic food aid, natural disaster relief, structural adjustment programs, environmental support

measures, poverty alleviation, rural development and rural employment programs to be exempt from subsidy reduction programs, (b) developing countries to have flexibility in providing agricultural subsidies, (c) flexibility for developing countries in the administration of tariff bindings and (d) developing countries to be exempt from making minimum market access commitments. See also ***development box***.

Foot dragger: a party to ***multilateral trade negotiations*** which uses the ***consensus*** rule to prevent a decision or to water down the force of a provision to suit its own purposes. See also ***convoy problem***.

Footloose industries: a term used for industries for which the location is relatively unimportant for production and sales because they do not depend on an elaborate physical infrastructure or large fixed investment. They can easily move elsewhere in search of a cheaper and better operating environment. Sometimes they have to do this in order to satisfy new ***rules of origin***. Some service activities, such as information processing, are thought to fall into the category of footloose industries. ***Globalisation***, which can spread the production process over many countries, is thought to give some impetus to the emergence of such industries. Remember, though, that in the long run all industries are footloose. See also ***delocalisation***.

Forced technology transfer: the practice of requiring firms to transfer some of their technology to the host country as part of receiving approval to invest when there is no existing law or regulation concerning the ***transfer of technology***. See also ***compulsory licensing***.

Foreign Corrupt Practices Act: FCPA. A United States law adopted in 1977 which imposes criminal liability on its corporations and individuals who are involved in offering inducements to officers of foreign governments to obtain or retain business. The FCPA is therefore directly relevant to rules and practices governing ***government procurement***. See also ***trade and illicit payments***.

Foreign direct investment: defined by the ***IMF*** as "direct ***investment*** that is made to acquire a lasting interest in an enterprise operating in an economy other than that of the investor, the investor's purpose being to have an effective voice in the management of the enterprise". Much thought has been given to the meaning of "lasting interest". The ***OECD*** has recommended that 10% or greater ownership should satisfy this requirement. The OECD also defines direct investment flows as (i) the direct investor's net purchases of the company's share capital and net loans, trade and other credits advanced, and (ii) the direct investor's share of reinvested earnings. See also ***APEC non-binding investment principles***, ***Foreign Investment Advisory Service***, ***non-equity-based investment***, ***portfolio investment*** and ***World Bank Guidelines on the Treatment of Foreign Direct Investment***.

Foreign exports: see ***re-exports*** and, for comparison, ***domestic exports***.

Foreign Investment Advisory Service: FIAS. An advisory service originally established by the ***International Finance Corporation*** and

now operated jointly with the ***IBRD***. It assists developing countries in attracting increasing amounts of ***foreign direct investment***. Its main activities include giving advice to governments on foreign investment laws, the institutions needed to administer foreign investment and to develop investment promotion strategies. See also ***Multilateral Investment Guarantee Agency***.

Foreign investment protection agreements: see ***bilateral investment treaties*** and ***investment promotion and protection agreements***.

Foreign investment screening: a mechanism operated by many countries to ensure that projects financed with foreign investment meet national development objectives and ***economic needs tests***, and that foreign equity in specific sectors or companies does not exceed legal limits. Screening also aims to promote *bona-fide* investment proposals. The importance of foreign investment screening for ***trade policy*** stems from the fact that some see it as capable of being a trade impediment in cases where foreign investment is essential for effective ***market access***. The screening process may result in the refusal of an application to invest and therefore to a denial of market access. See also ***Exon-Florio amendment*** and ***pre-establishment***.

Foreign parity: see ***most-favoured-nation treatment***.

Foreign sales corporation: FSC. A corporation established and maintained in a foreign country responsible for the export, sale and lease of goods and services produced in the United States. If such a corporation is established in accordance with United States tax laws, it may benefit from some tax exemptions and special administrative pricing rules. An FSC need not be affiliated with or controlled by a United States corporation to qualify for the benefits, but the benefits are greatest if such a relationship exists. Accordingly, most FSCs are subsidiaries of United States corporations. The FSC scheme was introduced in the early 1980s as the successor to the ***domestic international sales corporation*** (DISC) after a GATT panel ruled in 1976 that DISC was inconsistent with GATT rules. In 1998 the ***European Communities*** requested the establishment of a WTO ***panel*** because in its view the United States provisions for FSCs constituted a subsidy and that, accordingly, the United States had violated its obligations under the ***Agreement on Subsidies and Countervailing Duties***. The panel found against the United States. Following an appeal by the United States, the ***Appellate Body*** ruled that the FSC constituted a prohibited subsidy under this Agreement on Subsidies and Countervailing Duties and under the ***Agreement on Agriculture***. It asked the United States to withdraw the FSC provisions by 1 October 2001.

Formula tariff reductions: see ***linear tariff cuts***.

Fortress effect: this refers to the possibility that ***regional integration agreements*** may lead to more protectionist attitudes by member countries towards non-members. Much careful analysis of this problem has not led to conclusive evidence either way.

Fortress Europe: a term expressing the fear by some that the formation of

the ***European Community Single Market*** would turn the Community into an inward-looking market more difficult to penetrate. Such fears have not been justified.

Forum for East Asia-Latin America Cooperation: established on in March 2001 in Santiago de Chile as the successor to the East Asia-Latin America Forum (EALAF). Its members are Argentina, Australia, Bolivia, Brazil, Brunei, Cambodia, Chile, China, Columbia, Costa Rica, Cuba, Ecuador, El Salvador, Korea, Japan, Indonesia, Laos, Malaysia, Mexico, Myanmar, New Zealand, Panama, Paraguay, Peru, Philippines, Singapore, Thailand, Uruguay, Venezuela and Vietnam. FEALAC's goal is to find common ground on political, cultural, social, economic and international issues.

Forum-shopping: the practice of introducing a proposal or pursuing a dispute in one forum after another until a favourable outcome has been achieved. Sometimes also called forum-hopping.

Four freedoms: the free movement of goods, capital, labour and ***services***. The expression is often used in the context of the ***Treaty of Rome*** where they are mandated in Titles I and III. See also ***deep integration*** and ***European Economic Area***.

Four pillars of trade liberalisation: described by Gerard Curzon in *Multilateral Commercial Diplomacy* as ***most-favoured-nation treatment***, reliance on the ***customs tariff*** rather than ***non-tariff measures***, ***tariff negotiations*** leading to reduction of tariffs and tariff stabilisation through rules enabling the binding of tariffs.

Fourth Protocol to the General Agreement on Trade in Services: the ***protocol*** giving effect to the commitments on ***basic telecommunications services***. It entered into force on 5 February 1998. See also ***Agreement on Basic Telecommunications Services***.

Framework Agreements: the name given to four outcomes of the ***Tokyo Round*** negotiations dealing particularly with developing-country issues. The four instruments are (i) the ***Enabling Clause***, (ii) the Declaration on Trade Measures Taken for Balance-of-Payments Purposes, (iii) the Decision on Safeguard Action for Development Purposes and (iv) the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance. The term "framework agreements" was taken from paragraph 2 of the ***Tokyo Declaration*** which sought, among other matters, an "improvement of the international framework for the conduct of world trade" in response to developing-country concerns that the trading system did not meet fully their needs. See also ***Tokyo Round agreements***.

Framework Convention on Climate Change: see ***United Nations Framework Convention on Climate Change***.

Free and fair trade: the idea, enunciated particularly well in United States tariff and trade policy, that from the perspective of economic development and global welfare ***free trade*** is a highly desirable objective, but only if one's trading partners also play fairly under the rules they have accepted. If they

adhere to unfair practices, they should not be entitled to the benefits of open market access. There is a well-documented view, for example, that the thinking underpinning the emergence of ***Section 301*** is aimed not at protecting the United States market, but to ensure that other economies similarly open their markets.

Freedom-of-emigration provision: see ***Jackson-Vanik amendment***.

Freedom of transit: the right, available to members of the WTO under Article V of the GATT, to transport goods unhindered across the territory of another member for them to be able to reach their final destination. The right includes the use of vessels and other means of transport for the purpose. Members may not discriminate between goods and means of transport from other members, and they may not levy ***customs duties*** on goods in transit. They are, however, entitled to recover administrative expenses based on the actual cost of any services provided in connection with the transit.

Freedoms of the air: aviation experts divide the right of airlines to fly through or over their domestic territories into eight categories called freedoms of the air, The term "freedom of the air" is in common use for the first six only. The eight are (i) the right to fly over a country, (ii) the right to land in a country to refuel or similar purposes, but not to pick up or set down passengers or cargo, (iii) the right to set down passengers or cargo in another country, (iv) the right to pick up passengers or cargo in another country and set them down in the airline's home country, (v) the right to carry passengers or cargo between third countries using one's own country as a hub, (vi) the ability to combine rights acquired under the third and fourth freedoms, (vii) the right to operate air services between third countries entirely outside one's home country, and (viii) the right to provide air services within a country, often called ***cabotage***. These freedoms are usually negotiated between governments on behalf of domestic airlines. See also ***bilateral air services agreement***, ***Chicago Convention*** and ***open-skies agreements***.

Free imports: goods that can be imported without the payment of any ***customs duties***. See also ***free list*** and ***zero rating***.

Free list: a listing of products that can be imported free of customs duties or that are not subject to ***import licensing*** requirements.

Free riders: a casual term used to imply that a country which does not make any trade concessions, profits, nonetheless, from tariff cuts and concessions made by other countries under the most-favoured-nation principle. From an economic perspective, free riders do themselves harm because they deny themselves the benefits of trade liberalisation. See also ***most-favoured-nation treatment***.

Free trade: in principle, the free movement across borders of goods, services, capital and people. In practice, national policy and regulatory objectives put greater or lesser constraints on the movement of each. The meaning of "free trade" itself has changed over the years. Observers have noted that in the case of American policy free trade meant a tariff under 20% in the early 19th century. By the late 19th century freetraders advocated tariff levels below

40%. By the middle of the 20th century free trade meant a tariff of less than 5%. In the case of ***AFTA***, free trade is understood to be a tariff ranging from 0% to 5%. Under Article XXIV of the GATT, ***customs unions*** and ***free-trade areas*** have to eliminate duties and other restrictive regulations of commerce on substantially all the trade between the parties to meet the free-trade criterion. See also ***Bogor Declaration***, ***economic integration arrangements***, ***four freedoms*** and ***free and fair trade***.

Free-trade agreement: a contractual arrangement between two or more countries under which they give each other ***preferential market access***, usually called ***free trade***. In practice, free-trade agreements tend to allow for all sorts of exceptions to cover ***sensitive products***. In some cases, free trade is no more than a longer-term aim, or the agreement represents a form of managed trade liberalisation. Observers have noted that many recent free-trade agreements have run to several hundred pages, whereas a true free-trade agreement would require only a few lines. See also ***customs union***, ***free-trade area***, ***regional integration arrangement*** and ***regional trade arrangement***.

Free-trade area: a group of two or more countries, ***customs territories*** in technical language, that have eliminated ***tariff*** and all or most ***non-tariff measures*** affecting trade among themselves. Participating countries usually continue to apply their existing tariffs on external goods. Free-trade areas are called reciprocal when all partners eliminate their tariffs and other barriers towards each other. There are cases where developing country partners are exempt from making equivalent reductions, as is the case with ***SPARTECA*** and the ***Lomé Convention***, even though they get free access to developed-country markets. These are called non-reciprocal free-trade areas. See also ***customs union***, ***trade creation***, ***trade deviation*** and ***trade diversion***.

Free Trade Area of the Americas: see ***FTAA***.

Free-trade zones: these are defined areas, also called export processing zones, normally located near transport nodal points and designated by governments for the duty-free import of raw materials or manufacturing components intended for further processing or final assembly and their re-export afterwards. Such products are exported to markets in other countries. Successful free-trade zones tend to have a plentiful supply of relatively cheap and adequately skilled labour. Countries establishing free-trade zones usually are characterised by non-competitive domestic industries and regulatory frameworks, and this is one way in which they gain access to foreign investment and markets. Such zones sometimes lead to technology transfers to host countries, but often that is not an objective of companies establishing operations in them.

French assistance to exports of wheat and wheat flour: see ***French wheat and wheat flour case***.

French plan: see ***Pflimlin plan***.

***French wheat and wheat flour* case:** in 1958 Australia lodged a complaint in the GATT that because of subsidies granted by the French Government on

exports of wheat and wheat flour, French exports of these products had displaced Australian exports to its traditional wheat flour markets in Ceylon, Indonesia and Malaya. Australia maintained that France was acting inconsistently with its obligations under GATT Article XVI:3. This Article states that members should seek to avoid the use of export subsidies on the export of ***primary products***, and that if they were using them, it should not be done in such a manner as to result in a more than ***equitable share of world trade*** in that primary product. The case therefore centred on the meaning of "equitable share". French exports of wheat and wheat flour in the previous 25 years had fluctuated widely, but there was a sudden increase in wheat, and especially wheat flour, exports beginning in 1954. Prices charged for French wheat flour exports had on the whole been lower than those of other exporters. The ***panel*** found that the French practices resulted in the payment of subsidies on the export of wheat and wheat flour and therefore fell within the ambit of Article XVI:3. The panel then turned to the question of whether France had in this way obtained more than an equitable share of the world market for wheat and wheat flour. It noted that GATT Article XVI did not offer a definition of "equitable share". There was, however, implicit agreement among GATT members in the light of their negotiations of the negotiations of the ***Havana Charter*** and the ***GATT review session*** of 1955 that "equitable share" applied to the global market and not to exports to an individual market. It was understood also, the panel said, that the need for the efficient and economic supply of world markets should not be ignored. The panel recalled that French exports of wheat and wheat flour had risen substantially from 1954 above the levels achieved in the previous twenty years, and that they also represented an increase in France's share of world exports in these products. It concluded on the basis of the evidence on tonnages and price levels that France's subsidy arrangements had contributed to a large extent to a share of world exports that had to be considered more than equitable. The panel recommended that France consider measures to avoid creating adverse effects on Australian exports of flour to Southeast Asian markets. This might be done through changing its payments system or entering into consultations with Australia before new contracts were concluded by French exporters of flour to these markets. This was the end of the formal GATT proceedings. In April 1960 Australia and France concluded an agreement which they expected to bring a degree of stability into the market. The agreement was extended for another year in July 1961.

Friends of Multifunctionality: an informal group to promote acceptance of the concept of ***multifunctionality*** of agriculture in the WTO and elsewhere. Core members are the European Community, Japan, Mauritius, Norway, Republic of Korea and Switzerland.

Frontier traffic: usually refers to trade across a frontier by local inhabitants in a clearly defined geographical area who have well-developed kinship ties or a long-standing economic association. Under Article XXIV of the GATT countries may decide not to apply all of the usual customs formalities to

border trade. Goods traded in this way are not expected to find their way into the broader economy on either side of the border. The GATT does not specify what distance each side of the frontier is to be considered to lie within the frontier zone, but many pre-war trade agreements specifically settled on a limit of fifteen kilometres from the border.

Frontloading: refers to the practice of ensuring that liberalisation commitments under an agreement or arrangement are proportionately heavier at the beginning of the implementing period. See also ***backloading***.

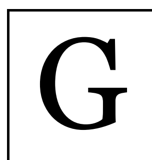
FTAA: Free Trade Area of the Americas. Also called Western Hemisphere Free Trade Agreement. Agreed as an objective at the Miami Summit of the Americas in December 1994 to cover all the Americas, excluding Cuba. To some extent, the FTAA can be considered an extension of ***NAFTA***, but it appears likely that the two will be legally distinct. 2005 is the target date for its entry into force. Eleven working groups covering market access, customs procedures and rules of origin, investment, standards and technical barriers to trade, sanitary and phytosanitary measures, subsidies, anti-dumping and countervailing duties, smaller economies, government procurement, intellectual property rights, services, and competition policy have been established to prepare the grounds for negotiations. Negotiations were launched at the Summit of the Americas held in March 1998 in Santiago de Chile. See also ***Enterprise for the Americas Initiative***.

Full balance-of-payments consultations: see ***balance-of-payments consultations***.

Full preferential trade agreement: describes a ***preferential trade agreement*** under which all of the parties accord each other free trade in all products. See also ***partial preferential trade agreement***.

Functional trade agreement: a form of trade agreement now seldom used. It seeks to deal with a particular type of form of trade, measure or occurrence. Examples are ***government procurement***, measures to restrict or manage trade and the imposition of ***countervailing duties***.

Functioning of the GATT System: FOGS. One of the negotiating groups established at the start of the ***Uruguay Round***. Its negotiating mandate was defined as enhancing the surveillance in the GATT of national trade policies, improving the overall effectiveness and decision-making of the GATT as an institution and increasing the contribution of the GATT to greater coherence in global economic policy-making. One of its achievements was the establishment of the ***Trade Policy Review Mechanism***.



Gains-from-trade theory: that part of the theory of ***international economic relations*** which demonstrates that two countries with different

price structures are maximising their economic returns if they trade with each other rather than pursuing ***autarky***. The gain lies in the ability of either country to buy more at a lower cost from the other than it would be if it attempted to be self-sufficient. The consequence is specialisation in production. See also ***absolute advantage***, ***comparative advantage***, ***Heckscher-Ohlin theorem***, ***international division of labour***, ***self-reliance*** and ***self-sufficiency***.

GATS: *General Agreement on Trade in Services*. One of the ***Uruguay Round*** outcomes. It covers all trade in services except bilateral aviation rights and services purchased or supplied in the exercise of governmental authority, i.e. ***government procurement***. Rights and obligations occur at two levels. First, there are general obligations applying to all services trade and disciplines such as ***most-favoured-nation treatment***, ***transparency***, fairness of domestic regulation, recognition of qualifications, ***economic integration arrangements***, monopolies, business practices, payments and transfers, ***general exceptions*** and ***security exceptions***. Second, the GATS also contains specific obligations relating only to ***commitments*** made under the Agreement. These include guaranteed ***market access*** and ***national treatment***. Negotiations are under way on disciplines concerning government procurement, emergency ***safeguards*** and ***subsidies***. The GATS also mandates a new round of negotiations on services which began in 2000. Members of the GATS must also supply a ***schedule of commitments*** in which they undertake not introduce more stringent market access and national treatment conditions for three years. The GATS has received mixed reviews. Some see it as the first, but most important, step towards more predictable, freer and more transparent global trade in services. Others are dismayed by its apparent operational complexity stemming from its two levels of obligations. Professor Waincymer considers the GATS a "primitive" legal document both in detail and in coverage because of the amount that remains to be negotiated and the decision to use ***positive listing*** for the scheduling of commitments. He adds that much will depend on progress in the next round of negotiations. Appendix 3 of this Dictionary contains a synopsis of the GATS.

GATT: *General Agreement on Tariffs and Trade*., which has been superseded as an international organisation by the WTO. An updated General Agreement is now one of the WTO's agreements. The GATT entered into force on 1 January 1948 as a provisional agreement and remained so until it was superseded by the WTO framework on 1 January 1995. It establishes multilateral obligations for trade in goods, including ***most-favoured-nation treatment*** and ***national treatment***, ***transparency***, ***freedom of transit***, ***anti-dumping*** and ***countervailing duties***, ***customs valuation***, import and export fees and formalities, ***marks of origin***, ***quantitative restrictions***, balance-of-payments provisions, subsidies, state trading enterprises, emergency action on imports (safeguards), ***customs unions*** and ***free-trade areas***, etc. ***Part IV of the GATT***, added

in 1964, exempts developing countries from making reciprocal trade concessions. Appendix 2 of this Dictionary contains a synopsis of the GATT.

GATT à la carte: a derisory term used by some commentators to describe the situation prevailing up to the end of the ***Uruguay Round*** whereby GATT members could to a large extent decide themselves which of the ***Tokyo Round agreements*** they should join. See also ***single undertaking***.

GATT Basic Instruments and Selected Documents: BISD. Reports published annually by the GATT Secretariat between 1952 and 1994 which contain decisions, conclusions and reports adopted in the reporting period. The BISD is indispensable for the administration and study of the GATT and related agreements and codes. It is supplemented periodically by an exhaustive ***Analytical Index***.

GATT-consistency of national legislation: under the ***Protocol of Provisional Accession*** national legislation in effect before 1 January 1948 was allowed to remain in force even if it was inconsistent with the provisions of the GATT. In other words, such legislation was grandfathered. Laws passed after that date had to be in conformity with the GATT, though certain exceptions, for example in the form of strictly circumscribed ***waivers***, are possible. In the ***Manufacturing Clause*** case, the panel found that amendments to grandfathered legislation may be possible if they do not make it more inconsistent with the GATT, or if they do not cancel rightful expectations of other members. Another panel ruling, this time in the ***Superfund*** case, held that the mere existence of national legislation permitting discretionary action inconsistent with the GATT does not constitute a violation of obligations under the GATT.

GATT Council of Representatives: established on 4 June 1960 to administer the GATT more effectively in view of its expanding work program. Until then, an intersessional committee composed of seventeen members had provided continuity between the annual sessions of the ***contracting parties***. The Council's main functions were to consider matters requiring urgent attention between the annual sessions of the contracting parties and to supervise the work of committees, working parties and other subsidiary bodies. All GATT members automatically became members of the Council which met about once a month. In the WTO, the body most nearly performing the functions of the GATT Council is the ***General Council***.

GATT plus: an expression implying imposition or acceptance of international trade disciplines more stringent than those prescribed by the GATT or extending the GATT rules to areas beyond trade in goods. One of the most ambitious examples of "GATT plus" was the proposal by the Atlantic Council of the United States (1975) that there should be a code of ***trade liberalisation*** within the GATT framework with stronger rules for the conduct of trade relations between industrialised countries willing to accept them. According to its proponents, the benefits would have been extended to all GATT members according to the most-favoured-nation clause. The code would also have been open to new members willing to accept its obligations,

but only code members would have been able to initiate ***tariff negotiations*** with another code member. The proposal did not find favour with GATT members as a whole. See also ***most-favoured-nation treatment*** and ***WTO plus***.

GATT review session: the ninth session of the contracting parties of the GATT, held from October 1954 to March 1955. It reviewed all aspects of the operations of the GATT. Several articles were amended as a consequence, most notably Article XVIII dealing with economic development issues and the rights and obligations of developing countries. Most other changes were minor. Often there was no agreement on the phrasing of amendments. This was also the session at which at which the United States obtained its ***waiver*** on agriculture. See also ***developing countries and the GATT*** and ***Section 22 waiver***.

GATT-Think: characterised by Paul Krugman as three simple rules about the objectives of negotiating countries in the GATT: 1. Exports are good. 2. Imports are bad. 3. Other things equal, an equal increase in imports and exports is good. He goes on to say that GATT-Think is enlightened ***mercantilism*** and economic nonsense. Despite all this, Krugman concedes that the GATT has after all played a useful role in liberalising the world trading system.

GATT 1947: *General Agreement on Tariffs and Trade 1947*. The old (pre-1994) version of the GATT. It was adopted at the conclusion in 1947 of the Second Session of the Preparatory Committee of the ***United Nations Conference on Trade and Employment***, and as subsequently rectified, amended or modified. It was in force from 1 January 1948 until the conclusion of the ***Uruguay Round*** when it was replaced by the ***GATT 1994***. The two texts are identical, but legally distinct, in that the GATT 1947 was an international treaty, whereas the GATT 1994 is only a component of the ***Marrakesh Treaty Establishing the World Trade Organisation***.

GATT 1994: *General Agreement on Tariffs and Trade 1994*. The new version of the general Agreement, which governs trade in goods. It is the formal name for the ***GATT 1947*** and the collected amendments, interpretations, additions, etc. to it made since its entry into force. It is a part of the agreement establishing the ***WTO***, and it has no independent legal status. It consists, in addition to the provisions contained in the GATT 1947 (not the GATT 1947 agreement itself), of protocols and certifications relating to tariff concessions, protocols of accession, decisions on waivers still in force and other decisions taken by the GATT contracting parties, but not the ***grandfather clause***. It also includes six understandings interpreting several GATT articles and the Marrakesh Protocol to GATT 1994 which covers tariff concessions made by members. Countries joining the WTO accept all the rights and obligations contained in the GATT 1994, but they cannot accede separately to it. See also ***Marrakesh Agreement Establishing the World Trade Organisation*** and ***single undertaking***.

GBT: see ***Group on Basic Telecommunications***.

General Affairs Council: see ***Council of the European Union***.
General Agreement on Trade in Services: see ***GATS***.
General Agreement on Tariffs and Trade: see ***GATT***.
General Council: this is a body composed of all WTO members. It has general authority to supervise the various agreements under the jurisdiction of the WTO. It exercises authority between the biennial ***WTO Ministerial Conferences*** and on behalf of them. See also ***Dispute Settlement Body*** and ***Trade Policy Review Mechanism***.
General exceptions: the GATS (Article XIV) and the GATT (Article XX) give WTO members the right not to apply the provisions of these agreements in specified circumstances. But these articles may not be invoked to discriminate between countries or as a disguised restriction to international trade. Under the GATT, this right may be used, to the extent that it is necessary to do so, in order (a) to protect public morals, (b) to protect human, animal or plant life or health, (c) to cover trade in gold and silver, (d) to ensure compliance with laws and regulations otherwise consistent with the GATT, customs enforcement, enforcement of monopolies, the protection of intellectual property rights and prevention of deceptive practices, (e) to deal with products made by ***prison labour***, (f) to protect national treasures of artistic, historic or archaeological value, (g) to conserve exhaustible natural resources, but only in combination with domestic restrictions on production and consumption, (h) to pursue obligations under international commodity agreements, (i) to restrict exports of domestic materials under strictly defined conditions, and (j) to adopt measures essential for the acquisition or distribution of products in general or local short supply. The GATS, apart from identical provisions on public morals and human, animal and plant life, also mentions public order in cases of genuine and sufficiently serious threat to one of the fundamental interests of society. Its other exceptions cover compliance with laws and regulations not inconsistent with GATS rules, collection of direct taxes and double taxation agreements. See also ***security exceptions***.
General obligations: obligations which should be applied to all services sectors at the entry into force of the ***GATS***.
General tariff: this term nowadays is often used instead of ***most-favoured-nation tariff*** in that it applies to the bulk of one's trading partners. Before the emergence of general ***most-favoured-nation treatment*** with the entry into force of the GATT in 1948, it often referred to the tariff applied to countries not receiving ***preferences*** of one kind or another. In some cases, countries still distinguish between a general tariff and a most-favoured-nation tariff, and the rates contained in the former are usually higher. See also ***normal trade relations***.
General trade: goods traded under the rates contained in the ***general tariff***. In modern usage it often means goods receiving ***most-favoured-nation treatment***.
Generic springboarding: this is the contentious process by which a firm

starts to prepare for the commercial production and sale as a generic product of an item which is still under ***patent*** protection. The aim of springboarding is to ensure that producers of generic products can enter the market as early as possible once the patent term expires. In the case of pharmaceuticals, where two to three years may be required to develop a generic drug, springboarding enables firms to manufacture an item still under patent protection for the purpose of meeting pre-regulatory requirements. But commercial activity is not permitted at this stage, and doing so would involve an ***intellectual property right infringement***. **See** also ***decompilation***, ***intellectual property*** and ***reverse engineering***.

Genetically modified organism: GMO. An organism in which the genetic material has been altered in a way that would not occur in the natural world.

Genetically modified micro-organism: GMM. A micro-organism in which the genetic material has been altered in a way that would not occur in the natural world.

Genetic labelling: a system of product labelling advocated by some to indicate whether the product or its components have been modified genetically. Proponents argue that doing so is in the interest of consumers and users. Opponents say that this yet another unnecessary ***technical barrier to trade*** because, for reasons of cost, most countries do not keep genetically modified crops separate from others. All ***European Community*** members were required to enact genetic-labelling legislation by 31 July 1997 to ensure that firms located in member states use the labels when necessary. See also ***eco-labelling*** and ***social labelling***.

Geneva Convention: *Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of their Phonograms*. It protects a producer of phonograms of another Member state against the making of duplicates without consent. "Phonogram" means an exclusively aural fixation, i.e. a recording (record, compact disc, tape, etc.). The term does not include sound films or videocassettes. The convention currently has 52 members.

Geneva Tariff Conference, 1947: consisted of tariff negotiations between the participants in the Preparatory Committee of the ***United Nations Conference on Trade and Employment***. About 45,000 ***concessions*** were exchanged. This was the first occasion when tariff negotiations were conducted multilaterally. Negotiations were conducted under the ***principal supplier rule***. In other words, the granting of a concession only had to be considered if the country supplying the largest part of the product made a request for a tariff reduction. The Geneva Tariff Conference is deemed to have been the first round of ***multilateral trade negotiations***. See also ***principal supplier right***.

Geneva Tariff Conference, 1955-56: a minor round of multilateral tariff negotiations, largely because the United States Congress had limited the negotiating authority of its delegation. It was the last of the formal ***tariff conferences***, and it is deemed the fourth round of ***multilateral trade***

negotiations.

Geographical indications: place names, or words associated with a place, used to identify products (for example, *Champagne*, *Tequila* or *Rocquefort*), which have a particular quality, reputation or other characteristic because they come from that place. Some wine-producing countries allow the use of "semi-generic" names where the traditional geographical indication has become widespread as a means to describe a type of wine, but only if the true indication of origin of the wine is also shown on the label. Examples of such semi-generic names are Burgundy, Sherry and Port. Others insist that this practice is illegal under the ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. See also ***appellations of origin*** and ***traditional expressions***.

German imports of sardines: in 1952 Norway brought a complaint to the GATT concerning the alleged discrimination by Germany on imports of *clupea pilchardus* (sardines), *clupea sprattus* (sprats) and *clupea harengus* (herring). In the course of its economic liberalisation program, Germany had decided to place sardines on a list allowing unrestricted imports, but sprats and herring remained subject to ***quantitative restrictions***. This led to a substantial decrease of Norwegian exports of sprats and herring to Germany. The ***panel*** was asked by Norway to find that the German measures were in conflict with GATT Articles I:1 (General Most-Favoured-Nation Treatment) and XIII:1 (Non-discriminatory Administration of Quantitative Restrictions) which require imports of ***like products*** from different countries to receive similar treatment. It considered whether sardines, sprats and herrings should be considered like products, and it noted that Germany in its accession negotiations had always thought the three to be separate products. The panel decided that insufficient evidence had been presented to permit a judgement of discriminatory treatment. See also ***Brazilian unroasted coffee***.

Glacé cherries: a case brought before the ***GATT*** in 1992 by the ***European Community*** against Australia. The Australian Anti-Dumping Authority (ADA) had imposed ***countervailing duties*** on glacé cherries imported from France and Italy. In reaching its decision of material ***injury*** to the Australian industry, the ADA had defined the industry to include the white cherry growers, the briners and the producers of glacé cherries. The European Community alleged that this contravened Article 6:5 of the Subsidies Code, one of the ***Tokyo Round Agreements***, which requires that "domestic industry" has to be interpreted as the domestic producers as a whole of the ***like product***. The European Community also alleged that since the Australian industry producing glacé cherries had increased its profits by 8% over the previous two years, it could not be said to have suffered material injury. The panel met twice to consider this case, but before it could make a decision, the European Community informed its chairman that it no longer wished to pursue the case.

Glass-Steagall Act: the United States Bank Act of 1933, largely repealed in 1999. It separated commercial and investment banking. Banks, including

foreign bank branches and subsidiaries, could not underwrite or deal in securities of non-governmental issuers. See also ***financial services***.

Global commons: defined by the ***World Commission on Environment and Development*** as the oceans, outer space and Antarctica, i.e. those parts of the planet that fall outside national jurisdictions. See also ***trade and environment***.

Global Environment Facility: GEF. A mechanism for the provision of grants and concessional funding for programs protecting the global environment and promoting sustainable economic growth. It concentrates on climate change, biological diversity, international waters and stratospheric ozone. GEF projects and programs and funds for them are awarded and supervised by the ***IBRD***, the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP). See also ***trade and environment***.

Global Information Infrastructure: GII. A proposal formulated by the United States in 1994 for international cooperation in the development of a more efficient and more versatile global telecommunications and information network. Five basic principles would have governed the establishment of the GII: encouraging private sector investment, promoting competition, providing open access, creating a flexible regulatory environment, and ensuring universal service.

Globalisation: from an economist's point of view, at its simplest, a decline in costs of doing business across space. The term describes the increasing integration of national economic systems through growth in international trade, investment and capital flows. Globalisation is promoted by rapid improvements in international transport and communications. But many do not see globalisation simply as an economic matter. This is because one of its effects is the relocation and integration of production processes among countries, reflecting the most appropriate technology and the best production cost. Globalisation implies therefore a degree of reciprocal action and interdependence and a greater exposure to global economic developments. This has social and political implications. Inflows of foreign investment into developing countries cause changes in employment and national income. Opponents of globalisation claim that it increases the gap not only between rich and poor countries, but also among the peoples especially of developing countries. They see this is an insidious result of market forces, the economic power of ***multinational corporations*** and the growth of world trade. Supporters of globalisation say poverty has many causes, including weak and corrupt governmental institutions and, for example, poor education and health services. They claim that developing countries that have opened their economies have seen the greatest reductions in poverty. See also ***anti-globalism***, ***borderless world***, ***delocalisation***, ***deindustrialisation*** and ***Washington consensus***.

Globality: sometimes used to refer to one of the general negotiating principles that form part of the ***Punta del Este Declaration***. The principle held that

the launching, conduct and implementation of the negotiations were to be treated as parts of a ***single undertaking***. This principle was often expressed in the phrase "nothing is agreed until everything is agreed".

Global negotiations: full name *Global Negotiations Relating to International Cooperation for Development*. The plan for global negotiations grew out of the proposals for a ***New International Economic Order***. The negotiations were expected to be launched by the United Nations General Assembly in 1980 after more than three years of consultations on a possible agenda, procedures and timeframes. Views on the draft agenda were diverse, with calls for negotiations on raw materials, energy, trade, development, money and finance. Some countries had a preference for negotiations to proceed under the auspices of the various United Nations bodies having responsibilities for particular subject areas, but others suggested that a separate and all-embracing negotiating structure should be created. However, no progress was made in the General Assembly in 1980, and although the proposal was reviewed each year, there was no sign that agreement would ever be possible on most aspects of the proposed negotiations. From 1987, the global negotiations no longer seem to appear on the agenda for the General Assembly. See also ***Charter of Economic Rights and Duties of States*** and ***North-South dialogue***.

Global quota: a limit set by a country on the total quantity of a product that may be imported or exported within a specified period, usually one year. See also ***tariff quota***.

Global Trade Point Network: established by ***UNCTAD*** to enhance the participation of developing countries and economies in transition in international trade, to reduce transaction costs and to allow them better access to trade-related information and global networks. Some 100 national Trade Points now exist. They are connected electronically. They act as ***trade facilitation*** centres where all necessary formalities can be transacted under one roof, and they provide information to traders on export opportunities. See also ***Trade Efficiency Programme*** and ***electronic commerce***.

Good faith: also referred to as *bona fides*. The principle, defined in the ***Vienna Convention on the Law of Treaties***, to the effect that a state is "obliged to refrain from acts which would defeat the object and purpose of a treaty". The WTO ***Understanding on Rules and Procedures Governing the Settlement of Disputes*** exhorts members to enter and engage in ***consultation***, ***dispute settlement*** and ***arbitration*** procedures in good faith. The Understanding does not describe the meaning of "good faith". One panel report *(United States - Section 310-310)* thought is was "notoriously difficult, or at least delicate, to construe the requirement that a treaty shall be interpreted in good faith . . ., not least because of the possible imputation of bad faith to one of the parties". However, the Understanding gives some helpful pointers. Article 3.7 asks members to exercise their judgement whether an action would be fruitful. It stresses that the aim of the dispute settlement mechanism is to secure a positive solution to a dispute,

and that a solution acceptable to both parties and consistent with the WTO rules is clearly preferable. Article 3.10 says that requests for conciliation and the use of the dispute settlement procedures should not be intended or considered as contentious acts, and hence that all members would engage in the procedures in good faith to resolve the dispute. It continues that complaints and counter-complaints in regard to distinct matters should not be linked. At the very least we can therefore say that the WTO setting for the settlement of disputes should not be considered a suitable venue for vexatious behaviour, and that members should do nothing to undermine the intent of the rules. But the ***panel*** proceedings are adversarial. Industries asking for the initiation of consultations and their political backers expect results. The heat is therefore easily turned up. Against this background it is surprising how few disputes have led to bad blood. Equally impressive is the extent to which parties so far have participated in dispute settlement in good faith.

Good governance: highly desirable attributes of decision-making and decision-implementing processes.The main attributes are participation by all who may be affected, respect for the rule of law, transparency, responsiveness to the views of participants, consensus, equity and inclusiveness, and effectiveness and efficiency. Most importantly, those making and implementing decisions must be accountable to those affected by them. See also ***Washington Consensus***.

Good offices: a form of ***mediation*** between parties to a dispute. It describes an offer by a disinterested third party, often a person of distinction in the field, to examine what can be done to settle a difficult dispute. The offer to assist may be made spontaneously, or it may be part of a framework for settling disputes. Good offices and mediation always consist of giving advice. The never have the binding force of ***arbitration***. Article 5 of the WTO ***Understanding on Rules and Procedures Governing the Settlement of Disputes*** says that the parties may use the good-offices procedure, assuming they agree among themselves to do so. Either party may call for its introduction. It may begin or be terminated at any time. The procedure may run parallel to a panel process. Also, the Director-General of the WTO may offer good offices in an *ex officio* capacity. See also ***arbitration***.

Government procurement: also called public procurement. It covers purchases of goods and services by governments and governmental authorities for their own use. Government procurement is estimated to account for at least 10% of GDP in many countries, but estimates differ widely. The ***GATT*** and ***GATS*** exempt government procurement from the application of their rules. See also ***Agreement on Government Procurement*** and ***Working Group on Transparency in Government Procurement***.

Government trading monopolies: the exclusive allocation to one firm, often state-owned, of the right to trade internationally in certain products. See also ***single-desk selling*** and ***state trading***.

Government use: arises in the case of ***patents*** when the government itself

uses or authorises other persons to use the rights over a patented product or process, for government purposes, without the permission of the patent owner. See also ***compulsory licensing***.

Graduation: the removal of tariff preferences accorded to developing countries under ***GSP*** (Generalised System of Preferences) programs because a country has exceeded a certain level of per capita GDP. Many countries also have graduating mechanisms allowing the removal of GSP concessions for particular products once a supplier country captures more than a defined share of the import market for that product. See also ***competitive-need limitation***.

Graduation clause: paragraph 7 of the ***Enabling Clause*** notes that less-developed GATT members expect that their capacity to make contributions under the GATT provisions would improve with the progressive development of their economies and trade. Accordingly, they would expect to participate more fully in the framework of rights and obligations under the GATT. See also ***developing countries and the GATT*** and ***graduation***.

Grains Trade Convention: see ***International Grains Agreement***.

Grandfather clause: refers to a provision in the ***Protocol of Provisional Application*** adopted by the original members of the GATT in 1947 which states that Part II of the GATT would be applied "to the fullest extent not inconsistent with existing legislation". This was a device which permitted the continuing existence of national legislation in violation of the GATT articles. It was based on the view that the entry into force of the GATT would be delayed indefinitely if members first had to bring their legislation into conformity with it. This provision became known as the "grandfather clause" because it accepted as a *fait accompli* legislation predating the agreement. The grandfather clause has not been carried forward into the ***GATT 1994***. See also ***GATT-consistency of national legislation***.

Green box: domestic support policies for agricultural products exempt from the ***Uruguay Round*** reduction commitments and permitted without limits. Green box policies include genuine relief to farmers through a wide range of assistance measures which have a minimal impact on trade, such as disaster relief, research, disease control, infrastructure, environmental protection and ***food security***. See also ***Agreement on Agriculture***, ***amber box*** and ***blue box***.

Greenhouse gases: an omnibus term for atmospheric gases that absorb and emit infra-red radiation. These gases account for less than 1% by volume of the atmosphere. Scientific evidence suggests that there is a long-term build-up of such gases. This has led to predictions of an adverse ***climate change***. The main greenhouse gases are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2) and perfluorocarbons (PFCs). See also ***Kyoto Protocol*** and ***United Nations Framework Convention on Climate Change***.

Greening the GATT: a term sometimes also used by those who wish the WTO to be more responsive to their particular environmental concerns and who see a necessity for the GATT to reflect clearly the aims of environmental

protection. See also ***trade and environment***.

Green labelling: see ***eco-labelling***.

Green procurement: purchasing policies that favour environmentally-friendly parts and materials.

Green protectionism: see ***eco-protectionism*** and ***trade and environment***.

Green Room: a meeting room in the WTO building in Geneva sometimes used for working out compromises in trade negotiations, often under the leadership of the WTO Director-General. As the room is quite small, only a small part of the WTO membership can take part in such meetings. For this reason, opponents of the WTO sometimes use the Green Room as an example of non-transparent decision-making. Anyone who has taken part in multilateral negotiations knows that difficult decisions cannot be made in plenary meetings, especially if some parties have to back down.

Grey-area measures: discriminatory export and import restraints agreed between governments which are usually contrary to the principles governing the ***multilateral trading system***, but which were not clearly illegal under the multilateral rules. Examples of grey-area measures are ***orderly marketing arrangements*** and ***voluntary export arrangements***. All are now illegal under the WTO ***Agreement on Safeguards***. Existing grey-area measures had to be eliminated by 1999. Emerging grey-area measures may be ***cartel*** arrangements between private firms implicitly sanctioned by governments and ***voluntary import expansion*** agreements between governments.

Grey marketing: a North American expression denoting the practice of ***parallel importation***. Goods so imported are known as "grey market goods" or as "grey market imports".

Group of Latin American and Caribbean Countries: see ***GRULAC***.

Group of Negotiations on Goods: GNG. A group established at the start of the ***Uruguay Round*** to manage all negotiating issues relating to the GATT and trade in goods, including trade-related aspects of intellectual property rights and trade-related investment measures.

Group of Negotiations on Services: GNS. A group established at the start of the ***Uruguay Round*** to handle all issues relating to ***trade in services***.

Group of Three: a free-trade arrangement between Colombia, Mexico and Venezuela. It entered into force on 1 January 1995. See also ***free-trade area***.

Group of 15: see ***G-15***.

Group of 24: see ***G-24***.

Group of 77: G77. A loosely organised group of developing countries, originally numbering 77, which was formed at the first meeting of ***UNCTAD*** in 1964. The G77 quickly became the main force in setting the agenda for the UNCTAD work program. It now has over 130 members. The group’s aim is to help developing countries to articulate and promote their collective interests, and to enhance their joint negotiating capacity in all major economic areas of the United Nations system. Existing members use broad economic and

political criteria to decide whether a country should be admitted to membership. The G77 chairmanship rotates at fixed intervals among the groups representing the African, Latin-American and Asian countries. The G77 also functions in other parts of the United Nations system, but it does not operate in the WTO. China is not a member of the G77. See also ***group system***.

Group system: the system on which negotiations in ***UNCTAD*** in particular were based for a long time. The UNCTAD membership is divided formally into four groups: Asian and African countries (Group A), OECD countries (Group B), Latin-American and Caribbean countries (Group C) and the socialist countries, now the ***economies in transition*** (Group D). Positions of responsibility in the various UNCTAD committees rotated among the groups according to agreed guidelines. At UNCTAD I in 1964, Groups A and C decided to meet jointly, and in this way they created the ***Group of 77***, and this is how they usually work in UNCTAD. Negotiations were carried out through group coordinators upon whom it fell to arrive at a common group position. Often, this left them little leeway for flexibility because they always had to negotiate on the basis of delicately balanced compromises within their groups. The group system was one of the factors preventing a proper functioning of UNCTAD because it forestalled the emergence of subject-oriented coalitions where some developed and developing countries had shared interests. The formation of something like the ***Cairns Group*** in the ***GATT*** was therefore never a serious possibility in UNCTAD.

Growing East Asia Community: proposed in January 2002 by Japanese Prime Minister Junichiro Koizumi as a long-term goal. It would include at least the ***ASEAN*** countries, China, Korea, Japan, Australia and New Zealand.

Growth triangles: sub-regional economic zones identified by governments as holding particular promise for rapid economic development by virtue of their location or factor endowment. On a map, they sometimes look like triangles, but other Euclidian shapes may be found. They are often conceived in the form of ***free-trade zones***. Growth triangles in most cases include territory of two or three states who cooperate in their development, but they may be contained within a single country. See also ***BIMP-EAGA***.

GRULAC: the Group of Latin American and Caribbean Countries which operates informally within the ***WTO***.

GSP: Generalised System of Preferences. First proposed at UNCTAD II in 1968. Entered into force in 1971. It gives developing countries a ***margin of preference*** in the tariff rates their goods face in the markets of developed countries and in this way increases their competitiveness. The massive tariff reductions since 1971 as a result of ***multilateral trade negotiations*** and unilateral actions, as well as changes in productivity, have reduced the importance of the GSP to many developing country exporters, but it remains an important plank in the trade policies of many developing countries. ***UNCTAD*** is the main forum for a discussion of GSP issues.

GSTP: Global System of Trade Preferences Among Developing Countries. It entered into force in 1989. Its aim is to promote the development of economic cooperation among developing countries through the exchange of tariff preferences. ***Least developed countries*** do not have to offer reciprocal concessions. Non-tariff preferences may also be exchanged. Membership of the GSTP is open to mebers of the ***Group of 77***. Negotiations are conducted under ***UNCTAD*** auspices. 44 countries participate in the GSTP. See also ***ECDC*** and ***trade negotiations between developing countries***.

Guidelines for Mutual Recognition Agreements or Arrangements in the Accountancy Sector: a set of non-binding principles adopted by the WTO on 29 May 1997 aimed at making it easier for governments to negotiate on the mutual recognition of professional qualifications. Part A of the Guidelines deals with the conduct of negotiations and the relevant obligations governments have under the GATS. Part B sets out various issues that may have to be addressed in negotiations, such as the intended participants, the purpose and scope of the arrangement, the conditions under which mutual recognition will be accorded, the mechanism for implementation, and other related matters. See also ***mutual recognition arrangements*** and ***Working Party on Professional Services***.

Guiding Principles Concerning Environmental Policies: an ***OECD*** recommendation adopted on 26 May 1972. The five principles it contains deal mainly with the international economic and trade implications of environmental policies. First, costs of public measures to reduce pollution and to allocate resources better should be met through the ***polluter-pays principle***. Second, it encourages harmonisation of environmental standards, though it allows that this may be difficult to achieve. In any case, it deems striving towards more stringent standards as desirable. Measures to protect the environment should avoid the creation of non-tariff barriers to trade. Third, measures to protect the environment should be applied in accordance with the principles of ***national treatment*** and non-discrimination, described as identical treatment for imported products regardless of their national origin. Fourth, procedures should be established for checking conformity to product standards. The fifth principle is that differences in environmental policies should not lead to the introduction of compensating import levies or export rebates. See also ***trade and environment***.

Gulf Cooperation Council: GCC. Formal name *Cooperation Council of the Arab States of the Gulf*. Established in 1981. It consists of Saudi Arabia, Kuwait, Bahrain, Qatar, the United Arab Emirates and Oman. Among its major political and economic aims is that of drawing up similar regulations in the economic and financial fields, trade, customs and transport, information and tourism. In 1981 the GCC members also established a ***free-trade area*** covering industrial and agricultural products, but not petroleum products. A ***customs union*** is to be established on 1 January 2003. Its secretariat is located at Riyadh.

G7: the members of the ***G8*** apart from Russia. It still meets for some financial

and economic discussions.

G8: comprises Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States. The European Commission also participates. The group originated at a meeting of France, Germany, Italy, Japan, the United Kingdom and the United States in 1975 at Rambouillet. Canada joined in 1976 and the European Commision in 1977. The group then was known as the G7. Russia became a full member in 1998. The G8 attempts to set broad directions for international economic and monetary activity. Its members participate annually in an economic summit which often deals with trade policy matters. The first decade of the economic summits probably was also their heyday. On the whole, however, the economic summits have fallen victim to the competition from other meetings which have a more permanent infrastructure. For example, the improved functioning of the United Nations system since the end of the Cold War has given it new standing for the discussion of issues requiring common action. Additionally, many of the most intractable global trade issues involve the European Community, the United States and Japan as interested parties. Finding solutions to them in economic summits is just as hard as finding them in the WTO or bilaterally, for that matter.

G-15: a group originally of fifteen developing countries acting as the main political organ for the Non-Aligned Movement. It was established in 1990. Its members now are: Algeria, Argentina, Brazil, Chile, Colombia, Egypt, India, Indonesia, Iran, Jamaica, Kenya, Malaysia, Mexico, Nigeria, Peru, Senegal, Sri Lanka, Venezuela and Zimbabwe. It gives primary attention to issues of investment, trade and technology. The G-15's main objectives are to harness the potential for greater cooperation among developing countries, to review the impact of the world economic situation and the state of international relations on developing countries, to serve as forum for consultations among developing countries with a view to coordinating policies and actions, to identify and implement new schemes for ***South-South*** cooperation and to pursue a more productive ***North-South dialogue***.

G-24: Intergovernmental Group of Twenty-Four on International Monetary Affairs, established in 1971. Its objective is to coordinate positions of developing countries on monetary and development finance issues. Members are divided into three regions. Region I (Africa) is represented by Algeria, Côte d'Ivoire, Egypt, Ethiopia, Gabon, Ghana, Nigeria, South Africa and the Democratic Republic of Congo. Region II (Latin America and the Caribbean) is represented by Argentina, Brazil, Colombia, Guatemala, Mexico, Peru, Trinidad and Tobago and Venezuela. Region III (Asia and developing countries of Europe) is represented by India, Iran, Lebanon, Pakistan, Philippines, Sri Lanka and Syrian Arab Republic.

G-77: see ***Group of 77***.

H

Haberler Report: in late 1957 GATT members decided to commission an examination of past and current international trade trends and their implications. It was to enquire particularly (a) into the failure of the trade of less developed countries to develop as rapidly as that of industrialised countries, (b) excessive short-term fluctuations in the prices of primary products and (c) widespread resort to agricultural protection. This was the first such examination in the GATT looking particularly at issues facing developing countries. A panel of distinguished economists was assembled, led by Gottfried Haberler of Harvard University. The panel report, titled *Trends in International Trade*, was issued in October 1958. It became known immediately as the Haberler Report. The report contained 60 conclusions. The first fifteen are factual accounts of short-term fluctuations and long-term trends in commodities and manufactures trade prevailing at the time. The next eight conclusions deal with the interpretation of past trends, future import requirements and prospects for exports. The report was unable to conclude whether there had been an increase in agricultural protection in industrial countries in recent years, but it also cautioned against counting on any improvement in the terms of trade of the non-industrialised countries to raise their ability to purchase imports. The next 33 conclusions were the most important ones. The called for the stabilisation of particular commodity markets, but not in a too ambitious way. They also argued for a moderation of agricultural ***protectionism*** in North America and Western Europe. One prediction was concerned with the diversion of trade in raw materials and foodstuffs away from outside sources to European sources as real incomes in Europe rose. In the final four conclusions, the experts agreed that although the issues covered in the report would affect primarily the policies of the highly industrialised countries, they too would gain from the proposed changes. The experts concluded in any case that there was some justification in developing country views that current rules and conventions on commercial policies were relatively unfavourable to them. The Haberler Report had quite a small immediate impact on rule-making in the GATT, although it furnished some ideas for the Programme for the Expansion of Trade, adopted in November 1958, which ultimately led to the ***Dillon Round***. Part of the reason for this may stem from the fact that by the end of the 1950s the GATT still only had 37 members, 21 of which were developed countries. However, the report vindicated many developing country views on factors affecting their exports of raw materials. Many of the issues it raised found their way into the preparatory process for ***UNCTAD*** I (1964), even though many of the participants in that conference would have found the solutions proposed by the Report rather moderate and modest in scope. See also ***commodity policy*** and ***developing countries and the GATT***.

Hard-core waiver: a decision taken in the GATT in 1955 to allow members in certain cases to retain ***quantitative restrictions*** that had been maintained over several years because of persistent balance-of-payments difficulties. The ***waiver*** was subject to some conditions. For example, members had to demonstrate that a sudden removal of a quantitative restriction would result in serious ***injury*** to a domestic industry, and they had to carry out a policy of progressive liberalisation. See also ***residual quantitative restrictions***.

Hard law: in ***trade policy*** usage, international arrangements that entail legally enforceable ***rights and obligations*** on their members. Examples of hard law are the WTO obligations as embodied in the ***GATT*** *(General Agreement on Tariffs and Trade)* and the ***GATS*** *(General Agreement on Trade in Services)*. Such arrangements are usually in the form of treaties, or they have the status of a treaty. See also ***soft law***.

Harmonisation of standards and qualifications: the adoption of a single standard or qualification requirement by two or more countries where previously each might have had its own, free-standing, set of requirements. Harmonisation may involve the creation of an entirely new standard, the adoption of the standard of the most influential participant in the arrangement, the adoption of the most reasonable standard or a mixture of them. Achieving harmonisation often entails laborious negotiations. See also ***Agreement on Technical Barriers to Trade***, ***explicit harmonisation***, ***International Electrotechnical Commission***, ***International Organisation for Standardisation*** and ***mutual recognition arrangements***.

Harmonised System: formally the *Harmonised Commodity Description and Coding System*. An international nomenclature developed by the ***World Customs Organisation***. It is arranged in six-digit codes allowing all participating countries to classify traded goods on a common basis. Beyond the six-digit level, countries are free to introduce national distinctions for tariffs and many other purposes. The Harmonised System's aims are (a) to achieve international uniformity in the classification of goods for customs purposes; (b) to facilitate the collection, analysis and comparison of world trade statistics; (c) to provide a common international system for coding, describing and classifying goods for commercial purposes; and (d) to provide an updated nomenclature to take account of technological developments and changes in international trade patterns.

Harmonised tariff reductions: one of the ways to reduce tariff levels explored in the ***Tokyo Round*** negotiations. It was aimed at bringing tariffs of the participants for the same products to roughly similar levels. Harmonisation is as difficult now as it was 25 years ago because of its impact on ***sensitive products***. See also ***linear tariff cuts*** and ***tariff negotiations***.

Harries Report: a report commissioned by the Australian Government in 1978 to examine the nature of Australia's relationship with the ***Third World*** and to make proposals for the development of that relationship. The report

was published in 1979 under the title *Australia and the third world*. It contributed to a better understanding of the issues subsumed in the ***North-South dialogue*** and the ***New International Economic Order***.

Hatters' fur: a dispute in 1950 between the United States and Czechoslovakia about the interpretation of "unforeseen developments". This is one of the conditions set out in GATT Article XIX (Emergency Action on Imports of Particular Products) which had to be satisfied before action to cut imports could be taken. The United States argued, the first time it had resorted to this Article in a GATT working party, that a change in hat fashions was an unforeseen development and therefore justification for action against the import of hatters' fur from Czechoslovakia. Czechoslovakia argued that changes in fashions were normal and should be expected. The United States won. John Jackson said of this case in *World Trade and the Law of the GATT* that one could almost conclude that an increase in imports could itself be an unforeseen development. The WTO ***Agreement on Safeguards*** now permits the use of safeguards action only if it has been properly determined that a product is being imported in such increased quantities to cause or threaten to cause serious ***injury*** to domestic industry that produces like or directly competitive products, and a case of this nature could no longer be won under the current rules.

Havana Charter: the final draft of the *Charter for an International Trade Organisation* (***ITO***), adopted at Havana in 1948. The breadth of its provisions can be gauged from its chapter headings: employment and economic activity, economic development and reconstruction, investment, restrictive business practices, inter-governmental commodity agreements, and commercial policy. Australia and Liberia were the first two countries to ratify the Charter, but Australia did so on the condition that the United Kingdom and the United States would do likewise. Indeed, most of the other negotiators waited for the United States to declare its hand before initiating ratification. The Charter never became part of international trade law for quite complex reasons. It was meant to be a binding set of articles, but successive rounds of negotiations on its contents gradually turned more and more of them into best-endeavours obligations. Developing countries opposed an open investment regime. Ultimately, the aims of the Charter became entangled in United States domestic politics and concerns that it would constrain domestic sovereignty. The Executive therefore delayed bringing the Charter before Congress, but in 1950 it decided that it would no longer seek to have the Charter adopted by Congress. This served as a signal to other countries not to pursue further any ratification proceedings. Much of the contents of the chapter on commercial policy survived as the ***GATT*** *(General Agreement on Tariffs and Trade)*. This had been negotiated separately in 1947, and it entered provisionally into force on 1 January 1948. Later attempts in ***UNCTAD*** to negotiate rules on some of the chapters covered by the Charter have reinforced the complexity of the issues to negotiators. See also ***Protocol of Provisional Application***.

Hawley-Smoot tariff: see ***Smoot-Hawley tariff***.

Hazard Analysis and Critical Control Points: HACCP. A system for assuring the safe manufacture of food products. It consists of seven steps: (1) analysis of hazards, (2) identification of critical control points, (3) establishing critical limits for each control point, (4) monitoring of the control points. (5) establishing a system of corrective action, (6) effective record-keeping, and (7) establishing procedures to verify that the system is working properly. HACCP had its origin in the food safety requirements developed by NASA for the United States space program. It is of particular relevance for the administration of ***sanitary and phytosanitary measures***.

Heckscher-Ohlin theorem: states that countries will export those goods whose production is relatively intensive in the factors with which they are well endowed. The basic assumption underlying the theorem is that demand patterns do not differ much between countries. The theorem was first formulated by Eli Filip Heckscher in 1919 and publicised by Bertil Gotthard Ohlin in 1933, both eminent Swedish economists. It has been refined considerably over the years as a result of a patient statistical analysis. Essentially, the theorem is a restatement of the ***theory of comparative advantage***. See also ***new trade theory*** and ***Stolper-Samuelson theorem***.

Helms-Burton legislation: The United States *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act* of 1996. Its main aim is to seek international sanctions against the Government of Cuba headed by Fidel Castro and to plan for support of a transition government leading to a democratically elected government in Cuba. The Act contains several economic provisions. Section 108 requires the President to submit to Congress an annual report detailing (1) a description of all bilateral assistance given to Cuba by all other foreign countries, (2) a description of Cuba's commerce with other countries, (3) a description of all joint ventures entered into by foreign nationals with Cuba, (4) a determination of whether the facilities described under (3) are subject of a claim by a United States national against Cuba, (5) a determination of Cuba's foreign debt, (6) a description of the steps taken to ensure that no Cuban goods enter the United States and (7) an identification of countries purchasing arms from Cuba. Section 110 prohibits the import into the United States of any merchandise wholly or partly made in Cuba or transported from or through Cuba. Title III contains the most contentious economic provisions. It deals with the protection of property rights of United States nationals and sets out in some detail the proposed remedies. The precepts of this Title are that (a) the Government of Cuba has confiscated the property of many United States nationals, (b) it is now making some of this property available to foreign investors, (c) this "trafficking" in property undermines the foreign policy of the United States, (d) the international judicial system lacks fully effective remedies for this type of problem, (e) international law recognises that a law may be applied

extraterritorially if it is intended to have effect substantially within its home territory, and (f) that United States nationals whose property was confiscated should be able to have recourse through the United States courts. Section 306 states that damages may be sought against anyone engaged in trafficking after 1 November 1996. See also ***effects doctrine*** and ***extraterritoriality***.

Herring and salmon: a case brought by the United States against Canada in 1987 concerning Canadian regulations prohibiting the export or sale for export of unprocessed herring and pink and sockeye salmon. The facts were that Canada had proclaimed a regulation under the authority of the *Fisheries Act* of 1970 that "no person shall export from Canada any sockeye or pink salmon unless it is canned, salted, smoked, dried or frozen and has been inspected in accordance with the *Fish Inspection Act*". A similar provision applied to the export from the Province of British Columbia of food herring, roe herring, herring roe or herring spawn. Canada had also maintained since the early decades of this century governmental measures for the conservation, management and development of salmon and herring stocks in the waters off British Columbia. These measures included intergovernmental agreements and conventions. At the time of this dispute, sockeye and pink and herring fisheries dominated commercial fishing of the Canadian West Coast. They gave employment to almost five-sixths of the workers in the British Columbia fish processing industry. Canada stated that the measures concerned were an integral and long-standing component of its West Coast fisheries conservation and management regime. They were therefore completely justified under GATT Article XX(g) which gives members the right not to apply the provisions of the Agreement if this necessary to conserve exhaustible natural resources, but only in conjunction with domestic restrictions on production and consumption. Canada also said that its strict quality and marketing regulations for the three species were necessary to maintain its reputation for safe, high-quality fish products. In making its findings, the ***panel*** noted that Canada prohibited the export of fish not meeting its standards, but that it banned the export of certain unprocessed herring and salmon even if they met Canadian export standards. The panel therefore found that the export prohibitions were not necessary to maintain standards. The panel agreed that salmon and herring stocks were "exhaustible natural resources" and that harvest limitations were "restrictions on domestic production" as intended by Article XX(g). It considered, however, that while a trade measure did not have to be essential to the conservation of an exhaustible natural resource, it had to be aimed primarily at conservation. The panel concluded finally that Canada's export prohibitions could not be considered as aimed primarily at the conservation of salmon and herring stock because they only related to the export of these species in their unprocessed form. Canada only limited the purchases of unprocessed herring and salmon stocks by foreign processors and consumers, but not those by domestic processors and consumers. The panel therefore decided that the export prohibitions were not justified by Article XX(g) also. See also ***general exceptions*** and ***trade and***

environment.

Hidden dumping: a form of ***dumping*** said to occur when a firm exports goods at ostensibly market prices to a related firm. The second firm then sells the goods in the importing country below market price. See also ***anti-dumping measures***.

High-income economies: a group of 52 economies so classified by the ***IBRD*** and listed in the ***World Development Report***. In 2000 they had a per-capita GNI (gross national income) of more than $9,266. 23 of them are ***OECD*** member countries. The average income among these countries varies considerably, and not all of them would consider themselves developed or industrialised countries. See also ***low-income economies***, ***lower-middle-income economies*** and ***upper-middle-income economies***.

Historical preferences: in the WTO framework this refers to benefits under ***preferential trade arrangements*** in existence before the GATT entered into force on 1 January 1948. Such arrangements were allowed to continue even though they contravene ***most-favoured-nation treatment***, but under Article I of the GATT (General Most-Favoured-Nation Treatment) the maximum ***margin of preference*** cannot be increased. The ***imperial preferences arrangement*** is one example of historical preferences. The value of historical preferences decreased steadily as ***most-favoured-nation tariffs*** came down.

HLM: a high-level meeting. In the WTO context, this often refers to the High-level Meeting for Least Developed Countries, held in October 1997 in Geneva.

Hollowing-out: see ***deindustrialisation*** and ***delocalisation***.

Horizontal arrangements: see ***competition policy***.

Horizontal commitments: a component of the ***schedules of commitments*** attached by WTO member countries to the ***GATS***. Horizontal commitments apply to all services trade covered in a schedule of commitments. Generally, they relate to investment, formation of corporate structures, land acquisition, the movement of personnel, etc. See also ***commitment***.

Horizontal foreign direct investment: this refers to ***foreign direct investment*** by a firm in the area of activities it already pursues at home. For example, a car manufacturer in country A invests in car plant in country B. See also ***tariff-jumping investment***.

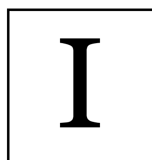
Horizontal *keiretsu*: see ***keiretsu relationships***.

Hormone growth promotants: chemical substances which accelerate the growth of animals through increasing the efficiency of feed conversion. Proponents of their use say that it permits the animal to produce more muscle and less fat without adverse effects if they are administered properly. The use of hormone growth promotants is legal in the United States and other major beef-producing countries. In 1989 the European Community banned the import of beef and beef products produced with the addition of hormone growth promotants on the grounds that their use led to dangerous levels of residues. United States produces claim that their beef products are safe, and

that the European Community action was motivated above all by the need to deal with a mounting beef surplus. Accusations and counter-accusations led nowhere, and in 1996 the United States brought the dispute before the WTO. Australia, Canada and New Zealand supported the United States action. The ***panel*** handed down its decision in mid-1997, and it found against the European Community. See also ***sanitary and phytosanitary measures***.

Host country operational measures: HCOMs. An ***UNCTAD*** contribution to the analysis of ***international investment agreements***. It describes "the vast array of [investment] measures implemented by host countries concerning the operation of foreign affiliates once inside their jurisdictions". UNCTAD divides HCOMs into three groups. The first, so-called "red light" HCOMs, contains measures explicitly prohibited by multilateral agreements, such as the ***Agreement on Trade-Related Investment Measures***. The second group, the "yellow light" HCOMs, is made up of measures additionally prohibited, conditioned or discouraged by inter-regional, regional or bilateral agreements. The third group, the "green light" HCOMs, are not generally prohibited through international investment rules. See also ***traffic light approach***.

Hub and spokes: a concept used in the analysis of ***free-trade areas***. It postulates that a large country could be a member of several free-trade arrangements, but that smaller countries might only belong to one of these arrangements each. The large country would then be the hub, and the others would form the spokes in a series of discriminatory bilateral trade arrangements. Unlike in the case of a free-trade area, where all parties negotiate as equals, under a hub-and-spokes arrangement the larger country generally sets the terms and conditions for membership. Some, however, argue that hub-and-spoke arrangements may be stepping stones to larger free-trade areas. Others maintain that the country forming the hub would have no incentive to extend such arrangements and trade preferences to others. This argument remains unresolved. However, as the 1995 WTO study on *Regionalism and the World Trading System* notes, in the case of a hub-and-spoke system, the essence is always the same: goods and services (and perhaps capital and labour) flow more freely between the hub and each spoke than they do between the spokes.



IBRD: International Bank for Reconstruction and Development. One of the organisations established at the 1944 United Nations Monetary and Financial Conference held at Bretton Woods. It is usually known as the World Bank. One of its main functions is to promote the development of economically less advanced member countries. It does this through the financing of projects for

which private capital is not available on reasonable terms. It obtains most of its capital on international bond markets. The IBRD publishes annually the ***World Development Report*** which usually contains useful trade policy analysis. Among its operating agencies are the ***International Development Association***, ***International Finance Corporation*** and the ***Multilateral Investment Guarantee Agency***. See also ***Bretton Woods Agreements***, ***Foreign Investment Advisory Service***, ***ICSID***, ***high-income economies***, ***middle-income economies***, ***low-income economies***, ***Poverty Reduction and Growth Facility*** and ***World Bank Guidelines on the Treatment of Foreign Direct Investment***.

ICC Guidelines for International Investment: adopted in 1972 by the ***International Chamber of Commerce*** (ICC) to serve as a model for international agreements. They have been used in this way by the ***OECD*** and some other international organisations. A feature of the guidelines is that they combine the rights and obligations of states and firms in a single instrument.

ICITO: Interim Commission for the International Trade Organisation. Established in 1948 to prepare the administrative arrangements for entry into force of the ***ITO***. At the same time, it was agreed that ICITO would supply the secretariat services for GATT. As the ITO did not enter into force, ICITO's only reason for existence was the latter arrangement.

ICSID: International Centre for Settlement of Investment Disputes, located in Washington DC, chaired *ex officio* by the president of the ***IBRD***. It was established by the *Convention on the Settlement of Investment Disputes between States and Nationals of Other States* which entered into force on 14 October 1966. ICSID provides facilities for conciliation and arbitration of disputes. It describes its main objective as the promotion of a climate of mutual confidence between states and foreign investors conducive to an increasing flow of resources to developing countries. It publishes the *ICSID Review*: *Foreign Investment Law Journal* which is a useful source of commentary and analysis of the legal treatment of foreign investment, including investment treaties. See also ***foreign direct investment***.

ILO Convention No. 138: see ***child labour***.

ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy: a non-binding set of principles which became effective in 1978, adopted by the ***International Labour Organisation***. It is aimed at encouraging the positive contribution multinational enterprises can make to economic and social progress. It is also aimed at minimising and resolving difficulties that may arise through the operation of such enterprises. The Declaration exhorts multinational enterprises to take fully into account the established policy objectives of host countries. It also sets out principles governing employment, training, conditions of work and life, and industrial relations. The Declaration is therefore relevant to the consideration of ***trade and labour standards***.

IMF: International Monetary Fund. One of the organisations established at the 1944 United Nations Monetary and Financial Conference held at Bretton

Woods. It oversees the international monetary system through (a) encouraging international monetary cooperation, (b) facilitating the expansion of balanced growth of international trade, (c) assisting member countries in correcting balance of payments deficits through short- to medium-term credits and (d) promoting foreign exchange stability and orderly exchange relations among its members. ***GATT*** Article XXV provides for consultation and coordination between the two organisations on matters concerning monetary reserves, balances of payment or foreign exchange arrangements. GATT members must either join the IMF or enter into a special exchange arrangement with the other GATT members to ensure that the provisions of the Agreement are not frustrated by foreign exchange measures. The IMF participates in ***balance-of-payments consultations*** under Article XII of the GATT. The relationship of the ***WTO*** with the IMF is based on the provisions that have governed the GATT's relationship with it. See also ***Bretton Woods Agreements***.

IMF Buffer Stock Financing Facility: see ***buffer stocks***.

IMF Compensatory and Contingency Financing Facility: a facility available to ***IMF*** members who experience balance-of-payments difficulties because of temporary shortfalls in export earnings. Commodity exporters are the main users of this facility. It can also be used by members in cases of unforeseen adverse external shocks beyond their control, such as a sharp drop in export earnings, sharp rises in import prices or international interest rates. Availability of funds is usually conditional on a commitment by the recipient to address the causes of the payments imbalance. See also ***structural adjustment***.

Impairment: see ***nullification and impairment***.

Imperial preferences arrangement: established formally at the 1932 Ottawa Imperial Conference, but discussed seriously at imperial conferences at least since 1917. It was of course a factor in British politics much earlier. The basic feature of the arrangement was that pairs of countries making up the British Empire at the time exchanged reciprocal trade preferences. The United Kingdom was a party to the agreements in most cases. The arrangement became a target of United States ***commercial policy*** at the time of the drafting of the ***Atlantic Charter*** in 1941, and again in Article 7 of the ***mutual aid agreement*** between the United Kingdom and the United States of 1942. The Article sought "the elimination of all forms of discriminatory treatment in international commerce". When the GATT entered into force in 1948, it prohibited an increase in all ***margins of preference***. This ceiling, combined with negotiated tariff reductions under the GATT, ensured that preference margins were soon eroded. Some remain in existence, and they are usually defended vigorously by those enjoying them. The increasing use of the term "British Commonwealth of Nations" in the inter-war years also led to the more widespread use of Commonwealth preferences instead of Imperial preferences. The modern ***Commonwealth*** has not had any role in the arrangement. See also ***historical preferences***

and ***preferential trade arrangements***.

Implementation: putting into effect the undertakings made in trade negotiations. This usually considered much less exciting by trade policy people than negotiating new things. In the WTO, implementation often refers to a set of issues argued for by ***developing countries***. The first is that some of their ***Uruguay Round*** obligations are too heavy for them. The second is that there should be negotiations to redress the unfair balance carried by developing countries. Third, that they can only meet some of their other obligations through extended deadlines and increased technical assistance. In these circumstances, some developing countries argue, there is little point in their negotiating new obligations until they can fulfil their current ones. The ***Doha ministerial conference*** adopted a ***Declaration on Implementation-related Issues and Concerns*** which seeks to find solutions to some of these problems. See also ***capacity-building***.

Implementation doctrine: the principle in ***competition law*** that ***conduct*** by firms may be actionable in the country or group of countries where it occurs, even though it may have been decided on elsewhere. See also ***antitrust laws***, ***competition policy*** and ***effects doctrine***.

Implicit discrimination: a legislative, tax or other measure applicable to domestic and imported goods and services that may indirectly or unintentionally discriminate against the imported product or service. Having to conform with certain domestic measures maintained by the importing country may cause them to lose their competitive advantage. It is easy for governments to demonstrate that such measures amount to no more than ***national treatment***, but they may be formulated with the aim of disadvantaging the imported product. See ***wine gallon assessment*** for a practical example of this concept.

Import: a good or a service bought by residents of one country from residents in another in return, normally, for foreign exchange. See also ***barter*** and ***countertrade***.

Import cartel: see ***cartel***.

Import deposit schemes: mechanisms administered by governments or on behalf of governments which require the lodging of a monetary deposit at the time an import order is placed. Such schemes are often part of ***import licensing*** systems. Their purpose is to ensure that import orders are actually executed or that a minimum import price is met. See also ***EEC minimum import prices***.

Import discipline hypothesis: the proposition that a liberal trading regime has a beneficial effect on the efficiency of domestic firms and the welfare of the consumer through preventing the formation of economic rents.

Import licensing: the need to obtain a permit for importing a product. It is defined in the WTO ***Agreement on Import Licensing Procedures*** as administrative procedures used for the operation of import licensing regimes requiring the submission of an application or other documentation to the relevant administrative body as a condition for importing. Import licensing is

considered automatic when applications are approved in all cases. See also ***import deposit schemes***.

Import market value: a system for the valuation of goods to be imported for the purpose of levying ***customs duties*** which is based on the value of the same goods currently sold in the internal markets of the importing country. This system never was very common, and it has been superseded by the ***transaction value*** method described in the WTO ***Agreement on Implementation of Article VII** [customs valuation] **of the General Agreement on Tariffs and Trade***. See also ***customs valuation***.

Import quotas: restrictions or ceilings imposed by an importing country on the value or volume of certain products that may be bought from abroad. They are designed to protect domestic producers from the effects of lower-priced imported products. Import quotas are a form of ***quantitative restrictions***.

Import relief: protection of domestic producers against the competition of imports, mainly through the use of ***safeguards***. See also ***anti-dumping measures***.

Import restrictions: any governmental ***measure*** that has the effect of making import flows smaller than they would be in the absence of the measure. Examples are foreign exchange restrictions, ***import licensing*** and ***import quotas***. Import ***cartels*** may have the same effect.

Import risk assessment: see ***risk assessment***.

Import substitution: a policy for the development of a domestic productive capacity in goods and services with the aim of reducing or displacing imports, often with the expectation of increases in employment and reductions in the ***current account*** deficit. Countries practising import substitution often find that their foreign exchange reserves do not show any improvement at all, partly because they still have to import capital goods. To the extent that this policy involves restrictions on imports or domestic subsidies, it raises domestic costs and limits a country's exports.

Import substitution subsidy: a ***subsidy*** payable only if local materials or components are used in the production of a good, regardless of whether this is the sole condition for its availability. All such subsidies are prohibited under the WTO ***Agreement on Subsidies and Countervailing Measures***.

Import surcharge: a levy added to the normal ***customs duties***. Countries sometimes apply a surcharge to improve a ***current account*** deficit, usually with limited success because persistent ***trade deficits*** tend to reflect a particular type of economic structure or, sometimes, more deep-seated economic problems. Import surcharges also raise the cost of domestic producers and cause them to become less competitive against international standards. The imposition of a surcharge may be legal under the WTO rules if it does not exceed the margin between the ***applied tariff rates*** and the ***bound tariff rates***. See also ***primage***.

Import target: see ***voluntary import expansion***.

Import tariffs: these are ***customs duties*** levied at the border on products

imported from other economies. See also ***export tariffs***, ***multi-column tariff*** and ***single-column tariff***.

In-bond manufacturing: the production of goods within a ***free-trade zone***, or a facility recognised for the purpose by the customs authorities, where no duties have to be paid on the import of components or raw materials as long as they are exported to another customs territory.

Inclusion list: part of the ***CEPT*** mechanism under ***AFTA***. Products on this list enjoy the full preferential tariff rates for intra-ASEAN trade. See also ***Sensitive List*** and ***Temporary Exclusion List***.

Independence of protection: an ***intellectual property*** concept enshrined in the ***Paris Convention***. It means, for example, that any Australian patent granted under the Paris Convention enjoys protection in Australia quite independently of any protection it may enjoy in respect of the same invention under patents granted in other countries, whether or not these are signatories of the Paris Convention.

Independent Commission on International Development Issues: see ***Brandt Report***.

Indian Ocean Rim Association for Regional Cooperation: IOR-ARC. An organisation for promoting regional economic cooperation, sustained growth and balanced development launched in 1997 at meeting in Mauritius. It aims to promote the expansion of trade and investment among its members. The IOR-ARC has nineteen members (Australia, Bangladesh, India, Indonesia, Iran, Kenya, Madagascar, Malaysia, Mauritius, Mozambique, Oman, Seychelles, Singapore, South Africa, Sri Lanka, Tanzania, Thailand, United Arab Emirates and Yemen). China, Egypt, France, Japan and the United Kingdom are dialogue partners.

Indicators of market openness: conceptual frameworks for the measurement of the extent to which markets can be contested by new entrants, particularly those located in other countries. There are three basic approaches to constructing such indicators. The first assesses levels of ***tariff*** barriers, ***non-tariff barriers*** and ***tariff equivalents***. The second looks at the results of liberalising policy changes through examining their effect on trade flows, extent and growth of ***intra-industry trade***, etc. This is done through modelling work. The third approach is aimed at the interaction between barriers and the competitive process in a given market. In other words, it looks at the structural openness of markets to competition. There is considerable agreement on the most appropriate methodologies for the first two approaches, but they can differ rather more for the third class of indicators. See also ***international contestability of markets*** and ***trade and competition***.

Indigenous knowledge: distinctive knowledge held by indigenous peoples and transmitted to future generations. Often referred to as ***traditional knowledge***.

Indirect dumping: dumping is usually defined as the sale of a product abroad for less than it is sold on the home market. This definition assumes

that only two countries are involved, i.e. the product is exported from country A to country B. An allegation of indirect dumping would claim that the article causing injury was first exported from country A to country B where it would not be considered as having been dumped, then from country B to country C. See also ***dumping*** and ***anti-dumping measures***.

Individual action plan: see ***APEC individual action plan***.

Industrial designs: the shape, configuration, pattern or ornamentation of a useful article, but not a method or principle of construction. See also ***intellectual property***.

Industrial property: mainly deals with inventions, trade marks and industrial designs, but also the repression of unfair competition. See also ***intellectual property***.

Industrial research: defined in the WTO ***Agreement on Subsidies and Countervailing Measures*** as planned search or critical investigation aimed at discovery of new knowledge, with the objective that such knowledge may be useful in developing new products, processes or services, or in bringing about a significant improvement to existing products, processes or services. ***Assistance*** qualifying as ***non-actionable subsidies*** for up to 75% of the cost of such industrial research may be allowable under the Agreement if it is limited to costs of personnel, instruments, equipment, land and buildings, consultancy, additional overhead costs directly related to research and other running costs incurred directly as result of the research activity. See also ***pre-competitive development activity***.

Industry policy: in its wide meaning, this term refers to policies adopted by governments towards all industries or industrial development generally. In its narrow meaning, it covers governmental policy towards selected industrial sectors to ensure their development or restructuring. This can be done in many ways, and one of them is ***protection***. Sometimes, calls for an active industry policy reflect no more than a desire to pursue ***mercantilism***, freer availability of subsidies, preference for domestic manufacturers in ***government procurement*** and ***local content requirements***. See also ***infant-industry argument***, ***learning-by-doing argument***, ***picking winners***, ***strategic trade theory*** and ***structural adjustment***.

Industry-to-industry understandings: a euphemistic name given to ***voluntary restraint arrangements***. They are understandings between industries only because governments insist on them, though in some cases industries are quite happy to accept them because of the opportunity for windfall profits they offer to importers and exporters alike.

Inertial policy determinism: adherence to policies long after they have outlived their ostensible utility. See also ***conventional wisdom***, ***QWERTY principle*** and ***vestigial thought***.

Infant-industry argument: this argument proposes that if a given industry with a potential ***comparative advantage*** was accorded ***protection***, usually in the form of ***tariffs***, ***subsidies***, ***local content requirements***, ***bounties***, etc., to allow it to establish itself, it would be able in the long run

to exploit the comparative advantage without the need for special protection. One of the flaws in the argument is that if the cost of current protection is to be repaid in the future, above-average returns will be needed after the industry is established, and that is at best problematical. In practice, few infant industries grow up of their own volition. Instead, they tend to seek to perpetuate their protection. See also ***learning-by-doing argument***, ***picking winners*** and ***strategic trade theory***.

Infant-industry provision: Article XVIII of the GATT (Governmental Assistance to Economic Development) allows developing countries under certain conditions to impose measures aimed fostering the development of infant industries. The GATS does not contain an article to this effect. See also ***developing countries and the GATT*** and ***infant-industry argument***.

Information Technology Agreement: an outcome in the WTO of the December 1996 ***Singapore Ministerial Conference***. Parties agree to eliminate ***customs duties*** and any other duties on a wide range of information technology products through equal rate reductions beginning in 1997 and ending in 2000. They also bound the zero tariffs. Because of its wide membership, the Agreement covers more than 90% of world trade in information technology products, including computers, telecommunications equipment, semiconductors, semiconductor manufacturing equipment, software and scientific instruments. It does not cover consumer electronic goods.

Information Technology Agreement II: a proposal for WTO negotiations put forward by the ***Quadrilateral*** (Quad) trade ministers in May 1997. It envisages expanding the ***Information Technology Agreement*** through the addition of provisions on ***non-tariff measures***, expansion of product coverage and the ***transfer of technology***.

Initial commitments: trade-liberalising commitments in services which WTO members are prepared to make early in negotiations.

Initial negotiating right: INR. The right of a GATT member to ask for tariff ***concessions*** by another member in a GATT negotiating round even though it is not the principal supplier. INRs are valuable negotiating tools for countries with important trade interests in a product or commodity, though these rights no longer hold the importance they once had in trade negotiations. The question of who has initial negotiating rights does not arise in the case of ***linear tariff cuts*** because all participants agree to cut tariffs on specified product categories by the same percentage rate, regardless of their importance to any given trading partner. It may, however, come up in subsequent bilateral negotiations. GATT members have therefore agreed to create so-called floating initial negotiating rights. These are initial negotiating rights that would be enjoyed by members having ***principal supplier rights*** at the time of the renegotiation of a tariff item that had earlier been subject to ***linear cuts***. Such initial negotiating rights are called "floating" because they remain hypothetical until a concrete case arises. See also ***principal supplying interest*** and ***principal supplier rule***.

Initiative for Japan-ASEAN Comprehensive Partnership: proposed by Prime Minister Koizumi on 14 January 2002. The initiative seeks a stronger trade and investment relationship between Japan and the ***ASEAN*** countries, as well as increased activities in science and technology, human resource development, tourism, etc.

Injury: an adverse effect on domestic industry assumed to be caused by the actions of exporters from other countries, for example, through ***dumping***, ***subsidies*** or import surges. In the case of dumping, action can be taken if there is material injury. In ***safeguards***, serious injury must be threatening or have occurred. Both terms allow for a subjective assessment, but serious injury is deemed to be more grave than material injury. The WTO has a highly developed framework for the assessment of injury and any remedial action in the case of injury or threat of injury. The ***Agreement on Textiles and Clothing*** permits members to impose ***transitional safeguards*** under certain conditions in cases of serious damage, or the threat of serious damage, to domestic industry as a result of increased imports. The Agreement does not say how "serious damage" is to be understood, though it lists output, productivity, inventories, market share, employment, profits and investment, etc., as variables to be taken into account. See also ***Agreement on Safeguards*** and ***anti-dumping measures***.

Inland parity: see ***national treatment***.

Inorganic integration: described by some as the process reulting from formal and politically oriented trade agreements forged among countries to reduce tariff and non-tariff barriers and harmonise trade-relevant domestic economic policies. See also ***economic integration***.

Input dumping: said to be done of products that are not in themselves dumped, but which are claimed to contain components acquired at dumped prices. See also ***secondary dumping***.

In-quota rate: the ***tariff*** applicable to a product imported within the limits of a ***tariff quota***.

Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries: adopted in 1998 to improve the trade-related benefits available to ***least developed countries*** from the ***WTO*** and five other multilateral agencies (***International Monetary Fund***, ***International Trade Centre WTO-UNCTAD***, ***UNCTAD*** and the United Nations Development Program). See also ***Doha Development Agenda Global Trust Fund***.

Integrated Programme for Commodities: a program adopted at UNCTAD IV in 1976 which envisaged the negotiation of international agreements or arrangements for 18 specified commodities. These were bananas, bauxite, cocoa, coffee, copper, cotton and cotton yarns, hard fibres and products, iron ore, jute and products, manganese, meat, phosphates, rubber, sugar, tea, tropical timber, tin, vegetable oils, including olive oils and oilseeds. Other products may at any time be added to this list. The Programme has several objectives, including avoiding excessive price

fluctuations, the achievement of price levels which would be remunerative to producers and equitable to customers, increased export earnings for developing countries, improvements in market access and reliability of supply. At the same time, a proposal was adopted for the creation of a ***Common Fund for Commodities*** which would be a financing facility for the program. See also ***buffer stocks***, ***international commodity arrangements***, ***international commodity bodies*** and ***UNCTAD***.

Integration: see ***deep integration***, ***economic integration***, ***inorganic integration***, ***market-led integration***, ***organic integration*** and ***policy-led integration***.

Integration program: the phasing out of ***Multi-Fibre Agreement*** (MFA) restrictions in four stages starting on 1 January 1995 and ending on 1 January 2005.

Intellectual property: generally includes ***patents***, ***trademarks***, ***industrial designs***, ***lay-out designs of integrated circuits***, ***copyright***, ***geographical indications*** and ***trade secrets*** (confidential information). See also ***Agreement on Trade-Related Aspects of Intellectual Property Rights***, ***WIPO***, ***traditional knowledge*** and ***United Nations Educational, Scientific and Cultural Organisation***.

Intellectual property protection: the safeguarding of the rights of an owner of ***intellectual property*** through national legislation and international agreements especially concerning ***copyright***, ***patents*** and ***trademarks***. Many commentators insist that the strength or weakness of a country's system of intellectual property protection seems to have a substantial effect on the kinds of technology firms transfer to another country. See also ***intellectual property right infringements***, ***sui generis right*** and ***transfer of technology***.

Intellectual property rights: ownership of ideas, including literary and artistic works protected by ***copyright***, ***inventions*** protected by ***patents***, signs for distinguishing goods of an enterprise protected by ***trademarks*** and other elements of ***industrial property***. Owners of such rights may assign their use to other persons in return for agreed compensation. Intellectual property rights give the innovator an exclusive legal right, i.e. a monopoly, to exploit the innovation for a certain time. This serves as a reward and encourages others to innovate. Thus the concept of intellectual property rights can be in conflict with the idea of ***competition policy*** which seeks to remove impediments to the efficient functioning of the markets through, for example, minimising the power of monopolies. The challenge in the drafting of intellectual property laws therefore is to ensure that innovators receive sufficient encouragement to be creative and, at the same time, that owners of intellectual property rights are not in a position to abuse these rights. See also ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** and ***competition laws***.

Intellectual property right infringements: such infringements on a commercial scale are classified as ***piracy*** if they involve the unauthorised

reproduction of copyright materials, or as ***counterfeiting*** where there is copying of ***trademarks*** with the intention of passing the goods off as those of the authentic producer. Trademarks can be infringed through the unauthorised use of a mark that is identical or so similar to an existing mark that it may lead to confusion among consumers. ***Patents*** can be infringed through unauthorised manufacture, use or sale in the country of registration of the invention claimed in the patent.

Interested parties: persons who have rights in an anti-dumping enquiry or investigation. They must be notified of the information required by the authorities, they must be given ample time to make their case, and they must have a full opportunity for a defence of their interest. The WTO ***Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade***, which sets out the rules applicable for the handling of anti-dumping cases, defines interested parties as (a) an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association which has a majority of producers, exporters or importers of such products as members, (b) the government of the exporting member and (c) a producer of the ***like product*** in the importing member or a trade and business association with a majority of members who produce the like product in the territory of the importing member. The WTO ***Agreement on Safeguards*** also requires members about to impose a ***safeguards*** action to give an opportunity for consultations to those members with a substantial interest in the product concerned, but it does not define how the term "substantial interest" is to be understood. See also ***anti-dumping measures***.

Interested third parties: a mechanism under the ***WTO understanding on dispute settlement*** which allows for the consideration of the interests of member countries in a dispute in which they are not directly involved. Such members have the right to be heard by a ***panel*** and to make submissions to it, but to do so they must be able to show through trade figures that they have a substantial interest in the matter. A mere interest in the principles being argued is not enough.

Interface theory: the proposal, prevalent in the 1980s, that in international economic and trade relations some interface mechanism may be necessary to allow different economic systems to trade together without friction. The shift to market-economy principles by the former centrally-planned economies has reduced the need for such a mechanism, but systemic difficulties remain particularly in relation to ***subsidies*** and ***dumping*** practices. See also ***East-West trade***.

Intergovernmental conference: a mechanism available to the ***European Union*** to consider revisions of and amendments to the framework of treaties constituting it. Intergovernmental conferences can stretch over months and even years, but they usually lead to substantial steps forward.

Intergovernmental organisations: these are organisations usually established through a ***treaty*** bringing together governments regionally or

multilaterally for the pursuit of a common purpose. Intergovernmental organisations usually are administered by a secretariat which supports the organisation's governing body, consisting of representatives of member states, as well as subsidiary bodies established by the governing body. Intergovernmental organisations and their staffs often enjoy full or partial diplomatic privileges in the country hosting them.

Interim Agreement necessary for the formation of customs union or a free-trade area: an instrument mentioned in GATT ***Article XXIV*** which deals with ***customs unions*** and ***free-trade areas***. Such agreements have to be notified to the WTO, together with a timetable for their implementation. Few interim agreements appear to have been notified to the GATT or the WTO. Nor have working parties always been able to agree whether they were examining an interim agreement or a final agreement. However, in a sense all notified free-trade agreements have been interim agreements even though the parties may have regarded them as final agreements. This is because even free-trade agreements intended to conform immediately to Article XXIV contain phase-in provisions for the elimination of trade restrictions in ***sensitive products***.

Interim Co-ordinating Committee for International Commodity Arrangements: see ***commodity policy***.

Intermediary nation embargo: see ***tuna II***.

Intermediate goods and services: see ***final goods and services***.

Internal market: used both for a market lying within a single jurisdiction and the market made up through the formation of a ***customs union***, a ***free-trade area*** or a ***common market***, such as the ***European Community***.

Internal support: encompasses any measure which acts to maintain producer prices at levels above those prevailing in international trade. This is done through direct payments to producers, including ***deficiency payments***, and input and marketing cost reduction measures available only for agricultural production.

Internal taxes: government charges applied to sale of goods and services inside a ***customs territory***. Article III of the GATT requires that such charges are levied at the same rate for domestic products as for imported products. In other words, ***national treatment*** is a fundamental obligation in this regard. See also ***behind-the-border issues***.

Internal trade: usually the trade between the partners to a ***preferential trade arrangement***. Their trade with third countries is known as external trade. Sometimes internal trade is used to describe commercial activity within a single economy, but the use of ***commerce*** for this is often preferred.

International accounting standards: accounting standards being developed by the International Accounting Standards Committee (IASC) with the aim of enhancing the comparability of financial information, improving disclosure, reducing compliance cost and encouraging uniform financial reporting by multinational companies. These standards are therefore seen as a means for a better and more efficient allocation of financial resources. See

also ***Guidelines for Mutual Recognition Agreements or Arrangements in the Accountancy Sector*** and ***harmonisation of standards and qualifications***.

International Agreement on Jute and Jute Products: entered into force in 1984 under the ***Integrated Programme for Commodities***. It was renegotiated in 1989 with entry into force in 1991. It expired on 11 April 2000 and was replaced by the ***International Jute Study Group***. This Agreement was confined to the aims of achieving better markets for jute and jute products, transparency in international trade and improved production and processing techniques. It was administered by the International Jute Organisation, located in Dhaka.

International Bauxite Association: Established 1975. It consists of producers only. Its aims are the orderly and rational development of the bauxite industry and to secure fair and reasonable returns for member countries from the exploitation, processing and marketing of bauxite and its products, bearing in mind the interests of consumers. Its secretariat is located in Kingston, Jamaica.

International Bovine Meat Agreement: one of the ***WTO plurilateral agreements***, originally negotiated as part of the ***Tokyo Round*** as the *Arrangement Regarding Bovine Meat*. Its objectives are (a) expanding, liberalising and stabilising trade in meat and livestock, (b) encouraging greater international cooperation in all aspects of trade in bovine meat and livestock, (c) to secure additional benefits for developing countries and (d) to expand trade further on a competitive basis, taking into account the traditional position of efficient producers. Until it was terminated at the end of 1997, it was administered by the International Meat Council.

International Bureau of Intellectual Property: this is the secretariat administering the governing bodies of ***WIPO*** and its Unions. A Union consists of the states that have acceded to one of the ***intellectual property*** conventions. The International Bureau also maintains international registration services in the fields of ***patents***, ***trademarks***, ***industrial designs*** and ***appellations of origin***. It is located in Geneva.

International Chamber of Commerce: ICC. A business organisation represented in more than 130 countries. Its headquarters are based in Paris. The ICC promotes an open international trade and investment system and the market economy. Among the services it provides to its members is the ***International Court of Arbitration***.

International Civil Aviation Organisation: see ***Chicago Convention***.

International Clothing and Textiles Bureau: a body located in Geneva whose objective is to achieve the elimination of discrimination and protectionism directed against members' exports of textiles and clothing and to promote the full application of GATT principles to trade in these products. Members are Argentina, Bangladesh, Brazil, China, Colombia, Costa Rica, Democratic People's Republic of Korea, Egypt, El Salvador,Guatemala, Honduras, Hong Kong, India, Indonesia, Macau, Maldives, Mexico, Pakistan,

Paraguay, Peru, Republic of Korea, Sri Lanka, Thailand, Uruguay and Vietnam. Cuba, Mauritius and Singapore are observers.

International Cocoa Agreement: first concluded in 1972 after 17 years of negotiations and renegotiated in 1975, 1980, 1986 and 1993. It used to be an agreement with economic provisions, including the operation of a ***buffer stock*** and the aims of stabilising the export earnings of producer countries and of expanding further processing of cocoa in developing countries. The current agreement entered into force in February 1994 and was extended for two years on 1 October 1999. The objectives of this agreement include, among others, (a) the development and strengthening of cooperation in the international cocoa economy, (b) contributing to a balance between supply of and demand for cocoa in the world market, and (c) promotion of transparency in the world cocoa economy through the collection and dissemination of statistics and other data on cocoa. The cocoa greement no longer has a buffer stock provision. A new agreement to succeed the 1993 agreement was negotiated in February 2001. It is due to enter into force definitively on 1 October 2003 or at any time afterwards once certain ratification requirements have been met. The Agreement's administrative body, the International Cocoa Organisation, is located in London.

International Coffee Agreement: first concluded in 1962 and renegotiated in 1968, 1976, 1983, 1994 and 2001. The current agreement will be in force until 30 December 2007. It no longer seeks to stabilise prices through the imposition of ***export quotas***, and it does not operate a ***buffer stock***. The objectives of the current Agreement are: (1) to promote international cooperation on coffee matters, (2) to provide a forum for intergovernmental consultations and negotiations on coffee, (3) to provide a forum on consultations with the private sector, (4) to facilitate the expansion and transparency of international trade in coffee, (5) to collect, disseminate and publish economic and technical information, statistics and studies, (6) to encourage the development of a sustainable coffee economy, (7) to encourage the consumption of coffee, (8) to advise on projects for the benefit of the world coffee economy, (9) to promote quality and (10) to promote the transfer of technology relevant to coffee. The agreement is administered by the International Coffee Organisation, located in London.

International commercial dispute resolution: resolution of disputes between private parties in different countries outside the framework of courts. This can be done through negotiation, mediation and conciliation, expert determination and expert appraisal, ***arbitration*** and a combination of such processes. The method selected depends on the views of the parties. See also ***ICSID*** and ***International Court of Arbitration***.

International commodity agreements: ICAs. These are intergovernmental agreements intended to improve the functioning of global commodity markets by balancuing the interests of producers and consumers. They are of two types: (a) administrative agreements aimed at promoting transparency in production and market conditions through, for example,

statistical work, and (b) economic agreements which seek to influence directly the market price of the commodity concerned. The ***UNCTAD*** agreement establishing the ***Common Fund for Commodities***, which aims at the conclusion of economic agreements, sets out four elements it deems necessary for an ICA: (a) agreements and arrangements must be concluded between governments, (b) agreements should promote international cooperation in that commodity, (c) producers and consumers must be included and (d) the agreement should cover the bulk of world trade in the commodity concerned. Most ICAs are negotiated for periods normally ranging from three to six years, when their operations are reviewed. Some, like the ***International Bauxite Agreement*** and ***OPEC***, are made up of producers only. ICAs with economic provisions typically contain obligations aimed at stabilising prices, financing a ***buffer stock***, disposal of non-commercial stockpiles, commitments to improve market access and to promote consumption. Some agreements also seek to encourage further processing in producing countries, and they contain provisions for the exchange of information on production, trade and consumption. Most also include consultation and dispute settlement provisions. The 1954 sugar and tin agreements carried a "fair labour standards" clause which stipulated that labour engaged in the production of the relevant commodity should receive fair remuneration, adequate social security protection and other satisfactory employment conditions. By and large such clauses soon fell out of use, with the exception of the ***International Natural Rubber Agreement*** which has now lapsed. The 2001 ***International Coffee Agreement*** contains a clause promoting improvement of standards of living for populations engaged in the coffee sector. At the same time, members agreed that they would not use this provision for protectionist purposes. Buffer stock arrangements are triggered if the commodity price moves outside the defined price band. Finding the right price band is tricky. If the floor price is too high, it will promote increased production which may depress the market price and force the buffer stock to buy. A critical element in ensuring that ***floor prices*** perform their proper function is the need for all major producers to be members of the agreement. This has sometimes been difficult to achieve. Since the demise of the ***International Tin Agreement*** in 1985, buffer stocks have fallen out of fashion. Most ICAs are administered by a body established for the purpose. Members are divided into producers and consumers, with the two categories having an equal number of total votes. Producer countries often also import the same commodity, and consumer countries also export. The definition of producer and consumer therefore can hinge on whether a country is a net exporter or importer. Voting is usually based on the share of international trade a member has in that commodity. ICAs commonly operate quite autonomously, but their negotiation or renegotiation often takes place under UNCTAD auspices which, upon its establishment in 1964, acquired responsibility for commodity matters within the United Nations system. Two agreements have, however, been negotiated in the ***GATT***, and they were part

of the ***WTO plurilateral agreements*** until the end of 1997. The two are the *International Dairy Agreement* and the *International Bovine Meat Agreement*. Both were ostensibly aimed at expanding, liberalising and stabilising trade in the commodities under their purview. See also ***commodity policy***, ***Integrated Programme for Commodities*** and ***international commodity bodies***.

International commodity bodies: ICBs. These are organisations that either administer ***international commodity agreements*** or are constituted as commodity study groups. The ***Common Fund for Commodities*** established through ***UNCTAD*** has designated 24 organisations which represent more than 30 commodities as ICBs. They are in three main groups. The first group consists of the International Cocoa Organisation, International Cotton Advisory Committee, International Jute Study Group, International Lead and Zinc Study Group, International Copper Study Group, International Olive Oil Council, International Nickel Study Group, International Rubber Study Group, International Sugar Organisation, International Tropical Timber Organisation, International Coffee Organisation and the International Grains Council. The second group consists of bodies located within the ***Food and Agricultural Organisation***: Intergovernmental Group on Bananas, Intergovernmental Group on Citrus Fruit, Intergovernmental Group on Grains, Intergovernmental Group on Hard Fibres, Intergovernmental Group on Meat, Intergovernmental Group on Oils, Oilseeds and Fats, Intergovernmental Group on Rice, Intergovernmental Group on Tea, Intergovernmental Sub-Committee on Fish Trade, Intergovernmental Sub-Group on Tropical Fruits and Intergovernmental Sub-Group on Hides and Skins. The third group is the UNCTAD Committee on Tungsten, All these are eligible to sponsor projects for financial support by the Common Fund. See also separate entries for some of the agreements administered by these bodies.

International commodity-related environment agreement: ICREA. A type of voluntary intergovernmental instrument suggested by ***UNCTAD*** as conducive to the promotion of environmental objectives in commodity production and to facilitate cooperation among producers and consumers in this regard. ICREAs could either be concerned with the setting of standards, or they could be aimed at funding the transition to more sustainable production methods. See also ***commodity policy*** and ***trade and environment***.

International contestability of markets: used for assessing the extent to which markets are free of distortion through regulation and anti-competitive governmental or private action from the perspective of exporters in other countries. A fully contestable market would be one in which firms can compete purely on the basis of price and ability to deliver the product or service wanted by the market. International contestability is therefore determined by such factors as ***tariff*** and ***non-tariff measures***, regulatory conditions affecting the import of services, ***structural impediments*** in the

form of, for example, distribution systems, internal regulation of investment and competition, and private anti-competitive practices. See also ***indicators of market openness*** and ***trade and competition***.

International Convention for the Protection of New Varieties of Plants: concluded in 1961 in Paris and revised in 1978 in Geneva. It provides for the grant of ***patents*** or special titles of protection to breeders of new plant varieties. It is administered by the International Union for the Protection of New Varieties of Plants (UPOV), rather than by ***WIPO***. See also ***intellectual property rights***.

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations: see ***Rome Convention***.

International Convention on the Harmonised Commodity Description and Coding System: see ***Harmonised Commodity Description and Coding System***.

International Convention on the Simplification and Harmonisation of Customs Procedures: see ***Kyoto Convention***.

International Copper Study Group: ICSG. An intergovernmental organisation established under ***UNCTAD*** auspices in 1992. Its members consist of 24 national governments and the European Union. They represent more than 80% of world trade in copper. The ICSG's main functions are the exchange of information on the international copper economy, to collect and disseminate improved statistics and to consider any special issues that might arise. Its secretariat is located in Lisbon. See also ***CIPEC*** and ***international commodity bodies***.

International Cotton Advisory Committee: ICAC. Established in 1939 as an association of cotton producers and restructured in 1945 to admit consumers also. It collects and disseminates statistics on cotton production and trade and promotes measures for the development of the global cotton economy. Its secretariat is located in Washington, DC. See also ***international commodity bodies***.

International Court of Arbitration: established in 1923 as the ***arbitration*** body of the ***International Chamber of Commerce***. It offers resolution of commercial disputes without litigation in national court systems. See also ***alternative dispute resolution***.

International Court of Justice: the principal judicial organ of the United Nations. Its two functions are to settle legal disputes between states and to give advisory opinions on legal questions submitted by authorised international organisations and agencies, all of them being United Nations agencies. The sources of law used by the Court include international treaties and conventions, international custom, general principles of law, judicial decisions and academic work. The Court was established in 1946 as the successor to the Permanent Court of International Justice. It is located at The Hague.

International Dairy Agreement: one of the ***WTO plurilateral***

agreements, originally negotiated during the ***Tokyo Round*** as the *International Dairy Arrangement*. Its objectives were (a) to achieve the expansion and ever greater liberalisation of world trade in dairy products under market conditions as stable as possible on the basis of mutual benefit to exporting and importing countries, and (b) to further the economic and social development of developing countries. The Agreement covered trade in fresh and preserved milk and cream, butter, cheese and curd, and casein. Until it was terminated at the end of 1997, it was administered by the International Dairy Council.

International Dairy Arrangement: see ***International Dairy Agreement***.

International Dairy Council: see ***International Dairy Agreement***.

International Development Association: IDA. This is an agency of the ***IBRD*** (World Bank) which makes concessional loans to the poorest of developing countries. Its aim is to reduce disparities between and within countries, and it concentrates on primary education, basic health, water supply and sanitation. IDA only lends to countries having a per-capita income in 2000 of less than $885 and which do not have the financial ability to borrow from the World Bank on commercial terms. The IDA is funded mainly through contributions from the wealthier member countries, rather than by borrowing on financial markets as is the case for the World Bank itself. See also ***International Finance Corporation*** and ***Multilateral Investment Guarantee Agency***.

International division of labour: the arranging of production processes to promote ever greater specialisation of labour, economies of scale and standardised products. Its aim is to enable firms to compete through the price mechanism. The international division of labour was originally based on the analogy of dividing the manufacture of a product in such a way that the greatest possible part of it could be produced by cheaper unskilled and semi-skilled labour, but the complexity of many products now produced and traded internationally has greatly undermined this rationale. See also ***delocalisation***, ***globalisation***, ***new international division of labour*** and ***product cycle theory***.

International economic relations: includes directly, in addition to international trade, international monetary and financial cooperation and activities, such as capital movements and foreign investment. More indirectly, almost any international activity can have an economic aspect or effect.

International Electrotechnical Commission: IEC. The main international body for cooperation on ***standards*** and ***conformity assessment*** in the fields of electricity, electronics and related technologies. It provides a forum for the preparation and implementation of consensus-based voluntary international standards. The IEC is associated with the WTO through the ***Agreement on Technical Barriers to Trade***. Its secretariat is located in Geneva. See also ***International Organisation for Standardisation***.

International Energy Agency: IEA. An intergovernmental organisation established in 1974 after the first oil shock. It consists of ***OECD*** member countries. Its main concerns are increased energy efficiency, energy conservation and the development of new sources of energy. The IEA's secretariat is located in Paris.

International Finance Corporation: IFC. The part of the ***IBRD*** (World Bank) charged with providing finance for private enterprise in developing countries. In this way, it seeks to promote their economic development. The IFC coordinates its activities closely with the World Bank, but it operates essentially as an independent agency. See also ***International Development Association*** and ***Multilateral Investment Guarantee Agency***.

International financial institutions: a term used for intergovernmental organisations, such as the ***IMF***, the ***IBRD*** or the Asian Development Bank. They are concerned mainly with the promotion of sound economic management by member states or the provision of financial support to member states for defined purposes. Developing countries often can obtain financial assistance for the development of their economies under concessional conditions, such as extended repayment periods and interest below market rates. See also ***structural adjustment***.

International Fund for Agricultural Development: IFAD. One of the ***United Nations specialised agencies***. It began operations in 1977 with a mandate to finance agricultural development projects leading to improved food supplies and ***food security*** in developing countries. The bulk of its loans is made available to ***low-income countries***, usually on highly concessional terms. See also ***Food and Agricultural Organisation*** and ***World Food Programme***.

International Grains Agreement: IGA. The successor to the ***International Wheat Agreement***. It entered into force on 1 July 1995 for three years, with provision for renewal every two years. The IGA consists of two instruments: the *Grains Trade Convention* and the *Food Aid Convention*. The former aims to promote international cooperation in the wheat and coarse grains trade, mainly through improving ***market transparency***. The latter provides annually specified minimum amounts of food aid to developing countries in the form of grains suitable for human consumption, much of it through the ***World Food Programme***. The IGA is administered by the International Grains Council located in London. See also ***Food and Agricultural Organisation*** and ***food security***.

International investment agreements: the most common form of these mainly bilateral agreements are the ***investment promotion and protection agreement*** and the ***bilateral investment treaty***. These agreements tend to follow set patterns and differ little in substance between states. Their emphasis is on the free transfer of funds and procedures relating to ***expropriation*** under fair terms. A beginning has been made towards more comprehensive international investment rules in ***NAFTA Chapter 11***.

This chapter contains in addition the requirement for the better of ***national treatment*** and ***most-favoured-nation treatment***. It also establishes the concept of ***minimum standard of treatment***. Other NAFTA investment rules concern ***performance requirements***. ***senior management and boards of directors***, ***transparency***, environmental measures and an ***investor-state dispute*** provision. The ***ASEAN*** members are working towards the establishment of an ***ASEAN Investment Area***, but limited progress appears to have been made on this project. The most ambitious attempt as yet to establish common international rules for investments was the OECD ***Multilateral Agreement on Investment***. That, however, failed. WTO members have been exploring for some years the relationship between ***trade and investment***, and they will decide on the next step, which may entail negotiations, at the 2003 ***WTO ministerial conference***.

Internationalisation: the extension of economic activity across national borders to harness the benefits of lower costs in other economies. It is one of the results of decreasing costs of transport and communications which promotes the integration of markets for goods, services, technology, ideas, capital and human resources. An important indicator of internationalisation is the convergence in prices of products. See also ***globalisation***.

International Jute Study Group: established on 13 March 2001 as the successor to the ***International Agreement on Jute and Jute Products***. The objective of the study group is to provide an effective framework for international cooperation, consultation and policy development in all aspects of the world jute economy. Its secretariat is in Dhaka.

International Labour Organisation: ILO. Established in 1919 as part of the Treaty of Versailles. It became a ***United Nations specialised agency*** in 1946. Its objectives are to improve working and living conditions through the adoption of international conventions and recommendations setting minimum standards for wages, hours of work, conditions of employment, social security, etc. It is located in Geneva. See also ***child labour***, ***core labour standards*** and ***trade and labour standards***.

International Lead and Zinc Study Group: ILZSG. Established in 1959 as the successor to the Lead and Zinc Study Committee. It is a forum for consultation between producers and consumers on issues related to the production of and trade in lead and zinc, including the compilation of statistics. The ILZSG is located in London, but its meetings are conducted under the auspices of ***UNCTAD***. See also ***international commodity bodies***.

International Maritime Organisation: IMO. One of the ***United Nations specialised agencies***. It first became operational in 1959 as the Inter-Governmental Maritime Consultative Organisation, and it was given its present name in 1982. The IMO provides a forum for intergovernmental cooperation on matters such as facilitation of international maritime traffic, maritime safety standards, liability and compensation issues and measures to prevent pollution from ships. It is located in London. See also ***maritime***

transport services.

International Meat Council: the body which administered the ***International Bovine Meat Agreement***, one of the ***WTO plurilateral agreements***, until its termination at the end of 1997.

Internationally recognised labour standards: see ***core labour standards***.

International Natural Rubber Agreement: first concluded in 1979, renewed in 1987 and terminated in 1999. It had been administered by the International Natural Rubber Organisation, located in Kuala Lumpur. See also ***International Rubber Study Group***.

International Nickel Study Group: INSG. It was established in 1986 under ***UNCTAD*** auspices and entered into force on 23 May 1990. It promotes international cooperation on issues concerning nickel, especially by improving statistics and other information on the nickel market, and it provides a forum for discussing nickel issues of common interest and concern. INSG members account for about 80% of world nickel mine production. Its secretariat is located at The Hague.

International non-governmental organisations: see ***non-governmental organisations.***

International Office of Epizootics: an intergovernmental organisation established in 1924. Its main objectives are (a) to inform governments of the occurrence and course of animal diseases throughout the world and of ways to control these diseases, (b) to coordinate studies devoted to the surveillance and control of animal diseases, and (c) to harmonise regulations for trade in animals and animal products among member countries. It cooperates closely with the members of the WTO in the administration of the ***Agreement on the Application of Sanitary and Phytosanitary Measures***.

International Olive Oil Agreement: first concluded in 1956 and renegotiated in 1963, 1979 and 1986. Its current extension is valid until 31 December 2002. The operations of this Agreement are confined to the aim of developing long-term markets, the promotion of research and development, the expansion of consumption, forestalling unfair competition practices and ensuring reliability of supplies. It does not have a ***buffer stock*** mechanism. Membership consists mainly of the ***European Community*** and about a dozen other countries, mostly Mediterranean. The agreement is administered through the International Olive Oil Council, located in Madrid.

International Organisation for Standardisation: ISO. A world-wide federation of national standards bodies established in 1947 to promote the development of standardisation and related activities with a view to facilitating the international exchange of goods and services. Each country is represented by one organisation only. The ISO also promotes the development of cooperation in intellectual, scientific, technological and economic activities. It is associated with the WTO especially through work concerning the ***Agreement on Technical Barriers to Trade*** which is aimed at ensuring that standards are not used as disguised barriers to trade.

See also ***International Electrotechnical Commission***, ***ISO 9000*** and ***ISO 14000***.

International Plant Protection Convention: entered into force on 3 April 1952. It is administered by the ***Food and Agricultural Organisation***. Its objective is securing common and effective international action to prevent the introduction and the spread of pests of plants and plant products and to promote measures for their control. The Convention was amended in 1997 partly to meet the standard-setting requirements of the WTO ***Agreement on the Application of Sanitary and Phytosanitary Measures***.

International political economy: broadly defined as the academic discipline concerned with the relationship between the political and economic domains in contemporary international society. ***Trade policy*** is one aspect of this relationship.

International Program for the Elimination of Child Labour: IPEC. A program initiated in 1992 by the ***International Labour Organisation*** to assist member countries in their efforts to eliminate child labour. Activities under IPEC include the development of national action programs, establishing demonstration projects and awareness programs for government, non-government organisations, workers and employers. Some twenty countries are now participating in IPEC. See also ***child labour***, ***core labour standards***, ***social clause*** and ***trade and labour standards***.

International Rubber Study Group: IRSG. A body consisting of producer and consumer countries established in 1944. Its purpose is to act as a forum for the discussion of matters related to the production, consumption and trade in natural and synthetic rubber. It also publishes an extensive range of statistical material. Its secretariat is located in London.

International steel cartel: a ***cartel*** allegedly dividing the world steel market into two hemispheres, with the dividing line running through Myanmar. According to the those claiming knowledge of the existence of this cartel, steel mills on either side of the line did or do not export to markets on the other side. United States steel manufacturers are said to be operating outside of this arrangement, and they are therefore portrayed as the main losers from it.

International Sugar Agreement: the first sugar agreements were negotiated in the 1860s. A new agreement was concluded in 1931 between producer associations whose governments then had to give effect to its provisions. At the same time, a permanent secretariat was established at The Hague. The agreement aimed to liquidate surplus stocks through ***export quotas***, but it failed in this because non-members raised their production. A second agreement was negotiated in 1937. It provided for representation of consumers and producers. The first post-war sugar agreement was concluded in 1954 and renegotiated in 1958, 1968, 1973, 1977 and 1984. The agreement ran a ***buffer stock*** until 1977. The 1984 agreement did not contain economic provisions, but it set itself the task of negotiating a new agreement of this

type. A successor administrative agreement entered into force in 1993 for five years, with no limit on the number of possible extensions. The administering body, the International Sugar Organisation, is now located in London.

International Tea Agreement: first entered into force in 1933 as a producer-only arrangement and expired long ago. It is credited with having been successful in arresting long-term downward prices, largely accounted for by the fact that India, Ceylon and Java all were members. These three accounted at that time for 96% of world tea production. Tea is one of the commodities included in the ***Integrated Programme for Commodities***, but efforts to negotiate a new tea agreement have not been successful.

International Telecommunication Union: ITU. Established in 1865 and restructured in 1947 as one of the ***United Nations specialised agencies***. Its responsibilities are (a) to mainain and extend international cooperation for the improvement and rational use of telecommunications of all kinds, (b) to promote the development of technical facilities and their most efficient operation with a view to improving the efficiency of telecommunications services, increasing their usefulness and making them, so far as possible, generally available to the public, and (c) to harmonise the actions of members in the attainment of those ends. The ITU secretariat is located in Geneva. See also ***Agreement on Basic Telecommunications***.

International Tin Agreement: first concluded in 1931 and renewed in 1934. These early agreements did not allow for consumer representation. The third agreement, concluded in 1937, invited the two largest consumer countries to attend its meetings. The agreement was renegotiated to include producers and consumers in 1954, then 1961, 1966, 1971, 1975 and in 1980 for a duration of five years. All versions of the agreement established a ***buffer stock*** and ran a system of ***export quotas***. This, in the end, became one of the reasons for the undoing of the agreement in 1985. It appears that the buffer stock manager's forward dealings on the London Metals Exchange were a major factor in an emerging funds shortage. Another reason was that some major producers and consumers were not members, and they therefore were not bound by the Agreement's provisions. There is no agreement on the causes of the Agreement's demise. See also ***International Tin Study Group***.

International Tin Study Group: established in 1989 as a result of the United Nations Tin Conference, but not yet operational because too few participants have notified their acceptance. The aims of the group are to ensure enhanced international cooperation on tin, improve statistical information and exchange information on production and trade. See also ***International Tin Agreement***.

International Trade Centre UNCTAD/WTO: ITC. Established in 1964 as the focal point in the United Nations system for technical cooperation with developing countries in ***trade promotion***. Its work program now covers product and market development, development of trade support services, trade information, human resource development, international purchasing

and supply management and trade promotion needs. The centre is located in Geneva. See also ***trade facilitation***.

International Trade Commission: a United States governmental agency charged with reporting on the effects of ***tariffs*** and ***non-tariff measures*** on United States exports maintained by other countries. Originally established in 1916 as the United States Tariff Commission. Its mandate also covers the determination of ***dumping***, action concerning the effects of ***export subsidies*** by other countries and ***safeguard*** action. It also advises the President whether agricultural imports interfere with agricultural price support programs. The ITC does not make ***trade policy***, but its findings are among the basic determinants of United States trade policy.

International trade law: the body of multilateral, regional and bilateral trade agreements and other international agreements having a bearing on the way international trade is conducted. For many countries, the GATT, GATS and other WTO agreements are the most important of these instruments for trade relations with countries that are also WTO members. In the remaining cases, bilateral agreements and other instruments form the body of applicable international trade law. Another stream of international trade law is concerned with the activities of private firms. See also ***private international law***, ***public international law*** and ***UNCITRAL***.

International Trade Organisation: see ***ITO***.

International trade writ large: a term used by Ernest Preeg to describe the international exchange of goods, services and the factors of production. Many now see this overall approach as more relevant than simply looking at import and export trade. See also ***four freedoms***.

International Tropical Timber Agreement: concluded in 1983 under the auspices of the ***Integrated Programme for Commodities*** and succeeded in 1994 by a new agreement lasting for four years with the option of two three-year extensions. It does not contain economic provisions. Its main objective is to provide an effective framework for consultation, international cooperation and policy development among all members with regard to all relevant aspects of the world timber economy. Other trade-related aims include (a) to provide a forum for consultation to promote non-discriminatory timber trade practices, (b) to enhance the capacity of members to form sustainable export strategies, (c) to promote the expansion and diversification of international trade in tropical timber from sustainable sources, (d) to improve market intelligence, (e) to promote increased and further processing in producer member countries, (f) to improve marketing and distribution, and (g) to encourage information-sharing on the international timber market. The administering body, the International Tropical Timber Organisation, is located in Yokohama. See also ***trade and environment***.

International Union for the Conservation of Nature and Natural Resources: see ***CITES***.

International Union for the Protection of New Varieties of Plants: UPOV. See ***International Convention for the Protection of New***

Varieties of Plants.

International Vine and Wine Office: see ***Office international de la vigne et du vin***.

International Wheat Agreement: in its final version this consisted of two instruments: (a) the *Wheat Trade Convention* of 1986 which was a consultative forum with a program for the collection and dissemination of statistics and (b) the *Food Aid Convention* concluded at the same time. On 1 July 1995 the Agreement was succeeded by the *Grains Trade Convention* under the ***International Grains Agreement***. All parties to the Agreement were members of the International Wheat Council, now replaced by the International Grains Council, located in London.

Intervention price: a mechanism under the ***Common Agricultural Policy*** whereby the ***European Community*** buys an agricultural commodity at a certain price. The intervention price expresses the intention to support the current income levels of farmers even when output is above requirements. See also ***floor price***.

Intra-firm trade: international trade conducted between units of the same company. The bulk of this type of trade is conducted between units of multinational enterprises. Estimates of the size of intra-firm trade differ, but studies suggest that it may account for about one-third of total trade. Some commentators see intra-firm trade as a form of ***managed trade*** on the assumption that a multinational enterprise would rather purchase from its own units, even if a cost difference is involved, than using the open market. Opinion on this proposition remains divided. See also ***globalisation***.

Intra-industry trade: the concurrent export and import by an industry of essentially the same product. For example, an automotive industry in one economy may both import and export automotive parts. Intra-industry trade has been debated intensively by economists since the 1970s, with some holding that it is a special case of international trade. There is no disagreement, however, on the importance of intra-industry trade in terms of international trade flows. See also ***globalisation***.

Invention: the creation of something new which may turn into ***industrial property***. In order to benefit from ***intellectual property protection*** in the form of a ***patent***, an invention has to be new (i.e. it is not already described or used somewhere), it must be non-obvious (in ***WIPO*** terms, it would not have occurred to a specialist asked to provide a solution to the particular problem) and it must be capable of industrial use.

Investment: a stake in a business, a company or an entrprise. Many definitions exist. The following are some examples. The 1961 ***OECD*** *Code of Liberalisation of Capital Movements* defines direct investment as investment for the purpose of establishing lasting economic relations with an undertaking such as, in particular, investments which give the possibility of exercising an effective influence on the management thereof by means of (1) creation or extension of a wholly-owned enterprise, subsidiary or branch, acquisition of full ownership of an existing enterprise, (2) participation in a

new or existing enterprise, and (3) a loan of five years or longer. The ***Energy Charter Treaty***, concluded in December 1994, defines investment as every kind of asset, owned or controlled directly or indirectly by an investor. It includes (a) tangible and intangible, and movable and immovable, property, and any property rights such a leases, mortgages, liens and pledges, (b) a company or business enterprise, or shares, stock, or other forms of equity participation in a company or business enterprise, (c) claims to money and claims to performance pursuant to contract having an economic value and associated with an investment, (d) intellectual property, (e) returns, and (f) any right conferred by law or contract or by virtue of any licences and permits granted pursuant to law to undertake an economic activity in the energy sector. ***NAFTA***, which entered into force on 1 January 1994, defines investment as (a) an enterprise, (b) an equity security of an enterprise, (c) a debt security of an enterprise where the enterprise is an affiliate of the investor and the original maturity of the debt security is at least three years, (d) a loan to an enterprise which is an affiliate of the investor and where the original maturity of the loan is at least three years, (e) an interest in an enterprise that entitles the owner to share in income or profits, (f) an interest in an enterprise that entitles the owner to share in the assets of that enterprise on dissolution, (g) real estate or other property, tangible or intangible, acquired in the expectation or used for the purpose of economic benefit or other business purposes, and (h) interests arising from the commitment of capital or other resources in the territory of a party to NAFTA. See also ***foreign direct investment***.

Investment promotion and protection agreements: agreements concluded bilaterally by many countries aimed at promoting the flow of capital for economic activity and development. Such agreements typically contain provisions entailing the application of ***most-favoured-nation treatment***, and setting out conditions concerning entry of personnel, expropriation and nationalisation, transfers of funds, ***dispute settlement*** between the parties, etc. See also ***bilateral investment treaties*** and ***World Association of Investment Promotion Agencies***.

Investment-related trade measures: governmental measures aimed at promoting investment by foreign firms in one's economy. Sometimes these measures include high tariff barriers aimed at giving these firms a captive market. See also ***Agreement on Trade-Related Investment Measures*** and ***tariff-jumping investment***.

Investment services directive: ISD. A ***European Community*** directive aimed at improving the ***right of establishment*** and freedom to provide services in the securities sector. It entered into force on 1 January 1996. Under the terms of this ***directive***, investment firms are allowed to operate anywhere within the European Community once they have obtained authorisation in their home member state. The activities authorised by the home country may be carried out through establishment in another member country or through ***cross-border trade***. No additional authorisation, endowment capital or

any other measure having an equivalent effect may be requested. See also ***financial services***.

Investment substitution: a term used by some to describe the replacement of GATT-restricted measures with other, sometimes more distorting practices, including domestic policy instruments.

Investor-state disputes: treaties, whether bilateral, regional or multilateral, are between states, and they convey rights and obligations on the states (parties) to them. If a natural or judicial person residing in one of the member states wishes to have its concerns over another party's operation of the treaty addressed under the consultation or dispute settlement provisions of the treaty, it must first convince its own government to take up the case. There are exceptions. ***NAFTA***, for example, allows investors in some circumstances to submit claims to ***arbitration*** that another party has breached an obligation in relation to monopolies and/or state enterprises. A claim may only be made if an investor has incurred loss or damage because of the alleged breach, and it must be made no more than three years after the investor first acquired, or should have first acquired, knowledge of the alleged breach and loss of damage.

Invisible hand: an expression used by Adam Smith in *An Inquiry into the Nature and Causes of the Wealth of Nations* when he deals with the motivation of those investing capital in industry. He rejects the view that a trader or investor intends to promote the public interest, or that he even knows how much he might be promoting it. Smith claims that the trader or investor "by directing [domestic] industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was not of his intention".

Invisibles Group: an informal group of capital-based senior officials from WTO member countries, both developed and developing, which meets irregularly, usually in Geneva. It concerns itself with an exploration of major issues of common concern on the WTO work program. It has no decision-making powers. See also ***Consultative Group of Eighteen***.

Invisible tariffs: an older expression for what is now broadly subsumed under the category of ***non-tariff measures***, trade-restrictive use of ***customs valuation*** procedures and ***trade remedies***.

Invisibles trade: see ***trade in services***.

IOSCO: International Organisation of Securities Commissions, located in Montreal. Its objectives are (a) to cooperate to promote high standards of regulation in order to maintain just, efficient and sound markets, (b) to exchange information on respective experiences in order to promote the development of domestic markets, (c) to establish standards and an effective surveillance of international securities transactions, and (d) to provide mutual assistance to promote the integrity of the markets by a rigorous application of the standards and by effective enforcement against offences. IOSCO has more than 130 members.

IPRs: see ***intellectual property rights***.

Iran and Libya Sanctions Act: ILSA. A United States law adopted on 5 August 1996 for five years and extended in 2001 for another five years. The Act is intended to (a) help deny Iran and Libya revenues that could be used to finance international terrorism, (b) limit the flow of resources necessary to obtain weapons of mass destruction and (c) to put pressure on Libya to comply with a range of United Nations resolutions. It does this by allowing the President to impose sanctions on foreign companies that provide new investments over $US40 million for the development of petroleum resources in Iran or Libya. Possible sanctions include denial of export licences, prohibitions on loans or credits from United States financial institutions, prohibition on designation as a ***primary dealer*** for United States government debt instruments, denial of United States ***government procurement*** opportunities, and a ban on imports of the violating company. See also ***extraterritoriality***.

ISO 9000: a series of quality systems standards developed by the ***International Organisation for Standardisation*** (ISO). These are standards for evaluating the way a firm does its work. They should not be confused with product standards. Quality systems standards enable firms to identify the means of meeting consistently the requirements of its customers.

ISO 14000: a series of environmental management standards prepared by the ***International Organisation for Standardisation*** (ISO) covering six areas: environmental managing systems; environmental auditing; environmental labelling; environmental performance evaluation; life cycle assessment; terms and definitions. Most of the standards are intended as guidance documents on environmental tools and systems to help companies and other organisations integrate environmental considerations into their normal business processes. Only one of the standards, ISO 14001 on environmental management systems, contains specifications for certification or registration purposes. See also ***trade and environment***.

Istanbul Convention: the *Customs Convention on Temporary Admission* which entered into force on 27 November 1993. It makes up the legal framework for the temporary admission of goods into another state or a ***customs union***. It is administered by the ***World Customs Organisation***.

ITA: Information Technology Agreement, or formally the Ministerial Declaration on Trade in Information Technology Products, under which participants removed tariffs on IT products by 2000.

ITA II: Negotiations aimed at expanding the ***ITA's*** product coverage.

ITCB: see ***International Textiles and Clothing Bureau***.

ITC: the International Trade Centre, originally established by the old GATT. It is now operated jointly by the WTO and the United Nations, the latter acting through ***UNCTAD***. The ITC is a focal point for technical cooperation on trade promotion of developing countries.

Item-by-item tariff negotiations: tariff negotiations in which each item is

looked at separately. The method is more laborious than formula cuts, ***linear tariff reductions*** or ***sectoral trade negotiations***, but it may be only possible method for achieving results, especially if ***sensitive products*** are involved.

ITO: International Trade Organisation. The proposal for the establishment of an ITO was one of the outcomes of the 1944 Bretton Woods conference. The ITO was meant to cover a wide range of economic issues, including investment, restrictive business practices, commodity arrangements, rules for international trade and trade issues related to economic development. All these topics were subject to intensive negotiations at Havana in 1947 and 1948. A compromise of sorts was reached in the end, but at the expense of an agreement with fewer teeth than its early main proponents would have liked. The only surviving part was the set of trade rules and tariff commitments now known as the GATT which was based on the chapter on commercial policy, but which had been negotiated on a parallel track. The ITO accordingly was never established. See also ***Bretton Woods agreements***, ***Havana Charter***, ***Organisation for Trade Cooperation*** and ***WTO***.

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Jackson-Vanik amendment: an amendment to the 1974 United States *Trade Act* proposed by Senator Henry Jackson (D) and Representative Charles Vanik (D) and enacted as Section 402. It denies the granting of ***most-favoured-nation treatment*** (MFN) to non-market economies if they (a) deny their citizens the right to emigrate, (b) impose more than a nominal tax on emigration and (c) impose more than a nominal charge on citizens if they wish to emigrate. The President may waive the requirement for full compliance with Section 402 if he determines that this will substantially promote the freedom-of-emigration provisions, and if he has received assurances that the emigration practices of the country will lead substantially to the achievement of this objective. That waiver has been used several times. The Jackson-Vanik amendment was aimed originally at the practices of the USSR. Withdrawal of MFN means that the high tariff rates contained in the ***Smoot-Hawley Tariff Act*** (the *Tariff Act* of 1930) apply. These would make an exporter quite uncompetitive in the United States market. See also ***conditional most-favoured-nation treatment*** and ***normal trade relations***.

Japanese measures on leather: a case launched under the GATT in 1983 by the United States. The case was preceded by two earlier ones which, however, did not run the full course of the ***dispute settlement*** process. The first, initiated by the United States in 1978, ended in a bilateral understanding allocating increased ***import quotas*** for leather to the United States. The

second case, launched by Canada in 1979, was similarly settled amicably. By 1983 the United States had come to view that the understanding of 1978 was of little value in achieving larger exports of leather to Japan, and it launched another case. The facts were that Japan maintained ***import restrictions*** on bovine, equine, sheep, lamb, goat and kid leather. Importers had to obtain import licences. The Ministry of International Trade and Industry (MITI) allocated the global leather quota by way of two methods: (i) the "trader" quota formula based on import records available to selected firms which had a history of importing, and (ii) the "user" quota formula which gave quotas to selected end-users and/or firms that represented them. The licensing system applied only to wet-blue chrome and finished leather. Japan explained the historical, cultural and socio-economic background of the "Dowa problem". The Dowa are a national minority traditionally performing jobs considered less desirable. Japan noted that they were a product of its feudal society before the Meiji Reformation (1868). The people of Dowa districts had been, as an established social institution, classified as being outside and below the hierarchy of samurais, peasants, artisans and merchants. They also had been subjected to severe institutional discrimination in all aspects of social life. Since 1871, the Japanese Government had initiated various measures to emancipate them, although the elimination of poverty still had a long way to go. Likewise, Japan submitted, psychological discrimination in Japanese society at large still existed, though this was now reduced to a large extent. The Japanese tanning industry, traditionally an occupation of Dowa people, employed about 12,000 people in small, backward enterprises. Its low technological level made it uncompetitive. Japan claimed that if the import restrictions on leather were eliminated immediately, the industry would collapse with "unmeasurable social, regional-economic and political problems". In making its findings, the ***panel*** noted that the United States approach was based essentially on legal arguments, whereas Japan's case rested almost entirely on considerations resulting from the particular problems connected with the population group known as the Dowa people. The panel said that it could not take into account the special circumstances mentioned by Japan since its terms of reference were to examine the matter "in the light of the relevant GATT provisions". These provisions did not allow such a justification for import restrictions. Accordingly, it found that the Japanese import restrictions on leather contravened GATT Article XI (General Elimination of Quantitative Restrictions). The fact that the restrictions had existed for a long time could not alter this finding. The panel also considered that the trade figures made available to it showed that there had been ***nullification or impairment*** of the benefits the United States could expect. The panel recommended that Japan eliminate its quantitative restrictions on the imports of products listed in the United States complaint. See also ***Belgian family allowances*** for another case dealing with social issues.

JI: Joint Implementation. See ***Kyoto Protocol***.

Joint action: action taken by all the ***contracting parties*** (members) of the GATT concerning administration of the provisions of the Agreement or with a view to furthering its objectives. Joint action was necessary, for example, for the granting of a ***waiver***. In the official GATT documents the words "contracting parties" appear in capital letters when they refer to joint action taken by the parties.

Joint Group on Trade and Competition: a body established by the ***OECD*** in 1996 to consider options for achieving greater coherence between trade and competition policies, and for integrating competition principles more closely into the international trading system. See also ***trade and competition***.

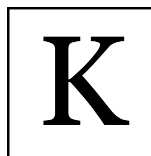
Joint Implementation: see ***Kyoto Protocol***.

Joint Trade Committee: a mechanism normally instituted under ***bilateral trade agreements*** for periodic meetings reviewing bilateral trade flows and issues arising from them. Meetings may be held at ministerial or officials level, and their location normally alternates between the two countries involved. See also ***mixed commission***.

Joint venture: a cooperative association between two or more firms or individuals to carry out a specific activity. Joint ventures may be dissolved when a task, such as the construction of a bridge or a research and development project, has been completed. In the case of a production facility, there may be agreement to dissolve the joint venture after a fixed number of years, usually along previously agreed guidelines. The main reasons for the formation of joint ventures include the pooling of financial, technical or intellectual resources, sharing risks or developing new markets. Sometimes, forming a joint venture with a local company is the only realistic way to enter a new market. See also ***ASEAN Industrial Cooperation Scheme***, ***intellectual property protection*** and ***transfer of technology***.

Jones Act: the United States *Merchant Marine Act* of 1920. Section 27 of the Act requires that all goods transported by water between United States ports must be carried in vessels built and registered in the United States, owned by United States citizens and fully crewed by United States citizens. See also ***cabotage***.

Juridical person: a term used in the ***GATS***. A legal entity, such as a corporation, trust, partnership, joint venture, sole proprietorship, association, etc., formed for the purpose of supplying ***services***.



Kaleidoscopic comparative advantage: a term suggested by Jagdish Bhagwati to describe situations of industries in which many countries concurrently have a fragile ***comparative advantage***. In other words, the

comparative advantage is kaleidoscopic. Slight changes in the domestic environment might in these circumstances bring about a shift of industries across countries as they seek to maintain their competitive edge. This then may result in ***footloose industries*** or ***screwdriver operations***. See also ***globalisation*** and ***delocalisation***.

Keiretsu* relationships:** a term denoting complex Japanese distribution systems and industrial conglomerate arrangements seen to make it difficult for newcomers to compete on price. Historically, *keiretsu* relationships appear to have been based on a desire by firms for continuity of supplies and orders. Today *keiretsu* relationships are seen by United States exporters in particular as major ***non-tariff measures or ***restrictive business practices***. Japanese commentators tend to argue that their power is overrated, and that the relationships generally are not strong enough to negate price signals. Some distinguish between horizontal *keiretsus* (arrangements between firms in several sectors) and vertical *keiretsus* (arrangements between firms at different production and distribution stages in the same sector). See also ***Market-Oriented Specific Sector talks*** and ***Structural Impediments Initiative***.

Kennedy Round: the sixth round of GATT ***multilateral trade negotiations***, held from 1963 to 1967. It was named after President John F Kennedy in recognition of his support for the reformulation of the United States trade agenda which resulted in the *Trade Expansion Act* of 1962. This Act gave the President the widest-ever negotiating authority. (See ***United States trade agreements legislation*** for a brief description of how this is done). As the ***Dillon Round*** went through the laborious process of ***item-by-item tariff negotiations***, it became clear, long before the Round ended, that a more comprehensive approach was needed to deal with the emerging challenges resulting from the formation of the ***European Economic Community*** (EEC) and ***EFTA***, as well as Europe's re-emergence as a significant international trader more generally. Japan's high economic growth rate portended the major role it would play later as an exporter, but the focal point of the Kennedy Round always was the United States-EEC relationship. Indeed, there was an influential American view that saw what became the Kennedy Round as the start of a transatlantic partnership that might ultimately lead to a transatlantic economic community. To an extent, this view was shared in Europe, but the process of European unification created its own stresses under which the Kennedy Round at times became a secondary focus for the EEC. An example of this was the French veto in January 1963, before the round had even started, on membership by the United Kingdom. Another was the internal crisis of 1965 which ended in the ***Luxembourg Compromise***. Preparations for the new round were immediately overshadowed by the ***Chicken War***, an early sign of the impact ***variable levies*** under the ***Common Agricultural Policy*** would eventually have. Some participants in the Round had been concerned that the convening of ***UNCTAD***, scheduled for 1964, would result in further

complications, but its impact on the actual negotiations was minimal. In May 1963 Ministers reached agreement on three negotiating objectives for the round: (a) measures for the expansion of trade of developing countries as a means of furthering their economic development, (b) reduction or elimination of tariffs and other barriers to trade, and (c) measures for access to markets for agricultural and other primary products. The working hypothesis for the tariff negotiations was a linear tariff cut of 50% with the smallest number of exceptions. A drawn-out argument developed about the trade effects a uniform linear cut would have on the dispersed rates (low and high tariffs quite far apart) of the United States as compared to the much more concentrated rates of the EEC which also tended to be in the lower half of United States tariff rates. The EEC accordingly argued for an evening-out or harmonisation of peaks and troughs through its ***écrêtement***, ***double écart*** and ***thirty : ten proposals***. Once negotiations had been joined, this lofty working hypothesis was soon undermined. The ***special-structure countries*** (Australia, Canada, New Zealand and South Africa), so called because their exports were dominated by raw materials and other primary commodities, negotiated their tariff reductions entirely through the item-by-item method. In the end, the result was an average 35% reduction in tariffs, except for textiles, chemicals, steel and other sensitive products; plus a 15% to 18% reduction in tariffs for agricultural and food products. In addition, the negotiations on chemicals led to a provisional agreement on the abolition of the ***American Selling Price*** (ASP). This was a method of valuing some chemicals used by the United States for the imposition of import duties which gave domestic manufacturers a much higher level of protection than the tariff schedule indicated. However, this part of the outcome was disallowed by Congress, and the American Selling Price was not abolished until Congress adopted the results of the ***Tokyo Round***. The results on agriculture overall were poor. The most notable achievement was agreement on a *Memorandum of Agreement on Basic Elements for the Negotiation of a World Grains Arrangement* which eventually was rolled into a new International Grains Arrangement. The EEC claimed that for it the main result of the negotiations on agriculture was that they "greatly helped to define its own common policy". The developing countries, who played a minor role throughout the negotiations in this Round, benefited nonetheless from substantial tariff cuts particularly in non-agricultural items of interest to them. Their main achievement at the time, however, was seen to be the adoption of ***Part IV of the GATT*** which absolved them from according ***reciprocity*** to developed countries in trade negotiations. In the view of many developing countries, this was a direct result of the call at UNCTAD I for a better trade deal for them. There has been argument ever since whether this symbolic gesture was a victory for them, or whether it ensured their exclusion in the future from meaningful participation in the ***multilateral trading system***. On the other hand, there was no doubt that the extension of the ***Long-Term Arrangement Regarding International Trade in Cotton Textiles***,

which later became the ***Multi-Fibre Arrangement***, for three years until 1970 led to the longer term impairment of export opportunities for developing countries. Another outcome of the Kennedy Round was the adoption of an Anti-dumping Code which gave more precise guidance on the implementation of Article VI of the GATT. In particular, it sought to ensure speedy and fair investigations, and it imposed limits on the retrospective application of anti-dumping duties. The Code, however, also ran into difficulties with the United States Congress which precluded it from operating as had been intended. The United States nevertheless claimed that it was complying fully with the new code. See also ***anti-dumping measures***.

Knowledge-based industry: an industry thought to rely more than others on the creation of new ideas and new expressions of ideas. Accordingly, knowledge-based industries rely heavily on ***intellectual property protection***.

Korean beef: three separate cases launched against the Republic of Korea by Australia, New Zealand and the United States in 1988 concerning its beef ***import restrictions***. The facts, common to all three cases, were that since Korea's accession to the GATT in 1967 it had maintained import restrictions for ***balance-of-payments*** reasons on a wide range of products, including beef. Korean imports of beef had risen rapidly since 1979, partly as the result of a tariff reduction that year from 25% to 20%, bound at the lower level. This led to pressures from Korean beef farmers for protection from the adverse effects of beef imports. In October 1984 Korea halted issuing tenders for commercial imports of beef into the general market, and in May 1985 imports of high-quality beef for the hotel market were also stopped. No further commercial imports of beef took place until August 1988 when the market was partly reopened. These actions had not been reported to the GATT Balance-of-Payments Committee. Beef imports were made under a domestic licensing mechanism, and they were subject to a certain base price level which applied both to wholesale auctions and direct sales. The base price was at first announced, but later it was assumed to be implicit under the conditions for these imports. At a meeting of the Balance-of-Payments Committee in December 1987 the prevailing view among participants, except Korea, was that Korea's current situation and the outlook for its balance of payments could no longer justify import restrictions under GATT Article XVIII:B (Governmental Assistance to Economic Development). This Article allows developing countries to institute and maintain import restrictions to conserve their foreign exchange and to promote their economic development. All three complainants argued that the Korean import restrictions on beef had been based solely on domestic supply and demand and the need for industry protection. The United States noted that Korean restrictions on the import of beef appeared to bear an inverse relationship to its balance-of-payments situation. Therefore, the restrictions had to be judged under the provisions of Article XI (General Elimination of Quantitative Restrictions). New Zealand argued that although Korea was entitled to maintain its tariff

on beef, it retained a web of additional restrictions that severely depressed the level of imports beyond what would be the case if there was a tariff-only regime. These restrictions were clearly contrary to Article XI:1. Australia, New Zealand and the United States also argued that the Korean import system acted as a price equalisation mechanism resulting in an excessive monopoly return which effectively increased protection beyond that available through the ***bound tariff rate***. The sole importer was in their view an authorised import monopoly in terms of GATT Article II:4 (Schedules of Concessions), and its price mark-up on imports was in contravention of that Article and in excess of the tariff bound at 20%. Article II:4 stipulates that import monopolies must not operate so as to afford protection in excess of the amount provided for in that country's tariff schedule. The United States also argued that the Korean imposition of ***import surcharges*** was inconsistent with Article II:1(b) which prohibits all import charges other than those set out in schedules of concessions. New Zealand considered that there had been a noticeable lack of ***transparency*** in the administration of Korean measures affecting beef imports, and that this violated Article X (Publication and Administration of Trade Regulations) of the GATT. Australia and the United States made subsidiary claims concerning the lack of transparency, and they questioned, as did New Zealand, the extent to which the import restrictions had been applied in a non-discriminatory manner. Each of the three separate cases was supported by third-country submissions from the other two complainants. The gist of the Korean response was that as long as it was permitted to maintain quantitative restrictions justified under Article XVIII:B, these had to be administered as laid down in Article XIII (Non-discriminatory Administration of Quantitative Restrictions). The regular consultations under Article XVIII:B in any case blocked a challenge of the GATT compatibility of its restrictions, and it supported its claim in this regard with detailed procedural argument. The ***panel*** considered that Korea maintained two sets of import restrictions on beef: (a) the measures taken in 1984 and 1985, subsequently relaxed, and (b) restrictions based on Article XVIII:B since 1967. It found that the first set of restrictions had been taken for reasons of protecting domestic suppliers, and they were therefore contrary to Article XI:1 which did not permit either import restrictions or import prohibitions. As far as Korea's defence of its import restrictions under Article XVIII:B was concerned, the panel noted that all the available information showed that Korea's balance-of-payments position continued to improve at a good pace, and that the current economic indicators for Korea were very favourable. It therefore found that there was a need for the prompt establishment of a timetable for the phasing-out of Korea's balance-of-payments restrictions on beef. Concerning the Korean import monopoly under the provisions of GATT Article II, the panel considered that it would be inappropriate to apply Articles II:1(b) and II:4 to this case in view of the existence of quantitative restrictions. The price premium would disappear once the restrictions had been removed. The panel did not consider further

whether Korea had applied the import restrictions in a discriminatory manner or whether there had been insufficient transparency since it had already found against the restrictions themselves. Its recommendations were that (a) that Korea eliminate or otherwise bring into conformity with the provisions of the GATT the import measures introduced in 1984-85 and amended in 1988, and (b) that Korea hold consultations with Australia, New Zealand and the United States to work out a timetable for the removal of import restrictions on beef justified since 1967 by the use of the GATT balance-of-payments provisions. See also ***balance-of-payments consultations***.

Kyoto Convention: *International Convention on the Simplification and Harmonisation of Customs Procedures*. Entered into force in 1974. It contains many annexes, each setting out procedures related to a particular area of customs administration. Each member decides which of these it will adhere to. Not all of the annexes have entered into force. The Convention also contains rules for the determination of origin for a product. It is administered by the ***World Customs Organisation***. In 1999 the Convention was revised to take account of developments in trade, transport and administrative techniques. See also ***Harmonised Commodity Description and Coding System***, ***Istanbul Convention*** and ***rules of origin***.

Kyoto Protocol: a protocol to the ***United Nations Framework Convention on Climate Change*** (UNFCC), adopted on 11 December 1997 in Kyoto. Its aim is to reduce greenhouse gas emissions by the ***Annex I countries*** to agreed targets in the commitment period (2008 to 2012). Several paths are available to countries to meet their obligations. First, they can reduce their actual emissions through domestic measures. Second, they can buy emission credits from countries that are below their targets through emissions trading. Third, a country can earn emission reduction credits through Joint Implementation (JI). It would do this through funding a project in another country which would result in lower emissions there. Fourth, the Clean Development Mechanism (CDM) allows developed countries to earn credits by financing projects resulting in reduced emissions in developing countries. Countries are not allowed to rely solely on emissions trading, Joint Implementation and the Clean Development Mechanism to achieve their emission targets. See also ***climate change***.

L

Labelling: see ***eco-labelling***, ***genetic labelling***, ***marks of origin*** and ***social labelling***.

Labour markets integration agreements: listed in the ***General Agreement on Trade in Services*** as subset of ***economic integration***

agreements. WTO members may join an agreement establishing full integration of the labour market between the parties if (a) citizens of the parties to the agreement do not have to obtain residency and work permits and (b) if the agreement is notified to the ***Council for Trade in Services***. Full integration of labour markets is described as citizens of the parties concerned having the right of free entry to the employment markets of the other parties. Integration should also cover measures such as conditions of pay, other conditions of employment and social benefits.

LAFTA: Latin-American Free Trade Association. An intergovernmental organisation created by the Treaty of Montevideo in February 1960, designed to establish gradually a ***free-trade area*** which would provide the basis for a Latin American Common Market. By 1980, only 14% of the trade of member countries was covered by the LAFTA rules. Following LAFTA's perceived inability to produce concrete results, ***ALADI*** (Latin-American Integration Association) was formed in that year.

LAIA: Latin American Integration Association. See ***ALADI*** (Asociación Latinoamericana de Integración.

Laissez-faire policies: economic policies based on minimum governmental intervention to allow the market to produce the best outcomes. See also ***invisible hand.***

Latin American Integration Association: see ***ALADI***.

Law of constant protection: a term proposed by Jagdish Bhagwati to mean that if ***protectionism*** is stopped in some form or other, it will arise in some other guise elsewhere.

Lay-out designs of integrated circuits: one of the forms of ***intellectual property*** enjoying protection under the ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. Protection is often afforded through a ***sui generis right***, a method applying in this case specifically to lay-out designs (or topography) of integrated circuits. It prohibits the unauthorised reproduction or distribution of such designs. ***Reverse engineering*** is allowed under the laws of many countries.

LCA: see ***life-cycle assessment***. A method of whether a good or service is environmentally friendly.

LDCs: see ***least-developed countries***.

League of Nations: the forerunner of the United Nations, established in 1919 as part of the Treaty of Versailles. The League’s main aims were collective security, arbitration of international disputes, reductions in armaments and open diplomacy. By the 1930s there were serious doubts about its efficacy, though it continued to have a legal existence until 1946 when it was formally abolished. The League had a work program on international trade, but the onset of the Great Depression in the late 1920s and the deteriorating international political situation eliminated any great enthusiasm to engage in joint action for the revival of international trade.

Learning-by-doing argument: a variation of the ***infant-industry argument***. It proposes that government protection of an industry is

warranted if the industry can in this way learn to be competitive. See also ***import substitution***.

Least developed countries: abbreviated either to LDC or, especially in older material, to LLDC. A group of 49 developing countries so designated by ***ECOSOC*** on the basis of the following indicators: per capita GNP, life expectancy at birth, per capita calorie supplies, combined primary and secondary enrolment ratio, adult literacy rate, share of manufacturing in GDP, share of employment in industry, per-capita electricity consumption, and their export concentration ratio. These indicators and the list of countries designated as LDCs are reviewed by ECOSOC every three years. The list currently includes Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Lao People's Democratic Republic, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Sudan, Togo, Tuvalu, Uganda, Tanzania, Vanuatu, Yemen and Zambia. Some of the ***WTO*** provisions recognise the special difficulties and needs of LDCs in several ways. First, they can avail themselves of ***Part IV of the GATT*** and the ***Enabling Clause*** which allow developed countries to take measures in their favour without expecting reciprocal treatment. In addition, the ministerial ***Decision in Favour of Least Developed Countries*** taken at Marrakesh in April 1994 allows them to undertake ***commitments*** and ***concessions*** to the extent consistent with their individual development, financial and trade needs. The decision also seeks a quick implementation of tariff and ***non-tariff measures*** of interest to LDCs and improvements to the ***GSP***. They will also receive increased technical assistance to enable them to expand their trade. Several of the agreements administered by the WTO contain provisions concerning LDCs. For example, the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** allows LDCs ten years before they have to apply its provisions. The ***GATS*** requires its members to take measures enabling LDCs to participate more actively in global ***services*** trade. ***UNCTAD*** publishes annually the the *Least-Developed Countries Report* which deals with key developmental issues facing LDCs, their short-term outlook and prospects for growth. See also ***everything but arms***, ***food security***, ***Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries*** and ***SNPA***.

Least Developed Countries Report: published annually by ***UNCTAD***. See ***Least developed countries***.

Leather: see ***Japanese measures on imports of leather***.

Leontief* Paradox:** see ***new trade theory.

Lerner's symmetry theorem: named after the economist Abba Lerner who demonstrated in 1936 that a tax on exports is the equivalent of a tax on

imports.

Less-advantaged countries: a term used by ***AITIC*** for a group of countries that traditionally have not been active in international trade negotiations. It includes the ***least developed countries***, some other developing countries and some ***economies in transition***.

Lesser-duty principle: the principle in the administration of ***anti-dumping measures*** that additional duties imposed on products found dumped should be less than the ***margin of dumping*** if the lesser duty is sufficient to eliminate the ***injury***.

Less than fair value: under United States anti-dumping laws, broadly a lower export price of a product than its value on the exporter's home market. If the export price is less than the domestic price, less than fair value is deemed to exist. The difference, the ***margin of dumping***, together with material ***injury***, if that has been established, then forms part of the assessment for possible ***anti-dumping measures***.

Lex posterior: (*Lat.* later law). A rule used in the interpretation of international treaties which holds that if a country becomes a party to two treaties which have conflicting provisions, the obligations it assumes in the later accession are the ones applicable.

Leutwiler Report: in late 1983, about one year after the inconclusive 1982 GATT Ministerial meeting which was seen by many as the low point in the GATT history, the Director-General of the GATT assembled a group of seven eminent people from business, government and academia, led by Dr Fritz Leutwiler, then chairman of the Swiss National Bank. The Group's task was to look at the state of the international trading system, the fundamental reasons for the difficulties it faced and to make proposals for action. The resulting report, *Trade Policies for a Better Future*, appeared in March 1985. Its fifteen recommendations influenced considerably the impetus for a new round of trade negotiations and the mandate for it. Most of them can be seen reflected in the ***Uruguay Round*** outcome, though not necessarily with the same degree of ambition. In summary, the recommendations were that (i) the making of ***trade policy*** should be brought into the open in each country, (ii) agricultural trade should be based on clearer and fairer rules, (iii) a timetable should be established to bring ***grey-area measures*** within GATT rules, (iv) trade in textiles and clothing should be fully subject to GATT rules, (v) rules on subsidies should be made more effective, (vi) the GATT codes on non-tariff distortions should be improved, (vii) the rules permitting ***free-trade areas*** and ***customs unions*** needed to be clarified and tightened up, (viii) there should be more international ***surveillance*** of trade policies and actions, (ix) emergency ***safeguard*** protection should be provided only in accordance with the rules, (x) greater emphasis should be placed on encouraging developing countries to take advantage of their competitive strength and to integrate them more fully into the trading system, (xi) the possibility of multilateral rules for ***trade in services*** should be explored, (xii) ***dispute settlement*** procedures and implementation of ***panel*** recommendations

should be improved, (xiii) a new round of GATT negotiations should be launched, (xiv) a permanent Ministerial-level body should be established to encourage prompt negotiations on problems, and (xv) efforts towards satisfactory resolution of the world debt problem, adequate flows of development finance, better international coordination of macroeconomic policies and greater consistency between trade and financial policies. Of the two recommendations (vii and xv) that received insufficient attention during the ***Uruguay Round***, the former is now under consideration in the WTO, and the latter would have been incapable of resolution solely within the mandate of the GATT. A permanent ministerial body remains to be established, but agreement on a ***WTO Ministerial Conference*** at least biennially goes part of the way.

Level playing field: a term used to describe ***fair trade***, with all adherents playing by the rules. There are differing views on what is meant by a level playing field. Some concede that the available trade rules do not favour one party over another in a strictly legal sense, but they are of the view that there is a tilted playing field, often said to consist of otherwise unidentified ***non-tariff measures***. Hence, in their view, some of the players will always face an inherent up-hill struggle if they agree to play by the rules. The level playing field has therefore been used increasingly by those who favour various forms of ***protection*** to suggest that for trade to be "fair", all distortions must be removed. If that cannot be done, as is obviously the case, then government intervention against imports is justified. Failing that, no further domestic ***trade liberalisation*** should be undertaken until the others have mended their way. As many commentators have pointed out, it is possible to have a level playing field within an economy because everyone plays by the same rules. It is rather more difficult to achieve it when the rules of many players are involved. The level-playing-field concept is so loaded with individual assumptions that it is of no use as an analytical concept.

Life cycle assessment: a way of ascertaining the environmental effects of a product, process or service over its entire life. This includes the ultimate disposal of the product. Alife cycle assessment covers the entirety of the resources consumed in the production of a good or a service, as well as the impact on the environment caused by the existence of these products. Sometimes, a life cycle assessment is also called a cradle-to-grave assessment. See also ***trade and environment***.

Like-Minded Group of Developing Countries: a group active in ***WTO*** negotiations. Its core members are Cuba, Dominican Republic, Egypt, Honduras, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Pakistan, Sri Lanka, Tanzania, Uganda and Zimbabwe.

Like product: this expression occurs in several of the agreements administered by the WTO, though for the most part it is undefined. It is one of the standards that can be used to examine whether discrimination against the imported product has occurred. In disputes concerning the meaning of “like products”, ***panels*** have been inclined to look at criteria such as

international usage and accepted customs classifications. The tendency has been, however, to equate "like" with "same". This approach has been formalised in the case of ***anti-dumping measures*** where action may only be taken if the industry producing the like product has suffered material ***injury***. Under the relevant WTO rules, the term "like product" means a product which is identical, i.e. alike in all respects to the product under consideration. If such a product is not available, another product may be used which, although not alike in all respects, has characteristics closely resembling those of the product under consideration. See ***Brazilian unroasted coffee*** and ***German imports of sardines*** for disputes based on the meaning of "like product".

Linear country: a term used particularly during the ***Kennedy Round*** for countries disposed to make ***linear tariff cuts***.

Linear tariff cuts: also known as formula approach. These are tariff cuts of equal magnitude, usually expressed in percentage points, across whole classes of products. They were first introduced formally into ***multilateral trade negotiations*** during the ***Kennedy Round*** (1963-67), but the EEC's initial offer in the ***Dillon Round*** (1960) also envisaged them. The main reason this method was not adopted before the Kennedy Round was the lack of United States negotiating authority for doing so. The United States rejected linear tariff cuts for the ***Uruguay Round***. See also ***Swiss formula*** which was used in the ***Tokyo Round*** tariff negotiations.

Lisbon Agreement: *Agreement for the Protection of Appellations of Origin and their International Registration*. Concluded in Lisbon in 1958 and revised in 1967. It provides for the protection of ***appellations of origin***. Such names are registered by ***WIPO*** upon request of the interested state. All members must protect the internationally registered name as long as it continues to be protected in the country of origin, except in the case where a member declares within one year that it cannot ensure the protection of a registered name. See also ***intellectual property***.

Living modified organism: defined in the ***Cartagena Protocol*** as any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology.

LLDC: see ***least developed countries***.

Loan rate: part of the agricultural support framework administered by the United States ***Commodity Credit Corporation***. The loan rate is the price at which the Corporation is prepared to purchase crops against which it has issued loans. It therefore acts a ***floor price***.

Local content requirements: governmental measures setting out certain minimum levels of locally made components to be incorporated in goods or services produced domestically. Minimum levels of local content may be set in the form of weight, volume, value, etc. The aims of such programs include, among others, encouraging the development of local industry, finding an assured market for an uncompetitive industry and the promotion of regional development. All local content schemes entail a degree of ***protection*** for the

suppliers of the component in question and therefore a higher cost for consumers. This is self-evident, since competitive industries have no need to search for captive markets. However, governments may decide that these costs are outweighed by the prospective benefits of the program. GATT Article III:5 (National Treatment on Internal Taxation and Regulation) prohibits internal quantitative regulations relating to the mixture, processing or use of products in specified amounts or the mandatory use of domestic products. See also ***Agreement on Trade-Related Investment Measures*** and ***FIRA panel***.

Local content rules in broadcasting: such rules generally require radio and television broadcasters to use at least defined minimum amounts of locally produced materials during certain time slots. The definition of a local product may be based on any combination of the nature of the content of the material, the nationality of the production house, the producer, director and the main actors, funding sources, etc. See also ***audiovisual services***, ***audiovisual services in the Uruguay Round***, ***broadcasting directive***, ***cultural identity*** and ***trade and culture***.

Locomotive effect: the impetus given by economic growth in large economies to economic development in smaller economies.

Lomé Convention: the umbrella agreement, first signed in 1975 as the successor to the ***Yaoundé Convention*** and last renegotiated in 1990 for ten years (Lomé-IV), for a type of association by 71 African, Caribbean and Pacific (ACP) states with the ***European Economic Community*** (EEC), now the ***European Community***. Associated countries receive tariff-free access to the EEC for nearly all products, and significant aid flows. They also had access to two ***export earnings guarantee schemes*** offering concessional loans if their export earnings suffer a serious and sudden decline. These were ***STABEX*** and ***SYSMIN***. The EEC did not have tariff-free access to the ***ACP states***. The Lomé Convention was superseded on 1 March 2000 by the ***ACP-EC Partnership Agreement***.

London Guidelines for the Exchange of Information on Chemicals in International Trade: adopted on 25 May 1989 under UNEP (United Nations Environment Programme) auspices. The guidelines aim to enhance the sound management of chemicals through the exchange of scientific, technical, economic and legal information, including the use of the ***prior-informed-consent principle***. There are special provisions for banned or severely restricted chemicals in international trade. See also ***trade and environment***.

Long-Term Arrangement Regarding International Trade in Cotton Textiles: LTA. An arrangement in the GATT for ***managed trade*** in cotton textiles and clothing which entered into force in 1962 for five years as the successor the ***Short-Term Arrangement Regarding International Trade in Textiles***. It was extended for another three years as part of the ***Kennedy Round*** outcome. After a further extension in 1970, the arrangement was replaced in 1973 by the ***Multi-Fibre Arrangement***. The

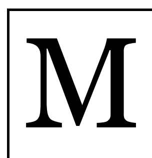
membership of the LTA comprised the more important importers and exporters of textiles and clothing. It allowed importing members to ask exporting members to restrict their trade. Importing members could also impose ***quantitative restrictions*** irrespective of the general elimination of such restrictions required by Article XI of the GATT. See also ***Agreement on Textiles and Clothing*** which will bring trade in textiles and clothing again under the normal multilateral trade rules.

Low-income economies: a group of 63 economies so classified by the ***IBRD*** and listed in the ***World Development Report***. In 2000 these economies had a per-capita GNI (gross national income) of $755 or less. The group includes many of the ***least-developed countries***, particularly at the lower end of the income scale, but China and India are also part of it. See also ***high-income economies***, ***lower-middle-income economies*** and ***upper-middle-income economies***.

Lower-middle-income economies: a group of 54 countries classified as such by the ***IBRD*** and listed in the ***World Development Report***. In 2000 these economies had a per-capita GNI (gross national income) ranging from $756 to $2,995. See also ***high-income economies***, ***low-income economies*** and ***upper-middle-income economies***.

Lusophone countries: denotes the countries that have Portuguese as their official language. They are Angola, Brazil, Cape Verde, East Timor, Guinea-Bissau, Mozambique, Portugal, and Sao Tome and Principe.

Luxembourg Compromise: the resolution in January 1966 of a crisis within the ***European Economic Community*** which had held up negotiations in the ***Kennedy Round*** for about six months. It had as its immediate cause the failure of France and Germany to agree on how the ***Common Agricultural Policy*** should be financed. The larger issue, however, appears to have been France's intention to seek a change in the envisaged transition from unanimous decisions to majority voting which would have undermined its ability to use its veto power. The compromise consisted of agreement to disagree on the voting question and to agree that agricultural pricing would be looked at again in the context of the Kennedy Round agricultural negotiations.



Made-to-measure tariffs: describes ***tariffs*** that are just high enough to allow domestic producers to cover their costs plus normal profits. Because industries have differing cost structures, this results in a complicated tariff structure as each receives tariff support apparently made to measure. Some call them tailor-made tariffs.

Madrid Agreement Concerning the International Registration of

Marks: concluded on 14 April 1891 and last revised in Stockholm on 14 July 1967. The Agreement was supplemented in 1989 by the *Protocol Relating the Madrid Agreement* which entered into force on 1 April 1996. Together they constitute the Madrid Union. The Agreement and the Protocol are separate treaties, and membership of one is possible independent of the other. Under the Agreement, nationals of member countries may secure international protection for their marks applicable to goods and services registered in the country of origin by filing them with the ***International Bureau of Intellectual Property*** of ***WIPO***. This saves them the expense and the effort of registering in each market separately. The Protocol aims to make this system acceptable to more countries.

Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods: concluded in Madrid on 14 April 1891 and revised several times, lastly in 1967. It is administered by ***WIPO***. The Agreement provides for the cases and the manner in which seizure may be requested and effected for goods bearing a false or deceptive indication of source. It prohibits the use of all publicity indications capable of deceiving the public as to the source of the goods. Each member state may decide what appellations do not come within the scope of the Agreement because of their generic character. See also ***appellations of origin***, ***geographical indications*** and ***Lisbon Agreement***.

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

Maghreb states: this often refers to Algeria, Morocco and Tunisia which in 1976 concluded cooperation agreements with the ***European Economic Community*** (EEC) under which they enjoy preferential non-reciprocal market access to the EEC. See also ***Arab Maghreb Union***.

Mailbox: refers to a requirement of the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** applying to WTO members which do not yet provide product patent production for pharmaceuticals and for agricultural chemicals. Since 1 January 1995, when the WTO agreements entered into force, these countries have to establish a means by which applications of patents for these products can be filed. They must also put in place a system for granting ***exclusive marketing rights*** for the products whose patent applications have been filed.

Malevolent mercantilism: see ***mercantilism***.

Managed liberalism: used by some to describe the practice by existing members of ***free-trade agreements*** of exempting particular sectors from the operations of the agreement, particularly when new members accede to it. See also ***block exemptions***.

Managed trade: a type of international trade in which some sectors or products are not traded according to the demands of market forces. Means for this include ***voluntary restraint arrangements***, ***orderly marketing arrangements***, ***quantitative restrictions*** and other ***non-tariff measures***. The aim of managed trade in these cases always is to

protect domestic industry for one reason or another. More modern versions of managed trade seek not to restrict access, but to increase exports through numerical targets, usually at the expense of third-country exporters. Some commentators also consider trade between units of multinational enterprises as managed trade. See also ***fair trade***, ***grey-area measures***, ***Multi-Fibre Arrangement*** and ***voluntary import expansion***.

Managed trade liberalisation: see ***managed liberalism***.

Mandatory but not compulsory: a description of the status of ***retaliatory action*** under ***Super 301***, used during congressional hearings in 1988 on the ***United States Omnibus Trade and Competitiveness Act***. It made sense to those involved.

Manila Action Plan for APEC: the work program adopted at the November 1996 ***APEC*** leaders meeting in Manila. It integrates the ***APEC individual action plans***, ***collective action*** plans and the work programs prepared by the various bodies established within APEC.

Mano River Union: a preferential trade area established in 1973. It consists of Guinea, Liberia and Sierra Leone. See also ***ECOWAS***.

Mansholt proposals: two proposals named after Sicco Mansholt, ***European Economic Community*** Commissioner for Agriculture during the ***Kennedy Round***. The first was concerned with establishing a common EEC pricing regime for cereals. Member states whose prices were lowered through the proposed harmonisation were to be compensated by direct EEC payments. The second proposal formed the outline of the EEC offer on agriculture for the Round. In essence, it offered to bind the ***montant de soutien*** (level of internal support) for three years on the basis of reciprocity. The EEC was able to reach internal agreement on the first proposal, but its negotiating partners in the Round remained unconvinced of the merits of the second. See also ***agriculture and the GATT***.

Manufacturing Clause*:** a dispute brought before the GATT Council in 1983 by the ***European Communities. The facts were that Section 601 (the *Manufacturing Clause*) of United States Public Law 97-215 of 1982 prohibited, with certain exceptions, the import into or public distribution of a work under ***copyright*** consisting mainly of non-dramatic material unless the material had been manufactured in the United States or Canada. The definition of "manufacture" included typesetting, printing and binding. The *Manufacturing Clause* had originally been enacted in 1891 and amended several times. The 1976 amendment included a ***sunset clause*** applicable before 1 July 1982. The Act expired and was re-enacted on 13 July 1982 with 1986 as the new expiry date. The main interest in this case was in whether the amended Act was covered by the ***Protocol of Provisional Accession***. This protocol allowed GATT members to retain legislation not fully consistent with GATT rules if it was in force on 30 October 1947. The ***panel*** held that legislative changes to the *Manufacturing Clause* did not necessarily disqualify it as "existing legislation". It considered, however, that the insertion of the sunset clause in the 1976 Act constituted a policy change

representing a move towards greater GATT conformity. The re-enactment in 1982 postponing the expiry date was a reversal of the move towards greater conformity and therefore an increase in the degree of inconsistency with the GATT. The panel accordingly found in favour of the European Communities on this point.

Maquiladora* industries:** Mexican production facilities engaged in processing or secondary assembly of imported components for re-export, primarily to the United States. The *maquiladora* program was created in the late 1960s by Mexico to alleviate economic and social problems. Materials could be imported free of tariffs provided they were re-exported. In the earlier years, assembly work tended to be confined to simpler tasks, but there is now a second generation of more sophisticated and capital-intensive operations. The advent of ***NAFTA has begun to change the *maquiladora* program substantially since all tariffs between the United States and Mexico will be eliminated by 2008.

Marginalisation: favourd by ***UNCTAD*** to describe what it considers a complex phenomenon existing on two levels. First, it can be seen as a social condition referring to disadvantaged groups within individual societies. Second, it can be an economic phenomenon affecting entire countries and jeopardising their economic and development prospects. Countries affected in this way may find it difficult to reap the benefits of increasing ***integration***. Marginalisation is often regarded as a process occurring alongside ***globalisation***. Inappropriate economic policies will almost certainly hasten its advent.

Margin of dumping: a key concept in ***dumping*** enquiries which determines the extent to which ***anti-dumping measures*** may be imposed. The margin of dumping is the difference between the assessment by the relevant authority of what should be considered ***normal value*** and the export price of the product exported from one country to another. Procedures to be followed in ascertaining the margin of dumping are set out in the WTO ***Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade***. The authorities may only impose anti-dumping measures to the extent necessary to cover the margin of dumping. See also ***de minimis dumping margins*** and ***lesser-duty principle***.

Margin of preference: the difference between the duty that would be paid under a system of preferences in a free-trade arrangement of some sort and the duty payable on a ***most-favoured nation*** (MFN) basis.

Marine Mammal Protection Act: see ***Tuna I*** and ***Tuna II***.

Maritime transport services: in 1995 the ***Council for Trade in Services*** established a Negotiating Group on Maritime Transport Services (NGMTS) with the aim of increasing commitments under the ***GATS*** in international shipping, auxiliary services and access to, and use of, ports. The NGMTS was intended to conclude its negotiations by 30 June 1996, but it proved not possible to arrive at an agreed result. Negotiations on maritime transport services resumed in 2000 as part of the new round of services negotiations

mandated by Article XIX of the GATS. See also ***cabotage***, ***Jones Act*** and ***progressive liberalisation***.

Market access: one of the basic concepts in international trade. It describes the extent to which a good or a service can compete with locally-made products in another market. In the ***WTO*** framework it as a legalistic term outlining the government-imposed conditions under which a product may enter a country under non-discriminatory conditions. Market access in the WTO sense is expressed through border measures, i.e. ***tariffs*** and ***non-tariff measures***, in the case of goods, and regulations inside the market in the case of ***services***. Traditionally, multilateral ***trade policy*** has sought to make market access predictable and, preferably, to make it more liberal. This is done through the reduction of tariffs and "binding" them at the lower level. A ***binding*** is a contractual obligation not to raise the tariff above the levels specified in the ***schedules of concessions***. The removal of market access impediments in the form of non-tariff measures is more complex since some of them may escape precise legal definition. The rapid growth of ***trade in services*** and the process of ***globalisation*** have drawn attention to market access impediments inside the border. Of the WTO agreements, the ***GATS*** has gone furthest in seeking to deal with trade-restrictive regulatory measures, but other instruments, such as the ***Agreement on Subsidies and Countervailing Measures*** have also extended the reach of trade rules into the domestic domain. The coverage of these rules is, however, patchy, and there are calls for the insertion of ***competition policy*** into the WTO system. In competition frameworks, market access is described as the ability to compete effectively in a market. Its aim is the regulation or removal of anti-competitive private ***conduct*** and ***regulation***. A merging of these two market access concepts, if it turned out to be feasible, could make a powerful contribution to the furthering of the ***international contestability of markets***. Access for ***foreign direct investment*** can also influence market access. One school of thought holds that market access is too limiting a concept, and that it should be replaced by the more embracing concept of ***market presence***. See also ***equality of competitive opportunity***, ***market access for agriculture***, ***market access for services***, ***national treatment*** and ***most-favoured-nation treatment***.

Market access for agriculture: an omnibus term covering the ***tariffs*** and ***tariff quotas*** negotiated during the ***Uruguay Round*** negotiations on agriculture. These negotiations comprised the three key elements of market access, ***domestic support*** and ***export subsidies***, all of which had to be accepted as a package. The Uruguay Round restricted the expansion of trade-distorting measures and maintained or opened new access to markets for agricultural products.

Market access for services: the ***GATS*** promotes the goal of open and non-discriminatory market access for services and their suppliers. It does not define market access, but in Article XVI it lists six types of measures which must not be maintained or adopted. Broadly, they are (i) limitations on the

number of service suppliers, (ii) limitations on the total value of service transactions, (iii) limitations on the total number of service operations, (iv) limitations on the number of persons that may be employed, (v) entity restrictions or joint-venture requirements and (vi) limitations on the level of foreign equity. ***Economics needs tests*** governing market access are to be eliminated.

Market disruption: one of the basic justifications for the imposition of ***safeguards*** measures generally. Such situations are said to occur when an increasing flow of imports puts serious strain on the ability of domestic producers to stay in business. In the textile trade, market disruption emerged as a key concept in the ***Long-Term Arrangement Regarding International Trade in Cotton Textiles*** where it referred to any sudden large flow of very low-priced imports from one or more trading partners. This concept was carried forward into the ***Multi-Fibre Arrangement***. See also ***Transitional Product-Specific Safeguard Mechanism***.

Market dominance: the rationale in many countries for creating the need for ***competition policy***. Market dominance is the ability of a firm to influence the behaviour of other firms, either upstream or downstream. In most cases, competition policy accepts the existence of market dominance, but is concerned with eliminating its abuse. See also ***antitrust laws*** and ***market power***.

Market economy: an economy in which the price mechanism determines what is produced and traded, though too often price signals are distorted by ***subsidies*** and other types of government intervention. See also ***centrally-planned economies***.

Market-expansion dumping: see ***dumping***.

Market failure: an economist's term for imperfectly functioning markets. It does not mean that the market has collapsed. Market failure can occur when participants in the market are insufficiently informed, when there are few buyers or few sellers (***monopoly*** or ***monopsony*** conditions) or when the costs and benefits of producing a product are of relevance to some market participants only.

Marketing boards: private or public bodies sometimes established by producer countries to promote, market and export agricultural commodities. Their functions may include the funding of research for more efficient production and storage, processing and identifying new uses. Marketing boards sometimes have a statutory monopoly on exports. Their administration is often funded through levies on producers. See also ***single-desk selling*** and ***state trading***.

Market-led integration: regional economic integration occurring through or promoted by business activities. This may happen without an intergovernmental framework for integration. See also ***policy-led integration***.

Market-opening initiatives: a term used especially by the United States to describe its activities aimed at eliminating alleged persistent trade barriers

against its exports. Few others have the economic power to make such initiatives a success. Typical examples are the ***Market-Oriented Sector-Specific talks*** of 1985 and the ***Structural Impediments Initiative*** of 1989, both directed against Japan. Market-opening initiatives are often managed under ***Section 301***.

Market-Oriented Sector-Specific talks: the MOSS talks. A 1985 United States initiative to open up the Japanese market for forest products, pharmaceuticals and medical equipment, electronics, telecommunications equipment, auto parts and transportation machinery. It achieved some success in liberalising the Japanese regulatory policies on telecommunications, as well as tariff reductions on some 1,800 items, but its results were considered a disappointment on the whole. The Japanese declaration that United States access to Japan should be free, with any restrictions as exceptions, was not sufficient for a more positive assessment. See also ***Structural Impediments Initiative*** and ***United States-Japan Framework for a New Economic Partnership***.

Market power: the fundamental assumption underlying ***antitrust laws***. It is based on the view that firms may have the ability to increase their prices without suffering a decrease in their sales. Antitrust laws are aimed at ensuring the existence of price competition in the market. See also ***competition policy*** and ***market dominance***.

Market presence: a term thought to reflect better than ***market access*** the fact that firms may need to establish some kind of operation in the importing country if they are to succeed. Market presence includes the notion that firms may wish to invest, and that they need adequate opportunities to compete. See also ***commercial presence*** and ***right of establishment***.

Market-seeking investment: a term used for ***foreign direct investment*** undertaken with the dominant aim of supplying one or more markets. See also ***tariff-jumping***.

Market-sharing arrangements: schemes supported or instituted by governments to ensure that the share of local industry in a given activity does not fall below a certain level. They can apply to goods and services. In services, two important examples are the ***bilateral air services agreements*** and the UNCTAD ***Convention on a Code of Conduct for Liner Conferences***. There may be strong competition within each of the defined shares. ***Voluntary restraint arrangements*** are also a form of market-sharing.

Market transparency: the extent to which participants in a market are able to assess, on the basis of the information available to them, how the market is likely to behave. The information necessary to enable a good assessment is to a large extent statistical, including data on production, sales and pricing. Advance notice of major investment proposals may also be desirable. Many ***international commodity agreements*** have market transparency as their main aim. See also ***administrative international commodity agreements***.

Marks of origin: a mark on a product which signifies the country of its origin, usually beginning with "Made in . . ." or "Product of . . .". See also ***certificate of origin*** and ***rules of origin***.

Marrakesh Agreement Establishing the World Trade Organisation: this Agreement, sometimes known as the WTO Agreement, was adopted on 15 April 1994 at the Marrakesh Ministerial meeting. It established the ***World Trade Organisation***. It also sets out, in four annexes, the multilateral and plurilateral agreements under its jurisdiction. The Agreement entered into force on 1 January 1995. Annex 1 contains the following multilateral agreements: ***General Agreement on Tariffs and Trade 1994***, ***Agreement on Agriculture***, ***Agreement on the Application of Sanitary and Phytosanitary Measures***, ***Agreement on Textiles and Clothing***, ***Agreement on Technical Barriers to Trade***, ***Agreement on Trade-Related Investment Measures***, ***Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade***, ***Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade*** *[Customs Valuation]*, ***Agreement on Preshipment Inspection***, ***Agreement on Rules of Origin***, ***Agreement on Import Licensing Procedures***, ***Agreement on Subsidies and Countervailing Measures*** and the ***Agreement on Safeguards***. Annex 2 consists of the ***General Agreement on Trade in Services***. Annex 3 is the ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. Annex 4 consists of the ***Understanding on Dispute Settlement***, ***Trade Policy Review Mechanism*** and the ***WTO plurilateral trade agreements***. Appendix 1 to this Dictionary contains an outline of the provisions of the Marrakesh Agreement.

Marshall Plan: a plan for the post-war economic rehabilitation of Europe first proposed by George C. Marshall, then United States Secretary of State, in a speech at Harvard University on 5 June 1947. It was put into effect on 3 April 1948 when President Truman signed the *Foreign Assistance Act*. The United States made available an estimated $13,000 million between 1948 and 1952 for this purpose. The Marshall Plan was administered through ***Organisation for European Economic Cooperation*** (OEEC), the predecessor of the ***OECD***. Apart from its direct contribution to the reconstruction of the participating economies, the Plan also provided the impetus for the later European economic integration through the ***European Economic Community*** and ***EFTA***.

Mashreq countries: Egypt, Jordan, Lebanon and Syria.

Material injury: see ***injury***.

Material transfer agreement: the legal instrument used to protect the transfer of genetic material from a provider/user to another user. Such an agreement is normally considered subject to ***trade secrets*** law.

Maximum-minimum tariff: a ***tariff schedule*** that gives for some or all tariff items the maximum and the minimum rate the customs authorities may apply to imported products. Such tariffs usually were developed

autonomously by national legislatures. The intention was to reward those countries perceived as having relatively open markets with the lower rates and to impose the higher rates on countries considered relatively closed. The emergence of general ***most-favoured-nation treatment*** has ruled out its use in this way among WTO members, though it would still be legal in the conduct of their trade relations with non-members. See also ***conventional tariff*** and ***negative reciprocity***.

Measure: normally any law, rule, regulation, policy, practice or action carried out by government or on behalf of a government.

Mediation: now in most cases indistinguishable from ***good offices***. It used to have the meaning of direct negotiations between the parties under the guidance of a mediator. The WTO ***Understanding on Rules and Procedures Governing the Settlement of Disputes*** allows the parties accept mediation, either by a third party or the WTO Director-General.

Mediterranean Agreements: these are ***preferential trade arrangements*** between the ***European Community*** and mediterranean countries other than Turkey, Cyprus and Malta. The Community divides them into old-generation and new-generation agreements. The former, concluded in the 1970s, give the partner country preferential non-reciprocal access to the Community markets. The latter, negotiated in the 1990s, provide for free trade between the partners. See also ***Association Agreements***, ***Euro-Mediterranean Economic Area*** and ***Europe Agreements***.

Melanesian Spearhead Group Trade Agreement: a ***preferential trade arrangement*** concluded in 1999 between Papua New Guinea, Solomon Islands and Vanuatu. The agreement does not establish a timetable for the elimination of ***tariffs*** or the removal of trade restrictions.

Members: WTO governments (first letter capitalised, in WTO style).

Mercado Común del Sur: see ***Mercosur***.

Mercantilism: a 17th-century set of views, still much alive, which holds that the aim of international trade should be the accumulation of an increased share of global wealth in the form of bullion. In the modern world the aim is to accumulate foreign exchange. Mercantilism always seeks to maximise exports and minimise imports. Lars Magnusson points out in *Mercantilism : the shaping of an economic language* that mercantilism in its traditional form was not a well-structured doctrine containing principles to describe economic behaviour or to prescribe policy measures. Rather, it was characterised by a strong emphasis on the means to achieve national wealth and power. Douglas Irwin notes in *Against the Tide : an intellectual history of free trade* that virtually all mercantilists would have agreed with the following proposition: exports of manufactures were beneficial and exports of raw materials (for use by foreign manufacturers abroad) were harmful; imports of raw materials were advantageous and imports of manufactured goods were damaging. This proposition sounds quite familiar to the contemporary policy maker. Most mercantilists also were in favour of expanding trade to promote economic development. A. W. Coats

distinguishes in *Mercantilism : Economic Ideas, History, Policy* between three levels of mercantilist ideas: (a) the ultimate ends or objectives of economic policy, e.g. the promotion of the wealth, power and security of the state, (b) the intermediate ends, e.g. adequate supply of precious metals, stable exchange rate, favourable balance of trade, protection of home industry, etc., and (c) the means to achieve the intermediate ends, e.g. bounties on exports, duties and prohibitions on imports of finished goods, prohibitions on the export of precious metals, etc. Robert Gilpin distinguishes in his *Political Economy of International Relations* between benign mercantilism (aimed at protecting the national economic interest as the minimum required for the security of the state) and malevolent mercantilism (aimed at imperialist expansion and national aggrandisement). Adherents of mercantilism implicitly assume that global wealth is fixed. They therefore portray trade as a zero-sum activity in which one country can only prosper at the expense of another. Mercantilism is therefore a form of economic nationalism. The massive growth of world trade and wealth over the past two hundred years or more demonstrates that trade is, in fact, a positive-sum activity. It also shows that all can prosper through efficient specialisation. See also ***neo-mercantilism***.

Merchandise trade: the import and export of physical goods, i.e. raw materials, semi-manufactures and manufactures. See also ***trade in services***.

Mercosur (or **Mercosul):** Southern Common Market. Currently a ***customs union*** covering trade in goods except sugar and automobiles. Mercosur objectives include the free transit of all goods, services and the factors of production, and the lifting of non-tariff restrictions. It was established on 29 November 1991 through the Treaty of Asunción and amended on 17 December 1994 through the *Protocol of Ouro Preto* which covers mainly institutional issues. It includes Argentina, Brazil, Paraguay and Uruguay. Chile signed an association agreement on 1 October 1996. Bolivia did so on 1 March 1997. Membership is open to ***ALADI*** members. There are also plans to harmonise regulations on ***intellectual property rights*** within the area, and to have mutual recognition of university degrees. The Mercosur secretariat is located in Montevideo. *Mercosul* is the name of the agreement in the Portuguese language.

Merger Treaty: a treaty concluded in 1965 which which created a single Commission of the ***European Communities*** which replace the bodies administering the European Atomic Energy Community, the ***European Coal and Steel Community*** and the ***European Economic Community***.

METI: the Japanese Ministry of Economy, Trade and Industry. Until 6 January 2001 it was known as MITI (Ministry of International Trade and Industry). Many see the *dirigiste* industrial and trade policies administered by MITI as a major reason for Japan's post-war economic success. Others have tried to emulate MITI, but without much success. METI itself has now become a

market-oriented ministry.

MFA: the ***Multi-Fibre Arrangement*** under which countries whose markets are disrupted by increased imports of textiles and clothing were able to negotiate quota restrictions.

MFN: Most-favoured-nation treatment (GATT Article I, GATS Article II and TRIPS Article IV), the principle of not discriminating between one's trading partners.

MFN exemptions: under the GATS, permission granted to a member country not to apply ***most-favoured-nation treatment*** in a given sector. In most cases, these are necessary because of pre-existing treaty obligations, such as membership of a ***market-sharing agreement***, a preferential arrangement or a cooperation agreement. MFN exemptions are for a maximum of 10 years, and they have to be reviewed after 5 years. Many WTO members took out MFN exemptions when the GATS entered into force. Others have since been granted exemptions upon accession. It is possible for existing members to take out new MFN exemptions, but this can only be done with the agreement of 75% of the WTO membership at a ***WTO ministerial conference***. See also ***waiver***.

Miami Summit: see ***FTAA***.

Midrand Declaration: a non-binding statement adopted at ***UNCTAD*** IX (May 1996) which sets out broadly UNCTAD's task for the next for the next four years. Its main themes are the impact of globalisation and liberalisation, partnerships for development through cooperation between developed and developing countries, the focal points for UNCTAD's future work, partnerships involving the private sector and institutional reform of UNCTAD.

Millennium Round: a name suggested in 1997 by Sir Leon Brittan, then Vice-President of the ***European Commission***, for the new round of ***multilateral trade negotiations*** that he expected would get under way in about 2000 or 2001. The name did not take on. See also ***Seattle ministerial conference*** and ***Doha ministerial conference***.

Minilateralism: a preference for conducting ***trade policy*** in the company of a few countries. No exact definition exists for "minilateral". It definitely describes a relationship that is more than bilateral, but less than plurilateral which, of course, is equally inexact. The ***Quadrilaterals***, however, would fit the bill well. See also ***creative minilateralism*** and ***plurilateralism***.

Minimum access tariff quotas: a mechanism giving a minimum level of access opportunities for agricultural products where ***non-tariff measures*** have been converted into tariffs. The ***Uruguay Round*** negotiations led to a formula whereby the level of access to be opened for a certain product was based on the import/consumption ratio during the 1986-88 ***base period***. In countries where imports were less than 3% of consumption during the base period, access was to be increased immediately to 3% and expanded to 5% by the end of the Uruguay Round implementation period for agriculture commitments. See also ***Agreement on Agriculture***, ***current access***

tariff quotas and ***tariffication***.

Minimum customs values: the arbitrary allocation by customs authorities of a value to an imported good, usually above its market value. See ***customs valuation***.

Minimum labour standards: see ***core labour standards***.

Minimum standard of treatment: Article 1105 of ***NAFTA*** (minimum standard of treatment) requires each party to accord to investments of investors of another party treatment in accordance with international law, including fair and equitable treatment and full protection and security. This provision has caused considerable comment and analysis. Views on its exact meaning are still evolving. A recent judgement in a NAFTA dispute illustrates the issue. The judge in *The United Mexican States v. Metalclad Corporation* held that article 1105 was framed in absolute terms, "intended to establish a minimum standard so that a party may not treat investments of another investor worse than this standard irrespective of the manner in which the Party treats other investors and their investments". He quoted with approval the tribunal's view on 13 January 2000 in *S. D Myers, Inc. v. Government of Canada* (another NAFTA case) that the "minimum standard" was a floor below which treatment of foreign investors must not fall, even if a government were not acting in a discriminatory manner. He noted that the introductory phrase to Article 1105 referred to "treatment in accordance with international law". Hence, in order to qualify as a breach of Article 1005, the treatment in question must fail to accord with international law. So the judge. The significance therefore of the "minimum stnadard" is that it establishes an absolute standard for treatment of investors, in contrast to the relative standards implied by ***most-favoured-nation treatment*** non-discrimination between foreign investors) and ***national treatment*** (non-discrmination between foreign and domestic investors). Neither of these two standards prescribes how well a party must treat foreign investors, except in terms of its own practices.

Mini-trading area: used by some to describe a ***free-trade area***, but for others it is a ***growth triangle***. The context will make clear what is meant.

Mirror-image reciprocity: the expectation that trade benefits offered to another country will be matched exactly. See also ***reciprocity*** and ***reciprocity at the margin***.

MITI: Ministry of International Trade and Industry. See ***METI***.

Mixed Commission: usually a body established under a ***bilateral trade agreement*** which consists of representatives of both parties. The task of a mixed commission is to review periodically the operation of the agreement. See also ***Joint Trade Committee***.

Mixed credits: the provision by developed donor countries to developing countries of credits partly on commercial terms and partly at subsidised interest rates. The aim of such credits usually is to fund projects capable of making an important contribution to the economic development of the recipient country. The assumption is that these projects would not proceed if

they had to rely entirely on commercial funding. See also ***official development assistance*** and ***trade and aid***.

Mixed export cartel: see ***cartel***.

Mixed tariff: see ***compound tariff***.

Mixed trade policies: the concurrent application of the mix deemed most appropriate of trade policies having different immediate aims, though they all are meant to expand a given country's exports. These might be (a) unilateral policies to improve the competitiveness of domestic industries through market-opening measures, (b) stronger emphasis on ***reciprocity*** in market access to other countries, accompanied by market-opening initiatives, and (c) the use of ***contingent protection*** (anti-dumping, countervailing and safeguard measures) and, sometimes, other, less transparent measures to protect domestic producers.

Mixing requirements: see ***local content requirements*** and ***performance requirements***.

Modalities: ways or forms of organising work in the ***WTO***, including trade negotiations.

Modes of services delivery: during the ***Uruguay Round*** negotiations on the ***GATS***, participants agreed to divide services trade into four modes: 1. *cross-border supply*, where the producer remains in one territory and the consumer in another; 2. *consumption abroad*, where the consumer travels from one country to the country of the service producer to obtain the service; 3. *commercial presence*, where services are provided through establishment of an operation in the other country; and 4. *presence of natural persons*, where the producer travels from one country to another to produce or deliver a service. This approach is useful for analytical purposes, but it has made the listing of ***commitments*** more complex than need be the case. See also ***cross-border trade in services***, ***services*** and ***trade in services***.

Monetary assessments: refers to a proposal reportedly considered at one time or another by ***USTR***. The idea seems to be that monetary assessments could be used instead of trade sanctions to secure compliance with dispute settlement panel decisions made under ***free-trade agreements*** to which the United states is a party. Such a system could result in the payment of a fine by the losing party.

Monetary Compensation Amounts: MCAs. A system of border levies and subsidies in force in the ***European Economic Community*** until 31 December 1992. MCAs were abolished as part of achieving the ***European Community Single Market*** which did away with internal borders for economic activities.

Monitoring and Enforcement Unit: a unit established on 5 January 1996 and located within ***USTR*** with the task of monitoring all trade agreements to which the United States is party and of pursuing actions to enforce rights under these agreements. Priorities of the unit include barriers affecting high-volume and high-value exports, barriers affecting job creation, ensuring that United States industries are competitive, ensuring that widespread barriers in

the fastest-growing and largest markets are addressed, and that small and medium-sized businesses are competitive and can expand in the global market place. See also ***Section-306 monitoring***.

Monopoly: the existence of conditions under which there is a single provider or seller of goods and services, often maintained through legislation permitting no others to perform the same activities. Monopolies can also occur through natural market development in the private sector, but they tend to be under constant threat from prospective new entrants. See also ***deregulation*** and ***re-regulation***.

Monopsony: the existence of a single buyer of certain goods or services, usually maintained through legislation.

Montant de soutien: *Fr.* margin of support. An element in the proposal by the ***European Economic Community*** for negotiations on agriculture during the ***Kennedy Round***. According to the definition offered by the EEC, "the margin of support for a given agricultural product is equal to the difference between the price of the product on the international market and the remuneration actually obtained by the national producer". Critics at the time noted that this definition had the advantage, from the EEC's perspective, of directing attention to the support mechanisms of others, but that it had serious flaws. The most important one was the absence of a competitive world price for major agricultural products since these prices were themselves influenced by domestic price support systems and subsidies.

Montreal mid-term review: see ***Uruguay Round***.

Montreal Protocol: *Montreal Protocol on Substances that Deplete the Ozone Layer*. Adopted in 1987. The Protocol addresses concerns about the impact that uncontrolled production or consumption by non-parties would have on the effectiveness of controls agreed by the parties. It contains provisions designed to restrict the relocation of industries using or producing CFCs from signatory countries to countries that are not signatories. These provisions may be in conflict with the WTO ***most-favoured-nation*** principle. Developing countries may apply for funding from the Multilateral Fund for the Implementation of the Montreal Protocol to support the implementation of their commitments under the Protocol. See also ***multilateral environment agreements***.

Moral rights: the idea expressed in Article 6bis of the ***Berne Convention*** that "independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or derogatory action to, the said work, which would be prejudicial to his honour or reputation". Moral rights therefore pertain to the author's person, whereas ***copyright*** pertains to the work itself. Not all signatories to the Berne Convention recognise moral rights in their national copyright legislation. See also ***intellectual property*** and ***WIPO***.

Moratorium: in ***trade policy*** negotiations this is the same as a ***standstill***. It usually is imposed before the start of negotiations to ensure the participants

do not raise their ***tariffs*** or change their regulations with the sole aim of using them as ***negotiating coin***.

More than an equitable share of the market: see ***equitable share of the market*** and ***wheat flour case***.

Most-favoured-nation tariff: the ***tariff*** applied by WTO members to goods from other WTO members with which they have not concluded a ***preferential trade arrangement***. In the case of WTO non-members, the application of these rates may be a requirement of a ***bilateral trade agreement***. See also ***general tariff***.

Most-favoured-nation treatment: MFN. This is the rule that a country gives each of the trading partners with which it has concluded relevant agreements the best treatment it gives to any of them in a given product. MFN is not in itself an obligation to extend any favourable treatment to another party, nor is it an obligation to negotiate for better treatment. The fundamental point of MFN therefore is equality of treatment, and in some older treatises it is indeed called "foreign parity". Despite the apparently static nature of MFN, it has acted as a powerful motor for non-discriminatory ***trade liberalisation***. Together with ***national treatment***, MFN makes up the principle of ***non-discrimination***. The MFN rule, in one form or another, can be traced back to the sixteenth century. Typical of these older provisions is the formulation contained in the *Treaty of Peace and Friendship between Great Britain and Spain* of 1713, part of the instruments making up the *Treaty of Utrecht*. This says that "the subjects of each kingdom. . . shall have the like favour in all things as the subjects of France, or any other foreign nation, the most favour'd, have, possess and enjoy, or at any time hereafter may have, possess or enjoy". An MFN clause was included in the ***Cobden-Chevalier Treaty*** between England and France of 1860. This is thought to be the ancestor of its modern application. At any rate, the MFN rule was then copied into many other European trade agreements. In the years before the First World War, the MFN rule suffered a decline. The war years led to its virtual demise. In the third of his fourteen points, President Wilson called in January 1918 for the removal, as far as possible, of all economic barriers and the establishment of an equality of trade conditions among all the nations consenting to the peace and associating themselves for its maintenance. This is deemed by some to have been the equivalent of a call for MFN. The Versailles peace conference did not discuss trade barriers, but in the peace treaty Germany and the other central powers were required to extend unconditional MFN for three years to the trade of the allied powers. The Covenant of the ***League of Nations*** only referred to "equitable treatment" of commerce of other League members. This fell well short of an MFN clause. The Geneva World Economic Conference of May 1927 pronounced strongly in favour of the widest possible interpretation of the MFN clause, and it stressed that its use in commercial treaties ought to be normal. In 1933, the League of Nations published a 300-word model text of an MFN clause. By that time, economic conditions had been very difficult for

several years, and the MFN principle was not able to attract broad support. The ***Atlantic Charter*** of 1941 revived it and made it the cornerstone of the post-war ***multilateral trading system*** as exemplified by the ***GATT***. In the ***WTO***, MFN is the binding general obligation that any ***concession*** made to another country must immediately be extended to all other members. All GATT members grant each other treatment as favourable as they give to any other country in the application and administration of customs regulations, tariffs and related charges. There are, however, exceptions to the MFN obligation. Here, we mention only some of the important ones. WTO members satisfying the conditions for membership of preferential ***free-trade areas*** or ***customs unions*** are not obliged to give countries that are not members of the same ***preferential trading arrangement*** the same kind of access. Developed countries may maintain ***GSP*** schemes which give preferential treatment to developing country imports. It is possible to ask for a ***waiver*** which provides the legal basis for treating some members more favourably. There is also the possibility of ***non-application*** under which an existing WTO member can deny the benefits of the agreement to a newly acceding member. The ***GATS*** permits the taking out of a time-bound ***MFN exemption***. A concern sometimes voiced about the MFN principle is that it allows ***free riders*** to take advantage of trade-liberalising actions of others without making an equivalent effort. See also ***conditional most-favoured-nation treatment***, ***Jackson-Vanik amendment***, ***minimum standard of treatment*** and ***normal trade relations***.

Movement of natural persons: a term adopted by GATS negotiators to signify the temporary entry by service suppliers into another jurisdiction for the purpose of selling or supplying a service.

Multi-column tariff: a ***tariff schedule*** that discriminates between the various trading partners. Tariff rates in the first column might be reserved for countries not receiving ***most-favoured-nation treatment*** (MFN) and the second column for countries accorded MFN. The third and additional columns would contain the rates applicable to various ***preferential trade arrangements***, such as ***free-trade area*** partners or those given to developing countries under the ***Generalised System of Preferences***. See also ***single-column tariff***.

Multidomestic corporation: a form of ***transnational corporation*** which adopts a strategy for its units centered in each case on individual countries. Typically, it sets up an operation in another country mainly to supply the market of that country.

Multi-Fibre Arrangement: MFA, formally *Agreement Regarding International Trade in Textiles*. This is an agreement between textile-producing and consuming countries concluded in 1973 and renegotiated periodically afterwards to manage trade in textile products. It seeks to contain what was considered to be "serious damage" to developed country producers by the increasingly competitive developing country textile industries through the concept of ***market disruption***. The MFA was aimed

at defined target countries and thus violated the GATT ***non-discrimination*** provisions. Apart from raising prices in affected consumer countries, the MFA also had the effect of forcing developing countries into higher-value lines and in this way undermining further the competitiveness of developed countries. The MFA was replaced by the WTO ***Agreement on Textiles and Clothing*** under which restrictions are to be phased out over 10 years starting on 1 January 1995. See also ***Short-Term Arrangement Regarding International Trade in Cotton Textiles*** and ***Long-Term Arrangement Regarding International Trade in Cotton Textiles***.

Multifunctionality: the idea that agriculture has many functions in addition to producing food and fibre. These functions may be environmental protection, landscape preservation, rural employment, etc. The term appears to have originated in a communiqué issued in March 1998 by agricultural ministers from ***OECD*** countries. The recognition of the various roles agriculture can play is hardly new, but multifunctionality has quickly become one of the dividing lines of agricultural ***trade policy***. Those who stress its importance are seen as leaning towards ***protectionism***. Those who oppose its use like to think of themselves as promoters of agricultural trade liberalisation. Some simply think it is an ugly word. See also ***co-existence and diversity***, ***Friends of Multifunctionality*** and ***non-trade concerns***.

Multilateral agreement on competition: a proposal for future inter-governmental negotiations, but not yet on any negotiating agenda. Some see its prospective purpose as enabling cooperation between national competition authorities on enforcement matters. Others would prefer an agreement for the international administration of ***antitrust laws*** which would entail common rights and obligations. See also ***Draft International Antitrust Code*** and ***trade and competition***.

Multilateral Agreement on Investment: MAI. The ***OECD*** Ministerial Council Meeting of June 1995 decided to launch negotiations for an agreement on investment liberalisation which would also be open to OECD non-members. Ministers hoped that the agreement would contain high standards for liberalising national investment regimes and that it would have effective dispute settlement provisions. After a promising start the negotiations quickly got bogged down in nearly all areas. Negotiators also were increasingly attacked by non-government organisations for their alleged secrecy and their purported aim to create an unhindered investment flow between member countries. Neither assessment was accurate, though negotiators were slow to make the negotiating text available publicly. More probably, the negotiations collapsed because of irreconcilable differences between members on key provisions and the increasingly incomprehensible language of the draft MAI as negotiators tried to reach compromises. Moreover, it appeared that very few non-member countries would seek to accede to the agreement. By 1998, when the negotiating deadline had been extended by one year, one sensed that some governments had decided that the

political cost of the proposed agreement had become very high. France pulled out of the negotiations in early 1999 and effectively scuttled the venture. Though some OECD members shed crocodile tears over France's decision, many more appeared to be relieved that France had had the courage to face reality.

Multilateral Agricultural Framework: an idea emerging in the later stages of the ***Tokyo Round*** for a mechanism which would oversee the negotiating results in agriculture, and which also would provide a forum for the exchange of information aimed at preventing problems in agricultural trade. In particular, it was thought that the framework would eliminate continuing political and commercial confrontations in this sector. The proposal also aimed to establish an International Agriculture Consultative Council under GATT auspices. When the Tokyo Round ended on 12 April 1979, participants were still far from an agreement on this proposal, and post-Round negotiations did not lead to a result. See also ***agriculture and the WTO***.

Multilateral development banks: institutions established to provide financial support and advice to support the economic and social development of developing countries through long-term loans on commercial terms, credits on concessional terms and grants. Membership of these banks consists of developed and developing countries. Strictly speaking, only the ***IBRD*** is a multilateral bank. It is, however, customary to include the African Development Bank (based in Abidjan, Côte d'Ivoire), the Asian Development Bank (Manila), the European Bank for Reconstruction and Development (London) and the Inter-American Bank Group (Washington DC) in this category.

Multilateral environment agreements: agreements, conventions and protocols agreed multilaterally and aimed at eliminating or reducing damage to the environment. Some 200 have reportedly been concluded. At least eighteen of them contain specific trade provisions. Among thse are the ***Basel Convention***, ***Cartagena Protocol on Biosafety***, ***CITES***, ***Convention on Biological Diversity***, ***Convention on Persistent Organic Pollutants***, ***Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade***, ***Montreal Protocol***, ***United Nations Framework Convention on Climate Change*** and the ***Kyoto Protocol***. Some other agreements contain provisions which could have an effect on the formulation of trade policy, including ***Agenda 21*** and the ***Rio Declaration on Environment and Development***.

Multilateral Fund for the Implementation of the Montreal Protocol: see ***Montreal Protocol***.

Multilateral Investment Guarantee Agency: MIGA. Established on 12 April 1988 under the auspices of the ***IBRD***. Its purpose is to encourage increased levels of private direct investment in developing countries. It acts an insurer of investment against certain political risks in the host country. It also

offers technical assistance to help developing countries to improve their investment climates and to attract new investment. MIGA is located in Washington, DC. See also ***foreign direct investment*** and ***World Association of Investment Promotion Agencies***.

Multilateralism: an approach to the conduct of international trade based on cooperation, equal ***rights and obligations***, ***non-discrimination*** and the participation as equals of many countries regardless of their size or share of international trade. This is the basis of the rules and principles embodied in treaties such as the ***Marrakesh Agreement Establishing the World Trade Organisation*** and its components.

Multilateral procurement: the purchase of goods and services by multilateral bodies (e.g. United Nations, ***IMF***, ***WTO***, etc.) for their own use or for use on projects funded by them.

Multilateral Specialty Steel Agreement: MSSA. A proposal made in early 1996 by industry associations in Europe and the United States for an agreement that would (a) ban subsidies, (b) remove tariff and non-tariff barriers and (c) eliminate trade-distorting anti-competitive practices in global specialty steel trade. It would also address the problem of surplus production capacity. It is not yet on any negotiating agenda. See also ***Multilateral Steel Agreement***.

Multilateral Steel Agreement: MSA. In the second half of the ***Uruguay Round*** negotiations the United States proposed the conclusion of an MSA with coverage of subjects such as tariff reductions, the elimination of ***quantitative restrictions***, subsidies, the imposition of ***anti-dumping measures***, ***countervailing duties***, etc., related specifically to trade in steel. Negotiations were conducted on a track separate to the Uruguay Round negotiations, and 36 countries took part in them. However, negotiations broke down in March 1992. There have been periodic suggestions since that the MSA should be revisited. See also ***Multilateral Specialty Steel Agreement*** and ***sectoral trade negotiations***.

Multilateral system of notification and registration of geographical indications: the negotiation of such a system for wine was to be undertaken at some stage under the ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. Little progress was made. The ***Doha ministerial declaration*** now has initiated negotiations for such a system to cover ***geographical indications*** of wines and spirits.

Multilateral trade agreements: intergovernmental agreements aimed at expanding and liberalising international trade under non-discriminatory, predictable and transparent conditions set out in an array of ***rights and obligations***. The motivation for taking on these obligations is that all members will increase their welfare by adhering to a common standard of conduct in the management of their trade relations. Typically, such agreements have numerous members representing small, medium-sized and large trading nations. Membership of this kind of agreement is open-ended, but countries wishing to accede usually have to demonstrate that their trade

regimes are in keeping with the aims of the agreement, and that the access conditions to their markets roughly match those of existing members. If necessary, they must make adjustments. Before the ***GATT***, entered into force in 1948,trade agreements were mostly bilateral, or they were preferential, such as the ***imperial preferences arrangement***. In the WTO, the term "Multilateral Trade Agreement" refers to the arrangements and associated legal instruments contained in Annexes 1, 2 and 3 to the ***Marrakesh Agreement Establishing the World Trade Organisation***. See also ***accession***, ***bilateral trade agreements***, ***plurilateral trade agreements*** and ***prisoner's dilemma***.

Multilateral trade negotiations: MTN. Also known as *rounds*. They aim to strengthen the rules that ensure orderly and fair conduct of international trade and to reach mutually beneficial agreements reducing barriers to world trade. Eight rounds have been held under GATT auspices since 1947. Each round has consisted of long bargaining sessions. The eight rounds held so far and the names by which they are commonly known were: Geneva (1947), Annecy (1949), Torquay (1950), Geneva (1955-56), Dillon (1960-61), Kennedy (1963-67), Tokyo (1973-79) and Uruguay (1986-94). The content of the rounds up to the Kennedy Round was tariff reductions only. The early rounds essentially were made up of a series of bilateral negotiations, the results of which were then made available to other members on a ***most-favoured-nation*** (MFN) basis. From the Kennedy Round onwards, ***non-tariff measures*** and ***systemic issues*** were also on the agenda. The abbreviation "MTN" was in common use during the ***Tokyo Round***, and it is often used to refer specifically to that Round. See also ***Annecy Tariff Conference***, ***Dillon Round***, ***Doha ministerial conference***, ***Geneva Tariff Conference, 1947***, ***Geneva Tariff Conference, 1955-56***, ***Kennedy Round***, ***Millennium Round***, ***Torquay Tariff Conference*** and ***Uruguay Round***.

Multilateral Trade Organisation: MTO. A body proposed by the ***European Community*** in 1990 to put the results of the ***Uruguay Round*** negotiations on a stronger legal footing and within a single administrative framework. This proposal received broad support from the GATT membership. However, almost at the end of the formal negotiations in December 1993 the United States suggested that the new body should be known as the World Trade Organisation (WTO). This proposal was adopted.

Multilateral trading system: the non-discriminatory arrangement for international trade which came into existence with the ***GATT*** in 1947 and which is now represented by the ***WTO*** system.

Multi-modal: transport using more than one mode. In the ***GATS*** negotiations, essentially door-to-door services that include international shipping.

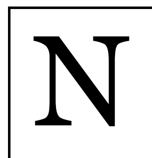
Multinational enterprises: see ***transnational corporations***.

Munich Group: see ***Draft International Antitrust Code***.

Mutual aid agreement: an agreement concluded on 23 February 1942

between the United Kingdom and the United States concerning the principles applying to mutual aid in the prosecution of the war against aggression. It builds on the ***Atlantic Charter*** and is one of the important steps which ultimately led to the convening of the ***United Nations Conference on Trade and Employment*** in 1947, the negotiation of the ***GATT*** in 1947 and the emergence of the ***Havana Charter*** in 1948. Article 7 of the Agreement dealt with international economic relations. It looked forward to agreed action between the two countries, which would be "open to participation by all other countries of like mind, directed to the expansion, by appropriate international and domestic measures, of production, employment, and the exchange and consumption of goods, which are the material foundations of the liberty and welfare of all peoples; to the elimination of all forms of discriminatory treatment in international commerce, and to the reduction of tariffs and other trade barriers".

Mutual recognition arrangements: agreements between two or more countries to recognise each other's standards, qualifications or licensing requirements. They can cover goods, services, education and professional qualifications. Mutual recognition can contribute to the expansion of trade through removing some technical obstacles. Achieving mutual recognition may require the parties to meet agreed minimum standards, and it can lead to laborious negotiations. ***GATS*** members who recognise each other's standards and qualifications do not have to extend recognition to others on a ***most-favoured-nation*** basis. If a third country wishes to demonstrate that it, too, can meet requirements for recognition of qualifications, it must be given an opportunity to do so. A 1979 ruling by the European Court of Justice in the *Cassis de Dijon* case established the principle of ***European Community*** mutual recognition of similar product standards, rather than identical standards. This made mutual recognition within the Community simpler , and it also removed standards from the category of very difficult issues. See also ***Guidelines for Mutual Recognition Agreements or Arrangements in the Accountancy Sector***, ***harmonisation of standards and qualifications***, ***technical barriers to trade*** and ***zero-margin harmonisation***.



NAFTA: *North American Free Trade Agreement*. Entered into force on 1 January 1994. Its members are Canada, United States and Mexico. The agreement is long and complex, and we give here only a basic introduction to its structure. NAFTA's objectives, as set out in Chapter 1, are to eliminate barriers to trade in goods and services, promote fair competition, adequate and effective protection of ***intellectual property*** rights, effective

procedures for settlement of disputes and to provide a framework for further trilateral, regional and multilateral cooperation. Chapter 2 contains definitions. Chapter 3 provides for ***national treatment*** of goods. Most tariffs will be phased out over ten years. ***Anti-dumping rules*** are also part of this chapter. Chapter 4 sets out the ***rules of origin***. These are, as in other free-trade arrangements, fairly complex. Common customs procedures are listed in Chapter 5. Energy and trade in basic petrochemicals, dealt with in Chapter 6, are to be liberalised. Chapter 7 contains the rules for agriculture and ***sanitary and phytosanitary measures***. Chapters 8, 9 and 10, respectively, set out the ***safeguards***, ***technical barriers to trade*** and ***government procurement*** provisions. ***NAFTA Chapter 11*** is the investment chapter. ***National treatment*** and ***most-favoured-nation treatment*** apply to investment. This chapter also outlines the concept of a ***minimum standard of treatment***. Chapter 12 concerns cross-border trade in services. All ***modes of services delivery*** are covered. This followed by more specific rules for telecommunications and financial services in Chapters 13 and 14, respectively. Chapter 15 covers ***competition policy***, monopolies and state enterprises. Chapter 16 deals with the temporary entry of business persons. ***Intellectual property*** provisions are contained in Chapter 17. Chapter 18 deals with the publication, notification and administration of laws, i.e. ***transparency***. Chapters 19 and 20 deal, respectively, with review and dispute settlement in antidumping and countervailing duty matters, and institutional arrangements and dispute settlement procedures. Chapter 21 covers exceptions. It has provisions on general exceptions, national security, taxation, balance of payments, disclosure of information and cultural industries. Chapter 22 covers matters such as entry into force, amendments and withdrawals. Three separate agreements on agriculture and side agreements have also been signed on labour and the environment. A Cabinet-level Free Trade Commission supervises the implementation and operation of NAFTA. It is assisted by a secretariat consisting of national sections. Each party funds its own secretariat staff. The secretariat is responsible, among other things, for administering panels and committees established for the settlement of disputes. See also ***investor-state dispute settlement*** and ***North American Agreement on Labor Cooperation***.

NAFTA Chapter 11: contains the NAFTA rules on investment. It provides for ***national treatment*** (Article 1102) and ***most-favoured-nation treatment*** (Article 1103). The better of the these two treatments is to be applied to NAFTA member investors and their investments. Article 1105 provides for a ***minimum standard of treatment***. It requires each party "to accord to investments of investors in another party treatment in accordance with international law, including fair and equitable treatment and full protection and security". Article 1106 prohibits a broad range of ***performance requirements***. No party may impose export requirements, domestic content rules, domestic purchase rules, a relationship between

between import and export flows, measures relating the sale of goods and services to foreign exchange earnings, requirements to transfer technology or exclusive supplier provisions to specific markets. Article 1110 permits ***expropriation*** under certain conditions. Under Article 1116 an investor of one party may file a claim of ***arbitration*** against another party on the grounds that it has breached an obligation concerning the behaviour of state enterprises, but only within three years of the alleged breach. That is, this chapter permits some ***investor-state disputes***.

Nagging rights: used by some to describe provisions in trade agreements which allow a party to exhort another party to adopt new measures or commitments. The party so addressed may not be legally obliged to respond, but it may decide to take some action anyway if the request is made often enough.

NAM: see ***Non-Aligned Movement***.

Narrow competition policy: this deals with the range of practices usually covered by ***antitrust laws*** or by laws aimed at controlling ***restrictive business practices***. The main targets of narrow competition policy are horizontal and vertical arrangements, misuse of ***market power*** and the control of anti-competitive conditions resulting from mergers and acquisitions. See also ***competition policy*** and ***wider competition policy***.

National champions: companies designated in some countries to act as promoters of new technologies or new processes from whom other companies will be able to learn. Often, they already enjoy a pre-eminent position in their sector when they are nominated. National champions usually benefit from preferential tax treatment and other support measures. They may also be exempt from some ***competition laws***. The impact of such firms on the domestic markets may be considerable, but their role in international markets may be quite minor. There is no way of telling whether a national champion will fulfil the expectations of its proponents, or whether it will simply turn into a protected and uncompetitive entity. See also ***infant-industry argument***, ***learning-by-doing argument*** and ***picking winners***.

National interest: a term describing a range of criteria, not always described exactly, whose fulfilment is considered basic to the welfare of the state. Interest or lobby groups often equate the national interest with their own aims. In a strict sense, only national governments have the competence to judge and invoke the national interest by virtue of the responsibilities assigned to them by the constitution and the laws flowing from it. Some parliamentary acts contain national-interest provisions enabling governments to adopt courses of action which sometimes are ostensibly at variance with the precepts laid down in these acts. There are cases when the use of this discretionary power leads to vigorous debate about their appropriateness, especially when the specific criteria triggering the national-interest clause are not spelt out. Nevertheless, there is widespread agreement that the administration of some sectors of government requires the flexibility offered

by national-interest provisions. See also ***Exon-Florio amendment***, ***foreign investment screening***, ***general exceptions***, ***rule of reason*** and ***security exceptions***.

National schedules: the equivalent of ***tariff schedules*** in ***GATT***, laying down commitments accepted ? voluntarily or through negotiation ? by WTO members.

National Trade Estimate Report on Foreign Trade Barriers: an annual report to the President and Congress by ***USTR*** as required under Section 181 of the *Trade and Tariff Act* of 1984, as amended by the *Omnibus Trade and Competitiveness Act* of 1988. The report covers (a) significant barriers to United States exports of goods, services, intellectual property and foreign direct investment, (b) the trade-distorting effects of these barriers and the value of lost trade and investment opportunities, (c) a listing of ***Section 301*** and other actions taken to remove these barriers, or an explanation why no action was taken, and (d) United States priorities to expand exports. See also ***United States Omnibus Trade and Competitiveness Act*** and ***National Treatment Study***.

National treatment: the principle of giving others the same treatment as one's own nationals. GATT Article III requires that imports be treated no less favourably than the same or similar domestically-produced goods once they have passed customs. GATS Article XVII and TRIPS Article 3 also deal with national treatment for services and intellectual property protection. In the older literature, this principle is sometimes called "inland parity". It is a simple proposition, but it has been the cause of many disputes, partly because a strict interpretation of national treatment may in fact disadvantage foreign suppliers. The classic example of this possibility is the ***wine gallon assessment***. For this reason, the national treatment principle has been refined over the years to allow for different or formally better treatment of foreign products if that is the only way to guarantee that foreign products are not disadvantaged. Sometimes countries deliberately give foreign investors better than national treatment to attract suitable firms. In other cases, it is difficult to distinguish between measures aimed at imported and domestic products and ***quantitative restrictions*** aimed at foreign products alone. The basic principle underlying Article III of the ***GATT***, which deals with national treatment for goods, is that of ***equality of competitive opportunity***. The Article starts with the general statement that GATT members recognise that internal taxes and other charges, laws and regulations affecting the internal sale, transport and distribution, and internal quantitative regulations should not be applied to imported or domestic products to give protection to domestic production. It then says that imported products must not be subject to internal taxes or other internal charges above those applied to domestic products. The Article also requires that all laws, regulations, etc., must apply equally to imported and domestic products. Additionally, internal quantitative restrictions must be applied in a non-discriminatory way. In ***intellectual property***, under the ***Agreement***

on Trade-Related Aspects of Intellectual Property Rights a WTO member must, in terms of Article 3, accord to the nationals of other members treatment no less favourable that it accords to its own nationals. There may be some exceptions to this because of pre-existing rights under the ***Paris Convention***, the ***Berne Convention*** or the ***Rome Convention*** and the ***Treaty on Intellectual Property in Respect of Integrated Circuits***. For ***services***, national treatment, as described in Article XVII of the ***GATS***, is the obligation to guarantee foreign service providers and their services equivalent treatment to that given to domestic service providers and the services they supply. Treatment for foreign suppliers may be formally different if that is required to achieve equality of opportunity. See also ***economic impact criterion***, ***implicit discrimination***, ***minimum standard of treatment***, ***most-favoured-nation treatment*** and ***non-discrimination***.

National treatment instrument: an OECD instrument. It consists of the national treatment section of the 1976 *Declaration on International Investment and Multinational Enterprises* and the *Third Revised Decision on National Treatment*, adopted in 1991. The instrument establishes an internationally recognised standard of treatment which helps to eliminate discrimination against foreign investors in OECD member countries. It is not a legally binding undertaking, but it is backed by legally binding procedural arrangements.

National Treatment Study: published every four years under the *Omnibus Trade and Competitiveness Act* of 1988 by the United States Department of the Treasury. It contains detailed information on regulatory frameworks and market conditions in banking and securities services for a large number of countries. The *National Treatment Study* has established itself as a basic reference work for the study of global rules applying to trade in ***financial services.*** See also ***United States Omnibus Trade and Competitiveness Act*** and ***National Trade Estimate Report on Foreign Trade Barriers***.

Natural persons: people, as distinct from ***juridical persons*** such as companies. If they are service suppliers to other ***GATS*** member countries, they have rights under the GATS.

Natural resource-based products: in the GATT environment these include minerals, ores, fish and fisheries products, forest products, timber and paper. They were the subject of a separate negotiating group in the ***Uruguay Round***.

Natural trading blocs: a term used by Paul Krugman for modelling purposes to describe countries which are close together, have low transport costs and that therefore trade with each other.

Natural-trading-partners hypothesis: the proposition that ***free-trade areas*** between countries already conducting the bulk of their trade with each other yield the greatest gain.

Necessity test: sometimes used to refer to the steps necessary to justify

invoking the ***general exceptions*** of the ***GATT***. WTO members may adopt or enforce measures necessary to protect public morals (Article XX(a)), necessary to protect human, animal or plant life or health (XX(b)), necessary to secure compliance with laws or regulations not inconsistent with the provisions of the GATT (XX(d)), and restricting exports of domestic materials necessary to ensure the supply of essential quantities to domestic industry (XX(e)), provided that this does not constitute arbitrary or unjustifiable discrimination between countries or a disguised restriction on international trade. The GATT ***security exceptions*** (Article XXI) allow WTO members to take any action they consider necessary for the protection of their essential security interests. The ***GATS*** contains similar necessity tests in Article XIV (General Exceptions) and Article XIVbis (Security Exceptions).

Negative comity: also called traditional comity. It is a term used in the administration of ***competition policy***. It means that, under the terms of relevant bilateral arrangements, a country has to take account of the interests of the other country when it initiates an action under its ***competition laws***. See also ***positive comity***.

Negative integration: the removal of barriers to ***cross-border trade*** without the creation of new regulatory frameworks. See also ***positive integration***.

Negative listings: used in some of the ***schedules of commitments*** under the GATS. In making a negative listing a country agrees that all service activities are covered by all provisions of the GATS unless it has listed them specifically as subject to some limitations on ***market access*** and ***national treatment***. The advantage of this method is that all new services are automatically covered by the rules. Developed countries have used this method for their commitments on financial services. Australia and New Zealand also chose negative listings for the ***ANZCERTA Protocol on Trade in Services***. See also ***positive listings***.

Negative reciprocity: in its original meaning this term is now of historical interest only. It describes the practice followed by the United States and some others in the 19th and early 20th centuries of raising tariffs against those countries that were seen as maintaining unreasonably high tariffs themselves. Negative reciprocity was, however, regarded mainly as a market-opening mechanism. Proponents of this practice took scant regard of the generally high level of their own tariff, and the basis of their thinking was always ***mercantilism***.

Negligible imports: defined in Article 5.8 of the ***Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*** (the WTO Anti-dumping Agreement) as a volume of dumped imports from a particular country accounting for less than 3% of imports of the ***like product*** in the importing country. If this situation applies, an anti-dumping investigation will have to cease immediately in respect of such a country. The situation is different if the dumped imports of the like product from several countries combined exceed 7% of imports. In

this case, imports will no longer be considered negligible even though each country looked at separately accounts for for less than 3% of dumped imports of the like product. See also ***anti-dumping measures***, ***de minimis dumping*** and *dumping*.

Negotiated protectionism: a term sometimes used to describe the growing acceptance in the early 1980s of negotiated instruments for restricting trade, such as ***orderly marketing arrangements*** and ***voluntary restraint arrangements***.

Negotiating coin: what one is willing to give away in negotiations in order to secure something one would like. Sometimes one's negotiating coin is imaginary, but it becomes important in questions such as the payment for ***autonomous liberalisation***.

Negotiating credits: the informal practice in the WTO whereby countries take into account unilateral tariff reductions made by other participants before a fixed date, usually a date associated with the start of the negotiations. The practice is meant to ensure that participants do not have to lower their barriers without receiving adequate ***compensation*** in the form of lower barriers by others. In this way the practice encourages countries to liberalise their trade whenever the time is appropriate. Granting negotiating credits is, however, based on the erroneous idea that trade liberalisation is a cost to the liberalising country.

Negotiating Group on Basic Telecommunications: (NGBT). Established by the ***Council for Trade in Services*** to achieve the progressive liberalisation of trade in telecommunication transport networks. The NGBT was due to make its final report by 30 April 1996, but the negotiations were extended until 15 February 1997 to promote the tabling of better offers. This turned out to be a successful stratagem. At the same time, the NGBT was renamed ***Group on Basic Telecommunications***. See also ***Agreement on Basic Telecommunications Services*** and ***Fourth Protocol to the General Agreement on Trade in Services***.

Negotiating Group on Maritime Transport Services: see ***maritime transport services***.

Negotiating rights: one of the purposes of the WTO is to act as a forum for the reduction and elimination of trade barriers. This is done through negotiations, but the right to engage in them is subject to certain rules. The bulk of barrier reductions is now done through ***multilateral trade negotiations***, the so-called rounds, and ***sectoral trade negotiations***. All WTO members have the right to participate in them. In other circumstances, they may not have automatic negotiating rights. Whether they do may depend on the fulfilment of some conditions, including the ***principal supplier rule*** and the ***substantial supplier rule***. The entry on ***renegotiation of tariffs*** contains instances where negotiating rights may arise. See also ***initial negotiating rights***.

Neighbouring rights: exclusive rights of performers, producers of phonograms and broadcasters. Such rights have historically been considered

to "neighbour" on the traditional areas of copyright protection. Neighbouring rights are said to relate to derivative subject-matter (e.g. a recording company recording a musical composition) where it may be relatively more difficult to identify the creative person deserving of reward. See also ***Berne Convention*** and ***copyright***.

Neo-mercantilism: a ***trade policy*** founded on the belief that governments need to control trade and industry to secure national prosperity. Specifically, neo-mercantilism seeks to promote enhanced domestic production accompanied by rising employment, to increase exports and to decrease imports. See also ***infant-industry argument***, ***mercantilism*** and ***pop mercantilism***.

New-age agreement: sometimes used by Japanese negotiators to refer to ***free-trade agreements*** supplemented by extensive provisions for cooperation in related economic fields, such as those contained in the Japan-Singapore Economic Partnership Agreement for a New Age, concluded in 2001.

New commercial policy instrument: NCPI. A ***regulation*** adopted by the ***European Community*** in 1984. It allows firms domiciled within its territory to petition the ***European Commission*** for redress against illicit commercial practices by third countries causing injury to Community industries. The NCPI may be invoked only if the illicit practice concerned is incompatible with international law or generally accepted rules, and the practice must be attributable to a third country. It cannot be used where other ***trade remedies*** already exist. For example, it would not be possible to seek ***anti-dumping measures*** under this regulation. The regulation appears to have been modelled to some extent on ***Section 301*** under United States law. It differs from Section 301, however, in that it emphasises the protection of the European Community against foreign practices rather than the opening up of other markets. The 1984 NCPI was used very rarely. In 1994 it was revised, partly to bring it into line with the European Community's obligations under the WTO instruments. Major changes were that "illicit" practices was replaced by "obstacles to trade", and ***services*** were also included in its ambit. These changes have not altered the character of the NCPI as a whole.

New economy: the economic boom caused in the late 1990s by the perception that massive investment in information technology and extensive use of the internet would give firms doing so a decisive commercial advantage. Its premise seems to have been that those engaged in the ***old economy*** would not be able to adapt to a rapidly changing environment. The boom's symbol was the *dot.com* company. Many who invested in this boom now wish they had never heard of it. See also ***first-mover advantage***.

New industrial policies: NIPs. This is a term sometimes used for targeted industrial development policies that differ both from ***laissez-faire*** policies which allow the market to determine the broad lines of industrial development and simple protectionism which seeks to give industries a shield

against competition from imports. NIPs include governmental measures to increase savings and capital investment, compulsory or guided sharing of technology among enterprises, forced mergers to promote efficiency, shared research and development facilities, possibly subsidised, etc. See also ***national champions***.

New international division of labour: an evolution of the concept of the ***international division of labour*** in which price competition is no longer the sole or dominant determinant of how a firm manufactures its products. The system in part reflects a recognition of the power of the consumers, but it also gives them many pseudo-choices. Analysts say that this system requires, among others, product flexibility, rapid innovation, a multiskilled workforce and closer integration of production schedules and product development of related production units. Corporations distribute their production units internationally in the way that best satisfies their competing requirements. See also ***globalisation***, ***product cycle theory*** and ***transnational corporations***.

New International Economic Order: NIEO. A campaign launched in the early 1970s by developing countries to bring about radical changes in the international economic order. It was based on a perception that the economic and technological progress since the end of World War II had not enriched the lives of people in developing countries in any meaningful way. Developing countries dependent on commodity exports in particular felt that they were caught by the early 1970s between the so-called revolution of rising expectations and falling commodity prices. A perception was also building up that development through concessional, but conditional, loans only increased the debt burden of developing countries and thus put them increasingly at the mercy of developed country policies and actions. Demands for the NIEO gained considerable impetus through the decision by the 1973 ***OPEC*** ministerial conference to raise oil prices fourfold. The evident success of this policy in increasing the revenues of OPEC member countries encouraged the view that other commodities would lend themselves to the furthering of developing country aspirations. The OPEC decision was seen by many developing countries as having been taken for the right reasons. These were that on the one hand, Arab countries sought to use oil as a political weapon in the wake of the 1973 war with Israel. On the other hand, they had discovered a way to increase their revenues at what seemed to be mainly the expense of developed countries. It was against this background that the United Nations NIEO program was adopted in 1974. It consisted of a *Declaration on the Establishment of a New International Economic Order* and a *Programme of Action on the Establishment of a New International Economic Order* in the form of General Assembly resolutions 3201 (S-VI) and 3202 (S-VI), respectively. The *Declaration* was concerned particularly with the problems of raw materials and development, noting that since 1970 the world economy had experienced a series of grave crises with severe repercussions on developing countries. It stressed the reality of interdependence of all

countries and proposed a new international economic order based on the following principles, given here in abbreviated form: (a) sovereign equality of states and self-determination of all peoples, (b) broadest cooperation of all states to banish prevailing disparities and to secure prosperity, (c) full and effective participation on the basis of equality in the solving of world economic problems in the common interest of all countries, (d) the right of every country to adopt the economic and social system it deems the most appropriate for its own development, (e) full and permanent sovereignty of states over their natural resources and all economic activities, including the right to nationalisation or transfer of ownership to its nationals, (f) the right of all states under foreign occupation to restitution and full compensation for the exploitation of natural resources, (g) regulation and supervision of the activities of transnational corporations by taking measures in the interest of the national economy, (h) the right of developing countries under colonial domination to achieve their liberation and regain effective control over their natural resources and economic activities, (i) extension of assistance to developing countries under foreign domination or subjected to other coercive measures, (j) just and equitable relationship between the prices of raw materials, primary commodities and manufactures exported by developing countries and their capital goods and other imports with the aim of improving their unsatisfactory ***terms of trade***, (k) active and unconditional assistance to developing countries by the whole international community, (l) a reformed international monetary system assisting the developing countries and ensuring an adequate flow of resources to them, (m) improved competitiveness of natural materials facing competition from synthetic materials, (n) preferential and non-reciprocal treatment for developing countries in all fields of international economic cooperation, (o) securing favourable conditions for the transfer of financial resources to developing countries, (p) access for them to science and technology achievements, promotion of the ***transfer of technology*** and the creation of indigenous technology, (q) an end to the waste of natural resources, including food products, (r) developing countries to concentrate all their technical resources for development, (s) strengthened technical cooperation among developing countries as well as through economic, trade and financial activities, and (t) facilitating the role of producer associations in promoting sustained growth in the world economy and accelerated development. The *Programme of Action* was equally ambitious. It sought solutions to the fundamental problems of raw materials and primary commodities as related to trade and development, and the food crisis. It also proposed a long list of trade actions, including ***compensatory financing arrangements***, an improved ***GSP*** and the setting up of commodity ***buffer stocks***. Improvements were sought also in transport and insurance and the international monetary system. Many of these items were pursued in ***UNCTAD***, leading, for example, in 1976 to the proposal for the establishment of a ***Common Fund for Commodities*** and the ***Integrated Programme for Commodities***. Aspects of the NIEO ran

into fierce opposition from developed countries, but some of the major developed-country commodity producers were seduced by the prospect of higher export returns if the commodity measures could be made to work. Other international organisations, including the GATT in the concurrent ***Tokyo Round***, also paid greater attention to developing country views, but the NIEO as a program had run its course by the early 1980s. See also ***Charter of Economic Rights and Duties of States*** and ***North-South dialogue***.

Newly Independent States: this group of countries comprises Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldava, Tajikistan, Turkmenistan, Ukraine and Uzbekistan which were part of the USSR. See also ***Commonwealth of Independent States*** which in addition includes Russia.

Newly industrialising economies: also called newly industrialising countries. A term used particularly in the 1980s for developing economies which were in the process of transforming significant parts of their economies to a stage where they had many of the characteristics of industrialised economies. Examples of such economies include Hong Kong, Mexico, Malaysia, Republic of Korea, Taiwan and Singapore.

Newly liberalising countries: a term for the countries of Central and Eastern Europe, those making up the ***Commonwealth of Independent States***, and China which are transforming their previously ***centrally-planned economies*** into ***market economies***. At the same time, their centralised foreign trade regimes are being liberalised.

New Miyazawa Intiative: the finance package made available by Japan to countries affected by the 1997 Asian economic crisis. Main elements of the initiative were $30 billion in short-term and long-term and funds, purchase of bonds issued by Asian governments and provision of concessional yen loans. See also ***Chiang Mai Initiative***.

New protectionism: a term common in the 1980s. It was used to refer to measures such as ***quantitative restrictions***, ***voluntary restraint arrangements***, ***orderly marketing arrangements***, etc., in contrast to protective action expressed through high tariffs. See ***grey-area measures***.

New trade agenda: a term used by some to describe the ***market access*** issues still needing resolution. From this perspective, the traditional trade agenda is represented by efforts to reduce border measures consisting of ***tariffs*** and ***non-tariff measures***. The new trade agenda, on the other hand, is aimed more at impediments inside the market, such as standards, excessive reliance on ***sanitary and phytosanitary measures***, and private and public anti-competitive practices. To some extent, the new trade agenda overlaps with the ***new trade issues***, but in other respects it seeks to promote optimal results from existing multilateral trade agreements. See also ***technical barriers to trade***.

New trade issues: issues arising because of the emergence of new trading patterns, new products, new technologies or the confluence of ***trade policy***

and social policies. The term "new trade issues" often simply means that there is not yet a formal multilateral trade framework in existence for dealing with relevant matters or that they have only recently been taken up within the WTO. New trade issues currently under discussion include ***trade and competition***, ***trade and illicit payments***, ***trade and investment*** and ***trade and labour standards***. Some add ***trade and environment*** to this list, but the decision to establish a ***Committee on Trade and Environment*** in the WTO has persuaded many that this is now an established, if unresolved, issue. Intermittently there are suggestions that ***trade and culture***, ***trade and foreign exchange*** and ***trade and taxation*** should also be looked at. Since the ***Doha ministerial conference***, the ***WTO*** has a work program on ***trade and the transfer of technology***.

New trade order: in contemporary literature this term refers commonly to the global trading system that began with the establishment of the WTO, but it does not have a precise meaning. Some use it to describe what in their view would be a desirable trading system, if only certain instruments or rules could be negotiated.

New trade theory: an approach to the analysis of international trade that had its origin in the "Leontief Paradox". In 1953 the American economist Wassily Leontief found in his analysis of input-output statistics that the United States, a capital-rich country, exported labour-intensive products more successfully than capital-intensive products. This was contrary to what he had expected under the ***Heckscher-Ohlin theorem*** which is a restatement of the theory of ***comparative advantage***. Attempts by economists to explain this eventually led to the new trade theory which takes into account also the influence of factors such as technology and research and development. These factors can allow a country to acquire a comparative advantage where before it had none. An important medium-term result was the ***product cycle theory*** which appeared in 1967. The final stage was the ***strategic trade theory*** of which there are differing interpretations. The theory certainly has been used to defend ***targeting*** and ***picking winners***. That does not appear generally to be the aim of economists supporting it. See also ***competitive advantage***.

New Transatlantic Agenda: endorsed on 3 December 1995 at a ***European Union***-United States summit in Madrid. It enables the two sides to join forces on a wide range of international economic, social and political issues. Objective III of its four objectives deals with strengthening the world trading system and achieving closer economic cooperation. It aims at (a) moves to ensure that the WTO works as well as intended and cooperation on the ***new trade issues***, (b) efforts to achieve further bilateral reduction, or elimination, of tariffs in industrial products and to accelerate reductions due under the ***Uruguay Round***, and (c) concrete steps to remove regulatory and other obstacles to transatlantic trade through the creation of the ***New Transatlantic Marketplace***. The other three objectives are promoting

peace, development and democracy around the world, responding to global challenges, and building bridges across the Atlantic. See also ***Transatlantic Business Dialogue***.

New Transatlantic Marketplace: one of the objectives of the ***New Transatlantic Agenda*** with a work program covering joint study to facilitate trade in goods and services and eliminating tariff and non-tariff barriers; confidence building through resolving bilateral trade issues; standards, certification and regulatory issues; veterinary and plant health issues; government procurement; intellectual property rights; expansion of the bilateral dialogue on financial services; conclusion of a customs cooperation and mutual assistance agreement; expanding the bilateral Information Society Dialogue and cooperation on information technology and telecommunications; deepening cooperation in competition matters; discussion of data protection issues; expanded cooperation on air and maritime transport matters; intensified cooperation on energy-related issues; biotechnology; and safety and health. See also ***Transatlantic Business Dialogue***.

New Zealand Australia Free Trade Agreement: NAFTA. The trade agreement governing trade relations between Australia and New Zealand from 1966 to 1982. It achieved significantly liberalised trade between the two countries, but not completely free trade. It was replaced on 1 January 1983 by ***ANZCERTA*** *(Australia New Zealand Closer Economic Relations Trade Agreement)*.

NGBT: see ***Negotiating Group on Basic Telecommunications***.

NGMTS: see ***maritime transport services***.

NGO: see ***non-government organisation*** and ***civil society***.

Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks: concluded in 1957 and last revised in 1979. It created a system of 42 classes of goods and services which is used for the assessment and registration of trademarks. It has more than 100 members. The Agreement is administered by ***WIPO***.

Noerr-Pennington doctrine: the principle in United States law that attempts to lobby a governmental or administrative body with the aim of influencing legislation or law enforcement cannot be prosecuted under the ***Sherman Act*** even if the lobbying has anti-competitive aims. See also ***antitrust laws***.

Nominal rate of protection: indicates the extent by which the domestic price of a product exceeds the price at the border (i.e. before the application of any customs duties). It as usually expressed as a percentage. See also ***effective rate of protection*** and ***price wedges***.

Nominal tariff: the tariff rate appearing in a country's ***tariff schedule*** for a given product. It may differ from the ***applied tariff rates*** (the tariff rate actually levied by the customs administration when the product is imported). See also ***bindings (goods)***.

Non-actionable subsidies: a class of subsidies identified in the WTO ***Agreement on Subsidies and Countervailing Measures***. It includes assistance to research and development, assistance to disadvantaged regions and assistance to promote the adaptation of existing facilities to new, more burdensome, environmental requirements. The Agreement describes in some detail how the subsidies are to be interpreted. If another WTO member believes that a subsidy which otherwise would be non-actionable is causing serious adverse effects, it may seek a determination and recommendation on the matter. The Agreement does not apply to agricultural subsidies. These are covered by the ***Agreement on Agriculture***. See also ***actionable subsidies***, ***prohibited subsidies*** and ***subsidies***.

Non-agricultural market access: tariff negotiations on products other than those covered by the ***Agreement on Agriculture***. This term was created in the preparatory phase for the ***Seattle WTO Ministerial Conference*** to ensure a mandate for tariff negotiations covering all sectors.

Non-Aligned Movement: NAM. A group of 115 members, mainly developing countries, which has its origin in the 1955 Asia-Africa Conference, held in Bandung, Indonesia. The first NAM summit was convened in Belgrade in 1961. Membership criteria include the requirement that the joining country should have adopted an independent policy based on the coexistence of states with different political and social systems and on non-alignment or should be showing a trend in favour of such a policy. NAM's early years were dominated by political issues, but since the early 1990s it has increasingly paid attention to global economic problems. See also ***Group of 77***.

Non-application: Article XIII of the ***Marrakesh Agreement Establishing the World Trade Organisation*** lays down that this Agreement and the other agreements administered by the WTO do not apply between two members if either of them does not consent to their application at the time either of them becomes a member. Non-application is therefore available only at the time a country accedes to the WTO. See also ***denial of benefits***.

Non-discrimination: a fundamental concept in the multilateral trade framework. A country may not discriminate among foreign supplier countries, and it may not apply adverse discriminatory treatment to products once they have entered its territory legally. The WTO rules permit some exceptions to this concept under strictly defined conditions. For example, members of a ***free-trade area*** or a ***customs union*** may discriminate against non-members in the application of tariff rates. WTO members may also maintain preferential tariff schemes for developing countries. See also ***GSP***, ***most-favoured-nation treatment*** and ***national treatment***.

Non-dutiable goods: goods that are not subject to customs duties on entering or leaving a ***customs territory***. See also ***free list***.

Non-equity-based investment: investments in the form of licensing agreements, management contracts, production-sharing arrangements, risk-sharing contracts, international sub-contracting, licensing agreements, etc.

See also ***foreign direct investment***, ***investment*** and ***portfolio investment***.

Non-governmental organisations: NGOs. This refers to a category of national or international organisations that are independent of governments. NGOs have a specific mandate (e.g. promotion of human rights, protection of the environment, advancement of women, the professional development of members, etc.). Most NGOs do not seek to make a profit, but they usually charge a membership fee. Sometimes they ask for, and receive, business or government funding. In many cases, NGO membership is available to anyone who agrees to support its aims. Professional bodies usually require a minimum standard of qualifications. The status of NGOs in the WTO remains contentious. A 1990 GATT secretariat note said "international non-governmental organisations (NGOs) do not have 'consultative status' in GATT: none have been admitted as observers at sessions". This remains the case even though separate arrangements are made for representatives of NGOs to attend, for example, ministerial conferences. WTO members are of course free to include NGO representatives in their delegations to meetings. See also ***civil society*** and ***inter-governmental organisations***.

Non-market economies: see ***centrally-planned economies***.

Non-price predation: the action of seeking to drive efficient competitors out of business through abusive legislation and other means of imposing major costs on them. Abusive litigation would, for example, be aimed at ensuring that competitors could not use some crucial ***intellectual property rights***, rather than ensuring that these rights are protected. See also ***predatory pricing***.

Non-reciprocal free-trade area: see ***free-trade area***.

Non-tariff barriers: see ***non-tariff measures***.

Non-tariff distortions: adverse influences on trade flows caused by the existence of ***non-tariff measures***.

Non-tariff measures: government measures other than ***tariffs*** that restrict trade flows. Examples include ***quantitative restrictions***, ***import licensing***, ***voluntary restraint arrangements*** and ***variable levies***. They generally now contravene the WTO rules. One of the outcomes of the ***Uruguay Round*** was an obligation to convert all non-tariff measures affecting agricultural trade into tariffs. See also ***Agreement on Safeguards*** and ***tariffication***.

Non-tradeables: goods and services that are not, or only rarely, traded internationally because they are abundant and cheap everywhere or because the cost of support services needed for trading them would exceed the value of the product in the importing market. A list of non-tradeables would change considerably over the years and probably become shorter. Two examples will suffice. Sand and gravel, until recently quarried locally and considered non-tradeable, have become tradeable for a range of reasons, including more stringent environmental measures governing their extraction. Haircuts remain among the non-tradeable services even though a person living very

close to a border may find it convenient to hop across the border for a haircut. See also ***semi-tradeables*** and ***tradeables***.

Non-trade concerns: used by many as a more neutral expression than ***multifunctionality***. The preamble of the ***Agreement on Agriculture*** specifies ***food security*** and environmental protection as examples. Also cited by WTO members are rural development and employment, and poverty alleviation. See also ***non-trade objectives in trade policy***.

Non-trade objectives in trade policy: this refers to the formulation of trade rules to achieve aims other than the traditional goals of freer, predictable and non-discriminatory trade. Such aims can include the protection of the environment, the promotion of ***core labour standards*** or human rights, support for democratic values and social and political ideas more generally. Some also include rules concerning competition and investment in this category, but others dispute this because of the frequently complementary relationship between ***trade policy*** and investment or competition. Arguments about the validity of non-trade objectives are often fierce. The basic principle seems to be that my concerns are legitimate, but yours are suspect and probably protectionist. See also ***animal rights***, ***multifunctionality***, ***trade and competition***, ***trade and environment***, ***trade and human rights***, ***trade and investment*** and ***trade and labour standards***.

Non-violation: a situation where a party to a multilateral trade agreement (e.g. the GATT or the GATS) acts according to the legal provisions of the agreement, but still manages to nullify or impair the rights of another party through its actions. The offending measures must alter the competitive conditions established by agreed tariff bindings or bound commitments for redress to be available through the non-violation procedure. In other words, the impact of the measure must be unexpected. A recent example of non-violation was the undermining of a tariff binding through domestic subsidies such as happened in the case of European Community assistance to oilseed producers. Non-violation cases can be dealt with under the WTO ***dispute settlement*** provisions. See also ***Australian subsidy on ammonium sulphate***, ***nullification or impairment*** and ***oilseeds case***.

Nordic countries: usually Finland, Norway and Sweden, but on occasion also Denmark and Iceland, depending the negotiating forum and the subject being discussed.

Normal trade relations: the term now used by the United States instead of **most-favoured nation treatment** particularly in the annual congressional debate on the nature of the United States-China trade framework. See also ***permanent normal trade relations*** and ***temporary normal trade relations***.

Normal value: a key concept in determining whether ***dumping*** has taken place. GATT Article VI condemns the introduction of products into the commerce of another member at less than normal value. Article 2 of the ***Agreement on Implementation of Article VI of the General***

Agreement on Tariffs and Trade (the Anti-dumping Agreement) sets out the meaning of "normal value" and the procedures for its determination. A product is considered dumped, or introduced at less than normal value, if its price, when being exported in the ordinary course of trade, is less than the comparable price for the like product when destined for consumption in the exporting country. If there are no sales in the domestic market of the exporting country or if these sales do not permit a proper comparison, the export price to an appropriate and representative third country may be used. A third method is using the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits. Precise rules are available if the product is found not to have been exported in the ordinary course of trade, or for trade that may have been short term only. If no export price is available, or if it appears that the export price is unreliable because of an association between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are sold to an independent buyer. The comparison between export price and normal value must be made under similar conditions, with allowance for unavoidable differences. See also ***anti-dumping measures***.

North: see ***developed country***.

North American Agreement on Labor Cooperation: an agreement containing binding obligations signed by the Canada, Mexico and United States in September 1993 as part of their obligations under ***NAFTA*** with the main objective of improving working conditions and living standards in the territory of each party. The parties to the Agreement undertake to promote eleven labour principles which include, in addition to the ***core labour standards***, the right to strike, minimum employment standards, equal pay for women and men, prevention of occupational injuries and illnesses, compensation in cases of occupational injuries and illnesses and protection of migrant workers. The Agreement permits trade measures to enforce the observance of standards relating to occupational safety and health, child labour or minimum wage technical standards, but not the core labour standards such as freedom of association or the right to bargain collectively. The administration of the Agreement is supervised by a Commission for Labour Cooperation consisting of a ministerial council and a secretariat.

North American Free Trade Agreement: see ***NAFTA***.

North Atlantic Free Trade Area: a proposal for a ***free-trade area*** between the United States and the European Economic Community which appeared sporadically in the 1960s. Irreconcilable differences concerning agricultural trade, the friction it was meant to resolve above all else, meant that it did not reach the negotiating table. See also ***TAFTA***.

North East Asia Free-Trade Area: NEAFTA. Proposed in 1999 by Prime Minister Obuchi of Japan as a long-term project for closer regional economic integration. Prospective members could include Japan, Republic of Korea, China, Hong Kong and others. No timetable for negotiations exists.

North-South: A Programme for Survival: see ***Brandt Report***.

North-South dialogue: a process of discussions and negotiations, frequently acrimonious and fruitless, between the developed or industrialised countries (the North) and the developing countries (the South). Some see it as having begun in the early 1960s with, for example, the ***Alliance for Progress*** and the moves leading to the establishment of ***UNCTAD*** (United Nations Conference on Trade and Development) in 1964 and the concurrent formation of the ***Group of 77***. Others date the beginning of the North-South dialogue to the ***Conference on International Economic Cooperation***, convened by France in 1975, which itself concluded in 1977 without any concrete results. The more or less formal end of the dialogue came with the 1980 Special Session of the United Nations General Assembly. There is little disagreement on this point. Whatever exact starting point one accepts for the North-South dialogue, it followed the arrival in the United Nations and its specialised agencies of a large number of newly-independent developing countries. Their numbers allowed them increasingly to define or influence the work program of these bodies. This, coupled with the view advocated strongly by many developing countries that their legitimate concerns about development, economic growth and participation in the global trading system were not being taken seriously by the developed countries, led by the early 1970s to a realisation by the North that something had to be done. The ***OPEC*** decision in 1973 to quadruple the price of oil provided an additional incentive for this. What followed was a range of political and economic initiatives, many of which did not endure. In outline, in 1974 the United Nations General Assembly passed a resolution on the ***New International Economic Order***, in effect a vast claim for the transfer of resources from the North to the South. The adoption of the ***Charter of Economic Rights and Duties of States***, an attempt to redefine aspects of international law, occurred in the same year. Early in 1975 followed the first ***Lomé Convention*** which, though producing advantages for developing countries, also showed that probably they did not have the power to force a rapid change. This became clearer at the Conference on International Economic Cooperation, mentioned above, held in the same year. There had been moves in the United Nations system since 1977 to start a program of ***Global Negotiations*** in 1980. The launch of the ***Brandt Report*** in 1980 appeared to give promise of a new start. However, by that time the gap between the two sides had become unbridgeable, their positions largely incapable of movement, and the dialogue petered out. There have been periodic calls for the revival of the North-South dialogue, but discussions on how to do it always got bogged down in the preliminaries. See also ***Harries Report***.

Notification: an obligation to report to the relevant body of the WTO the adoption of trade measures that might have an effect on the members of the agreement it administers. Notifying promotes ***transparency*** and assists ***surveillance***. Notifying has no bearing on whether the measure itself will be judged to be in conformity with the rules. The *Decision on Notification*

Procedures taken at Marrakesh in April 1994 contains an illustrative list of twenty types of notifiable measures as follows: tariffs, tariff quotas and surcharges, quantitative restrictions (including voluntary export restraints and orderly marketing arrangements), other non-tariff measures such as licensing and mixing requirements and variable levies, customs valuation, rules of origin, government procurement, technical barriers, safeguard actions, anti-dumping actions, countevailing actions, export taxes, export subsidies, export tax exemptions, concessionary export financing, free-trade zones (including in-bond manufacturing), export restrictions, any other government assistance, role of state-trading enterprises, foreign exchange controls related to imports and exports, government-mandated countertrade, etc. In drawing up the list, negotiators have cast a wide net, and few measures could in principle escape it. The WTO Secretariat maintains a list of all notified measures and reminds members when they have to put in a standard notification. See also ***reverse notification***, ***surveillance*** and ***transparency***.

Not inconsistent with: an expression frequently used by ***panels*** in WTO ***dispute settlement*** reports. It means that, as far as the panel can establish, the measure being examined does not contravene any WTO rules. Accordingly, the party maintaining the measure is not required to change it. The use of this expression appears to stem partly from the fact that the ***GATT 1947*** was in force provisionally only, and partly from a desire by panels to shield themselves against the possibility of undiscovered facts. See also ***Protocol of Provisional Application***.

Not-made-here syndrome: see ***techno-nationalism***.

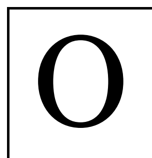
Not-on-the-whole-higher-or-more-restrictive criterion: a criterion used in the assessment of whether a ***customs union*** is in conformity with the rules of the ***GATT***. Article XXIV requires that the ***common external tariff*** of a new customs union must not on the whole be higher or more restrictive than the national tariffs of the members were before they joined the union. Much argument has arisen over the method to be used in ascertaining whether the criterion has been met, especially over the question of the use of the ***average tariff*** or a ***trade-weighted average tariff***. Outcomes clearly can be quite different depending on which calculation is used. The *Understanding on the Interpretation of Article XXIV* concluded as part of the ***Uruguay Round*** clarified the matter. It says that an evaluation of tariff levels must be based on an overall assessment of weighted average tariff rates and of ***customs duties*** collected.

NTMs: non-tariff measures, such as quotas, import licensing systems, sanitary regulations, prohibitions, etc.

Nuisance tariff: a ***tariff*** so low that it costs the government more to collect it than the revenue it generates. Sometimes also used to refer to a tariff without any protective effect. See also ***revenue tariff***.

Nullification and impairment: damage to a country's benefits and expectations from its WTO membership through another country's change in

its trade regime or failure to carry out its WTO obligations. If the matter cannot be solved through ***consultation***, it is then open to members to resort to formal ***dispute settlement*** procedures. Nullification and impairment can occur through a violation of the rules, but the same is possible through ***non-violation***.



Observer status: participation in a meeting to observe the formal proceedings, but without the right to intervene in the debate or take part in making decisions. Observers are not usually admitted to informal sessions or negotiating meetings. They have, however, the right in most cases to address formal meetings, usually after all of the ordinary participants have had their say. They also normally receive all of the formal documents.

OECD: Organisation for Economic Cooperation and Development. Established in 1961 as the successor to the ***Organisation for European Economic Co-operation*** (OEEC). Sometimes called a "rich-country club" because its members account for more than 70% of global output. Its objectives are (a) to achieve the highest sustainable economic growth and employment and a rising standard of living in member countries, while maintaining financial stability, and thus to contribute to the development of the world economy, (b) to contribute to sound economic expansion in member as well as in non-member countries in the process of economic development, and (c) to contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations. The OECD can point to considerable achievements in the trade and economic fields, assisted to some extent by the homogeneous nature of its membership, over the last thirty years. Membership consists of Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom and the United States. The highest OECD body is the annual Ministerial Council Meeting, usually held in May. See also ***Arrangement on Guidelines for Officially Supported Credits***, ***Convention on Combating Bribery of Foreign Public Officials in International Business Transactions***, ***Joint Group on Trade and Competition***, ***Multilateral Agreement on Investment***, ***OECD Guidelines for Multinational Enterprises***, ***OECD Recommendation on Trade and Competition, OECD shipbuilding agreement*** and ***trade and illicit payments***.

OECD Guidelines for Multinational Enterprises: a set of guidelines for the behaviour of multinational enterprises first adopted by ***OECD*** member

countries in 1976 and last revised in 1984. General policies to be followed include (a) taking into account general policy objectives of host countries, (b) giving due consideration to the economic and social objectives of host countries, (c) ensuring that units of multinational enterprises have access to information that may be requested by host governments, (d) close cooperation with the local community and business interests, (e) allowing their units to exploit their competitive advantage in domestic and foreign markets, (f) non-discriminatory employment policies, (g) no bribes to any public servant or holder of public office, (h) no contributions to political bodies unless that is legal and (i) no improper involvement in local political activities. There are also more detailed provisions concerning the disclosure of information, competition, taxation, employment and industrial relations, and science and technology. See also ***Draft United Nations Code of Conduct on Transnational Corporations*** and ***ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy***.

OECD Recommendation on Trade and Competition: formal name *Revised Recommendation of the Council for Cooperation Between Member Countries on Anticompetitive Practices Affecting International Trade*. It was first adopted in 1986 and revised several times since, the last time in 1995. As it is a recommendation, it is a non-binding instrument. It sets out a range of measures, including procedural arrangements aimed at transparency, consultation and conciliation, members could take to minimise friction between trade and competition policies of different jurisdictions.

OECD shipbuilding agreement: formal name *Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry*. It was concluded on 21 December 1994, but it is not yet in force. The Agreement seeks to eliminate the use of subsidies in the construction and repair of self-propelled seagoing vessels of more than 100 gross tons. It does not cover military vessels and fishing boats destined for own use by a party. Annex I contains a list of support measures that are inconsistent with the Agreement, including ***export credits*** or subsidies and, domestic support and some support measures for research and development. Parties to the Agreement also have access to a mechanism to deal with injurious pricing which is based on the ***anti-dumping measures*** available under the WTO agreements. There is also a dispute settlement mechanism. The Agreement is open for signature to countries outside the OECD.

Offer: a country's proposal for further liberalisation.

Office international de la vigne et du vin: OIV. Established in 1924 with the objective of collecting and disseminating scientific, technical, economic and legal information on matters related to wine. Its work is of relevance to international trade in wine because many important wine-growing countries adopt its standards for their wine industries. Its scretariat is located in Paris. See also ***appellation contrôlée*** and ***geographical indications***.

Office International des Epizooties: see ***International Office of***

Epizootics.

Official development assistance: defined by the ***Development Assistance Committee*** of the ***OECD*** as grants or loans by its members to a defined list of developing countries. To qualify as official development assistance, activities must be (a) undertaken by the official sector of the donor country, (b) aimed mainly at the promotion of economic development and welfare, and (c) at concessional financial terms. Technical cooperation activities are included, but grants, loans and credits for military purposes do not qualify.

Offsets: measures used to encourage the development of local industry or to improve the ***balance of trade*** by means of ***local content requirements***, licensing of technology, investment requirements, ***countertrade*** or similar requirements. Some of these measures are illegal under the ***Agreement on Trade-Related Investment Measures***. The ***Agreement on Government Procurement*** prohibits all such offset requirements for its members. As with all forms of ***protection***, offsets may raise domestic costs and therefore harm a country's export efforts. Governments are normally attracted to offsets as a form of infant industry development. See also ***infant-industry argument***.

Oil-exporting countries: this group of countries generally includes Algeria, Angola, Bahrein, Bolivia, Brunei, Cameroon, Congo, Ecuador, Egypt, Gabon, Indonesia, Iran, Iraq, Kuwait, Libya, Malaysia, Mexico, Nigeria, Oman, Qatar, Saudi Arabia, Trinidad and Tobago, Tunisia, United Arab Emirates and Venezuela. See also ***OPEC***.

Oilseeds*:** this was a long drawn-out dispute originally brought by the United States against the European Economic Community (EEC) in 1989. It is an example of the application of the GATT rule on ***non-violation. The first ***panel*** report on this case, adopted in 1990, found that the EEC regulations authorising payments to seed processors, on condition that the oilseeds originated in the EEC, were inconsistent with the ***GATT national-treatment*** obligation. The panel also found that the subsidy scheme for oilseeds operated by the EEC isolated EEC producers completely from the movement of prices on international markets. Therefore, ***tariff concessions*** in the form of ***zero bindings*** made by the EEC could not have any impact on the competitiveness of imported oilseeds. In December 1991 the panel was reconvened at the request of the United States to determine whether the changes made by the EEC as a result of the earlier panel would eliminate the difficulties. The facts in the follow-up case were that the new support system involved direct per-hectare payments to producers of soya beans, rapeseed, colza and sunflowerseed regardless of the quantity produced. The system now consisted of two elements. The first was the price received from the sale of oilseeds in the EEC market which now was determined partly by import prices. Second, there was a direct per-hectare payment depending on average past yields for the region in which the producer was located. The panel noted that the changes made by the EEC were intended to fix the national-

treatment problem. Concerning the claim of ***nullification and impairment*** of tariff concessions, the panel recalled its original findings (a) that the benefits available to the United States under the applicable tariff concession by the EEC included an expectation that the conditions prevailing in 1962 would be preserved, (b) that the production subsidy schemes of the EEC protected its producers completely from imports and therefore ensured that its lowered tariffs had no effect whatever, (c) that the United States could be assumed not to have anticipated the introduction of these subsidies, (d) that it must reasonably have expected the transformation of earlier national producer support measures into an EEC support scheme, but one that would preserve its benefits, and (e) that the subsidies concerned had impaired the rights of the United States because they upset the competitive relationship between domestic and imported oilseeds, not because of any effect on trade flows. The panel found that the revised support scheme still rendered the level of EEC production substantially insensitive to the movement of world market prices. It therefore continued to impair the benefits the United States could expect to accrue to it under the relevant tariff concessions. The panel also found that the EEC related the support for oilseeds under the new system with the support for the production of alternative crops protected by variable levies which completely insulate EEC producers from world market prices. It therefore found that this would appear to be difficult to reconcile with the expectations of the United States at the time the zero-tariff bindings were negotiated. Hence the rights of the United States under Article II (Schedules of Concessions) remained impaired. The panel then recalled that over two years had passed since the original report had been adopted, and it recommended that the EEC should act expeditiously to eliminate the impairment of tariff concessions. In other words, the EEC's right to institute subsidies on certain products and the level of these subsidies was not at issue and not inconsistent with GATT rules. However, the use of subsidies as they affected oilseed producers impaired and nullified the rights of other GATT. This is the basis of the non-violation argument in this case. The panel decision was not the end of the matter. It remained an irritant in European Community-United States trade relations for the remainder of the ***Uruguay Round***. It was resolved as part of the ***Blair House Accord*** in November 1992 when the European Community agreed to set acreage limits for oilseeds production.

Old economy: the economy as we knew it until talk in the late 1990s about the superiority of the ***new economy*** and the accompanying investment boom made it briefly unfashionable. It turned out that managers of the old economy were much more adaptable than the proponents of the new economy thought possible.

OMA: see ***Orderly Marketing Arrangement***.

Omnibus Trade and Competitiveness Act: see ***United States Omnibus Trade and Competitiveness Act***.

One-way free-trade area: see ***asymmetrical trade agreement***.

OPEC: Organisation of Petroleum Exporting Countries. Established in 1960. Its current members are Algeria, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Saudi Arabia, United Arab Emirates and Venezuela. It aims to coordinate and unify production and export policies. Membership is open to countries with a substantial net export of crude petroleum. Its secretariat is located in Vienna.

Open regionalism: a term which implies that any regional arrangement should be outward-looking and lowering barriers to economies outside the arrangement as well as those within it. For some, open regionalism means that full ***most-favoured-nation treatment*** will apply to tariff reductions by members of an arrangement. For others it allows the possibility of a ***preferential trade arrangement***, coupled with easy access to membership.

Open-season negotiations: an opportunity available every three years to GATT members under Article XXVIII to conduct technical tariff negotiations when ***bindings*** expire. Bindings originally were made for three years. Such negotiations may lead to modifications or withdrawals of ***concessions***. Resort to such negotiations is less common now that bindings are deemed to be permanent. See also ***renegotiation of tariffs***.

Open-skies agreements: these are agreements between governments to give each other unrestricted access to their airports for scheduled passenger and cargo flights. Most international air routes and service frequencies are still allocated on the basis of ***bilateral air services agreements***. These agreements usually specify the maximum number of passenger seats that may be offered and the airports that may be used. See also ***freedoms of the air***.

Opinion: one of the ways in which the ***European Community*** institutions are able to influence the actions of member states. An opinion is not binding, but it expresses a preference for a certain type of action. See also ***European Community legislation***.

OPTAD: Organisation of Pacific Trade and Development. It was proposed in 1979 as an organisation linking the countries of the Pacific Rim, but it never reached the negotiating stage. Its proponents thought that it would act as forum for the resolution of economic problems, to provide a stimulus for investment and trade flows into the region, to provide a forum for the longer-term economic transformation of the region and to form the foundation for a more constructive approach to the expansion of relations with the Soviet Union, China and Vietnam. Its prospective membership would have included most of what are now the ***APEC*** members.

Optimal-intervention principle: the use of the instrument that attains the policy goal with the least amount of undesired side-effect, usually the one that attacks the identified policy problem directly at its source.

Optimal-tariff argument: also called optimum-tariff argument. An aspect of economic theory which postulates that a country large enough to affect import or export prices may maximise its gains by restricting trade to a carefully judged extent. It can do this through imposing ***protection*** through import or export tariffs. Tariffs reduce welfare by distorting production and

consumption, but they can sometimes increase welfare by improving the ***terms of trade***. The risk in proceeding in this way is that it will afford unneeded protection to some sectors of the economy. Harry G Johnson noted that only the optimum-tariff argument provides an economic justification for tariffs, and that all other arguments for protection are arguments for subsidies. There is another view of the optimal tariff, not generally thought to be supported by evidence, which assumes that in some cases importing countries have such dominant buying power that the cost of a tariff imposed by them has to be absorbed by the exporting country.

Orderly Marketing Arrangement: a bilateral arrangement whereby an exporting country (government or industry) agrees to reduce or restrict exports without the importing country having to make use of quotas, tariffs or other import controls. OMAs fall in the same category of trade distortions as ***voluntary restraint arrangements*** and ***voluntary import expansion*** schemes. See also ***Agreement on Safeguards***.

Organic integration: private cross-border flows of capital, goods and services, technology and information, driven in large part by multinational enterprises. See also ***economic integration***.

Organisation for European Economic Cooperation: OEEC. Established in 1948 as the body administering the ***Marshall Plan*** and superseded in 1961 by the ***OECD***.

Organisation for International Economic Cooperation: the successor organisation to the ***Council for Mutual Economic Assistance***. Its mandate is to advise member states on trade and economic matters, but it appears to be inactive at present.

Organisation for Trade Cooperation: proposed in 1955 through a GATT working party report as a permanent mechanism for administering the GATT. Its mandate would have been a limited version of what had been expected of the ***ITO***. All GATT members would automatically have become members of the organisation. One interesting point raised in the report of the working party is that countries appointed to the Intersessional Committee, which at that time was the only means of conducting business between the annual sessions, might consider appointing representatives of suitable calibre and the necessary authority to live in Geneva or nearby capitals so that they could contribute to its deliberations. Another of its recommendations was that the organisation should be brought into a specialised agency relationship within the United Nations. The proposal for an Organisation for Trade Cooperation failed to get United States congressional approval, and it lapsed. See also ***GATT Council of Representatives***, ***United Nations specialised agencies*** and ***WTO***.

Organisation of African Unity: OAU. Established on 25 May 1963. Many of its aims are political, but one of them is economic cooperation, including transport and communications. All independent sovereign nations of Africa may become members, and 53 have taken that step. Its secretariat is located in Addis Ababa. Superseded in July 2001 by the ***African Union***. See also

African Economic Community.

Organisation of American States: OAS. Established through the Bogotá Charter of 1948 which entered into force in 1951. 35 sovereign states of the Americas participate in it. Cuba was excluded from membership in 1962. OAS seeks, among mainly political objectives, to solve economic problems that may arise among member states and to promote, by cooperative action, their economic, social and cultural development. As part of this, the Miami Economic Summit in December 1994 agreed to establish the ***FTAA*** (Free Trade Area of the Americas). The OAS secretariat is located in Washington.

Organisation of Eastern Caribbean States: OECS. Established in 1981 to promote, among other objectives, economic cooperation among its members. At the same time, it superseded the East Caribbean Common Market. OECS members are Antigua and Barbuda, Dominica, Grenada, Montserrat, St Kitts and Nevis, St Lucia, St Vincent, and the Grenadines. The British Virgin Islands and Anguilla are associate members. Its economic affairs secretariat is located at St John's, Antigua and Barbuda, but the OECS central secretariat is at Castries, St Lucia.

Original membership of the WTO: deemed to have been attained by the members of the ***GATT 1947*** who had on 1 January 1995 (a) accepted the ***Marrakesh Agreement Establishing the World Trade Organisation***, (b) the multilateral trade agreements annexed to it, and (c) annexed schedules of ***concessions*** to the ***GATT 1994*** and schedules of specific commitments to the ***GATS***. Countries meeting these requirements did not have to undergo the ***accession*** formalities, but original membership does not confer any other rights.

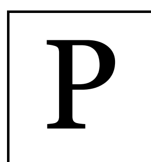
Osaka Action Agenda: the agenda for trade and investment liberalisation and economic cooperation agreed by ***APEC*** leaders on 19 November 1995 at their meeting in Osaka. It is a step in translating the aims of the 1994 ***Bogor Declaration*** into reality. The action agenda consists of three pillars: (a) trade and investment liberalisation, (b) their facilitation and (c) economic and technical cooperation. The aims of the action agenda are to be achieved through encouraging and converting the evolving efforts of voluntary liberalisation in the region, taking collective actions to advance liberalisation and facilitation objectives, and stimulating and contributing to further momentum for global liberalisation. Its guiding principles are ***comprehensiveness***; ***transparency***; ***standstill***; ***non-discrimination***; simultaneous start, continuous process, differentiated timetables; flexibility and cooperation. Individual action plans had to be submitted to the 1996 ***APEC ministerial meeting***. Their overall implementation began in January 1997, followed by annual reviews. See also ***comparability***, ***APEC individual action plan*** and other entries beginning with ***APEC***.

Ottawa Imperial Conference: the conference held in 1932 which established the ***imperial preferences arrangement*** for the countries then making up the British ***Commonwealth***. The arrangement entered into force in October 1932.

Our Common Future: see ***World Commission on Environment and Development***.

Out-of-cycle reviews: this is a mechanism created by ***USTR*** to administer ***Special 301***. Under the provisions of the ***United States Omnibus Trade and Competitiveness Act***, USTR must make an annual report on its montoring and enforcement activities and the compliance of other countries with trade agreements of which the United States is a member. Where the matter is considered serious enough, USTR will start a review without waiting for the cycle of annual reports. That then is an "out-of-cycle review". See also ***Monitoring and Enforcement Unit***.

Out-of-quota rate: the ***tariff*** rate applicable to products imported in excess of a ***tariff quota***. This rate is meant to discourage imports above the quota limit. It is usually much higher than the one applied to imports within the quota. See also ***in-quota tariff***.



Pacific Agreement on Closer Economic Relations: PACER. An agreement adopted in August 2001 by the ***Pacific Islands Forum*** which sets out the framework for the development of trade relations between the Forum members. It is not a ***free-trade agreement***, but it allows for the establishment of free-trade areas. One of these is the ***Pacific Island Countries Trade Agreement.*** PACER will enter into force after seven countries have ratified it. See also ***SPARTECA***.

Pacific Free Trade Area: PAFTA. An idea for a regional preferential trade arrangement that has been around since the 1960s. Most of the various proposals brought forward over the years have included either the United States or Japan, often both, as the centre of any prospective arrangement. None of them have reached the negotiating stage. Some say that the formation of ***APEC*** has made PAFTA redundant. See also ***OPTAD***, ***PBEC*** and ***PECC***.

Pacific Island Countries Free Trade Agreement: PICTA. A free-trade agreement adopted in August 2001 by the ***Pacific Islands Forum***. It calls for the establishment of a free-trade area over the next ten years. Australia and New Zealand are eligible to join if they wish. PICTA will enter into force after six countries have ratified it. See also ***SPARTECA***.

Pacific Islands Forum: PFI. Founded in 1971 as the South Pacific Forum. Renamed in 2000. This is an annual meeting of the heads of government of South Pacific states. Its membership is Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The PFI also has about ten dialogue members. It

concerns itself with regional political and economic questions, including the aim of closer regional economic cooperation. It has no written charter. Its secretariat is located in Suva.

Pacific Rim: an imprecise term for the countries bordering the Pacific Ocean. Also known as Pacific Basin. See ***APEC***, ***PBEC*** and ***PECC***.

Pacta sunt servanda: the principle in international treaties law, as expressed in Article 26 of the ***Vienna Convention on the Law of Treaties***, that "every treaty is binding upon the parties to it and must be performed by them in good faith".

Panel: an independent group of three experts established by the ***Dispute Settlement Body*** to examine and issue recommendations on particular dispute in the light of WTO provisions. Sometimes used figuratively for the actual finding or decision made by a panel. Panels are not guided by extraneous factors or rules established outside the WTO framework. See also ***dispute settlement*** and ***WTO understanding on dispute settlement***.

Pan-European Cumulation Area: a scheme established on 1 January 1997 under which goods consisting of components made in more than one participating country are treated in the same way as domestically produced goods. The Area consists of the ***European Community***, ***EFTA***, the ***Central European Free Trade Area***, the ***Baltic States*** and Bulgaria. Manufactures qualify for the scheme if 60% or more of their value originates within the Area, but this rises to 100% for agricultural products. See also ***preferential rules of origin***.

Parallel import: the import of a product with an ***intellectual property*** content from another country where the product has been lawfully placed on the market by the owner of the ***intellectual property right*** or with the owner's consent. Such imports compete with the same product produced or distributed, also with the authorisation of the holder of the rights, in the domestic market. They are therefore said to be imported in parallel with the authorised channels. The motivation for doing so arises when the parallel import can be put on the market much more cheaply. In his exhaustive study of the subject, Some say that strictly speaking the same person should hold the intellectual property rights in both countries, but the term more generally now describes situations where ownership has been split by contract. Parallel importing remains a contentious practice, and its legality varies according to jurisdiction. Competition authorities tend to be in favour of this practice because the consumer clearly benefits from it. Others, however, hold that the practice undermines the system of ***intellectual property rights*** which is designed to foster innovation and creativity. Neither the WTO ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** nor the ***Copyright Treaty*** concluded under ***WIPO*** auspices in December 1996 preclude governments from permitting parallel importation. See also ***exhaustion doctrine***.

Para-tariffs: a name sometimes used for charges levied on imports instead of, or in addition to, ***tariffs***. These can consist of service fees, additional import

surcharges or other fees levied on imported products inside the market. Para-tariffs are illegal if they are levied on imports inside the market, but not at the same time on domestic products. Their imposition in such cases would be a denial of ***national treatment***.

Pareto optimum (or efficiency): the principle defined by Vilfredo Pareto that resources are allocated efficiently when no person can be made better off without some other person being made worse off. Intermediate situations between the current stage and the optimum are called Pareto-superior.

Paris Club: a forum consisting mainly of ***OECD*** member countries which was established for the purpose of bringing together creditor and debtor countries in cases where there are difficulties in meeting loan repayments. It seeks to avoid defaults on loans through debt rescheduling and other mechanisms. The French Treasury provides a secretariat for the Paris Club.

Paris Convention: full name *Paris Convention for the Protection of Industrial Property* which established the Paris Union. It came into force in 1884, and it has been revised several times. The latest version is the 1967 Stockholm Revision. The Convention is administered by ***WIPO***. It provides protection for ***patents***, ***trademarks***, ***industrial designs*** and applies broadly to ***industrial property***, including ***geographical indications*** and ***appellations of origin***. The main features of the Convention are ***national treatment***, ***right of priority*** (a person filing for a patent in one member country has a right of priority to file in another country within one year), and ***independence of protection*** (patents applied for in member countries by nationals of member countries are independent of patents obtained for the same invention in other countries). See also ***Agreement on Trade-Related Aspects of Intellectual Property Rights***.

Paris Union: see ***Paris Convention***.

Partial-scope trade agreements: another name for ***sectoral free-trade areas*** sometimes negotiated by developing countries under the ***Enabling Clause***.

Partial preferential trade agreement: a term used to describe either ***preferential trade agreements*** confined to trade in some sectors or an ***asymmetrical trade agreement*** under which only some of the participants grant free access to products from the other members. See also ***full preferential trade agreement***.

Part IV of the GATT: a protocol to the GATT which had its origin in the ***Kennedy Round*** and entered into force on 27 June 1966. It added Articles XXXVI to XXXVIII to the GATT. In these three articles developed countries agreed broadly that they would not expect ***reciprocity*** for tariff reductions and removal of trade barriers where the trade of developing countries is affected. Developed countries would also take measures to ensure that the trade of developing countries would not be disadvantaged by actions taken by developed countries and to work together with them to promote and expand their trade. Although these three articles impose few legal conditions on developed countries, they have shaped to a considerable extent the form of

the trading system since 1965 through lessening expectations of what developing countries could or should be required to do. See also ***Enabling Clause*** and ***developing countries and the GATT***.

Partners for Progress: an ***APEC*** mechanism based on mutual assistance and voluntarism to promote economic and technical cooperation more efficiently within APEC. It was established by the November 1995 ***APEC ministerial meeting***. The mechanism is aimed at activities that support directly the liberalisation and facilitation of trade and investment. See also ***Bogor Declaration*** and ***Osaka Action Agenda***.

Partnership and Cooperation Agreements: PCAs. The name for the agreements between the ***European Community*** and the ***Newly Independent States***. The parties offer each other ***most-favoured-nation treatment*** (MFN) for trade in goods. There are provisions also on ***trade in services***, ***right of establishment***, ***intellectual property protection*** and other areas. PCAs are seen by the Community in terms of rights and obligations as half-way between its standard framework agreements which do not offer preferences and the ***Europe Agreements***, though there is no presumption of an automatic progression to a ***preferential trade arrangement***.

Passive reciprocity: a concept introduced by William R Cline which means that two countries may agree cooperatively that reciprocal trade liberalisation offers benefits to both of them. Under WTO rules, such liberalisation would have to be extended to all WTO members on a ***most-favoured-nation treatment*** basis. See also ***aggressive reciprocity*** and ***reciprocity***.

Pass-through operations: activities aimed at gaining access to markets on preferential terms by shipping products through an economy that already has preferential access. In such cases, the aim generally is to transform the product as little as possible in the intermediary economy. See also ***preferential rules of origin***, ***preferential trade arrangements*** and ***substantial transformation***.

Pasta**:** launched by the United States against the European Economic Community (EEC) in 1982 on the grounds that EEC export subsidies on pasta products (macaroni, spaghetti and similar products) manufactured from durum wheat were inconsistent with Article 9 of the ***Tokyo Round*** Subsidies Code. This article states that signatories shall not grant export subsidies on products other than certain primary products. The EEC argued that pasta products were a type of ***primary product***. The facts were that the EEC operated a common system for the internal market in cereals and cereal-based products. It provided for a single system of internal prices for the whole Community and a common trading system with third countries which prevented price fluctuations of the world market from affecting internal cereal prices. The system also provided for export licensing and for application of export refunds in a prescribed manner. Export refunds could be granted to cover the difference between the internal prices and those on third markets for cereals exported in natural state or in the form of specified

goods. Pasta products were included in this list of specified goods. The funding of the export refund on durum wheat in the form of pasta was made by a public contribution from the EEC budget which also paid the export refunds on cereals. In its findings and conclusions, the ***panel*** was of the opinion that pasta was not a primary product, but a processed agricultural product. It also concluded that the EEC system of granting refunds had to be considered a form of subsidy in the sense of GATT Article XVI (Subsidies). The panel held that the terms of Article XVI, as interpreted in Articles 9 and 10 of the Subsidies Code, excluded the possibility of considering the export of a processed product on the same terms as the export of its constituent components. Accordingly, it concluded that the EEC export refunds were granted on the exports of pasta products and operated to increase these exports and that the EEC subsidies on exports of pasta products were granted in a manner inconsistent with Article 9 of the Subsidies Code.

Patent: the right given to inventors to have exclusive use for a specified period for making, using or selling a new, useful, non-obvious ***invention***. Patents are available for products and processes. See also ***intellectual property*** and ***Agreement on Trade-Related Aspects of Intellectual Property Rights***.

Patent Cooperation Treaty: provides for the filing of an international ***patent*** application in member states. Filing has to be done through the patent office of which the applicant is a national or resident, and it has the same effect in member states as filing an application with a national patent office of that state. The Treaty has more than 100 members. It is administered by ***WIPO***. See also ***intellectual property*** and ***intellectual property right infringements***.

Pathfinder approach: agreement at the 2001 ***APEC Economic Leaders' Meeting*** that groups of member economies able to proceed more quickly towards the realisation of the aims of the ***Bogor Declaration*** may do so through developing "pathfinder initiatives".

Pauper-labour argument: the argument that industry in countries paying high wages cannot withstand the competition from low-wage countries, and that some form of ***protection*** is therefore needed. See also ***core labour standards***, ***race-to-the-bottom argument***, ***social clause***, ***trade and labour standards*** and ***wage-differential argument***.

PBEC: Pacific Basin Economic Council. A non-governmental organisation established in 1967 and consisting of more than 1,100 companies located in 19 economies around the Pacific Rim, including Australia, New Zealand, Canada, Japan and the United States. It seeks to promote a business environment conducive to open trade and investment and encouraging competitiveness. It also contributes to the development of policies in ***APEC***. PBEC has a secretariat based in Honolulu.

Peace clause: a provision in Article 13 of the WTO ***Agreement on Agriculture*** which says that agricultural subsidies committed under the agreement cannot be challenged under other WTO agreements, especially the

Agreement on Subsidies and Countervailing Measures and the ***GATT***. The peace clause will expire on 31 December 2003.

Peak tariffs: if the ***tariff*** rates contained in a typical national tariff schedule were represented chapter by chapter as a continuous line in a graph, the result probably would be something like a series of plateaus interspersed with sudden peaks. Each peak would mean that that product, or group of products, is benefiting from higher ***protection*** than the products expressed by plateaus. Peak tariff rates are to a large extent a relative concept, though during the ***Uruguay Round*** they were defined for negotiating purposes as above 15%. A rate of 10% in a schedule averaging 4%, as many of the developed-country rates will be once the results of the Uruguay Round are fully implemented, would represent a peak just as a rate of 40% would in the environment of rates around 20%. The presence of pronounced peak tariff rates may show only one aspect of the protection available to domestic producers. There are cases where their absence is masked by a range of ***non-tariff measures*** with the same or a greater impact. See also ***sensitive products***.

PECC: Pacific Economic Cooperation Conference. Established in 1980. It consists of business, academic and governmental representatives. PECC has 23 members (Australia, Brunei Darussalam, Canada, Chile, China, Colombia, Ecuador, Hong Kong, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Peru, Philippines, Russia, Singapore, Pacific Islands Forum, Chinese Taipei, Thailand, United States and Vietnam) and two associate members (France and Mongolia) who share their perspectives and expertise on of economic cooperation issues in the Asia-Pacific region. PECC is one of the major contributors of policy ideas to the APEC process. Its secretariat is based in Singapore.

Performance requirements: see ***export performance requirements***.

Peril points: a provision first included in the United States *Trade Agreements Extension Act* of 1948, but deleted in 1949. It was reintroduced in the *Trade Agreements Extension Act* of 1955. The provision required the United States Tariff Commission to set, through a process involving public hearings, a floor tariff rate for each product which indicated that a reduction below that rate would cause or threaten to cause ***injury*** to domestic industry. The President could go below the peril point, but he had to explain his decision to Congress. This provision was not incorporated in the *Trade Expansion Act* of 1962. See also ***United States trade agreements legislation***.

Permanent Group of Experts: a body established under the WTO ***Agreement on Subsidies and Countervailing Duties***. It consists of five independent persons who are qualified in the fields of subsidies and trade relations. The functions of the Group are to assist ***panels*** that may have been convened to adjudicate on the alleged existence of ***prohibited subsidies*** and to give advisory opinions on proposed or existing subsidies.

Permanent normal trade relations: an American expression for according permanent ***most-favoured nation*** treatment to countries that

have been subject to annual renewals. See also ***normal trade relations*** and ***temporary normal trade relations***.

Permanent Secretariat of the General Treaty on Central American Economic Integration: see ***SIECA***.

Per se* conduct:** used in the administration of ***antitrust laws for ***behaviour*** by a firm that is always against the rules. *Per se* rules have the advantage of setting a definite legal standard, and they are relatively cheap to enforce since it is only necessary to show that the ***conduct*** has occurred. See also ***competition policy*** and ***rule of reason***.

Persistent Dumping Clause: a provision in United States Tariff Act of 1930 which allows the Department of Commerce to initiate an anti-dumping investigation in the absence of a petition. This can be done if (a) more than one anti-dumping order is in effect with respect to imports of a class or kind of merchandise, (b) there is reason to believe that there is an extraordinary pattern of persistent dumping from one or more additional supplier countries, and (c) this extraordinary pattern is causing a serious commercial problem for the domestic industry. This clause therefore deals with an aspect of ***circumvention*** of ***anti-dumping measures***. See also ***recidivist dumping***.

Persistent Organic Pollutants: see ***Convention on Persistent Organic Pollutants***.

Pflimlin plan: this was a proposal by France in 1951 for a 30% average tariff reduction by all GATT members. The plan would have allowed for extensive waivers for developing countries which would have exempted them from similarly large cuts. It was discussed extensively, but in the end the limited United States negotiating authority, which did not permit anything but item-by-item tariff reductions, put paid to this plan. M Pierre Pflimlin was the French Minister for Foreign Economic Relations at the time. See also ***waiver***.

Phase-in periods: the staged introduction of a new agreement or new ***commitments***, sometimes according to a fixed timetable. The end-point is fixed. For example, the tariff reductions agreed during the ***Uruguay Round*** can be phased in through five annual equal reductions, though faster action is of course possible. Other examples of phase-in periods are those applicable under the ***Agreement on Textiles and Clothing*** or the ***Information Technology Agreement***. See also ***implementation***.

Picking winners: the occasional inclination of governments to identify some industrial activities as having particular promise for the future, and to institute support frameworks to promote the development of these industries. High-technology industries are especially favoured. Successes globally have been at least balanced by failures, and in most cases industries so picked have performed no better than the average of industries or firms not favoured by special attention. It is worth recalling, too, Adam Smith's admonition that "[i]t is thus that every system which endeavours, either by extraordinary encouragements to draw towards a particular species of industry a greater

share of the capital of the society than what would naturally go to it, or, by extraordinary restraints, force from a particular species of industry some share of the capital which would otherwise be employed in it, is really subversive of the great purpose which it means to promote. It retards, instead of accelerating, the progress of the society towards real wealth and greatness; and diminishes, instead of increasing, the real value of the annual produce of its land and labour." See also ***national champions*** and ***strategic trade theory***.

Pipeline protection: the practice of according protection of ***intellectual property rights*** for existing inventions before a ***patent*** has been granted formally. Products benefiting from this practice include particularly agricultural chemicals and pharmaceuticals.

Pipeline sanctions: a international problem in 1982 involving the application of United States ***extraterritoriality***. It was aimed at ensuring that American suppliers, their affiliates and foreign firms using American technology would be prevented from participating in the construction of Russian pipelines. European firms were affected heavily, and the United States action led to considerable tension in its relations with the ***European Community***. The matter was in due course settled amicably. See also ***Westinghouse case***.

Piracy: aunauthorised copying of materials protected by ***intellectual property rights*** (such as ***copyright***, ***trademarks***, ***patents***, ***geographical indications***, ***neighbouring rights***, etc.) for commercial purposes and unauthorised commercial dealing in copied materials. See also ***bootlegging*** and ***fair-use doctrine***.

Plant breeders' rights: a ***sui generis right*** of ***intellectual property protection*** available under the ***International Convention for the Protection of New Varieties of Plants***. To be eligible for protection, a plant variety must be (a) distinct (i.e. distinguishable from other commonly known varieties), (b) stable (i.e. repeated reproduction must not change its characteristics), (c) homogeneous as far as reproduction or propagation is concerned, and (d) novel in that it has not previously been offered for sale or marketed in the source country with the agreement of the holder of the right. Protection is normally accorded for fifteen to twenty years. See also ***International Plant Protection Convention***.

Ploughshares War: an expression used by Nicholas Butler to describe the trade friction in the agricultural area between the United States and the European Community since the establishment of the ***Common Agricultural Policy***. See also ***Chicken War***.

Plurilateral trade agreements: refers to the agreements under the WTO which are not a pre-condition for WTO membership. See ***WTO plurilateral trade agreements***.

Plurilateralism: doing things in small groups involving more than ***bilateralism*** (two participants), but less than ***multilateralism*** (many participants). See also ***minilateralism*** and ***WTO plurilateral***

agreements.

PL 480: Public Law 480. The United States *Agricultural Trade and Development Assistance Act* of 1954 which established the *Food for Peace* program. It consists of three parts, usually known as titles. Title I permits government to government sales of agricultural commodities to developing countries under long-term credits. Title II enables the United States to donate agricultural commodities as humanitarian food aid to foreign governments. Title III permits government to government grants to support long-term economic development in ***least developed countries***. The main exports under this Act have been wheat, feedgrains, rice, cotton oilseeds and dairy products. The ***Farm Security and Rural Investment Act*** of 2002 extended this program until 2007. See also ***Commodity Credit Corporation*** and ***Food for Progress***.

PNTR: see ***permanent normal trade relations***.

Policy competitiveness: the aim of governments to ensure that major firms establish new production facilities within their jurisdictions through offering better terms and conditions than other prospective sites. It is a consequence of the view that it is possible to benefit at the expense of others. Often the taxpayer is the unwitting underwriter of attempts to achieve policy competitiveness.

Policy-led integration: regional economic integration promoted through a formal arrangement, usually through a preferential ***regional trade arrangement***. See also ***market-led integration***.

Political will: from the point of view of trade negotiators, the trait missing among those who do not agree with their positions and who are unwilling to change their stance. Calls for a demonstration of political will usually are tantamount to a request for more flexibility by the other side. Thus it is by no means uncommon that all negotiators join in a call for a show of political will, no matter how stubbornly they defend their own positions.

Polluter-Pays Principle: a principle embodied in the OECD ***Guiding Principles Concerning Environmental Policies***. It states that the polluter should bear the expenses of carrying out measures decided by public authorities to reduce pollution and to reach a better allocation of resources. The cost of these measures should be reflected in the cost of goods and services which cause pollution in production and/or consumption. Such measures should not be accompanied by subsidies that would create significant distortions in international trade and investment. See also ***trade and environment***.

Pop mercantilism: not a serious ***trade policy*** term, but of interest all the same. According to Mark Harrison of the University of Warwick, it describes the popular view that (a) industries or activities can be classed as essential or inessential, or ranked in order of national priority, and (b) when competition occurs in international markets, some countries gain and others lose. See also ***mercantilism*** and ***neo-mercantilism***.

Portfolio investment: minority holdings of shares, bonds and other

securities as part of a diversified portfolio. The main difference between portfolio investment and ***foreign direct investment*** is generally seen in the amount of investment involved. Equity holdings of less than 10% would normally be considered portfolio investment. See also ***investment*** and ***non-equity-based investment***.

Positive comity: a term used in the administration of ***competition policy***. It means that a country may, under the rules of a relevant bilateral arrangement, request the other country to initiate an action under the ***competition laws*** of that country. This can result in action that may otherwise not have been taken by the authorities of the other country. GATS Article IX (Business Practices) incorporates the principle of positive comity. See also ***negative comity***.

Positive integration: economic integration achieved through the creation of new institutions and regulatory frameworks established for the purpose. See also ***negative integration***.

Positive listings: countries may inscribe their commitments under the GATS in the form of positive listings. In this way, only the listed activities are covered by all GATS articles, importantly the ***market access*** and ***national treatment*** obligations. The disadvantage is that all services have to be listed even if there are no market access or national treatment limitations in the sense of the Agreement. Most countries have made all of their listings in this form. See also ***negative listings*** and ***market access for services***.

Poverty Reduction and Growth Facility: PRGF. An ***IMF*** program established in 1999 to integrate better its operations in ***low-income countries*** the Fund's objectives of poverty reduction. Strategies to reduce poverty are formed by the countries themselves, with the assistance of the IMF. Individual programs are aimed mainly at prudent macro-economic policies, structural reforms and better fiscal management. Eligible countries can borrow at concessional interest rates from a trust fund established for this purpose.

PPM labelling: see ***processes and production method***.

Precautionary approach: see ***precautionary principle***.

Precautionary principle: this refers to Principle 15 of the ***Rio Declaration on Environment and Development***. In the ***Cartagena Protocol on Biosafety*** it is called the precautionary approach. The principle states that where there are threats of serious or irreparable damage [to the environment], lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. In ***hormone growth promotants*** the ***Appellate Body*** found that the precautionary principle had been incorporated in, inter alia, Article 5.7 of the ***Agreement on Sanitary and Phytosanitary Measures***. See also ***rebuttable presumption*** and ***trade and environment***.

Pre-competitive development activity: a concept used in the WTO ***Agreement on Subsidies and Countervailing Measures***. Assistance, i.e. subsidies, for research activities conducted by firms or on their behalf is

permitted if it does not cover more than 50% of pre-competitive development activities. These are defined as the translation of industrial research findings into a plan, blueprint, or design for new, modified or improved products, processes or services whether intended for sale or use, including the creation of a first prototype which would not be capable of commercial use. It may also include the conceptual formulation and design of products, processes or services.

Predatory pricing: the setting of prices at aggressively low levels, also known as ruinous competition, below-cost pricing, etc. This is the concept thought to underlie the treatment in the GATT of ***dumping***, but it is not actually mentioned in its provisions. No single definition of predatory behaviour enjoys unanimous support, but there is agreement that to qualify as predatory pricing, an action should be aimed at driving efficient competitors out of the market. It has always been difficult to determine what the dividing line between competitive pricing and predatory pricing might be. Predation is a costly activity, and it would only be worth it to the predator if in the end all the costs incurred and the revenues foregone could be recovered. This is a doubtful proposition. See also ***Areeda-Turner test*** and ***non-price predation***.

Predatory-pricing dumping: see ***dumping***.

Pre-establishment: the phase in a foreign direct investment proposal between a decision by a company to invest and the receipt of approval from relevant authorities to proceed. In many cases, pre-establishment is simply a necessary planning stage, but it can be a contentious if ***foreign investment screening*** is involved.

Preference erosion: the gradual disappearance of or reductions in ***margins of preference*** as countries proceed with non-discriminatory trade liberalisation. See also ***historical preferences***.

Preferences: favours extended to some trading partners, usually in the form of lower tariffs or non-application of some ***non-tariff measures***. See also ***historical preferences***, ***GSP***, ***GSTP***, ***most-favoured-nation treatment*** and ***preferential trade arrangements***.

Preferential investment arrangements: formal or informal arrangements which give better access terms to investment capital from selected countries or groups of countries. This may include expedited consideration of investment proposals, permission to invest in activities closed to others, higher ceilings for foreign equity, etc.

Preferential market access: any ***market access*** conditions afforded to a trading partner that are more favourable than the non-discriminatory ***most-favoured-nation treatment***. Preferential access may be reciprocal or symmetrical as in ***customs unions***, ***free-trade areas***, or through now residual imperial preferences. It can also be non-reciprocal or asymmetrical, as is the case with the ***ACP-EC Partnership Agreement***, the ***Caribbean Basin Initiative***, ***SPARTECA*** and other such agreements.

Preferential rules of origin: a system of rules and criteria determining

whether a product exported from one partner to a ***free-trade agreement*** to another partner will be considered a product of that partner and admitted under the applicable preferential rules, i.e. usually free of ***customs duties***. If the decision is that the product does not originate in the other partner because, for example, it has not undergone ***substantial transformation*** or has had little value added to it there, the applicable tariff rate usually would be the ***most-favoured-nation*** (MFN) rate. ***Rules of origin***, whether preferential or not, are different for each free-trade agreement. ***NAFTA***, indeed, has multiple rules of origin. The complexity of preferential rules of origin is considerable, and all attempts at harmonisation or rationalisation so far have ended in failure. See also ***Pan-European Cumulative Area***.

Preferential Trade Area for Eastern and Southern African States: see ***COMESA***.

Preferential trade arrangements: these are trade arrangements under which a party agrees, either unilaterally or as a result of negotiations, to accord one or more other parties preferential treatment in trade in goods or services. The scope for establishing such arrangements is subject to reasonably precise WTO rules, though developing countries have more flexibility. They may give each other preferences in the form of reduced tariffs, their complete elimination or, in the case of services, partial liberalisation. Developed countries must establish either a ***free-trade area***, a ***customs union*** or, in the case of services, an ***economic integration agreement***. That is, they must remove substantially all barriers to trade among those receiving preferences. If, for example, they wanted to give each other a preference in some product lines only, they would have to offer the same access conditions to all of their trading partners under the rule of ***most-favoured-nation treatment***. Under the WTO rules, preferential trade arrangements are legal also in the form of ***GSP*** schemes set up by developed countries, and participation in the ***GSTP*** scheme by developing countries. For preferential arrangements other than these, it would be necessary to obtain a ***waiver***. Some classify ***treaties of friendship, commerce and navigation*** as preferential agreements because the parties to them might be guaranteeing certain standards of behaviour towards the other party without giving trade preferences. See also ***Caribbean Basin Initiative***, ***imperial preferences arrangement***, ***Lomé Convention***, ***preferential market access*** and ***SPARTECA***.

Preparatory work: see ***travaux préparatoires***.

Preshipment inspection: PSI. Inspection of goods by specially appointed firms before they are shipped to other countries. PSI is defined in the WTO ***Agreement on Preshipment Inspection*** as all activities imposed by a WTO member relating to the verification of the quality, quantity, price, including currency, exchange rates and financial terms, and/or the customs classification of goods to be exported to its territory.

Price dumping: a category of ***dumping*** identified at the time of the

Havana Charter negotiations which is now subject to Article VI of the GATT. It is based on the concept that the exporter sells goods abroad at a lower price than in the domestic market, and that this may have an injurious effect on industry in the importing country producing similar goods. See also ***anti-dumping measures***.

Price equalisation mechanism: a mechanism designed to ensure that market prices for commercially produced and traded commodities, and therefore returns to their producers, do not fluctuate excessively. This aim is seen as promoting the orderly development of the industry by assuring producers of more predictable remunerative returns. At the same time, it is thought to benefit consumers who can look forward to modest price changes at any one time. Such mechanisms operate in many different ways. The main challenge for all of them is to ensure that it does not turn into a ***subsidy***. This can be done if the producers are responsible for the funding of the mechanism. In this way, price signals will not be ignored. See also ***buffer stocks***, ***common agricultural policy***, ***floor price*** and ***international commodity agreements***.

Price undertaking: undertaking by an exporter to raise the export price of the product to avoid the possibility of an anti-dumping duty.A price undertaking is not supposed to exceed the alleged ***margin of dumping***, and preferably it should be at the lowest possible level that would be adequate to remove the threat of ***injury*** from domestic industry. See also ***anti-dumping measures***, ***lesser-duty principle*** and ***trade harassment***.

Price wedge: the difference between the price of a product in a protected market and its price under fully competitive conditions.

Primage: a term denoting the temporary imposition of an ***import surcharge*** or a similar measure having the effect of increasing the normal ***customs duties***.

Primary dealers: in the United States banking system, these are firms that have established a trading relationship with the Federal Reserve Bank of New York. To qualify as a primary dealer, a firm must be willing to make markets in the full range of Treasury issues for a reasonably diverse group of customers, and it must satisfy minimum capital requirements. Some United States acts, such as the ***D'Amato legislation***, may lead to the cancellation of a primary dealer licence if the firm engages in activities declared illegal under the acts.

Primary nation embargo: see ***tuna II***.

Primary products: defined in GATT Article XVI:4 for the purposes of the applicable subsidies regime as "any product of farm, forest or fishery, or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade". The reference to "minerals" was omitted when the *Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariff and Trade* (the Subsidies Code) was adopted in 1979 as part of the ***Tokyo Round*** outcome. In 1957, GATT

members rejected a United States suggestion that subsidies should be permitted for the export of cotton textiles if the subsidy was essentially the payment that would have been made on raw cotton if the raw material had been exported in its natural form. The United States then reserved its right to do so all the same. In the ***pasta case*** the panel found that pasta was not a primary product, but a processed agricultural product. The European Economic Community had argued that the disputed exported refund in that case was granted in respect of the durum wheat that had been used, that the refund did not include any component by way of processing aid, and that durum wheat was undeniably a primary product. Many primary products are now subject to the rules of the WTO ***Agreement on Agriculture***. See also ***basic agricultural products***.

Principal supplier right: the right, obtained by virtue of one's status as the largest supplier of a particular tariff line to another trading partner, to ask for tariff negotiations under the ***principal supplier rule***.

Principal supplier rule: a major feature of the system governing tariff negotiations in the GATT, particularly in the earlier negotiating rounds. Under this rule, requests for tariff concessions to a particular GATT member could only be made by the principal supplier of the product in question. The rule is based on the assumption that the country making the ***concession*** will only be able to get compensated for it once, and that the country invited to make the concession will be able to maximise its returns by dealing with the largest supplier. It is also meant to reduce the unintended benefits ***free riders*** may otherwise obtain. In practice, reliance on this system alone led to the effective exclusion of smaller and developing countries from the negotiating process. The method of ***linear tariff reductions*** in the ***Kennedy Round*** and the ***Tokyo Round***, as well as the practice of negotiations across broader product categories, such as the ***Information Technology Agreement***, have reduced the importance of the principal supplier rule. See also ***initial negotiating rights***, ***principal supplying interest*** and ***sectoral trade negotiations***.

Principal supplying interest: a right to participate in WTO tariff negotiations for specified product items based on a ranking of export interest in a given product. It is held by the WTO member having the highest ratio of exports affected by the item. It is therefore a right based on the relative magnitude of trade flows. A principal supplying interest differs from ***principal supplier rights*** which are based on absolute magnitude of trade flows. It also is unlike ***initial negotiating rights*** which are accorded by one member to another through negotiations. In determining whether a country has a principal supplying interest, the WTO secretariat may only take into account products traded on a most-favoured-nation basis. One of the purposes of the concept of principal supplying interest is to allow smaller and medium-sized traders an opportunity to initiate tariff negotiations in products of major importance to them. See also ***substantial supplying interest***.

Prior informed consent: a voluntary procedure governing trade in chemicals or pesticides banned or severely restricted by national governments because of the health and environmental risks they pose. It is being implemented jointly by the ***Food and Agricultural Organisation*** and the United Nations Environment Programme (UNEP). The procedure entails notifying a central agency of the ban or restriction. The notification is then circulated, and other governments advise the agency whether they consent to the import of chemicals or pesticides listed in this way. Exporting countries in turn undertake only to export these substances to countries that permit their import. The procedure in itself is not a recommendation to ban or restrict the use of chemicals. See also ***Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade***, ***multilateral environment agreements*** and ***trade and environment***.

Priority foreign country: this is a term used in sections 1302 and 1303 of the ***United States Omnibus Trade and Competitiveness Act*** of 1988. These two sections are usually known as ***Super 301*** and ***Special 301***, respectively. Super 301 requires ***USTR*** to inform Congress of priority foreign countries maintaining practices which, if eliminated, would have the greatest potential for increasing United States exports. Special 301 requires a similar list of countries, known as the priority watch list, that deny adequate and effective protection of ***intellectual property rights*** to United States firms. In this case, priority foreign countries are countries that have (a) the most onerous or egregious acts, policies or practices that deny adequate and effective intellectual property rights or deny fair and equitable ***market access*** to United States persons that rely upon intellectual property protection, and (b) that are not prepared to enter into bilateral or multilateral negotiations to find remedies. Once a country has been identified as a priority foreign country, USTR must start a ***Section 301*** investigation. Countries may be deleted from the list, but USTR must provide reasons for doing so.

Priority foreign country practices: see ***Super 301***.

Priority watch list: see ***priority foreign country*** and ***Special 301***.

Prisoner's Dilemma: a device used to demonstrate that apparently rational micro-level decisions do not necessarily lead to rational macro-level outcomes. It is often used in game theory to explain the virtue of collective action as practiced under the ***multilateral trading system***. The dilemma, which occurs in many variations, has in outline the following features. Several prisoners face separate interrogation. Each knows that if none of the others confess, it will result in freedom for all. Each also knows that if one of them confesses, but none of the others do, the one making the confession will get freedom. All of the others will receive severe sentences. If all confess, they will all be punished, but less severely than if only one confessed. The apparently rational decision by each individual prisoner therefore is to confess without bothering too much about the others. The moral is that they all are worse off by confessing than if they had been able to agree among themselves not to

confess at all.

Prison labour: GATT Article XX(e) allows WTO members to adopt restrictions on the import of goods made by prison labour. Many countries have adopted laws enabling them to ban the import of such products, but the extent to which they enforce them varies. See also ***core labour standards*** and ***social dumping***.

Private cartel: see ***cartel***.

Private international law: the field of law dealing with relations between individuals domiciled in different jurisdictions. As no two countries have the same legal system, the question arises as to which law should prevail. This area of the law is therefore also known as conflict of laws. See also ***public international law***.

Privatisation: the process by which public assets, previously owned and managed by the state, are restructured as public entities with share capital being offered to the public. Governments sometimes retain a substantial share of the privatised enterprise. The expression is also sometimes used to describe the conversion of a publicly listed company into a private one. See also ***deregulation***.

Processes and production method: a term used in discussions concerning ***trade and environment***. It deals with the environmental effects of processes by which goods and services are produced. A negative effect may occur in two main ways: (a) through the transformation of the product itself and (b) through a production process that does not affect the characteristics of the finished good. Some have argued that a labelling system should be established to let the consumer know what processes have been used in the production of a good. This is the so-called PPM-labelling.

Process protectionism: a term used by I. M. Destler to describe a domestic system under which ***trade remedies*** can be invoked more easily than under the standard WTO rules.

Procès-verbal: the preparation of minutes, recording of agreed conclusions and other written descriptions of transactions occurring in a meeting.

Producer subsidy equivalent: PSE. A term used in agricultural negotiations. PSE is defined as the subsidy that would be necessary to compensate agricultural producers for removing government support. Expressed as a percentage, it is the ratio of the total value of transfers to producers as a result of government policies to total producer income. When this ratio is positive, the PSE indicates that the producer is receiving ***assistance***. When it is negative, the producer is taxed. See also ***consumer subsidy equivalent***.

Product-by-product negotiations: see ***item-by-item tariff negotiations***.

Product cycle theory: proposed by Raymond Vernon in 1966. It states that highly industrialised countries enjoy a ***comparative advantage*** in the research and development of new products because they have better access to capital and specialised human resources. The product cycle is assumed to

consist of several stages, beginning with production in a small custom-oriented market, later becoming the domain of the multi-national firm and reaching its apex with the manufacture of the product in lower-cost countries from where the product is re-exported to the market in which it had been developed originally. See also ***Heckscher-Ohlin theorem***.

Product-mandating: a governmental requirement that a new investor export to certain countries or regions. See also ***export performance requirements***.

Produit similaire: see ***like product***.

Profit-shifting tariff: a concept in economic theory founded in ***mercantilism*** which proposes that it is possible to shift monopoly rents from a foreign country to one's own territory through the imposition of a tariff. The tariff would cream off the excess profit the foreign firm would otherwise be making. Economists have noted that the profit-shifting tariff is yet another mercantilist argument for restricting imports and promoting exports.

Programme of Action on the Establishment of a New International Economic Order: see ***New International Economic Order***.

Progressive liberalisation: an important principle enshrined in the ***GATS***. It had its origin in the Punta del Este Declaration which launched the ***Uruguay Round***. There it was identified with ***transparency*** and economic growth as one of the aims for the forthcoming services negotiations. This principle was carried forward into Article XIX of the GATS which requires members to enter into successive rounds of negotiations at least every five years and no later than 1 January 2000. See also ***WTO built-in agenda***.

Prohibited subsidies: a concept used in the WTO ***Agreement on Subsidies and Countervailing Measures*** to denote subsidies contingent on export performance or subsidies contingent on the use of domestic rather than imported goods. WTO members are not allowed to maintain this type of subsidies. See also ***actionable subsidies***, ***local-content rules***, ***non-actionable subsidies***, ***subsidies*** and ***Agreement on Trade-Related Investment Measures***.

Prohibitive tariff: a tariff rate set so high that it acts as an insurmountable barrier to imports. See also ***protective tariff***.

Proportionality: a concept used to compare the trade costs of a measure with the benefits that the measure might have for other areas of governmental policy. The idea is that there should be some rational relationship between the cost impact of a measure and the benefits it is likely to produce. It is one measure that can be used for determining the necessity of a trade measure.

Proprietary information: see ***trade secrets***.

Protection: the extent to which domestic producers and their products are shielded from the competition of the international market. The incidence or cost of protection can be measured or estimated with a high degree of accuracy. ***Tariffs*** are the starting point in the case of goods, but the matter

becomes more complicated where tariffs are accompanied by ***non-tariff measures***, or if protection consists entirely of non-tariff measures, or government regulation in the case of services. Methods are available also for estimating the cost of protection of service industries, but these are rather less accurate than the ones for goods. Protection differs considerably from ***protectionism***. See also ***assistance***, ***bounty***, ***effective rate of protection***, ***international contestability of markets***, ***optimal tariff*** and ***subsidy***.

Protectionism: a climate of economic policy formulation which sees merit in preventing the exposure of domestic producers to the rigours of the international market. The basic means for achieving this are ***tariffs***, ***subsidies***, ***voluntary restraint arrangements*** and other ***non-tariff measures***, with an emphasis on the less transparent measures. More complex cases can involve alleged cultural, environmental and other considerations. Protectionism can also be promoted through the vigorous use of ***contingent protection***. In most cases, protectionism merely delays the inevitable adjustment of inefficient industries to the market. See also ***cultural identity***, ***structural adjustment*** and ***trade and environment***.

Protection of fisheries resources: see ***herring and salmon***, ***tuna (Canada-United States, 1982)***, ***tuna I*** and ***tuna II***.

Protective tariff: a ***tariff*** designed to shelter part of the national productive capacity from the full impact of foreign competition. See also ***protection*** and ***revenue tariff***.

Protocol: a protocol is a ***treaty*** drafted to supplement another treaty or convention. It contains all the elements found in other types of treaties (preamble, definitions, signature, ratification, entry into force, etc.), and it shares the same legally binding quality. A protocol must be consistent with its parent treaty. If a conflict arises, the parent treaty prevails over the protocol. A protocol is needed each time the results of multilateral negotiations have to be added to the ***WTO*** instruments.

Protocol of accession: the instrument which sets out the terms and conditions under which a country becomes a member of the ***WTO***, or for that matter, some other international organisations. In the WTO, these protocols are largely standardised, but they sometimes reflect particular circumstances of the acceding country. See also ***accession***.

Protocol of Ouro Preto: see ***Mercosur***.

Protocol of Provisional Application: PPA. This was adopted by the original members of the ***GATT*** in 1947 to apply the Agreement provisionally pending a decision to do so permanently. That decision never was taken. The PPA is not part of the ***GATT 1994***.

Protocol of Tegucigalpa: see ***SICA***.

Provisional anti-dumping duties: duties or charges imposed once it becomes evident that there is a *prima facie* case of ***dumping***. The WTO rules on ***anti-dumping measures*** permit governments to impose

provisional anti-dumping duties under three conditions. These are (a) a proper investigation has been initiated, (b) a preliminary affirmative determination has been made of dumping and consequent ***injury*** to domestic industry, and (c) the authorities deem them necessary to prevent injury being caused during the investigation period. Provisional anti-dumping duties may not exceed the provisionally estimated ***margin of dumping***. The WTO rules stress, however, that asking for a cash or bond security would be preferable. In principle, provisional anti-dumping duties should be imposed for no longer than four months, though this may be extended to up to nine months in some circumstances.

Provisional countervailing duties: once a government has initiated an investigation concerning alleged subsidies applied by another WTO member, it may impose provisional countervailing measures. The three main conditions to be fulfilled are (a) that the investigation has been initiated according to the rules, (b) that a preliminary finding has been made that a ***subsidy*** exists and that it is causing ***injury*** to domestic industry, and (c) that there is a view that further injuries would occur if subsidisation was maintained during the remainder of the investigation. Provisional countervailing measures may be in the form of cash deposits or bonds equal to the amount of subsidisation. Provisional measures cannot be applied earlier than 60 days after the start of an investigation, and they must not remain in force for more than four months.

Provisional safeguard measures: may be applied under the WTO ***Agreement on Safeguards*** if a preliminary determination shows that increased imports have caused or are threatening to cause serious injury. Provisional safeguard measures may be applied for no longer than 200 days. WTO members have to go through the full safeguards procedures if they want to continue the measures beyond that limit.

Prudence: see ***prudential regulation***.

Prudential regulation: in ***financial services***, terms used to describe an objective of market regulation by authorities to prtect investors and depositors or to avoid instability or crises. Prudential measures require banks and insurance companies to maintain certain capital reserves and mandatory asset ratios. They have to meet strict reporting requirements. There is no agreement on what an optimal level of prudential control might be. Opinion is in favour of clear and enforceable prudential measures, but they have not prevented some spectacular exploits by financial services firms or company crashes. Prudential measures are not normally considered impediments to trade in financial services, and they do not have to be listed under the GATS as measures capable of affecting ***market access*** and ***national treatment***.

PSI: Preshipment inspection. The practice of employing specialised private companies to check shipment details of goods ordered overseas, i.e. price, quantity, quality, etc. See also ***Agreement on Preshipment Inspection***.

Public cartel: see ***cartel***.

Public international law: the law concerning relations between states or

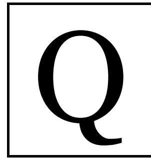
between states and international organisations. See also ***International Court of Justice*** and ***private international law***.

Public procurement: see ***government procurement***.

Punta del Este Declaration: the Ministerial Declaration formally launching the ***Uruguay Round***.

Pure export cartel: see ***cartel***.

P-5: short for Pacific-5. It includes Australia, Chile, New Zealand, Singapore and the United States. At the time of the Auckland ***APEC*** meetings (1999) Fred Bergsten suggested that the P-5 should consider forming a ***free-trade agreement*** among themselves.



QRs: see ***quantitative restrictions***.

Quadrilaterals: originally periodic ***trade policy*** talks between the United States, the European Community, Japan and Canada. Now also applied to the four acting together. Often shortened to Quad. See also ***minilateralism***.

Quantitative export restrictions: see ***export quotas*** and ***voluntary restraint arrangement***.

Quantitative restrictions: specific limits on the quantity or value of goods that can be imported (or exported) during a given period. Article XI of the GATT proscribes the use of quantitative restrictions, subject to specified exceptions, including those listed in Article XX which covers ***general exceptions***. See also ***export quotas***, ***import quotas*** and ***tariff quotas***.

Quarantine measures: see ***sanitary and phytosanitary measures***.

Quint: consists of the agriculture ministers of Australia, Canada and Japan, the United States Secretary of Agriculture and the European Commissioner for Agriculture. The group was established during the ***Uruguay Round***. It now meets at irregular and infrequent intervals.

Quota-hopping: the transfer of production of products subject to an export quota from a country with a limited quota availability to one where a quota may be obtained more easily. See also ***rules of origin***.

QWERTY principle: not an accepted trade policy concept, but illustrative of the dangers of accepting uncritically established ideas. It was first proposed by the economic historian Paul Davis in 1982 and popularised greatly in the 1990s by Paul Krugman. It takes its starting point from the QWERTY layout of computer keyboards which dates back to the earliest manual typewriters. The latter were likely to jam when the typing was too quick, and the QWERTY layout forced the typist to slow down (note that there is argument whether this is really true). Later mechanical improvements made the QWERTY layout unnecessary, but inertial thinking ensured its survival into the computer age, because it had become "locked in". Krugman notes that this leads one to

reject the idea that markets invariably lead the economy to a unique best solution, and that in fact the outcome of market competition often depends crucially on historical accident. The principle also stands for the idea that investigating the validity of long-held beliefs and practices is intrinsically worthwhile. See also ***conventional wisdom*** and ***vestigial thought***.

R

Race-to-the-bottom argument: expresses the fear that the need to compete with imports from countries with low labour costs and lower labour standards will reduce wages and labour conditions in the developed countries. This argument forms part of the rationale for discussions on a ***social clause*** and ***trade and labour standards***. A similar argument has been made in relation to environmental standards where it is thought that lower environmental requirements in some countries could give them a competitive advantage. See also ***core labour standards***, ***social dumping***, ***trade and environment***, ***wage-differential argument*** and ***workers rights***.

Reasonable period of time: a term used in the WTO ***Understanding on Rules and Procedures Governing the Settlement of Disputes***. It denotes the time, generally a maximum of 15 months, that may elapse between the adoption of a ***panel*** or ***Appellate Body*** report and the point when a trade regime found inconsistent with the WTO rules has to be brought into conformity with them. Where a WTO member refuses to take the necessary actions, the member notifying the dispute may impose the suspension of ***concessions*** or other obligations after the same reasonable period of time has passed. Three options are available for defining what may be a reasonable period of time. The first is the time proposed by the member itself, subject to the agreement of the ***Dispute Settlement Body***. If this does not work, the second option is for the parties to agree on a period of time within 45 days of the adoption of the ruling. If there is still no agreement, an arbitrator will be appointed to settle on a period of no more than 15 months from the adoption of a ***panel*** or ***Appellate Body*** report. The significance of this approach is that a WTO member has little opportunity or incentive to waste time over taking action in an adverse ruling since the clock starts when the Dispute Settlement adopts panel or Appellate Body Report.

Rebuttable presumption: a legal term in common use in the United States meaning that an action is deemed to conform with the law until shown otherwise. Some say that the word "rebuttable" is redundant since any presumption can be challenged. The term is sometimes used in discussions of the ***precautionary principle***.

Recidivist dumping: sometimes used, especially by American negotiators,

for companies that persist in ***dumping*** their products, and that allegedly see dumping as a way of doing business. See also ***anti-dumping measures***.

Reciprocal free trade: the proposition that one should liberalise ***market access*** only to those who are prepared to open their markets in turn. There is no implication that this would necessarily lead to the condition usually defined as ***free trade***. See also ***reciprocity***.

Reciprocal free-trade area: see ***free-trade-areas***.

Reciprocal Trade Agreements Program: see ***United States Reciprocal Trade Agreements Program***.

Reciprocity: the practice in the ***WTO***, but not a contractual requirement, by which governments extend similar ***concessions*** to each other, as when one government lowers tariffs or other barriers impeding imports in exchange for equivalent concessions from a trading partner. This is also known as achieving a ***balance of concessions***. Concessions made as a result of reciprocal bargaining must be extended through the ***most-favoured-nation rule*** to all WTO members. See also ***mirror-image reciprocity*** and ***reciprocity at the margin***.

Reciprocity at the margin: an American term meaning that the overall value of ***concessions*** offered to trading partners should roughly match the value of concessions received in turn. See also ***mirror-image reciprocity***.

Recognition: the act of recognising by one country of the qualifications, standards or licence requirements of another country. Such recognition can have a considerable impact on the conduct of trade. Under the ***GATS***, recognition may be done unilaterally, mutually or through harmonisation. If a country accords recognition to another country, it does not have to extend it to others, as ***most-favoured-nation treatment*** would require. It must, however, give others an opportunity to demonstrate that they, too, can meet the required standards. See also ***Agreement on Technical Barriers to Trade***, ***harmonisation of standards and qualifications*** and ***mutual recognition arrangements***.

Recommendation: one of the means available to the ***European Community*** to influence the actions of member states, even though recommendations are not binding. Recommendations are also commonly used in the ***OECD***. See also ***European Community legislation***.

Re-exports: goods brought into a country on a temporary basis and destined ultimately for other markets, sometimes after some value has been added. See also ***entrepôt trade*** and ***free-trade zones***.

Reference paper on telecommunications services: a set of definitions and principles on the regulatory framework for ***basic telecommunications services***, adopted by the WTO on 24 April 1996. The paper seeks to prevent anti-competitive practices, ensure interconnection under non-discriminatory terms, and to promote transparent, non-discriminatory and competitively neutral universal service obligation. It makes the public availability of licensing criteria mandatory. It also postulates the existence of independent regulatory authorities. Allocation of

scarce resources, including frequencies, numbers and rights of way, is to be done in an objective, timely, transparent and non-discriminatory manner. See also ***Agreement on Basic Telecommunications Services*** and ***competitive neutrality***.

Reform process/program: The Uruguay Round ***Agreement on Agriculture*** starts a reform process. It sets out a first step in the process, i.e. a program for reducing subsidies and production and other reforms. Current negotiations launched under Article 20 are aimed at continuing the reform process. See also ***continuation clause***.

Reformulated gasoline*:** a case brought before the WTO by Brazil and Venezuela against the United States in 1995. In 1990 the United States Congress directed the Environmental Protection Agency (EPA) to issue new regulations on the composition and emissions effects of gasoline through an amendment to the Clean Air Act (CAA) of 1963. The objective was to improve the air quality in the most polluted areas of the country by reducing vehicle emissions of toxic air pollutants and ozone-forming volatile organic compounds. The CAA roughly divides the United States into two parts: nine large heavily polluted areas accounting for about 30% of the gasoline market where only "reformulated gasoline" may be sold, and the rest of the country where "conventional gasoline" may be sold. Both types of gasoline have prescribed compounds, the difference being that certain components are not permitted in reformulated gasoline. Additionally, the rules ensure that harmful components not permitted in reformulated gasoline are not diverted into conventional gasoline. Brazil and Venzuela complained that these rules discriminated against imported gasoline, especially if it originated from producers that had entered the market more recently. The ***panel concluded that imported and domestic gasoline were ***like products***. Under the baseline establishment method, imported gasoline was effectively prevented from enjoying the same favourable sales conditions as were given to domestic gasoline through an individual baseline tied to the producer of a product. Imported gasoline was therefore treated less favourably than domestic gasoline. The most extensive part of the panel's findings concerned the consistency of the gasoline rule with GATT Article XX (General Exceptions). The panel noted the United States argument that air pollution, in particular ground-level ozone and toxic substances, presented health risks to humans, animals and plants, but it did not consider that the methods used by the United States were necessary to achieve the aims of the gasoline rule. The United States had not shown that the same aims could not be achieved by measures consistent with the GATT. The panel then went on to consider the United States arguments concerning Article XX(d). This provision permits WTO members to suspend their obligations under the GATT to the extent that is necessary to enforce legislation otherwise consistent with the GATT. It observed that if the system of baselines was by itself consistent with the GATT, the United States scheme might constitute a law or regulation "not inconsistent" with the GATT. It had found, however, that discrimination

between imported and domestic gasoline did not secure compliance with the baseline system, a necessary aspect of Article XX(d). The methods employed were not an enforcement mechanism. As far as Article XX(g) (conserving an exhaustible natural resource) was concerned, the panel declined to see a direct connection between less favourable treatment of imported gasoline that was chemically identical to domestic gasoline, and the objective of improving air quality in the United States. Hence it could not be said that the measures applicable to imported gasoline were primarily aimed at the conservation of natural resources. The United States would be free to regulate for whatever air quality it wished to obtain through the use of non-discriminatory conservation policies. The United States appealed against this decision. The ***Appellate Body*** found in favour of the United States on some technical aspects of the panel's decision, in particular that the panel should have considered whether United States regulations on conventional and reformulated gasoline could be justified under Article XX(g) of the GATT, but it upheld the view that the United States measures were not consistent with the ***national-treatment*** principle. See also ***general exceptions***.

Refusal to deal: see ***boycott***.

Regatta approach: a term sometimes used in the context of ***enlargement*** of the ***European Community***. Under this approach, all applicant countries would start accession negotiations at the same time, and those with the fewest adjustment difficulties to overcome would reach the finishing line first. They would then be admitted without awaiting equal progress by the others. See also ***Agenda 2000*** and ***Treaty of Nice***.

Regionalism: actions by governments to liberalise or facilitate trade on a regional basis, sometimes through ***free-trade areas*** or ***customs unions***. Many see regionalism as complementary to ***multilateralism*** because it appears to offer a quicker way to achieve results for the participating economies than the full multilateral process. This is not necessarily the case. Often, the perceived faster pace of regional liberalisation, where this actually occurs, is due only to the fact that multilateral outcomes may take a long time to negotiate. It is a fact, however, that the faster pace of regional negotiations is often balanced by extended phase-in arrangements for ***sensitive products***. The time difference in reaching the end-points may therefore be less than expected. See also ***APEC***, ***hubs and spokes*** and ***open regionalism***.

Regional integration arrangement: RIA. A bilateral or regional economic agreement that goes beyond the reach of a ***regional trade arrangement***. An RIA typically seeks to achieve a degree of economic integration based on, for example, ***harmonisation*** of various national policies or the adoption of policies aimed at similar outcomes.

Regional Trade and Investment Framework Agreement: a type of agreement negotiated by the United States with groups of countries, aimed at addressing trade and investment issues and eliminating or reducing barriers to trade. See also ***Trade and Investment Framework Agreement***.

Regional trade arrangement: RTA. A ***free-trade agreement***, ***customs union*** or ***common market*** consisting of two or more countries (e.g. ***ANZCERTA***, ***NAFTA*** or the ***European Community***). Some analysts see RTAs as building blocks for a freer non-discriminatory multilateral trading system, others as agents for its undermining. Historically, many RTAs between developing countries never got past the initial planning stage. Nor did others turn into arrangements of genuine usefulness. Some of the more recent arrangements are much more likely to succeed. About 100 regional trade arrangements have been notified to the GATT under Article XXIV (which provides the legal exemption from the need to extend ***most-favoured-nation treatment***) between 1947 and the present. In the case of developed countries, duties and other restrictive measures of commerce have to be eliminated on substantially all the trade between the parties. Many commentators have noted that the current GATT rules on regional trade arrangements suffer from three main defects. First, they allow significant sectoral exemptions. Second, they skirt around problems caused by ***grey-area measures***, ***contingent protection*** and ***rules of origin***. Third, they fail to track regional agreements after they have been signed and if later rule changes are made. In early 1996 the WTO established a Committee on Regional Trade Agreements to examine further their effect on the global trading system. Developing countries may also conclude RTAs under the ***Enabling Clause***, and they have the option of reducing or eliminating tariffs and non-tariff measures. See also ***first regionalism***, ***hub and spokes***, ***second regionalism*** and ***substantially-all-trade criterion***.

Regulation: an omnibus term covering all overt and covert actions or procedures instituted by governments with a view to influencing industry or customers of an industry in a particular manner. Government regulation may be imposed in order to correct perceived ***market failure*** or to redistribute income for the public good. Regulation may also refer to a system of rewards and penalties designed to influence the behaviour of firms and consumers. Other types of regulation include measures such as safety and environmental standards, market entry restrictions and price controls. Analysts of regulatory activities sometimes divide them into three categories: *economic regulation* (aimed at improving the efficiency of markets), *social regulation* (aimed at influencing the way companies approach social values and rights), and *administrative regulation* (aimed at improving the administrative efficiency of government agencies and to support governmental activities. In ***European Community legislation*** a regulation is an act binding all member states directly. See also ***deregulation***, ***privatisation***, ***prudential regulation*** and ***re-regulation***.

Remissions: see ***border tax adjustments***.

Renegotiation of tariffs: most ***tariff*** negotiations are now conducted as part of ***multilateral trade negotiations*** or as sectoral negotiations like those resulting in the ***Information Technology Agreement***, but the GATT sets out several ways of renegotiating tariffs during other periods. The

listing provided by John Jackson and William Davey in *Legal Problems of International Economic Relations* is particularly useful. First, Article XXVIII:1 permits parties with a ***principal supplying interest*** or parties who have had earlier bilateral tariff negotiations to reopen these negotiations every three years. The period of three years originally reflected the United States practice of renewing the President's negotiating authority for three years at a time, and this was adopted as the period during which bindings could not be changed. Second, Article XXVIII:4 allows parties to request another party for special circumstance renegotiations. These would be small-scale negotiations confined to a few items resulting in a speedy conclusion, and they are meant to help countries relying on a relatively small number of primary commodities to diversify their economies. Third, Article XXVIII:5 envisages reserved renegotiations. This means that parties can reserve the right to modify their ***tariff schedules*** during the next three-year period in accordance with normal procedures, including the obligation to offer compensation to affected parties. Fourth, whenever two or more countries agree to form a ***customs union*** resulting in a ***common external tariff***, part of the tariff schedules of participating members must necessarily be changed. Tariff renegotiations are therefore required under Article XXIV:6 to ensure that the overall level of tariffs of the members of the customs area does not exceed the levels in force when there were separate tariffs. Fifth, developing countries have the right under Article XVIII:7 to change, under defined conditions, a tariff schedule as part of promoting an ***infant industry***. Sixth, Article XXVII gives parties the right to change a tariff concession negotiated with a country that either did not become a member of GATT or ceased to be one. Seventh, renegotiations of tariffs are possible also in the form of minor technical rectifications where clearly a mistake was made. GATT members tend to be very careful to ensure that such technical changes do not amount to disguised substantive tariff increases which might entitle others to ***compensation***. See also ***tariff negotiations***.

Repeat dumping: see ***recidivist dumping***.

Requests and offers: market access negotiations in the WTO for goods and services usually proceed on the basis of bilateral requests and offers, except in the case of ***accession*** negotiations which are confined to requests by existing members. Requests are normally made by countries which have a significant interest in the traded product. Offers can be made in response to requests or concurrently. When two parties have reached agreement on the extent of new ***market access*** they are willing to give and accept, the result must be extended to all other WTO members on a most-favoured-nation basis. See also ***first-difference negotiations***, ***initial negotiating rights***, ***most-favoured-nation treatment***, ***principal supplier rights*** and ***principal supplying interests***.

Re-regulation: the institution of a new regulatory framework as part of the ***deregulation*** of an industry. This may seem contradictory at first glance, but it aims to ensure that competition feature in the deregulated market is

genuine. Deregulation often takes away the ***monopoly*** function of service providers, but it tends to leave them as important players in the market which is now open to others. Because the former monopoly provider is well ensconced, it may have sufficient dominance to retain a *de-facto* monopoly. It may therefore be necessary to enact new ***competition laws*** to ensure that the former monopoly does not abuse its ***market power***, and that new entrants get a proper chance to establish their viability in the market.

Resentment, inefficiency, bureaucracy, and stupid signals: identified by Michael Aho as ingredients for the emergence of a series of regional trade blocs.

Reserved negotiations: see ***renegotiations of tariffs***.

Residual quantitative restrictions: this normally refers to ***quantitative restrictions*** imposed to safeguard foreign exchange reserves, but which are still maintained after these difficulties have disappeared.

Resources diplomacy: deals with the way governments ensure access to raw materials and markets for raw materials, but the term acquired a special meaning in the 1970s. Secure access to raw and processed materials at reasonable market prices is one of the aims of all countries with an industrial base, regardless of whether that base is developing or already at a highly developed stage. In turn, one of the policy aims of producers and processors of raw materials is to have open and non-discriminatory access to markets at what is generally described as remunerative prices. Producers and consumers by and large agree on the legitimacy of these two aims, but disagreements on the details occur occasionally. Both groups on the whole are therefore willing to submit to the market to achieve their aims. They recognise that in some resources market forces are barely restrained, and that in some others they can be muted through the operation of international arrangements as well as distortion arising from national policies. Markets for resources can be quite volatile. Companies therefore seek to improve their competitive position through forward buying and selling and other such operations. This system of mixing governmental policies with commercial practices works quite well for most of the time, but it can be upset by a juxtaposition of political and economic circumstances such as arose in the 1970s, and which gave rise to the notion of resources diplomacy. It should not, of course, be assumed that the idea of resources diplomacy was something new. There had been suggestions that access to raw materials should be a plank in the Covenant of the ***League of Nations***. Later, there was a recognition among the allied nations that competition for access to raw materials played a major part in the outbreak of World War II. The ***Atlantic Charter*** accordingly called for access on equal terms to the trade and raw materials of the world. The Korean War caused a temporary shortage of raw materials, but concerns appeared to vanish once the situation was back to normal. Resources diplomacy was then for nearly twenty years one of the lesser international issues. The situation changed suddenly through the convergence of several factors. First, a global economic boom from 1972 to 1974 led to temporary shortages in raw materials. Second,

many of the newly-independent countries were, and some of course remain, largely dependent on their export earnings from usually unprocessed raw materials. These were keen to implement policies that would increase their economic returns. These newly-independent countries were in most cases former European colonies, a situation which to some extent made the former masters feel more secure about supplies because established trade flows had not been greatly changed by the altered political conditions. Third, the entry into the United Nations of these developing countries meant that they were now able to form majorities in the various bodies. The formation of the ***Group of 77*** in 1964 also led to the emergence of common political platforms, though, as experience would show, economic realities always exercised a centrifugal force. The more radical of the developing countries benefited from a more general willingness by the members of the Group of 77 to support unity. There was a widespread view all the same that the situation would remain manageable, even though more clear-sighted persons in the developed world were convinced that the new political situation required some kind of accommodation. The decision by the ***OPEC*** countries in 1972 to increase fourfold the price of oil was to put paid for the time being to gradualist approaches. It gave inspiration to developing countries that saw the world engaged in a major political struggle in that the increase seemed to affect the industrialised world much more than themselves. Clearer heads soon noticed that higher oil prices were indiscriminate in their impact. In economic terms, the OPEC decision appeared to have shown developing countries a feasible way to achieve increased export earnings. In the United Nations, this situation produced new initiatives, such as the ***Charter of Economic Rights and Duties of States***, the ***New International Economic Order*** and the proposed ***Global Negotiations***. A new round of what can conveniently be called resources diplomacy had thus been launched. Its foundation in the developed countries was the fear that resource-rich countries would emulate the OPEC success in other raw materials. Producer countries, which mainly happened to be developing countries, conversely sought higher earnings and a transfer to them of processing capacity. Australia and Canada, as developed countries and major commodity exporters, sought to maintain solidarity with the other developed countries while at the same time nodding sympathetically in the direction of developing country aims that would increase their own export earnings. Much of the flurry of diplomatic and commercial activity that followed was not based on a thorough analysis of the facts, but it was fuelled by hysteria in importing countries, a series of expropriations and other inflammatory actions by developing countries. Some of the facts were, first, that the share of raw materials exports by developing countries had actually fallen in the twenty years to 1973. Second, the success of the oil-exporting countries was due to geographic and usage factors which could not possibly be repeated in other raw materials. Third, common action in particular by exporters of other raw materials would have been much more difficult to sustain regardless of their

rhetoric of political unity. Fourth, as the economic boom in developed countries gave way to more normal conditions, they became more reluctant to join in moves for far-reaching multilateral action. The momentum of this bout of resources diplomacy was sustained until UNCTAD IV in 1976 when the ***Common Fund for Commodities*** and the ***Integrated Programme for Commodities*** were launched, but action under them has been slow. See also ***commodity policy***.

Restrictive business practices: RBPs. Anti-competitive behaviour by private firms of the type dealt with by national ***competition laws*** and policies. These can include collusion, abuse of dominant position, refusals to deal, price discrimination, resale price maintenance, exclusive dealing, vertical and horizontal arrangements, etc. There is no accepted international standard on what constitutes RBPs or how they are to be dealt with. The ***Havana Charter*** included a chapter on them, but the Charter did not enter into force. In 1980, ***UNCTAD*** adopted the *Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices*, but it does not contain binding obligations. Much work has also been in the ***OECD*** on this subject. See also ***antitrust laws***, ***Arrangements for Consultations on Restrictive Business Practices***, ***competition policy*** and ***trade and competition***.

Retaliation: action taken by a country to restrain imports from a country that has increased a tariff or imposed other measures adversely affecting its exports. There are strict rules and procedures requiring exhaustion of ***dispute settlement*** under the ***WTO*** for retaliatory action, but countries sometimes act outside these. Retaliation is also available to the United States under ***Section 301***. See also ***cross-retaliation***.

Retaliatory tariff: a tariff aimed mainly at countering tariff increases by others, usually at a punitive level. Governments may feel satisfied that by imposing a retaliatory tariff they have defended the ***national interest***, but in reality they have also managed to raise costs for domestic producers and consumers alike. See also ***beggar-thy-neighbour policies***.

Revealed comparative advantage: see ***comparative advantage***.

Revenue tariff: a ***tariff*** with a minimal protective function aimed mainly at producing a steady revenue stream for government. For some developing countries the tariff is one of the principal sources of income, and they may therefore be reluctant to cut tariffs, unless another revenue source can be identified. See also ***nuisance tariff***.

Reverse engineering: the controversial concept of acquiring a technological capacity through imitation of a product, generally by taking it apart to work out how it operates. The resulting product must not result in ***intellectual property right infringements***. See also ***decompilation***.

Reverse fast-track: a proposal by Senator Max Baucus in July 2000 that the United States Congress should be able to legislate not only for ***fast-track***, but that it also should be able to withdraw fast-track entirely or in respect to a particular negotiation. See also ***Trade Promotion Authority***.

Reverse notification: the normal way to achieve transparency in the GATT, and now the WTO, is for governments to notify other members of trade measures they have taken or are about to take. A different approach was adopted at the end of the ***Tokyo Round*** when a database was established within the GATT Secretariat based on notifications made by governments of measures contained by others, i.e. through reverse notification. See also ***notification***.

Reverse preferences: preferences accorded by developing countries to developed countries. Some claim that such preferences used to be part of the ***Association Agreements*** between the ***European Economic Community*** and developing countries. There is some doubt that contractual reverse preferences exist now. See also ***GSP*** and ***GSTP***.

Reverse special and differential treatment: a term devised by Jagdish Bhagwati to describe the proposition that developing countries should introduce measures to ensure minimum labour and environmental standards. The idea is that this would bring their costs into a more realistic relationship to those borne by developed countries already adhering to these standards. See also ***core labour standards*** and ***trade and environment***.

Reverse transfer of technology: a term used particularly in the United Nations system to describe the flow of scientists and highly trained specialists from developing countries to developed countries. This is the so-called brain drain. Numerous meetings on this subject have led neither to agreement on its causes nor on possible remedies. Suggestions by developing countries that recipient developed countries should pay some form of compensation have fallen on barren ground.

Revised Recommendation Concerning Cooperation Between Member Countries on Restrictive Business Practices Affecting International Trade: a 1995 ***OECD*** instrument, based on a recommendation first adopted in 1967 and revised several times since, which promotes cooperation between members through (a) notification and request for restraint in cases where companies of other member states are involved, (b) coordination in cases where action is taken by more than one member state against the same company, (c) notification by a member state and request for action in some cases, and (d) conciliation procedures. This recommendation is not binding. See also ***negative comity***, ***positive comity*** and ***restrictive business practices***.

Right of establishment: the right to establish a commercial entity in another country for the purpose of producing for the local market or importing products from another economy and distributing them. Establishment normally entails some form of investment, including acquisitions, mergers and takeovers. See also ***commercial presence***, ***foreign direct investment***, ***joint venture*** and ***pre-establishment***.

Right of non-establishment: the right to do business in another country without the need to establish a permanent operation there.

Right of priority: a right available to signatories of the ***Paris Convention***.

It means that a person filing for a ***patent*** in one country has a priority right to file for the same invention in another country within one year. In practical terms this means that once a company has filed for a patent in its home country and it then files for the same patent in another country, the patent will be protected from the date of the earlier application at home rather than the later one abroad. See also ***intellectual property***.

Rio Declaration on Environment and Development: a set of principles aimed at protecting the integrity of the global environmental and developmental systems adopted on 14 June 1992 at a meeting of ***UNCED*** (United Nations Conference on Environment and Development) in Rio de Janeiro. Principle 12 is relevant to international trade. It holds that "States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. ***Trade policy*** measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus." Principle 12 of this Declaration is mentioned as a relevant text in the terms of reference for the WTO ***Committee on Trade and Environment***. See also ***Agenda 21***.

Rio Group: an intergovernmental grouping consisting of Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela. It was founded in Rio de Janeiro in 1983 to consider security issues in the region, but it expanded its role in 1986 to include the promotion of democracy and human rights. As part of this new mandate, the group now also discusses macro-economic issues.

Risk assessment: members of the WTO may apply food safety, animal health and plant health regulations to their international trade, but they must not use them to discriminate arbitrarily or unjustifiably between members in similar conditions. The WTO ***Agreement on Sanitary and Phytosanitary Measures*** sets out rules for achieving this. It encourages members to harmonise measures and to base them on international standards, guidelines and recommendations where these are available. If members wish to maintain higher standards, they must carry out risk assessments. A risk assessment can be an evaluation of the likelihood of the introduction or spread of a pest or disease in the light of the sanitary and phytosanitary measures applied. It can also be an evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs. Risk assessment must take into account available scientific evidence, relevant processes and production methods, relevant inspection, sampling and testing methods, prevalence of specific diseases or

pests, existence of pest- or disease-free areas, relevant ecological and environmental conditions, and quarantine or other treatment. An assessment of the economic factors involved is also required with the objective of minimising negative trade effects if measures are taken. This is balanced by a consideration of the damage to production if a disease enters the country, the cost of control and eradication and the cost-effectiveness of possible alternative measures. See also ***sanitary and phytosanitary measures***.

Robinson-Patman Act: an amendment to paragraph 2 of the ***Clayton Act***. It prohibits price discrimination between different purchasers of goods of the same grade or quality. The Act essentially applies to commerce within the United States only. See also ***antitrust laws*** and ***competition policy***.

Rollback: multilateral or unilateral action taken to remove barriers to trade through the dismantling of existing measures. Often combined with a ***standstill***. See also ***trade liberalisation***.

Rolling specificity: a term used in ***APEC*** to describe the process of developing action plans leading to free trade by 2010/2020. The basic idea is that countries will be able to be quite specific about their near-term plans, but less so about their medium- to long-term actions. Action plans will therefore be updated periodically and become more specific on a rolling basis. See also ***Bogor Declaration*** and ***APEC individual action plans***.

Rome Convention: the *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations*. This Convention protects the rights of performers in performances. Phonogram producers have the right to authorise the reproduction of their phonograms, and broadcasting organisations have the rights concerning their broadcasts. The Convention is administered by ***WIPO***, ***UNESCO***, and the ***International Labour Organisation***. See also ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** and ***neighbouring rights***.

Round: see ***multilateral trade negotiations***.

Ruinous competition: see ***predatory pricing***.

Rule of reason: a method used in the administration of ***competition policy*** to ascertain whether an ostensibly anti-competitive business practice may have a balancing pro-competitive impact. If this is the case, competition authorities may decide not to take action if the law gives them that flexibility. See also ***antitrust laws*** and ***per se rules***.

Rules of origin: ROOs. Laws, regulations and administrative rulings applied by governments to determine the country of origin of goods, services or investment. A decision by a customs authority on origin can determine whether a shipment falls within a quota limitation, qualifies for a tariff preference or is affected by an anti-dumping duty. These rules can vary from country to country. ROOs have become increasingly complex as a consequence of the ***globalisation*** of production processes and the proliferation of ***free-trade areas*** and ***customs unions***. As the origin of a product can have a significant bearing on its cost in the import market and

therefore its ***competitiveness***, i.e. it may enter the market free of tariffs if it comes from a particular area, ROOs can be one of the considerations leading to an investment decision. There are three main ways for deciding for admission purposes where a product originates. First, there is the ***change in tariff heading***, based on whether a product has been sufficiently transformed in the exporting country to be classified now under a different chapter in the national ***tariff schedule***. Second, an assessment can be made in terms of the value that may have been added to the product in the exporting country. Third, the origin may be determined in terms of specific processing operations necessary to give the product its current characteristics. The WTO ***Agreement on Rules of Origin*** establishes a work program aimed at the long-term harmonisation of ROOs. In the case of services and investment, the most important criteria for determining the origin of the activity include the place of incorporation, the nationality of the owners, the location of the company head office and the places where business is actually conducted. Some of these criteria may not be capable of an easy definition where ***transnational corporations*** are involved. See also ***Kyoto Convention*** and ***preferential rules of origin***.

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S&D: “Special and differential treatment” provisions for developing countries contained in several agreements administered by the WTO. See also ***special and differential treatment***.

Safeguards: action taken to protect a specific industry from an unexpected build-up imports. Safeguards measures usually refers to action taken under Article XIX (Emergency Action on Imports of Particular Products) of the GATT, the so-called ***escape clause***. However, safeguards action is possible also under Article XII (Restrictions to Safeguard the Balance of Payments) and Article XVIII (Governmental Assistance to Economic Development). A useful outline of the ways safeguards action may be instituted under the WTO rules has been devised by trade policy analysts within the ***IBRD***, but this approach is not necessarily accepted by all WTO members. According to this view, safeguards action may be taken in six different ways, all of which are subject to conditions ensuring that action is taken only if valid reasons exist. There are also certain procedural steps which have to be followed in each case. First, Article VI of the ***GATT*** permits governments to take action if ***dumping*** occurs. The provisions of this article are refined further in the ***Agreement on Implementation of Article VI of the GATT*** (the Anti-dumping Agreement). Second, under Articles XII and, in the case of developing countries, XVIII:B, they may restrict imports in order to protect their external financial position and their ***balance of payments***. Third,

Article XVIII:A and XVIII:C allow developing countries to provide governmental assistance to promote economic development. Fourth, Article XIX allows a country to suspend its obligations or to modify liberalising commitments if there are unforeseen circumstances and if any product is being imported in such increased quantities or under such conditions as to cause or threaten serious ***injury*** to domestic producers of like or directly competitive products. Except in defined circumstances, safeguards taken under Article XIX must be aimed at a particular product, regardless of its source. Discriminatory action aimed against the countries perceived to be the main problem is against the rules. If action is taken, there is an obligation to provide compensation to affected parties in the form of lower tariffs and/or better access conditions in other product lines. The ***Agreement on Safeguards*** establishes rules for the application of safeguard measures as provided for in Article XIX of the GATT. Fifth, it is possible to renegotiate commitments under GATT Article XXVIII with the aim of gaining relief from imports. Sixth, the ***general exceptions*** and the ***security exceptions*** under the GATS and the GATT can also be viewed as a form of safeguards action. See also ***anti-dumping measures***, ***hatters' fur case***, ***selectivity*** and ***Transitional Product-Specific Safeguard Mechanism***.

Safe-haven agreement: used by some commentators to describe a describe a ***regional trade arrangement*** to which a smaller country accedes in the expectation of obtaining secure access for its exports.

SAFTA: South American Free Area. The proposed achievement of hemispheric economic integration through the extension of ***Mercosur***, first put forward by Brazil in February 1994 at an ***ALADI*** meeting. Brazil suggested that, in order to create SAFTA, Mercosur negotiate with ALADI members the elimination of at least 80% of tariffs and non-tariff barriers on trade in goods over the next ten years. See also ***FTAA***.

SAFTA: South Asian Free Trade Area. A framework agreement now under negotiation, planned for conclusion by the end of 2002, between Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. The target date for regional free trade is 2005. See also ***South Asian Association for Regional Cooperation***.

Sanitary and phytosanitary measures: border control measures necessary to protect human health, animal or plant life or health. Popularly they are often called quarantine measures. Such measures must not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between members where the same conditions prevail. Nor must they be used as a disguised restriction on international trade. The WTO ***Agreement on the Application of Sanitary and Phytosanitary Measures*** (the SPS agreement) sets out how these requirements are to be carried out. See also ***International Office of Epizootics*** and ***International Plant Protection Convention***.

SAPTA: *SAARC Preferential Trading Arrangement*, launched as a first step towards a regional free-trade area in April 1993 with a program of tariff

reductions on specified goods and commodities. ***Para-tariffs***, ***non-tariff measures*** and direct trade measures may also be dealt with. The target date for regional free trade is 2005. SAPTA consists of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka which make up the South Asian Association for Regional Cooperation (SAARC). It is administered by the SAARC Secretariat in Dhaka. See also ***SAFTA*** and ***South Asian Association for Regional Cooperation***

Schedules of specific commitments on services: they show what level of market access each ***GATS*** member is willing to accord other members.Similarly, they indicate whether ***national treatment*** is offered. These schedules perform a function similar to the ***tariff schedules*** for goods under the GATT. See also ***market access for services***.

Schedule of concessions: a list of bound tariff rates negotiated under WTO auspices. It sets out the terms, conditions and qualifications under which goods may be imported. No additional duties or charges may be imposed at the border other than internal taxes also levied on similar domestic products, ***anti-dumping measures*** or ***countervailing duties*** or a fee-for-service charge. See also ***tariff***.

Scientific tariff: the ideal set of ***tariff*** rates sought over the years by many governments. Its fundamental aim would be to ensure that one's products can compete internationally on an equal basis with those of others, to promote employment at home and to offset perceived ***unfair trading practices*** by others. No country has yet succeeded in formulating a scientific tariff, though not for want of effort. In any case, even if it could be devised, it would be in direct conflict with the ideas of the ***international division of labour*** and ***comparative advantage***, and in this way negate the advantages of efficiencies available elsewhere.

Screwdriver operations: a pejorative term for manufacturing operations concerned mainly with the assembly of components. This often involves little or no ***transfer of technology***. Screwdriver operations are more likely to be found where there is an adequate supply of comparatively inexpensive labour. They are partly an inevitable result of ***globalisation*** driven by the need to find the most efficient production arrangement. They can also be due to ***preferential rules of origin*** which encourage firms to establish operations inside ***free-trade areas*** to get around ***market access*** impediments. See also ***delocalisation***, ***export processing zones***, ***footloose industries***, ***maquiladora industries*** and ***rules of origin***.

Seasonal tariff: a tariff rate related to the seasonal supply of domestic agricultural products. Tariffs are low when domestic offerings are out of season and high when domestic production starts to reach the market. The imported product need not be the same as the domestic product.

Seattle ministerial conference: the ***WTO Ministerial Conference*** held in Seattle from 30 November to 3 December 1999. Despite exhaustive preparatory discussions and negotiations, the conference did not lead to the widely expected launch of the ***Millennium Round***. See also ***Doha***

ministerial conference.

Second Account: the finance program established under the ***Common Fund for Commodities*** to fund commodity development measures aimed at improving the structural conditions in markets and enhancing the long-term competitiveness and prospects of particular commodities. See also ***First Account***.

Secondary dumping: the export of a product which incorporates components that have been landed at dumped prices. For example, the frame of a bicycle may have been imported by a firm in the exporting country at less than market price. Because of this, the firm enjoys a price advantage even if it is selling its completed bicycles at the market price prevailing in its own economy. The ***injury*** impact of secondary dumping is difficult to substantiate. See also ***anti-dumping measures***, ***dumping***, ***hidden dumping*** and ***indirect dumping***.

Second banking coordination directive: SBCD. A ***directive*** issued by the ***European Community*** in 1989 which permits a bank authorised to operate in any member state, including subsidiaries of foreign banks, to operate in any other member state in fourteen defined activities, but only if it is allowed to do so by its own licensing authority. This includes traditional banking as well as underwriting of, dealing in and distribution of securities. The authorities in the host countries may not limit the activities of banks allowed to operate in this way even if their domestic banks cannot participate in them. See also ***European Community legislation***.

Second beer panel: a dispute in 1991 in the GATT between the United States and Canada. It concerned the import, distribution and sale of certain alcoholic drinks by Canadian provincial marketing agencies. There had been a case on the same issue in 1988, hence the name of this case. The Canadian marketing agencies ("liquor boards"), created by provincial laws, had a monopoly on the supply and distribution of alcoholic beverages within provincial boundaries. They also had a monopoly on the import of alcoholic beverages from other provinces or foreign countries. A provincial licence was needed for the brewing and selling of beer in a province, and most domestic beer had to be brewed in the province in which it was sold. All provinces operated government liquor stores, but they also allowed beer sales at privately-owned retail outlets and brewery stores. The 1988 ***panel*** had concluded that mark-ups on imported products that were higher than those on domestic products could only be justified in precisely defined circumstances, that the burden of proof in this regard lay with Canada, and that the listing requirements and the availability of points of sale discriminating against imported alcoholic beverages were restrictions made effective through state-trading operations contrary to Article XI (General Elimination of Quantitative Restrictions). In 1988, following the first panel, Canada concluded an agreement with the ***European Community*** aimed at resolving some of the points at issue. This Agreement was to be implemented by the provinces on a ***most-favoured-nation*** basis. The panel concluded

that, with the exception of one province, the United States had not substantiated its claim on Canadian listing and delisting practices. Concerning restrictions on access to points of sale, the panel considered that imported beer had access to fewer of them. It found that these restrictions were contrary to the provisions of the GATT. It concluded that the mere fact that imported and domestic beer were subject to different delivery systems was not in itself enough to establish inconsistency with the GATT since formally identical ***national treatment*** might leave the imported product worse off. The panel then considered the methods for assessing mark-ups and taxes on imported beer and found that they were inconsistent with Article III:4 (National Treatment). The panel next turned to the question of minimum prices and concluded that the maintenance by an import monopoly of any minimum price for an imported product at a level at which a directly-competing, higher-priced domestic product was supplied was inconsistent with Article III:4. The panel considered that the taxes on beer containers had been dealt with as part of its consideration of restrictions on private delivery. It concluded that provincial notification procedures did not violate Article X (Publication and Administration of Trade Regulations). Finally, the panel concluded that Canada had failed to comply in several aspects of this case with its obligations under GATT Article XXIV:12 which enjoins GATT members to take reasonable measure to ensure compliance with the provisions of the Agreement by regional and local governments and authorities within its territories. See also ***implicit discrimination*** and ***second-level obligations***.

Second-level obligations: the obligations under the WTO agreements of central governments of federated states in respect of states or provinces constituting their jurisdictions. Two examples will suffice. The provisions of the ***GATT*** require WTO members to take such reasonable measures as may be available to them to ensure observance of GATT rules by regional and local governments and authorities within their territories. The ***GATS*** applies to measures taken by central, regional or local governments and authorities.

Second Protocol to the General Agreement on Trade in Services: the ***protocol*** giving effect to the commitments on trade in ***financial services*** embodied in the 1995 ***Financial services interim agreement***. It entered into force on 1 September 1996.

Second regionalism: used by Jagdish Bhagwati to describe the trend towards ***preferential trade arrangements*** that began in 1985 with the conclusion of the United States-Israel Free Trade Agreement. See also ***first regionalism***.

Second United Nations Conference on the Least Developed Countries: see ***SNPA***.

Section 22 waiver: refers to Section 22 of the United States *Agricultural Adjustment Act* which requires the Administration to impose ***quantitative restrictions*** or surcharges (above normal tariffs) whenever agricultural imports interfere with a United States farm program. In 1955, the United

States was granted a ***waiver*** without a time limit to exempt this section of the Act from the GATT disciplines. Quotas imposed under Section 22 have been converted to tariff protection as a result of the ***Uruguay Round*** negotiations. See also ***agriculture and the GATT*** and ***tariffication***.

Section 201: a section, usually called the ***escape clause***, of the United States *Trade Act* of 1974 and subsequent versions of the Act. It gives American firms relief from imports that are considered causing, or threatening to cause, serious injury to an industry. It applies to products that are traded fairly. In other words, they are not subsidised or dumped. Relief may be brought about through temporary tariff increases, ***import quotas***, negotiated restraint arrangements or direct assistance to the industry concerned. See also ***safeguards*** and ***voluntary restraint agreement***.

Section 301: the section so numbered of the United States *Trade Act* of 1974. It was amended in 1979 *(Trade Agreements Act)*, 1984 *(Trade and Tariff Act)*, 1988 *(Omnibus Trade and Competitiveness Act)* and 1994 *(Uruguay Round Agreements Act)*. Section 301 is designed to enforce United States rights under trade agreements and to provide for responses to foreign unfair trading practices following petition and investigation. Unfair trading practices may take place in the United States, in the offending country itself or in third countries. Section 301 may also be used to obtain increased market access for United States goods and services, to secure fairer conditions for its investors abroad and to promote more effective protection in other countries for United States intellectual property rights. It also allows ***USTR*** to limit imports from countries that unfairly restrict United States trade in particular products. It is generally used for single product sectors. Section 301 had its origin in Section 252 of the *Trade Expansion Act* of 1962 which gave the President broad authority to retaliate against unjustifiable agricultural barriers, and lesser authority to deal with other trade barriers. Section 252 was only used twice, once during the ***Chicken War*** which marked the beginning of the ***Kennedy Round***. When it became Section 301 of the *Trade Act* of 1974, it eliminated the distinction between agricultural and non-agricultural products, and it also covered services associated with international trade. The *Trade Agreements Act* of 1979 set out that the President should use his authority to enforce trade agreements. Under the earlier versions of Section 301, USTR received permission to initiate investigations and recommend appropriate action to the President. The passing of the *Omnibus Trade and Competitiveness Act* of 1988 transferred authority to retaliate from the President to USTR, subject to any presidential direction. ***Retaliation*** now became mandatory in principle, but considerable scope for discretion remained. The threat of a Section 301 action is most unwelcome to trade policy makers, not only because it may mean rethinking the rules in the targeted areas, but also because the defence requires much effort that is otherwise unproductive. Taking action is equally resource-intensive for the Americans, and USTR tends to pick cases it perceives as winnable to the extent that it has the choice. That flexibility has

been eroded over the years. Some say that the history of Section 301 actions against the European Economic Community, Japan and Korea has shown that its imposition can be quite ineffectual if there is not already an inclination in the target country to reform access to the sector anyway. This is definitely an underestimate of its impact. Others say that the ***WTO understanding on dispute settlement*** has taken the teeth out of Section 301. This is not the case. Section 301 is still available for retaliation if a WTO member does not act in accordance with the outcome of the dispute settlement process. Section 301 may also still be used as originally intended in all cases where there are no WTO rules covering an action perceived as unfair. See also ***Special 301***, ***Super 301*** and ***United States Omnibus Trade and Competitiveness Act***.

Section-306 monitoring: a mechanism specified in the ***United States Omnibus Trade and Competitiveness Act***. It requires ***USTR*** to monitor the implementation of measures taken under ***Section 301***. If USTR considers that a foreign country is not implementing a measure or an agreement satisfactorily, it must determine what further action to take. Such a determination is considered to satisfy the requirements for further action under Section 301. In other words, no further investigation is necessary to justify additional action. See also ***Monitoring and Enforcement Unit***.

Section 337: a provision of the 1930 United States *Tariff Act* which allows the granting of fast-track relief from present or potential injury caused by unfair imports. Section 337 is quite broad in its application, but it has been used particularly for cases involving infringements of ***intellectual property rights***. A GATT ***panel*** has found that Section 337 breaches the GATT national treatment provision, and the United States has been forced to propose amendments to it. See also ***Smoot-Hawley Act***.

Sectoral commitments: these are entries covering specific service sectors or sub-sectors in the ***schedules of commitments*** under the ***GATS*** *(General Agreement on Trade in Services)*. Examples are accountancy, freight-forwarding or life insurance. A sectoral commitment attracts a higher level of GATS rights and obligations in relation to market access and ***national treatment***. Once a commitment has been made, the market access conditions applying to it may not be made more restrictive for at least three years. See also ***market access for services***.

Sectoral customs union: see ***sectoral free-trade area***.

Sectoral free-trade area: a ***free-trade area*** or a ***customs union*** covering some traded sectors only. This option is only available to developing countries under the ***Enabling Clause***. Developed countries may conduct ***sectoral trade negotiations***, but they must extend the benefits of sectoral trade liberalisation on a ***most-favoured-nation*** basis.

Sectoral trade negotiations: the idea of achieving efficiciencies in trade negotiations through tackling clusters of tariff items rather than through the ***item-by-item negotiations*** pursued in the early rounds of ***multilateral trade negotiations***. It was first attempted on a large scale during the

Kennedy Round. The main sectors so treated were aluminium, chemicals, cotton textiles, iron and steel, and pulp and paper. Though the results varied greatly, one thoughtful assessment of the Round considered that enough progress had been made for free trade between selected industry sectors to become a possible future means of tariff reductions. Canada then advocated during the ***Tokyo Round*** the sectoral reduction or elimination of tariff and non-tariff barriers. Canada argued that in some sectors it would be possible in this way to go beyond the trade liberalisation resulting from the accepted negotiating techniques. In this way it would be feasible for all trade barriers from the raw-material stage to the finished product to be removed. Developing countries found this proposal attractive because it could have been adapted to the export products of main interest to them, and it might also have provided a solution to the problem of ***tariff escalation***. However, resistance by others ensured that this proposal was not adopted. During the ***Uruguay Round*** sectoral trade negotiations took place at two levels. First, at a broad level, the negotiations on agriculture, textiles and services resulted, respectively, in the conclusion of the ***Agreement on Agriculture***, the ***Agreement on Textiles and Clothing*** and the ***Agreement on Trade in Services***. All of these agreements achieved some trade liberalisation, though rather little in the case of services. Second, there were tariff negotiations in smaller sectoral groups. These eliminated among the main trading countries tariffs on pharmaceuticals, construction equipment, medical equipment, beer, farm machinery, wood and paper products, some fish products and toys. The United States and the European Community agreed in addition to reduce their tariffs on chemicals to about 3%. An attempt to negotiate a ***Multilateral Steel Agreement*** was unsuccessful. Sectoral trade negotiations continued after the Uruguay Round in the financial services, telecommunications and maritime services. An outstanding example of what can be achieved through sectoral trade negotiations is the ***Information Technology Agreement***. A main reason why this Agreement succeeded so well is that it was supported industry and government alike in all major producing and trading countries. ***APEC*** trade ministers decided in May 1997 to explore sectoral trade liberalisation through the ***Early Voluntary Sectoral Liberalisation*** initiative. Their intention was to identify sectors where all APEC economies could agree to reduce or eliminate tariffs and non-tariff barriers. This attempt was unsuccessful. Some see sector-by-sector negotiations as the best way to achieve trade liberalisation. When they work, they achieve results efficiently. Their main drawback is that they put the burden of adjustment on a single industry which then sees itself as bearing all the costs. If the degree of resistance is too great, governments may decide not to push ahead. This is despite the fact that all trade liberalisation results in gains for the economy. It is therefore likely that multilateral liberalisation in agriculture, a ***sensitive sector*** in many countries, will for a long time only be possible in the setting of a round of ***multilateral trade negotiations***. These rounds allow governments to strike a balance between sectors in that

they see "gains" here and "losses" there. Industries, too, can see that they have not been singled out for what they consider "sacrifices". See also ***zero-for-zero tariff reductions***.

Security exceptions: the right of WTO members under the GATS (Article XIVbis) and the GATT (Article XXI) to suspend their obligations under these agreements if important national security issues are at stake. The circumstances when this might arise are (a) the right to refuse disclosure of information if this would be contrary to essential security interests, (b) the need to take action necessary for the protection of essential security interests relating to fissionable materials, traffic in arms, ammunition and implements of war, and in times of war or other international emergencies, and (c) the pursuit of action taken by the United Nations to preserve peace and security. These provisions are rarely used. See also ***general exceptions***.

SELA: Latin American Economic System. A regional organisation, based in Venezuela, which includes 27 Latin American and Caribbean countries. It aims at promoting intra-regional cooperation in order to accelerate the economic and social development of its members, and to provide a permanent institutional structure for the adoption of unified strategies in international forums.

Selective safeguards: see ***selectivity***.

Selectivity: the imposition of ***import restrictions*** against one or more countries seen as the main threats to domestic producers rather than the use of non-discriminatory ***safeguard*** measures as required in most instances under WTO rules. Some selectivity is permitted under Article 5(b) of the ***Agreement on Safeguards*** 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 safeguard action have been satisfied, and (iii) if this would be equitable to other suppliers. See also ***escape clause***.

Self-reliance: an economic development policy based on relying mainly on locally available natural resources, capital and skills. One of its characteristics is a profound disinclination to spend foreign exchange on factors of production that do not immediately and directly result in greater inflows of foreign exchange. One of the consequences is that domestic enterprises and institutes of higher learning spend much of their time and funds on re-inventing products and processes already available elsewhere, but they never seem to catch up. Outward-looking economies avoid this trap and seek instead to find their place in the system of international specialisation through international trade and foreign investment. See also ***autarky***, ***comparative advantage***, ***self-sufficiency*** and ***techno-nationalism***.

Self-sufficiency: an economic policy under which a country aims to produce to the greatest extent what it consumes itself. Foreign trade does occur in countries practising such policies, but it tends to be confined to importing essential raw materials not available locally and the export of raw materials and other products not needed on the local market. Such a policy disregards

the gains to be made from international specialisation, and it acts therefore as a brake on the expansion of trade and the economy more broadly. See also ***autarky***, ***comparative advantage***, ***international division of labour***, ***self-reliance*** and ***techno-nationalism***.

Semi-conductor*:** a dispute with the United States and Japan brought before the GATT Council by the ***European Economic Community (EEC) in 1986. The case made by the EEC stemmed from an arrangement made between the United States and Japan in 1986 concerning trade in semi-conductors. This provided for better market access for imported semi-conductors in Japan and the monitoring of export prices by the Government of Japan to prevent ***dumping*** in the United States. The provisions on monitoring and dumping were applicable to third-country markets. Japan used its ***COCOM*** enforcement mechanism to monitor export prices which caused delays in the granting of export approvals. The EEC claimed that (a) the Japanese monitoring measures, especially those applied to third-country markets, contravened Articles VI (Anti-dumping) and XI (General Elimination of Quantitative Restrictions), (b) the provisions for access to the Japanese market contravened Article I (General Most-favoured-nation Treatment), and (c) the lack of transparency surrounding the whole issue contravened Article X (Publication and Administration of Trade Regulations). It argued that third-country monitoring was aimed at ensuring, now that the arrangement had increased prices in the United States, that United States companies would not be disadvantaged in these markets. Japan said that monitoring was mere watching. In cases when exports were made at prices "extremely lower" than the cost, MITI (Ministry of International Trade and Industry) might communicate its concern to the manufacturer. The EEC doubted that mere watching could ensure the prevention of dumping. Third-country monitoring contravened in any case Article VI which provided for the exclusive right of the importing country to decide whether to take action against dumping. Japan responded that Article VI and the Anti-dumping Code did not contain provisions concerning actions taken by exporting countries to prevent dumping. Nor did they provide for prohibiting such measures, if they were non-restrictive, by exporting countries. The EEC then considered that third-country market monitoring contravened Article XI by raising artificially Japanese export prices for semi-conductors through government intervention, and that these restrictive efforts were universally recognised. Japan insisted that monitoring was not intended to prohibit or restrict trade. The EEC considered also that Article I had been infringed because Japan applied monitoring to some countries only, and that it was unclear how Japan administered the system. Japan replied that the markets monitored accounted for practically all of its exports of semi-conductors. The United States argued that it was not receiving preferential access to the Japanese market, that the EEC's claim that the monitoring measures were incompatible with Article VI had no foundation in fact or law, that the arrangement did not require, or even suggest, ***quantitative restrictions***

within the meaning of Article XI, that Japan was monitoring virtually all exports, thus causing no infringement of Article I, and that both parties had put considerable effort into transparency. The ***panel*** first considered the claims concerning Article XI and found that the request to Japanese companies not to export semi-conductors at prices below company-specific costs to GATT members other than the United States, combined with the complex system of monitoring price, was inconsistent with Article XI, as was the system of administering export licences. It also found that the evidence submitted did not demonstrate preferential market access to Japan by United States firms in contravention of the most-favoured-nation clause. The panel held that Article VI was silent on actions by exporting countries to prevent dumping, and that it was therefore not a justification for export restrictions or export price measures. It also noted that Article VI was silent on the right of exporting countries to impose ***anti-dumping measures*** on their exports.

Semi-generic wine names: see ***geographical indications***.

Semi-tradeables: goods and services that exhibit features putting them in the category of ***tradeables*** and others that may make them ***non-tradeables***. The distinction between these categories can be difficult to make in practice.

Sensitive List: a list maintained by ***AFTA*** members which covers unprocessed agricultural products. Internal liberalisation in listed products does not have to be achieved until 2010. All other products should enjoy the the AFTA preferential rate of 0% to 5% by 2003. See also ***Temporary Exclusion List***.

Sensitive products: these are products more likely than others to encounter ***import restrictions***. Typical examples are many agricultural products, textiles, clothing and footwear, passenger motor vehicles, chemicals and, sometimes, steel. The reasons for the sensitivity surrounding these products are complex. It may be the perceived need to protect the traditional occupation of a national minority, as is the case with Japanese tanneries. In other cases, technological changes and new investment may lead to lower-cost foreign competitors and an inability by domestic producers to adjust quickly. Agriculture, as shown by the European example, is particularly complicated. Traditional political power combined with a vague community perception that the rural population expresses the national spirit and must therefore be preserved, may render any reform of the rural sector a delicate matter. See also ***sensitive sectors***.

Sensitive sectors: parts of the domestic economy posing special challenges to trade policy makers for various reasons, including relative technological backwardness, cultural factors, over-production or political clout. Among them are agriculture, audiovisual services and cultural activities more generally, defence-related industries, financial services, shipbuilding, textiles and footwear. In fact, almost any industry can turn itself into a sensitive sector if it feels the pressure of imports, and if it is willing to organise itself. The long-term solutions for dealing with the problems caused by sensitive sectors are usually found through ***structural adjustment*** or, if nothing

else is done, through accidental obsolescence and the disappearance of some of the sector as a player. See also ***cultural identity***, ***sensitive products*** and ***sectoral trade negotiations***.

Seoul Declaration: the declaration on ***APEC*** objectives made at the November 1991 ***APEC ministerial meeting*** in Seoul. The four objectives are: (i) to sustain the growth and development of the region for the common good of its peoples and, in this way, to contribute to the growth and development of the world economy; (ii) to enhance the positive gains, both for the region and the world economy, resulting from increasing economic interdependence, including by encouraging the flow of goods, services, capital and technology, (iii) to develop and strengthen the open multilateral trading system in the interest of Asia-Pacific and all other economies, and (iv) to reduce barriers to trade in goods and services and investment among participants in a manner consistent with GATT principles, where applicable, and without detriment to other economies. See also ***Bogor Declaration*** and ***Osaka Action Agenda***.

Sequential foreign direct investment: defined by ***UNCTAD*** as ***foreign direct investment*** by firms that are already established in the market. In most cases, such investment consists of reinvested earnings. See also ***associated foreign direct investment***.

Serious damage: see ***injury***.

Serious injury: see ***injury***.

Serious prejudice: this exists under the WTO ***Agreement on Subsidies and Countervailing Measures*** when subsidies have certain effects on the interests of other members. Broadly, this arises in cases (a) when the total subsidy on a product exceeds 5%, (b) when subsidies are awarded to cover the operating losses of an industry, (c) of subsidies covering operating losses to allow the development of long-term solutions and to avoid acute social problems, and (d) direct forgiveness of debt owed to government. The member country must take appropriate action in these cases. The Agreement also describes a range of situations in which serious prejudice may, rather than will, arise. Different rules apply to agricultural subsidies under the WTO ***Agreement on Agriculture***. See also ***actionable subsidies***, ***prohibited subsidies*** and ***subsidies***.

Service dumping: said to result from the use of subsidised or discriminatory pricing arrangements in the provision of shipping services. The resulting freight at less than cost is thought to give the exporter an advantage that may be reflected in the landed price of the product. The product itself may have been landed at ***normal value***, but the freight reduction could still lead to a charge of dumping. This concept was discussed during the drafting of the ***Havana Charter***, but it is not reflected in the current anti-dumping rules. See also ***anti-dumping measures***.

Service mark: a ***trademark*** uniquely associated with the provision of a service. It can be a mark, word, name or symbol, or a combination of them.

Services: these include key economic activities such as telecommunications,

banking, insurance, land and water transport, aviation, accountancy, law, engineering, entertainment, etc., which can be produced in their own right or as a component of some product or another service. In Australia, using the method applied by the Australian Bureau of Statistics, services account for about 80% of employment and 75% of GDP. Other countries have different proportions, and some of the variations are due to different statistical methods rather than a basic difference in the way the economy works. The importance of services was not always recognised. Adam Smith's view was that "the labour of some of the most respectable orders in the society is, like that of menial servants, unproductive of any value, and does not fix or realise itself in any permanent subject, or vendible commodity, which endures after that labour is past, and for which an equal quantity of labour could afterwards be procured . . . In the same class must be ranked, some both of the gravest and most important, and some of the most frivolous professions: churchmen, lawyers, physicians, men of letters of all kinds; players, buffoons, musicians, opera-singers, opera-dancers, etc.". If this view of services was not consciously held by later generations, there was nevertheless frequently a tendency to underplay their role in the economy. There is no universally accepted definition of services. Several approaches have been tried, but none has received full approval. First, services are often characterised as intangible, invisible, incapable of storage and therefore requiring simultaneous production and consumption. These characteristics are already implicit in Adam Smith's remarks. Technological advances have, however, made this an obsolescent definition. Second, the institutional approach assumes that anything not classified as primary or secondary industry must be a service. Third, there is the functional approach, pioneered by T P Hill in 1977 when he defined services as "a change in the condition of a person or of a good belonging to some economic unit, which is brought about as the result of the activity of some other economic unit with the prior agreement of the former person or economic unit". Some have argued that this definition is deficient because it does not cover, for example, security services or preventive medicine. Fourth, the United States Office of Technology Assessment has proposed classification into two types: (a) knowledge-based services (insurance, professional and technical services, certain banking services, information technology services, etc.), and (b) tertiary services (leasing, shipping, distribution, franchising, retail trade, travel, etc.). In the *Work of Nations*, Robert Reich offers three different categories of services according to occupations. The first is routine production services entailing repetitive tasks guided by standard procedures and codified rules, much in the way assembly work is done by blue-collar occupations. These services can be traded globally. The second category he calls in-person services, also entailing simple and repetitive tasks, but they must be provided person-to-person. He notes that these providers often must have a pleasant demeanour, and they must smile and exude confidence and good cheer even when they feel morose. His third category is symbolic-analytic services. This covers

problem-solving, problem-identifying and strategic-brokering activities. These can be traded internationally, but they are not standardised. They include many business, professional, financial and engineering services. This list of classification systems is by no means exhaustive. The absence of an agreed definition has not prevented the emergence of a large quantity of useful research on production and trade in services. See also ***trade in services statistics***.

Set-aside programs: instituted particularly by the United States and the European Community, but also Japan, to take agricultural land out of production as one way to reduce agricultural over-production. Farmers receive financial compensation for participating in these programs.

Set of Multilaterally Agreed Equitable Principles and Rules for the Conduct of Restrictive Business Practices: see ***restrictive business practices***.

Shallow integration: see ***deep integration***.

Sham litigation: see ***non-price predation*** and ***trade harassment***.

Shanghai Accord: an appendix to the statement issued after the 2001 Shanghai ***APEC Economic Leaders' Meeting***. The Shanghai Accord consists of five elements. The first is a commitment to broadening and updating the ***Osaka Action Agenda***, It will cover in particular the ***e-APEC strategy*** and APEC's work on ***Strengthening the Functioning of Markets***. Second, member economies agreed to the ***pathfinder approach*** to promote progress towards the ***Bogor goal***. Third, they will promote the adoption of appropriate trade policies for the New Economy. Fourth, members will aim to reduce trade transaction costs by 5% through implementing the ***APEC Trade Facilitation Principles***. Fifth, members will pursue the implementation of the ***APEC transparency principles***.

Shelf-life restrictions: usually public health regulations covering especially food items, chemicals, pharmaceuticals, etc., to ensure that a product only remains on sale in the shops as long as its quality and safety can be maintained and assured. If the shelf-life of a product is declared artificially short, ***market access*** by foreign suppliers may be impeded since the time needed for transport and customs clearance has to be allowed for. This reduces the time the product can be left on the shelf, and it increases the importer's costs because there might be greater wastage. It may even deter shops from stocking the product. Shelf-life restrictions then become ***technical barriers to trade***. Motivations for shelf-life restrictions vary. They can be based on a desire to protect local manufacturers, a genuine belief that shelf-life should not exceed a certain period for health and safety reasons, a reluctance to accept the efficiency of certain types of packaging and hesitation to accept the validity of new testing methods.

Sheltered industries: industries benefiting from a ***protective tariff*** which ensures that they are not exposed to full international competition.

Schengen agreement: an instrument permitting the free movement of people between most of the members of the ***European Union***. It removed

checks at borders between members and replaced them with external border controls. The original agreement entered into force in 1995. It became part of European Union law through the ***Treaty of Amsterdam***.

Sherman Act: a United States law passed in 1890 with the aim of prohibiting monopolies and restraints in interstate commerce as well as foreign trade. It remains the basis of the American system of ***antitrust laws*** and policies. The United States Supreme Court said of it in 1958: "The *Sherman Act* was designed to be a comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade". Section 1 of the Act states that “Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal.” In the early days this was interpreted literally, but a 1911 Supreme Court judgement held that only unreasonable or undue restraints of trade were to be covered. Section 2 of the Act states that “Every person who shall monopolize, or attempt to monopolize, or combine and conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony . . .” See also ***Webb-Pomerene Act***.

Short-supply products: Article XI of the GATT prohibits, with some defined exceptions, import and export quotas. One of these exceptions is that it permits ***export quotas*** if they are needed temporarily to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting country.

Short-supply regulations: a framework of regulations under discussion in 1997 in the context of amended United States legislation on ***anti-dumping measures***. The argument for such regulations was that some manufacturing operations are dependent on a competitive supply of components to maintain sales of their products. Sometimes these components are temporarily in short supply from domestic sources, but they may at the same time be subject to anti-dumping procedures. In such a situation, the anti-dumping action should in the view of importers be disregarded. This would allow firms to continue to benefit from lower prices charged for imported components and this way maintain their competitiveness. This argument was in the end rejected by the legislators.

Short-Term Arrangement Regarding International Trade in Cotton Textiles: an arrangement under the GATT between large textile exporters and importers to manage trade in these products through selective quantitative restrictions. It entered into force in 1961 for one year and was replaced in 1962 by the ***Long-Term Arrangement Regarding International Trade in Cotton Textiles*** which in turn was superseded in 1973 by the ***Multi-Fibre Arrangement***. All of these arrangements were a derogation from Article XI of the GATT which requires the elimination of ***quantitative restrictions***. See also ***Agreement on Textiles and Clothing*** which contains a timetable for bringing the textiles trade again

under the normal rules of the WTO.

Shrimp/turtle: a case brought before the WTO in 1997 by Thailand, Malaysia, India and Pakistan against the United States. The background to the case was that all sea turtles found in United States waters are listed as endangered under the *Endangered Species Act* of 1973. In 1987 the United States issued regulations which required all shrimp trawlers to use turtle excluder devices (TEDs). Section 609 of Public Law 101-162, enacted in 1989, calls on the United States Secretary of State to negotiate bilateral and multilateral agreements for the protection and conservation of sea turtles. This law also provides that shrimp harvested with technology that may adversely affect certain sea turtles may not be imported into the United States unless the harvesting nation has a regulatory program and an incidental take rate comparable to that of the United States, or that the particular fishing environment of the harvesting nation does not pose a threat to sea turtles. Until 1995 Section 609 was applied only to countries of the Caribbean/Western Atlantic. In December 1995 the United States Court of International Trade ruled that all imports of shrimp and shrimp products harvested in the wild with commercial technology having an adverse effect on sea turtles should be stopped by 1 May 1996. That ruling was put into effect. By 1 January 1998 19 countries had been certified as having adopted a harvesting program meeting the United States criteria. Some of these countries had received, or were receiving, technical and financial assistance from the United States to achieve certification. Some had also been granted longer transition periods for the introduction of TEDs. Another 16 were certified as having shrimp fisheries in cold waters where there was little risk of taking sea turtles. In its consideration of the ***panel*** report, issued on 15 May 1998, the ***Appellate Body*** agreed that the United States law met the requirements of GATT Article XX(g) on the conservation of natural resources, but it found that the way the United States had administered the law had resulted in arbitrary and unjustifiable discrimination against the four complaining countries. The Appellate Body also found that even if shrimp were caught with TEDs, they could still not be exported to the United States unless the exporting country had a regulatory program comparable to that of the United States. The Appellate Body found that the United States discriminated against the four complaining countries by giving them less time to adapt to the new system than others had been given. This case created much public discussion. It is therefore important to remember that the Appellate Body report did not fault the United States program to conserve endangered sea turtles. What it did, however, was to fault the discriminatory way in which the United States had implemented it.

SICA: Central American Integration System, created through the Protocol of Tegucigalpa adopted by Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama on 13 December 1991. It entered into force on 1 February 1993. SICA's fundamental objective is to bring about the integration of Central America so that it will constitute a region of peace,

freedom, democracy and development. Among its aims are strengthening the region as an economic bloc and improving the Central American financial system. See also ***SIECA***.

Sideswipe problem: an expression used particularly by Canadian trade analysts to describe any negative effects on Canada by United States actions aimed primarily at third countries.

SIECA: Permanent Secretariat of the General Treaty on Central American Integration, located in Guatemala City. The General Treaty entered into force on 12 October 1961. Its members are Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. The aims of SIECA were redefined in the Protocol of Guatemala to the General Treaty of 29 October 1993. They include, among others, the gradual establishment first of a ***free-trade area***, then of a common ***commercial policy*** and a ***customs union*** and the free movement of factors of production. See also ***SICA***.

Simplified balance-of-payments consultations: see ***balance-of-payments consultations***.

Singapore issues: so named because they entered the WTO work program through the declaration issued by the ***Singapore Ministerial Conference***. The issues are ***trade and investment***, ***trade and competition***, ***transparency in government procurement*** and ***trade facilitation***.

Singapore ministerial conference: the first of the biennial WTO meetings at ministerial level. The meeting was held December 1996. See also ***Doha Ministerial Conference***, ***Seattle Ministerial Conference*** and ***WTO Ministerial Conference***.

Single-column tariff: a ***tariff schedule*** under which all trading partners are treated in the same way. The schedule does not allow preferences, and it permits importers to seek the best possible suppliers. A single-column tariff represents the ideal state of the ***multilateral trading system***. See also ***multi-column tariff***.

Single commodity producers: refers mainly to developing countries that rely on one or two commodities for a large part of their exports. Such economies can experience large fluctuations in export income as demand and supply rise and fall.

Single-desk selling: the practice in some countries of marketing abroad and exporting agricultural commodities through specialised ***marketing boards***. Often, these have a monopoly on exporting and, sometimes, for imports also. In ***market economies*** at least, they usually operate on commercial principles in response to market signals. When this applies, they are not a form of ***state trading***.

Single European Act: an amendment in 1987 to the ***Treaty of Rome*** with the aim of transforming relations among European Community member states into a European Union, and to contribute to making concrete progress towards European unity. The content of the Act is, however, mainly economic. It extended the Community's competence to include the internal market, monetary policy, social policy, economic and social cohesion,

research and technology, and the environment. It made possible the ***European Community Single Market***. The *Single European Act* also contains important institutional changes, such as making a formal linkage between the ***European Communities*** and European Political Cooperation.

Single-firm behaviour: an aspect of company behaviour usually regulated under ***antitrust laws*** or ***competition laws***. Iits main manifestations are ***predatory pricing***, price discrimination and fidelity rebates.

Single Market: see ***European Community Single Market***.

Single undertaking: refers to the requirement that WTO members must join all the agreements administered by it, except for the two ***plurilateral agreements***. Membership of these remains optional. Before the WTO was established, GATT members could elect to a large extent which of the agreements under the purview of the GATT, other than the GATT itself, they wanted to join.

SITC: Standard International Trade Classification. A United Nations classification which covers transportable goods. Services and non-traded sectors are not included. SITC is the most commonly used statistical classification for measuring trade in goods. See also ***UNCPC***.

Sliding-scale tariff: a ***tariff schedule*** which sets tariff rates according to the value of the imported products. In most cases, the rates rise as the value of the goods increases.

Small economies: a WTO work program established at the ***Doha ministerial conference*** which aims at the fuller integration of small, vulnerable economies into the ***multilateral trading system***.

Small island developing states: SIDS. A group of 41 countries and territories recognised by the United Nations as having unique problems and special vulnerabilities in achieving ***sustainable development***. The Alliance of Small Island States (AOSIS) operates within the group as a lobby and negotiating voice, but not all AOSIS members are part of SIDS. AOSIS pays attention especially to the vulnerability of SIDS to the effects of ***climate change***.

Smoot-Hawley Tariff Act: the 1930 United States *Tariff Act*. It was passed at the onset of the Great Depression and is remembered for having raised tariffs to the highest level in United States history. The tariff rates specified by this Act, like those of its predecessor, the *Tariff Act* of 1909, were fixed and could not be reduced through negotiation. It was amended in 1934 by the *Reciprocal Trade Agreements Act*. This launched the Reciprocal Trade Agreements Program which permitted negotiated tariff reductions. The effect on international trade of the Smoot-Hawley tariff is still being debated. There is a widespread belief, expressed in many economic histories, that it was one of the major causes of the deepening recession. As far as the United States economy is concerned, this may be a misreading of the influence of the higher tariff. At that time, United States imports only amounted to about 6% of gross national product. In any case, the full domestic impact of the tariff was not felt until the Depression had become chronic. Countries for whom the United

States was a major market were of course very much affected by the higher rates. Regardless of the effect of the Act on trade, it was symptomatic of the ***beggar-thy-neighbour policies*** pursued by many countries in the inter-war years. The Smoot-Hawley tariff rates are still in force, and they apply to products from countries not receiving ***most-favoured-nation treatment*** by the United States. This act also bans the import into the United States of goods produced by ***prison labour***, forced or indentured labour. See also ***autonomous tariff***, ***Section 337*** and ***United States Reciprocal Trade Agreements Program***.

SNPA: the Substantial New Programme of Action for the 1980s for the Least Developed Countries. Adopted in Paris on 14 September 1981 by the United Nations Conference for the Least Developed Countries to promote the advancement of ***least developed countries***. Progress on the implementation of the SNPA was reviewed and new targets set for it at the Second United Nations Conference for the Least Developed Countries held in September 1990, also in Paris. For the Third United Nations Conference on the Least Developed Countries (Brussels, 14 to 20 May 2001) see ***Brussels Declaration***.

Social Chapter: see ***Social Charter***.

Social Charter: formal name *Community Charter of Fundamental Social Rights for Workers*. It was adopted by the ***European Community*** members, apart from the United Kingdom, in December 1989. It was appended in a slightly altered form to the ***Treaty of Maastricht*** and became then known also as the *Social Chapter*. The ***Intergovernmental Conference*** held in June 1997 in Amsterdam agreed that the appendix should become a formal part of the Treaty. The Charter seeks to ensure that all citizens of the European Community should benefit from the ***European Single Market***, and not business alone. The Charter contains provisions on freedom of movement, employment and remuneration, improvement of living and working conditions, social protection, freedom of association and collective bargaining, vocational training, equal treatment for men and women, information, consultation and participation of workers, health protection and safety at the workplace, protection of children and adolescents, elderly persons, and disabled persons. Some see the Charter as a possible model for a discussion of ***trade and labour standards*** in international organisations.

Social clause: short for the question of whether trade penalties in the form of WTO measures should be able to be applied to member countries found in breach of internationally agreed labour practices. The aim of a social clause would be to improve labour conditions in exporting countries by permitting sanctions against exporters who fail to observe certain minimum labour standards formulated by the ***International Labour Organisation*** (ILO). There is no agreement yet on its feasibility or desirability, though similar measures have been discussed for well over a century in other forums. It was discussed in December 1996 at the WTO ***Singapore Ministerial***

Conference where ministers agreed that labour standards were a matter for the ILO. It is worth recalling, though, that the 1954 international sugar and tin agreements contained, for example, a "fair labour standards" clause which sought to ensure that labour engaged in the production of the commodity concerned would enjoy fair remuneration, social security benefits and other satisfactory conditions. The 1976 World Employment Conference held that the competitiveness of imports from developing countries should not be achieved at the expense of fair labour standards. Four years later, the first ***Brandt Report*** also recommended that fair labour standards should be internationally agreed to facilitate trade liberalisation. See also ***child labour***, ***international commodity agreements, trade and labour standards*** and ***workers rights***.

Social conditionality: the attachment of social objectives to trade rules and making adherence to these rules conditional on the observance of certain social practices. See also ***trade and human rights*** and ***trade and labour standards***.

Social dimension of the liberalisation of international trade: this is a concept concerned with the effects on people of the structural changes brought about by the liberalisation of international trade. Underlying this issue are the thoughts that not everyone benefits from these changes, and that workers in certain occupations are under threat from imports made by workers in countries allowing inadequate labour standards. The ***International Labour Organisation*** has established a working party to examine this subject. See also ***core labour standards***, ***social clause*** and ***trade and labour standards***.

Social dumping: an imprecise term for actions assumed to occur when goods produced by prison or sweated labour are exported at very low prices. It was one of the putative categories of dumping identified by some participants in the ***Havana Charter*** negotiations. No rules were drafted for this type of alleged dumping, and it is not an accepted ***trade policy*** concept. The GATT contains a ***general exception*** in Article XX(e) covering goods made by ***prison labour***. More recently, the term "social dumping" has also been used for products allegedly produced and exported under conditions that do not reflect standards, other than technical ones, prevailing in developed economies. See also ***dumping***, ***pauper-labour argument***, ***social clause***, ***trade and labour standards*** and ***workers rights***.

Social labelling: the practice of attaching a label or a mark to a product to indicate that it has been made under conditions of fair labour standards. There are no international rules on this, and many fear that compulsory social labelling would be the first step towards discriminatory treatment of ***sensitive products*** to protect some domestic industries. Proponents of the idea say that such is not their intent. *Rugmark* is an example of voluntary labelling. Products bearing this label are made without ***child labour***. See also ***eco-labelling***, ***genetic labelling*** and ***social clause***.

Social regulation: see ***regulation***.

Socially-responsible investing: the practice of taking into account ethical and economic criteria when making a decision to invest.

Social subsidies: some claim that these occur when governments permit the existence particularly in export industries of labour standards lower than those applied internationally, or if they do not enforce their own standards. The perceived resulting lower operating costs of enterprises benefiting from these practices are seen as an indirect export subsidy. Analysis tends to indicate, however, that lower labour standards have little effect on export competitiveness and, indeed, that they may impede it. Nor is the concept of social subsidies an accepted part of the ***trade policy*** vocabulary. See also ***core labour standards***, ***pauper-labour argument*** and ***social clause***.

Soft law: in ***trade policy*** parlance, international arrangements that do not require parties to them to enforce the ***measures*** contained in them. In other words, they are hortatory arrangements. Examples of instruments entailing soft law are the **Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices** negotiated under ***UNCTAD*** auspices and **the OECD Guidelines for Multinational Enterprises**. There is a view among some practitioners of international law that a non-binding legal instrument may result in new norms if it has been adopted properly. See also ***hard law***.

South: see ***developing country***.

South Asian Association for Regional Cooperation: SAARC. It was established on 8 December 1985. Members are Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. Among the objectives of SAARC are accelerated economic growth in the region and active collaboration in the economic field. As part of this, members signed in 1993 the framework agreement on ***SAPTA*** (SAARC Preferential Trading Arrangement) which is intended to lead to the formation of a South Asian Free Trade Area. The Association's secretariat is located at Dhaka.

Southern African Customs Union: SACU. Originally established in 1910 and relaunched in 1969. It consists of Botswana, Lesotho, Namibia, South Africa and Swaziland. It covers the free flow of goods between the partners. A ***common external tariff*** is applied against non-members. Members share customs revenues under an agreed revenue-sharing formula. SACU does not have a permanent secretariat.

Southern African Development Community: SADC. An association of fourteen southern African states (Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe) which signed a free-trade protocol in 1996. A free-trade area is to be established by 2008.

Southern Common Market: see ***Mercosur***.

South Pacific Commission: established in 1947 as a body to give training and assistance in social, economic and cultural areas to the Pacific island countries. Its members are American Samoa, Australia, Cook Islands, Fiji, France, French Polynesia, Guam, Kiribati, Marshall Islands, Federated States

of Micronesia, Nauru, New Caledonia, New Zealand, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Pitcairn Islands, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, United States, Vanuatu and Wallis and Futuna. Its secretariat is located at Noumea.

South Pacific Forum: see ***Pacific Islands Forum***.

South Pacific Regional Trade and Economic Cooperation Agreement: see ***SPARTECA***.

South-South cooperation: cooperation between developing countries. See also ***developing country***, ***ECDC***, ***GSTP***, ***G-15*** and ***G77***.

South-South trade: trade between developing countries and the attendant ***trade policy*** issues. See also ***ECDC*** and ***GSTP***.

Sovereign immunity: the principle in ***public international law*** that a sovereign government cannot be sued without its consent.

Soyabean* case:** see ***oilseeds case.

Spaghetti-bowl effect: a term used by Jagdish Bhagwati to describe the complexity of trade rules resulting from a proliferation of ***free-trade areas***. A typical example of this is the existence of different ***rules of origin*** in each free-trade area. Countries that are members of more than one arrangement of this kind may have to administer different rules for each of them.

SPARTECA: *South Pacific Regional Trade and Economic Cooperation Agreement*. This Agreement, which entered into force on 1 January 1981, gives countries located in the South Pacific preferential non-reciprocal access to Australia and New Zealand. Access for sugar to the Australian market is excluded. See also ***asymmetrical trade agreements***.

Special Agreement on Commodity Arrangements: SACA. A proposal emerging in early 1955 among GATT contracting parties for an agreement to deal outside normal market forces with the disequilibrium between production and consumption of primary commodities, particularly agricultural commodities. SACA was meant to exist alongside the GATT, though it was never determined what their legal relationship would be. It had initial support from many important commodity traders, but indifference to it by the United States, the largest commodity trader, led to a wide range of irreconcilable views among others on its structure. Some thought that the problems of trade in primary commodities should only be dealt with under the GATT. The proposal had lapsed by the end of the year. See also ***agriculture and the GATT*** and ***GATT review session***.

Special and differential treatment: often referred to as S+D. It is the concept that exports of developing countries should be given preferential access to markets of developed countries, and that developing countries participating in trade negotiations need not reciprocate fully the ***concessions*** they receive. Under S+D developing countries also enjoy longer timeframes for phasing in new rules and lower levels of obligations for adherence to the rules. See also ***developing countries and the GATT***, ***development box***, ***enabling clause***, ***GSP***, ***least-developed countries***, ***Part IV of the GATT*** and ***reciprocity***.

Special protection: seen by some Canadians as a peculiarly American phenomenon. It means that some industries that are especially powerful in a political sense may not have to settle for ***trade remedies*** to keep foreign competitors at bay. Instead, they are said to be able to secure "special protection" through an executive branch reinforced by powerful congressional pressure.

Special safeguards: a mechanism available under the WTO ***Agreement on Agriculture*** to members who have converted ***non-tariff measures*** to ***tariff*** protection. It allows members to impose additional tariffs on agricultural products if import volumes exceed defined trigger levels or import prices fall below defined ***trigger prices***. Special safeguards therefore provide a safety net for importing countries that are also producers in the event of a surge in imports. They are meant to be introduced in a transparent manner. See also ***safeguards, selectivity***, ***tariffication*** and ***transitional safeguards***.

Special-structure countries: a name for Australia, Canada, New Zealand and South Africa in the ***Kennedy Round*** of ***multilateral trade negotiations***. The four claimed, and were accorded, a different status in the ***linear tariff cut*** negotiations on the basis that their industries had not developed to the point where they would be able to compete with low-tariff imports of manufactures, and that the linear approach would not reduce protection for agriculture in their main export markets. In the event, they followed largely the item-by-item approach in the tariff negotiations.

Special 301: the common name for Section 1303 of the 1988 ***United States Omnibus Trade and Competitiveness Act***. It requires ***USTR*** to make investigations every year of foreign countries that deny adequate and effective protection to United States ***intellectual property rights*** or that deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious conditions and whose conditions have the greatest adverse actual or potential impact on relevant United States products must be designated as ***priority foreign countries***. This is done through the priority watch list. Placement on this list results in increased USTR attention. There is also a watch list. Countries on it are thought to pose problems, but not of a sufficient nature to require action. Investigations initiated as a result of Special 301 are fast-track. Unfairness and retaliation determinations must be made within six months of initiating an investigation. A particular feature of Special 301 is that, following amendment through the *Uruguay Round Agreements Act*, it can be applied to countries denying adequate and effective intellectual property protection even if they are in compliance with their obligations under the WTO ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. In contrast to ***Super 301***, Special 301 does not have to be renewed at fixed intervals. See also ***Section 301***.

Specific commitments: see ***schedule of specific commitments on services***.

Specificity: a concept embodied in Article 2 of the WTO ***Agreement on Subsidies and Countervailing Measures***. It is a test to determine whether a ***subsidy*** is available only to an enterprise or industry, or group of enterprises or industries. A subsidy is considered specific when the granting authority, or the legislation on which it operates, explicitly limits access to it to certain enterprises. A subsidy may also be considered specific when there is use of a subsidy program by a limited number of entrprises, predominant use by certain enterprises, the granting of disproportionately large amounts of subsidy to certain enterprises, and the manner in which discretion has been exercised by the granting authority in the decision to grant a subsidy. Depending on the type of subsidies and the impact they have, they may be ***prohibited subsidies***, ***actionable subsidies*** or ***non-actionable subsidies***. Subsidies dependent on export performance are also considered specific. They are always prohibited.

Specific reciprocity: see ***mirror-image reciprocity***.

Specific subsidy: see ***specificity***.

Specific tariff: a ***tariff*** expressed as a specific charge on the particular item to be imported. A hypothetical example of a specific tariff would be a rate of one dollar per compact disk regardless of its value. See also ***ad valorem tariff***.

Springboarding: see ***generic springboarding***.

SPS regulations: sanitary and phytosanitary regulations. These are government standards to protect human, animal and plant life and health. They help ensure that food is safe for consumption. See also ***Agreement on Sanitary and Phytosanitary Regulations***.

Spurious dumping: a term used by Jacob Viner in *Dumping: A Problem in International Trade* to describe situations where differences in price applied to different markets are the result of varying order sizes, length of credit terms and extent of credit risks, method of selling or freight and packaging requirements peculiar to the market, rather than conscious price discrimination. The charge of ***dumping*** could accordingly not be sustained in these cases.

STABEX: System for the Stabilisation of Export Earnings. A scheme established under the ***Lomé Convention*** which sought to stabilise the export earnings of developing countries associated with the the ***European Community*** through the Convention. It aimed at compensating them for export earnings shortfalls in their trade with the European Community if they derived a large part of their total earnings from a single commodity. Conditionality was limited and aimed at ensuring that funds were used in the sector causing the difficulties. STABEX was not renewed in the ***ACP-EC Partnership Agreement*** which replaced the Lomé Convention. See also ***Common Fund***, ***compensatory financing arrangements*** and ***SYSMIN***.

Staging: the introduction of tariff reductions or other trade-liberalising measures according to a unilateral or an internationally-agreed timetable.

Standards: methods to ensure uniform specifications or attributes of a

product or a service. They are divided broadly into technical standards (e.g. minimum or maximum size, colour, composition, etc.) or performance standards (the product or service must have at least a certain capability). Additionally, standards may be compulsory or voluntary. See also ***Agreement on Technical Barriers to Trade***, ***conformity assessment***, ***International Electrotechnical Commission***, ***International Organisation for Standardisation***, ***ISO 9000*** and ***ISO 14000.***

Standards code: see ***Tokyo Round agreements*** and ***Agreement on Technical Barriers to Trade***.

Standards of treatment: the quality of treatment afforded by parties to trade and investment agreements to goods, services, investors and investments from the other parties. Agreements usually provide for ***most-favoured-nation treatment*** or MFN (non-discrimination between foreign suppliers of goods and services, investors and their investments, as the case may be). Many agreements also provide for ***national treatment*** (non-discrimination between imported and domestic goods and services, or between foreign and domestic investors and their investments). Both of these standards are variable between countries. One country, for example, may have high agricultural tariffs. Another may have rather low ones. Yet each applies its own standard to all foreign suppliers and their products under the MFN principle. In the case of national treatment, one country may insist on strict product standards in some manufactures, but another may be more flexible. Neither breaches its legal obligations by insisting on its own standards as long as they do not discriminate against imported products. A standard of treatment different to MFN and national treatment is the ***minimum standard of treatment*** contained in ***NAFTA Chapter 11***. According to Article 1105 "each party shall accord to investments of investors of another party treatment in accordance with international law . . .". Even allowing for the fact that treaties only apply to the states joining them, it is clear that there is much less variation in rights and obligations that countries have accepted through international lawthan there is in the case of standards they can set themselves. The minimum standard of treatment is therefore sometimes called an absolute standard.

Standing of industry to apply for anti-dumping or countervailing duties investigations: describes the minimum industry participation which is needed for an application for an investigation of alleged ***dumping*** to be accepted by the relevant autorities. The formula given by the ***Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*** (the Anti-dumping Agreement) and the ***Agreement on Subsidies and Countervailing Measures*** is this. The agreements assume that domestic producers of the ***like product*** will either support an application, oppose it or not express a view either way. These producers together make up the total production of the like product produced by the domestic industry. The share of production by the industries

not expressing a view is then set aside. This leaves those who support or oppose these application. An application is then considered successful and to have been made "by or on behalf of the industry" if producers representing at least 50% of the production made by this group support the application. However, no investigation may be launched if this group in fact represents less than 25% of the total production of the like product produced by domestic industry. The following example may help. Assume that the domestic industry producing the like product consists of 100 firms each accounting for 1% of the total output of the like product. It now is evident that 20% of these firms (20% of the total output of the like product) have no view on whether alleged dumping should be investigated. That leaves 80 firms accounting for 80% of total production. If 60 of these firms (i.e. three-quarters of them) support the call for an investigation, the application will be successful since they account for 60% of total domestic production of the like product. In practice, it isn't anywhere near this simple.

Standstill: an undertaking not to impose new or more restrictive trade measures after a certain date, usually the date on which the undertaking was made. Often combined with ***rollback***.

State aids: the term for ***subsidies*** used in the ***Treaty of Rome***. According to Article 92 of the Treaty, member states of the ***European Economic Community*** may not grant any aids to firms that would distort or threaten to distort competition. Exceptions deemed compatible with the provisions of the Treaty include non-discriminatory aids of a social character granted to individual consumers and aids intended to remedy damage caused by natural calamities or other extraordinary events. State aids which may compatible with the Treaty include those intended to promote regional economic development, important projects or to remedy serious economic disturbances.

State trading: there are two basic types of state trading. First, there is international trade conducted by state-owned, state-controlled or state-licensed private enterprises in market economies, sometimes with exclusive rights over certain products. These enterprises trade like normal commercial firms and respond to market signals. Second, state trading is a feature of non-market economies where price may not be the only or the dominant consideration in making import or export decisions. In this case, there is significant potential for market distortions and little ***transparency***. State trading should be distinguished from ***government procurement*** which covers purchases by governments for their own use. See also ***centrally-planned economies***, ***marketing boards*** and ***single-desk selling***.

State-trading dumping: see ***dumping***.

Statism: theories and policies which stress the importance of the state in the promotion of national economic development. Statism is not synonymous with excessive ***regulation***, but it often leads in that direction.

Stockholm Convention on Persistent Organic Pollutants: see ***Convention on Persistent Organic Pollutants***.

Stolper-Samuelson theorem: a proposition put forward in 1941 by the

economists Wolfgang Stolper and Paul Samuelson. It shows that under certain assumptions (importantly that land and labour are the only factors of production) a move from no trade to free trade results in increasing income going to the factor of production used intensively in the export industry experiencing rising prices. Conversely, such a move would result in decreasing returns for the factor used intensively in the industry subject to falling prices. See also ***comparative advantage***, ***Heckscher-Ohlin theorem*** and ***Leontief Paradox***.

Strategic business alliances: SBAs. Cooperative arrangements between firms requiring them to work towards common goals. Typically, partners to such alliances do not invest in the other partner. If they do, they may confine themselves to holding very small stakes. The aim in all cases is to improve the competitive standing of all the partners. The formation of SBAs may be subject to national ***competition policy*** or ***antitrust laws***.

Strategic dumping: see ***dumping***.

Strategic exports: goods and services thought to have an actual or potential effect on the military balance in a given region. See also ***dual-purpose exports***, ***COCOM*** and ***Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies***.

Strategic trade theory: the idea that governments can adopt domestic policies promoting the emergence and development of industries likely to become significant exporters. The implementation of this theory is almost always based on ***subsidies*** or ***protection*** of one kind or another, though its proponents on the whole have not advocated such crude action. See also ***comparative advantage***, ***new trade theory*** and ***picking winners***.

Strengthening the functioning of markets: an ***APEC*** program aimed at sustained growth in member economies. Key areas of work are trade and investment, competition and regulatory reform, and capacity-building.

Structural adjustment: the continuous process experienced by all industries of needing to adjust to new economic and commercial conditions brought about by changes in consumer preferences, technological innovation, tariff reductions, subsidy phase-outs, long-term changes in the cost of components and raw materials, etc. Sometimes this results in the rapid disappearance of a complete sector, such as has occurred in slide-rule production. Structural adjustment can be accompanied by government support for the retraining of workers and other measures. Whether governments are prepared to pay up often depends on the political clout of the industry. Since the mid-1980s, the term has also come to refer to a particular set of policy prescriptions requested of developing countries by international financial institutions such as the ***IBRD*** (World Bank) and the ***IMF***. The granting of assistance packages by these institutions is typically conditional on a tightening of fiscal policies and the rapid achievement of macro-economic stability through tough anti-inflationary policies. See also ***protectionism***.

Structural impediments: structural features of an economy seen as impeding the emergence of fully competitive markets. These can result from

inappropriate or excessive ***regulation***, widespread use of ***subsidies***, the existence of private or government monopolies, rigid labour markets, inadequate disciplines on ***restrictive business practices*** and other similar factors.

Structural Impediments Initiative: SII. A 1989 United States initiative aimed at opening the Japanese market to American firms. It was based on the proposition that the removal of traditional barriers to trade was not enough, and that meaningful changes had to be brought about through changes to Japanese domestic policies and practices. Japanese market and distribution systems were a target, as was the relationship between government and business. Few now would claim that the SII had been a success, possibly because the target was not understood well enough. See also ***Market-Oriented Specific-Sector talks***, ***keiretsu*** and ***United States-Japan Framework for a New Economic Partnership***.

Structuralism: see ***structural trade theory***.

Structural trade theory: a contentious theory emerging in the 1950s which held that structural forces in international trade impede the development of countries dependent on the production and export of primary commodities and raw materials. Its proponents argued that there is a persistent bias against such producers because of a long-term deterioration in their ***terms of trade***. The proposed solutions included the promotion of ***South-South trade*** (trade among developing countries) on a preferential basis. It was thought that in this more limited environment developing countries would be relatively more competitive and able to get ready to supply industrialised countries once their industries had developed sufficiently. Preferential access to developed countries for products of export interest to developing countries through a ***GSP*** was also advocated. Few of the resulting preferential trade areas became effective enough to make a practical difference, but the structuralists had succeeded in drawing attention to the important issue of trade and development. See also ***GSTP*** and ***UNCTAD***.

Stumbling blocks: a term ascribed to Jagdish Bhagwati. It is used to describe ***free-trade areas*** that impede the development of multilateral ***trade liberalisation***. See also ***building blocks***.

Sub-national obligations: see ***second-level obligations***.

Sub-regional economic zones: see ***growth triangles***.

Sub-Saharan Africa: a geographic area encompassing 48 countries: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of Congo (Zaïre) Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, The Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia and Zimbabwe.

Subsidiarity: a concept enshrined in Article 3b of the 1992 ***Treaty of***

Maastricht which postulates that the ***European Community*** should only take action in areas where it does not have exclusive competence if the envisaged objective cannot be sufficiently achieved by the member states acting alone. The subsidiarity principle appears to have implications for the formulation of European Community policy on aspects of ***trade in services***, especially in areas where no fully developed common policy exists as yet. See also ***European Community legislation***.

Subsidies: Financial or in-kind assistance by governments to producers or exporters of commodities, manufactures and services. There are two general types of subsidies: export and domestic. An export subsidy is a benefit contingent on exports conferred on a firm by the government. A domestic subsidy is a benefit not directly linked to exports. Subsidies are paid for many reasons, including the need to prop up an inefficient production structure, the wish to raise the income of one sector, the wish to promote regional development, the aim to develop export markets, etc. Broadly, the WTO ***Agreement on Subsidies and Countervailing Measures*** defines subsidies as financial contributions by a government or public body, direct transfer of funds or potential transfer of funds (e.g. grants, loans, equity infusions), government revenue foregone or not collected, government provision of goods and services other than general infrastructure, payments to a funding mechanism or a private body to perform these functions, income or price support. Agricultural subsidies are covered by the ***Agreement on Agriculture***. See also ***bounty***, ***countervailing measures***, ***specific subsidy*** and ***state aids***.

Subsidies Code: see ***Tokyo Round agreements*** and ***Agreement on Subsidies and Countervailing Measures***.

Substantially-all-discrimination criterion: the ***GATS*** permits the establishment of ***free-trade areas*** in services under certain conditions. One of these is that the other partners to the arrangement must be given ***national treatment*** in substantially all the sectors covered by the agreement. The term “substantial” is not defined further in the GATS.

Substantially-all-trade criterion: Article XXIV of the ***GATT*** sets out the conditions under which ***customs unions*** and ***free-trade areas*** may be regarded as consistent with the Agreement. It requires that substantially all trade between the parties to a preferential agreement must be covered as part of qualifying under the rules. The GATT does not say how this is to be understood or calculated. Two schools of thought have emerged on what the criterion means. The first adopts a quantitative approach, and it defines "substantially all trade" in terms of the value of total trade. Successive GATT ***panels*** have assumed that this should be about 80% to 90% of total trade. Under this approach, agriculture or other ***sensitive sectors*** might not be covered by an agreement, but the remainder of trade might be enough to satisfy the criterion. The second approach is qualitative. It says that all sectors must be covered, and that leaving out agriculture, for example, automatically violates the criterion. Agreement on which school should

prevail is not in sight, even though WTO members have agreed during the ***Uruguay Round*** that the contribution of a ***free-trade agreement*** to world trade would be diminished if any major sector of trade was excluded. Article V of the ***GATS***, which covers free-trade agreements in services, also has a substantially-all-trade criterion. It is divided there into the need for substantial sectoral coverage of services and the absence or elimination of substantially all discrimination in terms of ***national treatment***. "Substantial sectoral coverage" is to be understood in terms of number of sectors, volume of trade affected and ***modes of services delivery***. Additionally, no mode of supply should be excluded *a priori*.

Substantial New Programme of Action for the 1980s for the Least Developed Countries: see ***SNPA*** and ***Brussels Declaration***.

Substantial sectoral coverage: one of the criteria preferential ***economic integration agreements*** in ***trade in services*** must meet to qualify under Article V of the ***GATS*** for an exemption from the ***most-favoured-nation*** requirement. The word "substantial" is not defined in quantitative terms, but a footnote to the Article states that it is to be understood in terms of number of sectors, volume of trade affected and ***modes of services delivery***. No mode of supply should be excluded *a priori*.

Substantial supplying interest: under the rules for the negotiation of tariff reductions set out in Article XXVIII of the GATT, negotiations are normally conducted with the party having a ***principal supplying interest***. The same Article says that the interests of a party with a substantial interest in trade in that product have to be considered. An explanatory note says that the expression "substantial interest" is not capable of a precise definition, but that it is intended to be construed as a significant market share or the expectation of such a share. See also ***renegotiation of tariffs***.

Substantial transformation: used in the administration of ***rules of origin*** and the application of ***customs duties***. The ***tariff*** on a product applied at the border may depend on a determination of the origin of the product. Sometimes, it may have gone through several countries before acquiring its final characteristics. The country where the last substantial transformation took place would then be considered the country of origin. The standard often applied is the ***change in chapter heading***. This indicates that the product entered the country under one chapter of the ***Harmonised Commodity Description and Coding System*** and left it under another. Simply repackaging the product or giving it a coat of paint would not be considered a substantial transformation. See also ***screwdriver operations***.

Sui generis **right:** a type of ***intellectual property protection*** used often as a form of ***copyright*** protection. It treats the matter to be protected as unique and requiring specific protection on that basis. *Sui generis* protection is used especially for computer software and related subject matter. An example of its use is the ***directive*** issued by the ***European Community*** in 1996 concerning the legal protection of databases. Under this directive,

producers of databases who can show that they have made a substantial investment in a database have the right to prevent acts of extraction or reutilisation of the whole or a substantial part of the database. See also ***lay-out design of integrated circuits*** and ***plant breeders' rights***.

Sullivan Principles: a set of six principles proposed by the Reverend Leon Sullivan, a director of General Motors, in 1977 for the conduct of the company's operations in South Africa under the apartheid system. The principles quickly gained widespread acceptance. Essentially, they are concerned with equal and fair employment policies for all workers and the improvement of their conditions inside and outside the workplace. There are periodic suggestions that modernised and adapted versions of the Sullivan Principles would be relevant to the promotion of the observance of ***core labour standards*** and environmental standards. See also ***trade and environment*** and ***trade and labour standards***.

Sunrise industries: emerging industries, often with a high ***intellectual property*** content which, through the use of innovative methods and technological advances, succeed in doing things more efficiently or in creating entirely new classes of products. Information technology in particular has spawned sunrise industries. ***Trade policy*** interest in sunrise industries partly derives from issues related to the protection of ***intellectual property rights*** and from the fact that governments sometimes wish to promote them by ***picking winners*** or through the adoption of actions based on ***strategic trade theory***, both of which may have the effect of distorting trade. See also ***new economy*** and ***sunset industries***.

Sunset clause: a provision in an agreement under which a measure taken by a government expires automatically once a certain time has elapsed, or unless some specified action has been taken. The WTO agreements dealing with ***anti-dumping measures*** and ***countervailing duties*** contain sunset clauses under which relevant measures expire after five years unless a review finds that they should continue. See also ***manufacturing clause*** for a dispute arising because of a sunset clause in United States legislation.

Sunset industries: industries considered moribund because of technological advances in other sectors of the economy or changes in consumer preferences. Such industries are sometimes exemplified by unprofitable old-style steel mills whose closure would lead to widespread local unemployment. Some new steel mills could of course be classified as ***sunrise industries***. Attaining the status of a sunset industry may be a matter of months, as happened among the slide-rule producers when the electronic pocket calculator made its appearance. In other cases, it may be a drawn-out process as industries produce insufficient returns to be able to modernise and unable to attract new investment, but earning enough to carry on through cost-saving measures and gradual staff reductions. This is often the time when governments are asked to alleviate an industry's discomfiture through ***protection*** in the form of ***local content requirements***, ***import restrictions***, measures designed to promote ***structural adjustment***,

subsidies, ***voluntary restraint arrangements***, etc.

Sunshine rule: the practice of conducting open hearings to examine proposed or existing governmental policies.

Superfund*:** a case launched in the GATT in 1987 by Canada, Mexico and the European Community against the United States. It dealt with a tax to be levied under the United States *Superfund Amendments and Reauthorization Act* of 1986. The tax had not become effective at the time the dispute was launched. The Act imposed, *inter alia*, a new tax on certain imported substances produced or manufactured from taxable feedstock chemicals. The tax to be levied on imported substances equalled in principle the tax that would have been payable on chemical components if these chemicals had been sold in the United States for use in the production of the imported substance. A penalty rate could be levied if importers supplied insufficient information regarding the chemical components of the imported substance. The complainants argued that the tax on imported products was higher than the tax on the like domestic product, and that it was therefore a violation of GATT Article III:2 (National Treatment). This says that the "products of the products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products". The ***panel considered that the imported and domestic products were ***like products*** within the meaning of Article III:2, that there was a difference in the prospective treatment of domestic and imported products, and that the tax on petroleum was therefore inconsistent with United States obligations under Article III:2. The panel regretted that the Act directed the United States authorities to impose a tax contravening the ***national treatment*** principle. It found at the same time that, as the Act gave them discretion on imposing the tax, the existence of the penalty rate provisions as such did not constitute a violation of United States obligations under the GATT.

Super 301: the name commonly given to Section 1302 of the 1988 ***United States Omnibus Trade and Competitiveness Act***. It requires ***USTR*** (the United States Trade Representative) to prepare a report annually on United States trade expansion priorities which identifies "***priority foreign country*** practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent". This original Super 301 also required the identification of priority foreign countries, but this was changed to priority foreign country practices alone in the *Uruguay Round Agreements Act*. In practice, the effect is the same. At the same time, USTR was authorised to report on foreign country practices that may in the future warrant identification as priority foreign country practices. Super 301 differs from ***Section 301*** in that it concentrates on systemic unfair trade practices. Super 301 was originally enacted for the years 1989 and 1990. Super 301 requires periodic renewal by the President. See also ***Special 301***.

Support prices: a device to give producers of primary commodities in particular an assured minimum return. This can be done through, for example, a ***floor price***, the ***loan rate***, ***subsidies*** and ***variable levies***, sometimes aided by ***import restrictions***. Support prices may be related to the market price in that they respond to price signals to some extent. Determining the market price itself becomes problematical under such conditions. Support prices may be unrelated to market prices. Their purpose then simply is to give producers a guaranteed income. The domestic consumer and efficient producers in other countries share the bill between them.

Surtax: see ***import surcharge*** and ***primage***.

Surveillance: regular monitoring by members of the WTO of national trade policies of other members to ensure that they are in conformity with the rules of the ***multilateral trading system*** and that they reflect the ***commitments*** made by individual member states. The basic mechanism for this purpose is the ***Trade Policy Review Mechanism***, but many of the agreements administered by the WTO contain provisions requiring notification of changes to policies or action taken under the terms of the specific agreement. See also ***notification*** and ***transparency***.

Suspension of concessions and other obligations: if a WTO member fails to act on a recommendation or ruling by a ***panel*** or the ***Appellate Body***, the member bringing the complaint may ask the ***Dispute Settlement Body*** to suspend the application of ***concessions*** or other obligations to the member failing to take action. This may be done 20 days after the expiry of ***reasonable period of time*** (usually no more than 15 months after the adoption of the origin panel or Appellate Body report). The following main principles apply to the selection of concessions or other obligations to be suspended. First, the suspensions should be in the sector where a violation of the rules occurred. Second, if this is not effective or practicable, other sectors covered by the same agreement may be chosen (i.e. if the matter concerns GATT rules, the suspensions should apply to matters covered by the GATT). Third, if this is not a satisfactory way to proceed, suspensions may made under another agreement covered by the ***Understanding on Rules and Procedures Governing the Settlement of Disputes*** (i.e. it would be possible to suspend ***commitments*** under the ***General Agreement on Trade in Services*** even though the original matter may have arisen under the GATT). Members suspending concessions are asked to take into account the importance of the trade to the other party and the broader economic consequences of suspending concessions or obligations. See also ***Article 21.5 panel*** and ***Article 22.6 arbitration***.

Sustainable development: defined by the ***World Commission on Environment and Development*** as ensuring that development meets the needs of the present without compromising the ability of future generations to meet their own needs.

Sweated labour: see ***social dumping***.

Sweatshop-labour argument: see ***pauper-labour argument***, ***trade and human rights***, ***trade and labour standards*** and ***wage-differential argument***.

Swing mechanism: this refers to an interpretation by some WTO members of the right to use export subsidies for agricultural products. The ***Agreement on Agriculture*** sets annual limits on the level of export subsidies members may apply. Some now say that if a country does not use up its ceiling level in any year, it should be able to use the unused amount in another year, provided that the total permissible amount is not exceeded. This proposition does not enjoy widespread support. The swing mechanism is an accepted method under the ***Agreement on Textiles and Clothing***. The Agreement permits swing (transfer of part of an export quota for one product to quota for another product), subject to certain established guidelines and practices.

Swiss formula: a compromise formula for achieving ***linear tariff cuts*** proposed by Switzerland during the ***Tokyo Round***. It was intended to reduce higher tariffs by greater proportion than lower tariffs. The formula reads:

$$A=AX/A+X$$

X represents the initial tariff rate, and A is a coefficient to be agreed on. Z is the resulting lower tariff rate. The ***European Economic Community***, the ***Nordic countries*** and Australia used the coefficient 16, the United States, Japan and Switzerland 14. New Zealand used the item-by-item technique.

Symbolic deals: a term used by Bernard Hoekman in *Trade Laws and Institutions: Good Practices and the World Trade Organization* to describe agreed negotiating outcomes that are apparently or patently not substantive. Such deals can occur in situations where the negotiators realise that agreement on the substantive issues is not possible for the time being, but to leave the table without any agreement at all might be worse presentationally. To do otherwise might also make it more difficult to restart the negotiations. Such deals sometimes are called political outcomes.

SYSMIN: System for the Promotion of Mineral Production and Exports, or sometimes System for Safeguarding and Developing Mineral Production. A commodity stabilisation mechanism established by the ***European Economic Community*** in 1980 under the umbrella of Lomé-II as an alternative to bringing minerals under ***STABEX***. It aimed at protecting ***ACP states*** against reductions in mine output and consequent export earnings shortfalls. SYSMIN was not renewed in the ***ACP-EC Partnership Agreement*** which replaced the ***Lomé Convention***.

Systemic issues: matters pertaining to the functioning or the broad rules of the ***multilateral trading system***. Issues usually included under this heading include, for example, ***dispute settlement*** provisions, ***safeguards*** mechanisms, ***transparency*** rules, etc.

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TAFTA: Trans-Atlantic Free Trade Agreement. A proposal for a ***free-trade area*** between the United States and the ***European Community***. It has been discussed at senior governmental levels, but it is not yet on a formal negotiating agenda. See also ***New Transatlantic Agenda***.

Tailor-made tariffs: see ***made-to-measure tariffs***.

Taking of property: see ***expropriation***.

Targeting: see ***picking winners*** and ***strategic trade theory***. In United States trade law, targeting by others may give rise to an action under ***Section 301***.

Tariff: a customs duty on merchandise imports. Levied either as an ***ad valorem tariff*** (percentage of value) or as a ***specific tariff*** (e.g. $7 per 100kg). Less often, a ***compound tariff*** made up of both of these elements applies. Tariffs give a price advantage to similar locally-produced goods and raise revenues for the government. Tariffs are mostly levied on imports, but there are cases of tariffs on exports. For economists, a tariff is the equivalent of the imposition concurrently of a consumption tax and a production subsidy. Although governments often understand this clearly, they may be reluctant to reduce tariffs since this may have important fiscal implications in cases where they rely on ***customs duties*** as a predictable source of revenue. It is worth noting, however, the view expressed in the ***Brigden Report*** that the "popularity of a tariff among Treasuries and Governments is due to the fact that it is a means of 'painless extraction', the indirectness of the method acting as an anaesthetic". See also ***ad valorem tariff***, ***Lerner's symmetry theorem*** and ***specific tariff***.

Tariff anomaly: used by some to refer to what is commonly known as ***tariff escalation***.

Tariff binding: a commitment not to increase a rate of duty beyond an agreed level. Once a rate of duty is bound, it may not be raised without compensating the affected parties.

Tariff concession: see ***tariff binding***.

Tariff Conference: the formal name for the first four rounds of ***multilateral trade negotiations*** under the GATT. These were the ***Geneva 1947***, ***Annecy***, ***Torquay*** and ***Geneva 1955-56*** tariff conferences.

Tariff equivalent: a calculation based on an agreed formula of what the impact of a ***non-tariff measure*** would be if it were converted into a ***tariff***. Such calculations add considerably to the ***transparency*** of trade regimes. See also ***tariffication***.

Tariff escalation: higher import duties on semi-processed products than on raw materials, and higher still on finished products. This practice protects domestic processing industries and discourages the development of processing activity in the countries where the raw materials originate. See

also ***effective rate of assistance***.

Tariffication: procedures relating to the agricultural market-access provision in the ***Agreement on Agriculture*** under which all non-tariff measures are converted into tariffs. See also ***minimum access tariff quotas*** and ***water in the tariff***.

Tariff-jumping investment: investment in a production facility in another country in order to overcome high tariff barriers or other border measures. Views differ whether trade and investment in such cases are complementary, or whether tariff-jumping replaces trade. A view held by many is that trade and investment are now integrated in nearly all cases, and that the distinction can in practical terms easily be overdrawn. See also ***tariff escalation***.

Tariff negotiations: a key function of the WTO. From the entry into force of the GATT on 1 January 1948 until the ***Dillon Round*** of 1960-61, tariffs were negotiated item by item or product by product under the ***request-and-offers*** system. The principal supplier of a product to another GATT member had the right to request tariff reductions. From the ***Kennedy Round*** onwards, ***linear tariff cuts*** became the dominant method. Whole sections of the tariff were thereby reduced uniformly according to an agreed formula. In the ***Tokyo Round***, the ***Swiss formula*** for linear tariff cuts was used as a working hypothesis under which higher tariffs were reduced by a greater proportion than low ones. Tariff negotiations in the ***Uruguay Round*** were partly of the product-by-product type and partly ***zero-for-zero tariff reductions*** under which tariffs are reduced to zero for whole classes of products. See also ***harmonised tariff reductions***, ***Information Technology Agreement***, ***principal supplier rights***, ***renegotiation of tariffs*** and ***sectoral trade negotiations***.

Tariff peaks: relatively high tariffs, usually on so-called ***sensitive products***, amidst generally low tariff levels. For industrialised countries, tariffs of 15% and above are generally recognised as tariff peaks.

Tariff preferences: the fundamental assumption under the agreements administered by the WTO is that countries give each other ***most-favoured-nation treatment*** in their administration of their ***tariff*** regimes. It is, however, possible under certain conditions to accord lower tariff rates or zero tariffs to selected trading partners. The principal means are preferential rates by developed countries for developing countries under ***GSP*** schemes, and zero-tariff rates among members of ***customs unions*** or ***free-trade areas***. Developing countries may also accord each other preferential rates, for example, under ***Part IV of the GATT*** and the ***Enabling Clause***. One occurrence of this is the ***GSTP***. See also ***imperial preferences arrangement***.

Tariff quota: the application of a reduced ***tariff*** rate for a specified quantity of imported goods. Imports above this specified quantity face a higher tariff rate. Some claim that tariff quotas liberalise trade since, in contrast to ***import quotas***, there is no ceiling on imports under this system. This assumption can be quite erroneous. The difference between the ***in-quota***

tariff and the ***out-of-quota tariff*** often is so large as to preclude any trade at the higher rate. See also ***current access tariff quotas*** and ***minmum access tariff quotas***.

Tariff rate quota: see ***tariff quota***.

Tariff schedule: the document setting out the tariff rates a country applies to imports and, sometimes, to exports. See also ***applied tariff rates***, ***bound tariff rates***, ***multi-column tariff***, ***schedule of concessions*** and ***single-column tariff***.

Tariff stabilisation: a result of the practice in the ***GATT*** and the ***WTO*** of accepting a legally binding obligation not to raise a ***bound tariff*** except in accordance with the rules. This has made the tariffs of most member countries stable and predictable.

Tariff wedge: under conditions of ***tariff escalation***, the difference between the tariff of the more processed product and the tariff on the less processed products that are transformed into the more processed product.

Taxes occultes: literally, hidden taxes. Cumulative indirect taxes a firm incurs in making a product, such as taxes in embodied in capital equipment used in the production process. It does not include taxes on components incorporated in the product.

TBT agreement: the WTO ***Agreement on Technical Barriers to Trade***.

Technical barriers to trade: impediments to trade resulting from the existence of ***standards*** and ***conformity assessment*** systems. The WTO ***Agreement on Technical Barriers to Trade*** contains provisions for the harmonisation, reduction and elimination of such barriers. See also ***Code of Good Practice for the Preparation, Adoption and Application of Standards***, ***International Electrotechnical Commission*** and ***International Organisation for Standardisation***.

Technical regulation: this is defined in Annex 1 of the WTO ***Agreement on Technical Barriers to Trade*** as a document which lays down product characteristics or their related ***processes and production methods***, including the applicable administrative provisions, with which compliance is mandatory. Such a document may also include or deal exclusively with terminology, symbols, packaging, marking or ***labelling*** requirements as they apply to a product, process or production method.

Techno-nationalism: this has two main meanings. First, it is the idea that technological advances are useful only if they are achieved through domestic efforts even if they already exist elsewhere. These advances are normally achieved at much greater cost than if the technology was imported commercially. The results are often inferior. Reasons for this type of techno-nationalism include a shortage of foreign exchange, the need to nurture national self-esteem, defence considerations and the "not-made-here" syndrome. Second, it also refers to policies aimed at keeping technological advances within the originating country in the hope that this will lead to a ***competitive advantage***. See also ***autarky***, ***comparative advantage***, ***self-reliance*** and ***self-sufficiency***.

TEDs: turtle excluder devices. See ***shrimp/turtle***.

Telecommunications: see ***Agreement on Basic Telecommunications Services*** and ***International Telecommunication Union***.

Telecommunications termination services: services provided by one telecommunications network to another to allow a caller in one network to talk to a caller in another network. This is done through interconnection. Calls between two networks consist of three stages: (a) transporting the call to the terminating or destination network, (b) providing an entry point or gateway to the terminating network and (c) forwarding the call to its final destination. The latter two make up the termination service. The price charged by the second network for this service is called the ***accounting rate***.

Television Without Frontiers: see ***broadcasting directive***.

Temporary Exclusion List: under the ***AFTA*** rules, a list of products on which a member country is not yet ready to grant full preferential access to the other members. An agreed timetable should remove all items from these lists by 2003, but for some sensitive agricultural products this will take longer. See also ***sensitive list***.

Temporary normal trade relations: a term used by the United States to indicate that the according of ***most-favoured nation treatment*** to a given country is subject to periodic renewal. See also ***normal trade relations*** and ***permanent normal trade relations***.

Termination services: see ***telecommunications termination services***.

Terms of trade: an expression for the relative price of one good in terms of another, usually originating from different countries. The terms of trade move against country A if it has to offer more of its products for the article produced by country B. The reverse is true if the terms of trade move in favour of country A. See also ***commodity terms of trade***.

Textiles and the GATT: see ***Short-Term Arrangement Regarding International Trade in Cotton Textiles*** (1961), ***Long-Term Arrangement Regarding International Trade in Cotton Textiles*** (1962-1973), ***Multi-Fibre Arrangement*** (1974-94) and ***Agreement on Textiles and Clothing*** (1995).

Textiles Monitoring Body: a body established under the WTO ***Agreement on Textiles and Clothing*** to supervise the implementation of the provisions contained in the Agreement. It consists of a chairman plus ten members acting in a personal capacity. One of its tasks is to report periodically to the ***Council on Trade in Goods*** on progress made towards reaching the goal of bringing trade in textiles and clothing back under the mainstream WTO provisions by 2005. See also ***Multi-Fibre Arrangement***.

Textile Surveillance Body: TSB. The body supervising and administering the ***Multi-Fibre Arrangement***.

Theory of hegemonic stability: a proposition first developed by Charles Kindleberger and adapted and widened by others since. In his analysis of the reasons for the Great Depression of the 1930s and its persistence, he

suggested that the main lesson of the inter-war years could be summed up as: "that for the world economy to be stabilized, there has to a stabilizer, one stabilizer". In the view of those who subscribe to this theory, its correctness was demonstrated by the dominant role the United States assumed in the creation of the ***multilateral trading system*** exemplified by the ***GATT***.

Theory of second-best: a theory in international economics which assumes that the first-best solution for optimal trade lies in ***free trade*** not encumbered by distorting factors such as taxes, monopolies or tariffs. The theory of second-best postulates that it is still possible to aim for the optimality goal in trade by taking certain measures which, however, may not lead to the best possible outcome. What the measures likely to produce the second-best outcome are, assuming the first-best is not possible, depends on a case-by-case analysis. Theories of second-best of course are used in many other areas of economics.

Third-country dumping: the alleged practice of ***dumping*** by competitors in third markets in which one also has an interest. The ***WTO*** rules on ***anti-dumping measures*** do not cover so-called third-country dumping.

Third-country problem: a name for a putative trade effect of particular concern during the ***Kennedy Round*** negotiations on ***linear tariff cuts***. The problem is based on the assumption that countries have few export interests in products on which they maintain a high tariff. Hence they are not too concerned if the low-tariff country does not cut its tariffs on these products in the same proportion. This may have the effect, at least in modelling exercises, of shifting the main burden of the resulting trade regime on third countries, forcing them to make adjustments to their tariffs. The problem is therefore concerned with the relative ranking of a country's tariff rate in a given range of products. Any attempt to understand this problem from the perspective of economic sense will be fruitless.

Third-line forcing: a term used in the administration of ***antitrust laws***. It describes the practice of supplying goods or services only if the buyer at the same time agrees to buy products from a third source. If the buyer does not agree, the supplier in question refuses to deal with him altogether. See also ***boycott***.

Third parties: in proceedings under the WTO ***Understanding on Rules and Procedures Governing the Settlement of Disputes*** members who are not directly involved in the launch of a dispute, but who participate in the proceedings because they have a substantial interest in the matter. A mere interest in the proceedings is not enough. Members wishing to become third parties must show that they have a trade interest at stake. Third parties may appear before the ***panel***. They may also make written submissions. In turn, they receive the submissions to the first panel meeting of the parties in dispute. Third parties may not appeal against panel reports or decisions. In cases where a third party considers that the subject of a dispute has adverse effects on it, it may resort to the normal dispute settlement procedures. Where possible, the original panel will hear this submission also.

Third Protocol to the General Agreement on Trade in Services: the ***protocol*** giving effect to the new commitments on the ***movement of natural persons*** which resulted from the 1995 negotiations on this subject. It entered into force on 30 January 1996.

Third United Nations Conference on the Least Developed Countries: see ***Brussels Declaration***.

Third world: a translation of the French word *tiers-monde*. It is no longer in common use in the English language where it has given way to "developing countries". It generally was understood to include the countries that were not included in the group of industrialised democracies (the first world) or the communist countries (the second world). Like many such umbrella terms, it represents a useful first approach to the subject, but, as the ***Harries Report*** showed, it masks a considerable diversity of economic progress and political views among the countries included in the group. See also ***Developing countries and the GATT***.

Thirty : ten formula: the first proposal for a formula leading to ***linear tariff cuts*** made by the ***European Economic Community*** (EEC) during the ***Kennedy Round***. The idea initially was that there would be a comparison of the tariff rates of each participant, later modified to mean the EEC, Japan, the United States and the United Kingdom as the largest traders. Whenever the high tariff was more than 30% *ad valorem* and the difference with the low tariff was more than 10 percentage points, it would have been subject to the linear reduction formula yet to be elaborated. The formula was abandoned because it was thought to lead to incongruous results when applied to actual trade flows. It was succeeded by the ***double écart formula***. See also ***écrêtement*** and ***peak tariffs***.

Three pillars of agriculture: the framework for commitments under the WTO ***Agreement on Agriculture.*** The three pillars are market access, domestic support and export subsidies.

Tied aid: the granting of ***official development assistance*** in the form of loans to developing countries on condition that some of the funds are used in a certain way, often the purchase of capital goods from the donor country. See also ***mixed credits*** and ***trade and aid***.

TMB: see ***Textiles Monitoring Body***.

Tokyo Declaration: the declaration adopted by the GATT Ministerial meeting on 14 September 1973 in Tokyo. It launched what became known as the ***Tokyo Round*** of ***Multilateral Trade Negotiations***.

Tokyo Round: the seventh round of GATT ***multilateral trade negotiations*** which took place between 1973 and 1979. 102 countries participated in this round. Both from the point of view of participation and the breadth of the negotiating agenda, this was the biggest round up to that time. The Tokyo Round was launched on 14 September 1973 at a Ministerial meeting in Tokyo, but the negotiations were conducted largely in Geneva. The Ministerial declaration setting out the ambit for the negotiations foresaw work aimed at (a) ***tariff*** negotiations using the formula method, (b) reducing

or eliminating ***non-tariff measures***, (c) examining the possibility of reducing or eliminating all barriers in selected sectors, (d) examining the adequacy of the multilateral ***safeguard*** system, (e) negotiations in agriculture, taking into account the special characteristics and problems in this sector, and (f) treating ***tropical products*** as a special and priority sector. Ministers intended that the negotiations should be concluded in 1975. The Tokyo Round negotiations were dominated by events within the United States, the European Economic Community (EEC), Japan and the relations between them. The President did not have any negotiating authority until January 1975 when the Trade Act of 1974 was made into law. This negotiating authority was due to expire on 3 January 1980. The situation was complicated by the fact that 1976 was a presidential election year. The EEC had expanded its membership to nine on 1 January 1973 and was preoccupied with making the enlarged system work. Its internal coordinating system accordingly became much more complex. Japan had achieved its transformation into a first-rate trading power and had become the subject of protectionist pressures in many economies. The various negotiating groups, in which the specialised negotiations would take place, were only established in February 1975. Most were chaired by GATT Secretariat personnel. The developing countries were drawn into the negotiating process much more than during the ***Kennedy Round***. This was the time of heightened developing-country expectations in that it coincided with preparations for the ***New International Economic Order*** initiative and the intensification of the ***North-South dialogue***. Much necessary preparatory work of a substantive nature was done between 1973 and early 1977, but no real developments in the negotiations were possible until the new United States administration had formulated its policies and appointed its negotiating team. Negotiations began in earnest in July 1977 following a meeting between the United States and the EEC which ironed out some of their major differences on policy and procedure. The two reached agreement that there should be an accelerated timetable consisting of four phases to be concluded by January 1978. The first phase would consist of a general tariff plan, including a tariff-cutting formula using the ***Swiss formula*** as a working hypothesis, and specific directives for the treatment of agriculture. The second phase would cover the tabling of requests for tariff cuts and the removal of non-tariff measures. Phase three would see the tabling of draft texts for the codes on ***non-tariff measures***, and in the fourth phase participants would respond to the requests by tabling offers. By July 1978 a large group of developed countries was able to put forward a "Framework of Understanding" which set out the principal elements they considered necessary for a balanced outcome to the negotiations. The developing countries objected to this package on substantive and procedural grounds. They objected particularly to what they saw as an attempt to leave them at the periphery of the negotiations. The package nevertheless was an important factor in maintaining momentum as agreement emerged to conclude the

negotiations by 15 December 1978. A major obstacle then turned up in the form of a section of the United States *Trade Act* which allowed the President to waive a requirement that ***countervailing duties*** be imposed on subsidised imports over the four-year period ending on 3 January 1979. If the existing waiver lapsed, ***countervailing duties*** would become automatic. Congress appeared reluctant to renew the waiver, but it did so once the EEC declared that it could not conclude the negotiations unless the United States first solved its internal problems. This happened in late March 1979, and the Tokyo Round negotiations ended formally on 12 April 1979. The negotiations resulted in average cuts of tariffs by developed countries for industrial products of about 35%, and average tariffs were reduced to about 4.7%, to be phased in over eight years. The Tokyo Round resulted in nine separate agreements (six of which were called "codes") and four understandings on the aims and operation of the GATT. These agreements and understandings added considerably to GATT law. Most of them were adapted further in the ***Uruguay Round*** and incorporated in the formal overall outcome for that round. Little progress was made on systemic issues in trade in agricultural products. There was agreement that negotiations should be continued after the round on the development of a ***Multilateral Agricultural Framework*** aimed at avoiding continuing political and commercial confrontations in this highly ***sensitive sector***. In reality this was no more than a device enabling the conclusion of the round as a whole and, as many expected, it did not lead anywhere once negotiations resumed. Achievements in the negotiations on tropical products were uneven, but reductions in tariffs and non-tariff measures occurred across the full range of these products. No agreement was reached concerning a multilateral safeguard system, but negotiations were continued after the round, though without much success. One outcome developing countries saw as particularly important for them was the ***Enabling Clause***. It was aimed at promoting an increased participation by developing countries in the global trading system, and it allowed developed GATT members to accord differential treatment in favour of developing countries in the tariff and non-tariff areas. One of its unintended effects was to diminish further the influence of developing countries in the rule-making activities in the GATT. See also ***linear tariff cuts***, ***special and differential treatment*** and ***Tokyo Round agreements***.

Tokyo Round agreements: the collective name for the six codes on ***non-tariff measures***, three sectoral agreements and four decisions, sometimes referred to as ***framework agreements***, concluded as part of the ***Tokyo Round*** negotiations. Governments were able to choose to a large extent which of the agreements they would join. The codes are (a) the *Agreement on Technical Barriers to Trade*, usually referred to as the "standards code" which seeks to ensure that technical regulations, standards, testing and certification do not become impediments to trade, (b) the *Agreement on Government Procurement*, aimed at bringing non-discrimination,

competition and transparency into purchases made by governments, (c) the *Agreement on Interpretation and Application of Articles VI, XVI and XXIII*, usually known as the "subsidies code", aimed at ensuring that subsidies do not harm the interests of other trading partners, (d) the *Agreement on Implementation of Article VII*, also known as the "customs valuation code" which seeks a fair, uniform and neutral system for the valuation of goods for customs purposes, (e) the *Agreement on Import Licensing Procedures*, aimed at ensuring that import licensing requirements are not in themselves restrictions on trade, and (f) the *Agreement on Implementation of Article VI*, usually known as the "anti-dumping code", a revised version of the anti-dumping code negotiated during the ***Kennedy Round***. The three sectoral agreements are (a) the *Agreement Regarding Bovine Meat*, aimed at expanding, liberalising and stabilising trade in meat and livestock, (b) the *International Dairy Arrangement* which sought to do the same for world trade in dairy products, and (c) the ***Agreement on Trade in Civil Aircraft*** under which participants eliminated customs duties on civil aircraft and parts. The four decisions concerned differential treatment for developing countries, trade measures taken for balance-of-payments purposes, greater flexibility for developing countries in taking trade measures for development purposes, and an understanding concerning improved dispute settlement measures. See also ***WTO plurilateral agreements*** and ***Marrakesh Agreement Establishing the World Trade Organisation***.

Tokyo Round codes: see ***Tokyo Round agreements***.

Top-down approach: a preference in preparing an agenda for trade negotiations to define the overall shape of the agenda and then to proceed to consider how to deal with individual components. See also ***bottom-up approach***.

Torquay Tariff Conference: held at Torquay, United Kingdom, from September 1950 to April 1951. The work program consisted of ***accession*** negotiations with six countries (Austria, Federal Republic of Germany, Korea, Peru, Philippines and Turkey) as well as some tariff negotiations among the participants themselves. This is now deemed to have been the third round of ***multilateral trade negotiations***. In the end, Korea acceded to the GATT only in 1967 and the Philippines in 1979.

Total aggregate measurement of support: a term used in the WTO ***Agreement on Agriculture***. It means support the sum of all domestic support provided to agricultural producers . It is the total of all ***aggregate measurements of support*** for ***basic agricultural products***, all aggregate measurements of support not aimed at a specific product and all ***equivalent measurements of support*** for agricultural products. Formulas like these do a lot to explain why agricultural negotiations consume so much time.

TPRB: the ***Trade Policy Review Body*** is the ***General Council*** operating under special procedures for meetings to review trade policies and practices of individual WTO members under the ***Trade Policy Review***

Mechanism.

TPRM:see ***Trade Policy Review Mechanism***.

Traceability: the ability to trace, for example, meat sold in retail shops back to an abattoir and thence to the farm where the animal was raised. Traceability has become an important part of efforts to raise and enforce food safety standards.The ***European Union*** has established a system to trace products containg or produced from ***genetically modified organisms*** (GMOs). The system permits control and verification of labelling claims, monitoring of potential effects on the environment and withdrawing relevant products in cases of unforeseen helath or environment risks.

Trade: usually refers to the sale and distribution of goods and services across international borders. There are many different ways of doing this, but there must be a commercial element for a transaction to qualify as trade. See also ***barter***, ***commerce***, ***compensation trade*** and ***countertrade***.

Tradeables: goods and services that can be traded on international markets. In the case of services, this includes, for example, air travel, telecommunications and management consulting, but haircutting would not normally be considered a tradeable service. See also ***non-tradeables*** and ***semi-tradeables***.

Trade Act of 2002: the act passed signed into law by the President of the United States on 6 August 2002 which gives him ***Trade Promotion Authority***, previously known as ***fast-track***.

Trade agreement: see ***bilateral trade agreement***.

Trade and aid: this refers to the range of policy issues subsumed in the aim of promoting the economic growth of developing countries through a greater harmonisation of trade policies and aid policies of developed countries. Frequently, this is done through the provision of ***tied aid*** or ***mixed credits*** for the funding of projects that are not commercially viable in themselves, but which can make a contribution to the export performance of the recipient country. Some point out there can, however, be an inherent contradiction between the aim of fostering the economic development of developing countries and the willingness of donor countries to open their markets to the newly emerging production and export capacity. There is therefore a view that the concept of trade and aid is no more than a way to subsidise exporters in donor countries. See also ***official development assistance***.

Trade and competition: one of the ***new trade issues*** now under discussion in various international forums, but already a negotiating subject at the time of the ***Havana Charter***. There are two main reasons for its importance. First, there is an increasing recognition that the benefits of international trade liberalisation may be negated by domestic measures inimical to an open, competitive market environment. Such barriers may take the form of private anti-competitive behaviour, abuse of monopoly and dominant supplier powers or inappropriate governmental regulatory frameworks. In some countries, the problem is made worse by a weak ***competition policy*** or its inadequate coverage of domestic economic

activity. Second, there are issues where the use of either ***trade policy*** or competition policy could lead to differing results, depending on which policy was given priority. The most-frequently used example is that tests for action under competition laws tend to be harder to satisfy than those applying to proposed ***anti-dumping measures***. This is true for many economies, but the two sets of laws do not necessarily try to solve the same sets of problems. An exploration of the potential impact of such conflicts may assist the identification of measures needed for a smoother flow of international economic activities. It is worth noting that there is a well-argued view which claims that competiton laws may not in fact be the best means to international promote competition. Some, like Ignacio De Léon, note what they see as deficiencies. First, De Léon says that the model of perfect competition and static markets underlying antitrust policy bears little resemblance to real-world competition. Second, he draws attention to the negative effect political actors face in designing and enforcing an antitrust policy. Third, he claims that antitrust policy introduces an absolute uncertainty on the transactions of economic agents because the discretionary powers of enforcing agencies cannot be submitted to judicial review effectively. Others hold that, particularly in the construction of geographic markets, the substitutability between competition and trade policies is quite limited. They suggest that the list of internationally traded products for which the market structure is competitive at both the national and international level is short indeed. The WTO ***Singapore Ministerial Conference*** established in December 1996 a ***Working Group on the Interaction between Trade and Competition Policy*** to examine this issue. The ***Joint Group on Trade and Competition*** in the ***OECD*** also is doing work aimed at clarifying the relationship between trade and competition policies. See also ***antitrust laws***, ***competition policy***, ***international contestability of markets*** and ***restrictive business practices***.

Trade and corruption: see ***trade and illicit payments***.

Trade and culture: one of the possible ***new trade issues***, but not yet on any negotiating agenda. It is concerned with the impact international trade has on ***cultural identity***. In a narrow sense, the subject covers trade in audio and audiovisual material and the governmental measures, such as ***local content rules***, that are applied to it. Some see it as covering in a wider sense the impact of international trade and investment on the cultural identity of a country. A subset of this concern is represented by ideas making up the theory of cultural imperialism which holds that trade and investment threaten to destroy local traditions and to submerge the cultural heritage of other countries. Understood in this way, the issue may provide the excuse for protectionist actions that otherwise would not be available. See also ***audiovisual services***, ***broadcasting directive*** and ***Canadian periodicals***.

Trade and debt: the question of the relationship between a country's ***trade policy***, the impediments it faces to its export aims, and need to service or

repay borrowings obtained sometimes a long time ago. Progress on this question is likely to be slow, partly because it would force trade ministries and ministries of finance to cooperate more closely than they often seem to like.

Trade and Development Act of 2000: see ***African Growth and Opportunity Act*** and ***Caribbean Basin Initiative***. This Act contains many other provisions. Among these, the ***carousel legislation*** (section 407) is of special interest.

Trade and Development Board: TDB. The executive body of ***UNCTAD*** between the quadrennial conferences. It meets once a year in a regular session and deals with the international implications of macro-economic policies, monetary and finance matters, trade issues, trade policies, structural adjustment and economic reform and related matters. There is also provision for up to three one-day executive sessions a year to deal mainly with management and institutional matters.

Trade and Development Report: published annually by ***UNCTAD***. It analyses current ***trade policy*** issues from the perspective of developing countries. That should not stop others from benefiting from the many insights it offers on global developments.

Trade and economic agreement: TEA. An imprecise term for an agreement between two or more countries, intended to cover part or all of their trade and economic relations. TEAs frequently have treaty status. The contents and structure of TEAs vary greatly. The simpler ones sometimes contain little more than assurances of ***most-favoured-nation treatment*** and ***best-endeavour undertakings*** to promote the expansion of trade and economic relations with the other party or parties or to consider sympathetically any trade issue that may arise between them. More complex TEAs can commit the partners to adopt ***trade facilitation*** measures, to engage in a regular structured dialogue and to work towards solutions to specific trade issues. TEAs do not normally contain free-trade provisions, but there would be no impediment to including a ***free-trade agreement*** in the framework of a TEA.

Trade and employment: one of the items on the agenda of the 1947-48 ***United Nations Conference on Trade and Employment*** and its preparatory meetings. Its inclusion stemmed from a recognition that pre-war unemployment exacerbated by ***beggar-thy-neighbour policies*** had been a major factor in the outbreak of the war. From the start of the Conference, there was a division between those who wanted to write effective employment provisions into what became the ***Havana Charter*** and those who were equally desirous of full employment, but who saw ***ECOSOC*** as the proper organisation to deal particularly with cyclical unemployment and the coordination of measures to combat it. The Havana Charter imposed the following principal obligations on its members: (a) to achieve and maintain full employment in their territories, (b) to make measures to sustain employment consistent with other provisions of the Charter, (c) to avoid measures which would create balance-of-payments difficulties in other

countries, (d) to take appropriate and feasible action to eliminate unfair labour conditions, (e) to act jointly with others that may be involved to eliminate persistent balance-of-payments problems, and (f) to participate in activities sponsored by ECOSOC to promote employment. The ***Marrakesh Agreement Establishing the World Trade Organisation*** and the ***GATT*** list the objective of ensuring full employment in their preambles. Some claim that this gives the WTO a mandate for an examination of ***trade and labour*** issues, but this argument misrepresents the situation.

Trade and environment: viewed by some as one of the ***new trade issues***. It is concerned with the issues arising from the interaction between measures to expand international trade and those aimed at protecting the environment. There is a view that virtually all trade-environment issues fall within one of the following categories: (i) the trade effects of environmental regulation of protection, (ii) the trade effects of environmentally-related product standards, (iii) the use of trade measures to secure international environmental objectives and (iv) the environmental effects of trade and trade liberalisation. Hoekman and Kostecki list four main reasons offered by its proponents for the inclusion of this issue in the ***WTO*** agenda. First, production and consumption activities in one country may have a detrimental environmental impact on other countries. Second, some environmentalist groups have propounded the view that trade itself is bad for the environment because of its potential to spread pollution. Third, some consider that environmental measures and policies are bad for trade because they might allow countries with low environmental standards to be more competitive than those that have to bear the cost of higher standards. Fourth, environmental policies may unnecessarily restrict trade as shown in the tuna cases. There is much argument about the possibility that differences in environmental standards might lead to cost differentials which could be exploited by those enjoying lower costs. The proposition that trade measures ought to be used in support of environmental objectives generally is not favoured by trade-policy makers because it might lead to a whole new array of protectionist measures only tenuously connected with the aim of environmental protection. Nevertheless, some ***multilateral environment agreements*** already contain significant measures covering international trade. A work program is now under way on these issues in the WTO ***Committee on Trade and Environment***. The Committee covers goods and services. See also ***Agenda 21***, ***Basel Convention***, ***CITES***, ***environmental measures in the WTO***, ***general exceptions***, ***London Guidelines for the Exchange of Information on Chemicals in International Trade***, ***Montreal Protocol***, ***race-to-the-bottom argument***, ***Rio Declaration on Environment and Development*** and ***United Nations Framework Convention on Climate Change***.

Trade and foreign exchange: suggested by some for consideration in the WTO as a ***new trade issue***. It concerns the relationship between international trade and the exchange rate system. Proponents tend to

subscribe to the view that the system of floating exchange rates is one of the causes of protectionist pressures on the trading system. Others claim that it was the fixed exchange rate system that led to protectionism. Few seem to be keen to start early negotiations.

Trade and human rights: this expression embraces a set of three broad issues. They have in common the thought that international trade can have an effect on the enjoyment or exercise of human rights in participating countries. First, there is the pessimistic assumption that ***trade liberalisation*** by developing countries entails a social cost to them which outweighs its economic benefits. It also assumes that the benefits go almost exclusively to privileged urban minorities, and that other groups fall further behind in their living standards. This view is held especially by those who see ***globalisation*** as undermining the social fabric of developing countries and making them more dependent on the rich developed countries. Trade liberalisation always entails some ***structural adjustment***, but it is not course the only cause of it. Some occupations will be affected adversely by the need for structural adjustment, but the evidence overall points to an inprovement in the observance of human rights as economic well-being increases. It is also a mistake to assume that those in traditional occupations are necessarily better off than those employed in modernising sectors. Second, trade and human rights stands for the proposition that trade measures should be used to promote or enforce human rights. Often this is aimed at a better observance of ***core labour standards***. Holders of this view tend to support the use of ***GSP*** schemes for this purpose since these are unilateral instruments that can be made conditional on a range of factors. A third strand is the thought that non-observance of human rights in the form of core labour standards gives the exporting country an unfair advantage because its exporters supposedly incur fewer costs. In other words, it is the ***pauper-labour argument*** in some form. Although empirical studies cast doubt on the validity of this proposition, the solution usually advocated is that importing countries ought to be able to use trade measures to defend themselves against unfair practices of this sort. This is the basis of calls for rules against so-called ***social dumping***. One should not underestimate the force of human rights concerns in countries at all stages of development, but the sad fact is that in many cases calls for rules on trade and human rights are in reality no more than calls for the imposition of protectionist measures against developing countries. See also ***Social Charter***, ***social dimension of the liberalisation of international trade*** and ***wage-differential argument***.

Trade and illicit payments: one of the ***new trade issues***. It is concerned with bribery, corruption and lack of transparency in ***government procurement***. The main proponent of negotiations on this issue has been the United States. The aim of such negotiations would be to promote measures to discourage illicit payments in line with its own legislation which makes such payments an offence under the ***Foreign Corrupt Practices Act***. The entry into force on 15 February 1999 of the ***Convention on***

Combating Bribery of Foreign Public Officials in International Business Transactions, negotiated in the ***OECD***, has greatly reduced calls for similar action in the ***WTO***. The Convention makes it a crime to offer, promise or give a bribe to a foreign public official in the course of international business deals. See also and ***Draft International Agreement on Illicit Payments***.

Trade and investment: one of the ***new trade issues,*** even though some rudimentary rules on ***investment*** formed part of the ***Havana Charter***. The issue is concerned with the relationship between trade and investment as factors in ***international economic relations*** and the emergence of investment as a ***market access*** issue. Broadly speaking, for a long time trade and investment tended to be regarded as separate policy issues. Today, the two are increasingly regarded as complementing each other. In a situation of declining border protection, investment flows can stimulate new trade patterns and strengthen older ones. In other cases, firms are more or less forced to invest and produce in target markets because high tariffs make importing an unrealistic option. The WTO ***Singapore Ministerial Conference*** established in December 1996 a ***Working Group on the Relationship between Trade and Investment*** to examine this issue. See also ***globalisation***, ***Multilateral Agreement on Investment*** and ***tariff-jumping***.

Trade and Investment Access Facility: a mechanism established by ***CHOGM*** in October 1997 to assist developing countries with the process of adjusting to, and taking advantage of, the opportunities of ***globalisation***. The Facility will provide technical assistance to help countries identify and manage the potential economic and social impacts of trade in goods and services and investment liberalisation, identify new sources of revenue and market opportunities, and help countries fulfil WTO requirements. It will operate under the ***Commonwealth*** umbrella.

Trade and Investment Facilitation Agreement: TIFA. A treaty aimed at promoting trade and investment between the partners through making the existing rules and regulations work more smoothly.

Trade and Investment Framework Agreement: TIFA**.** A treaty outlining the broad principles and aims for the conduct of trade and investment activities between the parties. It can be accompanied by more detailed subsidiary instruments for issues required more detailed treatment.

Trade and labour standards: one of the ***new trade issues***. It is concerned with the question whether trade rules should be used to promote minimum labour standards in exporting countries. Like others of these new trade issues, it has actually been around for some time. Some trace it back to the anti-slavery campaigns of the nineteenth century. The 1919 constitution of the ***International Labour Organisation*** had the adoption and promotion of labour standards as a main objective. Some consider that the concept of "fair labour standards" derives from Article 23(a) of the Covenant of the ***League of Nations*** in which members endeavoured "to secure and

maintain fair and humane conditions of labour for men, women and children both in their own countries and in all the countries to which their commercial and industrial relations extend". The ***Atlantic Charter*** of 1941 sought to secure "for all, improved labour standards, economic advancement and social security". In 1943, the International Labour Office recommended that "wherever existing conditions are unsatisfactory, there should be arrangements to ensure that labour employed in the production of controlled commodities receive fair remuneration and adequate social security protection and that other conditions of employment are satisfactory". The link between international trade and labour standards was made more explicit in Article 7(1) of the ***Havana Charter*** which noted that "unfair labour conditions, particularly in production for export, create difficulties in international trade, and, accordingly, each Member shall take whatever action may be appropriate and feasible to eliminate such conditions within its territory". Some of the ***international commodity arrangements*** also contain provisions exhorting members to promote fair labour standards. See also ***child labour***, ***core labour standards***, ***social clause***, ***social dumping***, ***social subsidies*** and ***trade and human rights***.

Trade and social conditions: see ***child labour***, ***core labour standards***, ***social clause***, ***social labelling***, ***trade and labour standards*** and ***worker rights***.

Trade and taxation: an issue proposed by some for inclusion in the agenda of a future round of ***multilateral trade negotiations***. It is based on a perception that taxation regimes could be used to distort a country's international trade. The prospective complexities of this issue are such that even most of those who concede a direct relationship between trade and taxation measures have shown little desire to start a discussion of what might be done. See also ***new trade issues*** and ***transfer pricing***.

Trade and transfer of technology: a work program adopted at the ***Doha ministerial conference*** aimed at increasing flows of technology to developing countries.

Trade-balancing requirement: a requirement that an investor use earnings from exports to pay for imports. It is based essentially on ***mercantilism***. Such a condition always puts a limit on the growth of the firm concerned, and in this way also on the economic growth of host countries. Trade-balancing requirements contravene the provisions of the WTO ***Agreement on Trade-Related Investment Measures***.

Trade-chill effect: the result of an action, such as ***trade harassment***, which engenders a sudden contraction in the exports of a given product to a defined country.

Trade coverage: a term used in ***tariff negotiations*** to denote how much of a country's trade is liberalised by the tariff reductions under discussion.

Trade creation: a criterion used for the assessment of the impact of ***free-trade areas*** and ***customs unions*** on others. Trade theory holds that the reduction or elimination of barriers to trade will lead to increased trade

between members and non-members if external barriers are not raised at the same time. The experience of the GATT system and the expansion of trade under it would indicate that this theory is underpinned by empirical evidence. In practice, the validity of the argument is quite difficult to demonstrate for any given area because of the interplay of other factors, particularly secular changes such as technological advances, changing investment patterns, etc. See also ***trade diversion***.

Trade defence instruments: see ***contingent protection***.

Trade deficit: this occurs when the value of one's imports exceeds the value of one's exports over a given period. Often, only merchandise trade is considered for this calculation. Taken in isolation, the existence of a trade deficit does not yield any useful insights about a country's economic health. However, it may be that a persistent trade deficit reflects some deficiencies in prevailing economic settings which need to be corrected. Sometimes the anxiety induced by a trade deficit simply reflects symptoms of ***mercantilism***. See also ***balance of trade*** and ***trade surplus***.

Trade deflection: see ***trade diversion***.

Trade deviation: a term sometimes used to describe a situation arising from the fact that a country may be a member of two ***free-trade areas***. Unless there are appropriate ***rules of origin***, goods originating in one of these free-trade areas may in this way circulate freely to the other free-trade area once they have entered the ***customs territory*** of the first country. This concept illustrates the kind of issues that arise once the conclusion of ***regional trade agreements*** becomes a country's main ***trade policy*** objective. See also ***hub and spokes***.

Trade diversion: also known as trade deflection. One of the criteria used for the assessment of the impact of ***free-trade areas*** and ***customs unions***. The creation of such bodies normally leads to the expansion of trade between its members, but economic theory postulates that a share of the increased trade experienced by participants is merely due to a redirection of their trade, and not increased trade due to the arrangement. This effect can be demonstrated convincingly in models. In practice, trade diversion has always been very difficult to isolate because of other factors. These include technological innovation, global reduction in tariffs, changes in investment policies, etc. See also ***trade creation***.

Trade Efficiency Programme: an ***UNCTAD*** program aimed at increasing the international awareness and effective application of information technologies to trade, and to promote the use of models capable of reducing procedural costs in international trade. See also ***electronic commerce*** and ***Trade Point Programme***.

Trade embargo: a ban on trade with a specified country, usually imposed through a United Nations decision, but sometimes based on unilateral or regional action. An example of a justification for a trade embargo can be found in the ***security exceptions*** written into the GATS and GATT which specifically allow the suspension of obligations under the agreements if this is

necessary for conforming with United Nations decisions. See also ***United Nations economic sanctions***.

Trade Expansion Act: see ***Kennedy Round*** and ***United States trade agreements legislation***.

Trade facilitation: removing obstacles to the movement of goods across borders. Examples include the simplication of customs procedures, cooperation in quarantine matters, publication of trade directories, cooperation on technical standards, periodic discussion of trade issues, trade fairs, trade missions, etc. The ***Singapore Ministerial Conference*** established a work program in the WTO on trade facilitation. See also ***APEC Principles on Trade Facilitation*** and ***trade promotion***.

Trade – finance – currency linkage: an element of the Ministerial declaration made at Marrakesh in April 1994 at the conclusion of the ***Uruguay Round***. It envisages cooperation between the WTO, the ***IMF*** and the ***IBRD*** to achieve greater global coherence of policies in the fields of trade, money and finance. See also ***trade and foreign exchange*** and ***trade and taxation***.

Trade harassment: the use of overt and covert domestic measures as a device to make the import of products intentionally difficult. Overt measures include the aggressive use of ***anti-dumping measures***, ***safeguards*** actions or ***countervailing duties***. Sometimes the mere threat of such an action is sufficient to cause importers to reduce or stop purchases from abroad. At other times, the effect of ***price undertakings*** may make importing quite uneconomic. Trade harassment can also occur through sham litigation. See also ***non-price predation***.

Trade in cultural property: see ***Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property***. Under Article XX(f) of the GATT, WTO members may take trade measures necessary to protect national treasures of artistic, historic or archaeological significance. See also ***trade and culture***.

Trade-induced competition: a situation of enhanced competition on domestic markets caused by imported products. The extent to which trade-induced competition occurs depends on the level of market access foreign firms and their products have. See also ***import discipline hypothesis*** and ***international contestability of markets***.

Trade in services: the supply of services on commercial terms to residents of another country, either through ***cross-border trade*** or through ***commercial presence***. See also ***data protection in trade in services***, ***modes of services delivery***, ***services***, ***tradeable services*** and ***transactions in services***.

Trade in services statistics: what strikes analysts of international trade immediately is that statistics for ***trade in services*** are much less detailed than those for merchandise trade. The principal cause of this is that services cannot be counted and inspected at the border as is the case for trade in

goods. Historically few saw a necessity to develop similarly detailed classifications for trade in services because this trade was considered less important. Indeed, one can see here one of the results of adhering to ***mercantilism*** which extols the export of manufactures. Also, since many services have been traded for only a relatively short time, it was for a long time sufficient to report flows at high levels of aggregation. Today, statistics for trade in services are worked out on the basis of foreign exchange transactions or surveys of firms, often in combination to achieve greater accuracy. Many countries now report their statistics for trade in services according to the fourth edition of the ***IMF*** Balance of Payments Manual. This classifies services transactions into four categories: (a) *shipment:* freight and insurance services provided as part of the transportation of goods, (b) *other transportation services:* passenger services provided by transport operators and measured by way of ticket sales for international journeys and port services, (c) *travel:* goods and services acquired by overseas travellers, and (d) *other services:* insurance, professional, telecommunications, construction, mining, computing, entertainment and others. The last category in fact includes the services showing the fastest trade growth. The fifth edition of the IMF Manual, published in 1993, recognises this. It offers a greater disaggregation of services, though the classifications remain quite broad. Many national statistical services now publish figures according to the classification contained in the fifth edition or in even greater detail, but in other cases figures based on the four earlier classifications are all that is available. The IMF classification is being developed further in the OECD-EUROSTAT classification for trade in services. The main international effort is that of the Inter-Agency Task Force on Services Statistics. It meets under United Nations auspices, is chaired by the ***OECD*** and comprises also representatives of EUROSTAT (the ***European Community*** statistical office), the IMF, ***UNCTAD***, the ***IBRD*** (World Bank) and WTO. This task force has a broad mandate to improve services statistics, and it is giving priority to the statistical needs of the GATS. Work is under way in many countries to improve the statistical coverage of trade in services. It will, however, be some time before detailed statistics for all of the more important services traders will be available. In the meantime, it is worth recalling that there is also a view that the division of traded products into goods and services is increasingly meaningless in terms of what is actually occurring in the economy. See also ***balance of payments***.

Trade intensity: a measure of the importance of trade to a given economy. It is the proportion of imports and exports of goods and services in relation to the total economy.

Trade liberalisation: a general term for the gradual or complete removal of existing impediments to trade in goods and services. ***Free trade*** may be its ultimate aim, but more likely it is freer trade. Investment restrictions may also be covered by this term if investment in the target market is necessary for effective market access.

Trademark Law Treaty: a treaty negotiated in 1994 under ***WIPO*** auspices aimed at making national and regional ***trademarks*** systems easier to use. It seeks to do this through the simplification and harmonisation of procedures. The Treaty is not yet in force. See also ***Madrid Agreement for the Repression of False or Deceptive Indications of Source*** and ***Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of Registration of Marks***.

Trademarks: words, names, symbols, devices or combinations of these, used by manufacturers and merchants to identify their goods and to distinguish them from the products of their competitors. See also ***intellectual property***, ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** and ***service marks***.

Trade negotiations between developing countries: in November 1971 GATT members agreed to a ***waiver*** from the ***most-favoured-nation*** rule to permit developing countries to accord each other preferential treatment. Some fifteen developing countries availed themselves of this opportunity. These trade negotiations, conducted under GATT auspices, led to modest results. See also ***Bangkok Agreement***, ***developing countries and the GATT***, ***ECDC*** and ***GSTP***.

Trade Negotiations Committee: a committee usually established at the start of a multilateral round of trade negotiations. It consists of all participants and acts mainly as a transparency and stocktake mechanism. Its size makes it too unwieldy for actual negotiations. See also ***multilateral trade negotiations***.

Trade-neutral measures: measures taken by governments for reasons unrelated to the regulation of international trade which do not have any effect on the flow of trade.

Trade pledge: a name sometimes used for the idea of a ***standstill***. The term was apparently first used in 1974 by the ***OECD***.

Trade Policies for a Better Future: see ***Leutwiler Report***.

Trade policy: the complete framework of laws, regulations, international agreements and negotiating stances adopted by government to achieve legally binding market access for domestic firms. Trade policy also seeks to develop rules providing predictability and security for firms. Fundamental components of trade policy are ***most-favoured-nation treatment***, ***national treatment***, ***transparency*** and ***exchange of concessions***. To be effective, trade policy needs to be supported by domestic policies to foster innovation and international competitiveness, and it needs to be conducted with flexibility and pragmatism. It is worth bearing in mind the observation by Bernard Hoekman and Michael Kostecki in *The Political Economy of the World Trading System* that trade policy is by definition a nationalistic policy in that it discriminates against foreign producers. Put differently, it represents the international dimension of national policies adapted for domestic reasons. One result of this can be that trade sometimes takes second place to politics. See also ***commercial policy***, ***common commercial***

policy and ***four pillars of trade liberalisation***.

Trade Policy Review Body: the WTO ***General Council*** when it exercises its responsibilities under the ***Trade Policy Review Mechanism***.

Trade Policy Review Mechanism: TPRM. A ***WTO*** review mechanism established in December 1988 at the Montreal Ministerial Meeting which conducted a mid-term review of the ***Uruguay Round***. It is managed by the ***Trade Policy Review Body***. The TPRM is aimed at a smoother functioning of the ***multilateral trading system*** through greater domestic and international ***transparency*** in the trade regime of individual WTO members. Issues may be raised regardless of whether they are covered by WTO rules, though there is an understanding that they should be related to the ***trade policy*** of the country being examined. Reviews are conducted according to a fixed timetable. The frequency of reviews is related to the share of world trade, with large traders being reviewed more often. The TPRM does not serve as a basis for the enforcement of specific WTO obligations or for ***dispute settlement*** procedures. See also ***surveillance***.

Trade promotion: activities designed to increase a firm's or a country's export trade. It includes participation in trade fairs, trade missions, publicity campaigns, etc. See also **trade** ***facilitation***.

Trade Promotion Authority: the name adopted in 2001 and signed into law on 6 August 2002 through the Trade Act of 2002 for the negotiating authority given by the United States Congress to the President which had been known as ***fast-track timetable***. The Trade Promotion applies to all trade agreements negotiated by the United States between its entry into force and its expiry. It has the following overall trade negotiating objectives: (1) more open, equitable, and reciprocal market access, (2) reduction or elimination of trade barriers, (3) strengthening the international trading system, (4) to achieve faster economic growth, raising living standards and promote full employment, (5) trade and environmental policies to be mutually supportive, (6) promote respect for worker rights and the rights of children, (7) provisions against weakening protections given to environmental and labour laws as an encouragement for trade, (8) benefits for small businesses, and (9) promote universal ratification and full compliance with ILO Convention No 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. The Trade Promotion Authority will expire on 30 June 2005, but it may be extended until 1 July 2007 if the President seeks an extension and neither House of Congress opposes it. See also ***Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour***.

Trade protection: a term sometimes used by the European Community instead of ***trade remedies***.

Trade-related antitrust principles: the name used by Bernard Hoekman for the ***competition policy*** issues that might be covered in a future multilateral agreement on ***trade and competition***.

Trade-related aspects of competition law and policy: TRACLAP. A

term used by some scholars to denote ***trade and competition***. See also ***Working Group on the Interaction between Trade and Competition Policy***.

Trade-related aspects of economic development: describes the WTO provisions concerning the participation of developing countries in the world trading system, particularly the ***Enabling Clause*** and ***Part IV of the GATT***.

Trade-related aspects of intellectual property rights: TRIPS. See ***Agreement on Trade-Related Aspects of Intellectual Property Rights***.

Trade-related aspects of monetary measures: an expression used by some to refer to the provisions contained in GATT Article XV concerning exchange arrangements.

Trade-related aspects of sustainable development: a subject now under discussion in the ***Food and Agricultural Organisation***. It deals with the issues arising through a wish to reflect environmental issues fully in trade policy, and concern by others that environmental measures should not be used as restrictions on trade. See also ***sustainable development*** and ***trade and environment***.

Trade-related capacity building: see ***capacity-building***.

Trade-related investment measures: TRIMS. See ***Agreement on Trade-Related Investment Measures***.

Trade-related technical assistance: TRTA. Assistance given to developing countries through bilateral, regional or multilateral schemes to promote their integration into the global system. Such schemes usually aim to improve the competitiveness of receiving countries as well as enabling to operate more effectively within the multilateral rules. See also ***capacity-building*** and ***Doha Development Agenda Global Trust Fund***.

Trade relief: the easing of competitive pressures on domestic firms through the use of ***trade remedies***.

Trade remedies: usually refers to ***anti-dumping measures***, ***countervailing duties*** and ***safeguards*** to deal with the effects of trade actions by others. In the United States it is terminology for a measure applied under a trade law to deal with the effects of perceived unfair trade practices by other countries or injuries caused by rapidly increasing imports. The selection of the available trade remedy depends on the section of the trade law applicable to each case. It can include ***tariff*** increases, ***import quotas***, ***countervailing measures***, ***retaliation***, etc. See also ***Section 201***, ***Section 301***, ***Special 301*** and ***Super 301***.

Trade-restrictive environmental measures: measures to protect the environment which have a restrictive impact on trade. The impact may be direct and intended, as in the case of United States measures to protect dolphins, or it may be incidental. See also ***trade and environment***, ***tuna (Canada-United States, 1982***, ***tuna I*** and ***tuna II***.

Trade secrets: information deriving its value from not being known to the

public, competitors or other parties who may gain benefits from its disclosure or use. In Australia, trade secrets cover confidential information of a commercial nature. See also ***Agreement on Trade-Related Aspects of Intellectual Property Rights***, ***data protection in trade in services*** and ***material transfer agreement***.

Trade suppression: a term introduced by Jacob Viner and popularised by Max Corden. It describes the replacement, following the formation of a ***customs union*** or a ***free-trade area***, of a cheaper production source outside the union or area by a more expensive source within the newly formed preferential area. See also ***trade creation*** and ***trade diversion***.

Trade surplus: this comes about when in a given period the value of one's exports exceeds that of one's imports. It is a goal pursued by most governments, but particularly stubbornly and sometimes mindlessly, by adherents of ***mercantilism*** who tend to look, in any case, at ***merchandise trade*** only. One should not assume that a trade surplus is intrinsically good and a ***trade deficit*** automatically bad. A meaningful assessment of the significance of a trade surplus can only be made in the context of the overall state of the economy. See also ***balance of trade***.

Trade war: a journalistic exaggeration for periods of major trade disputes between important trading partners. Those involved in attempting to solve these disputes usually seek a negotiated outcome that is acceptable to both sides and that is in conformity with the applicable multilateral trade rules. They seldom see themselves as engaged in warfare. Indeed, as Greg Mastel notes in *American Trade Laws After the Uruguay Round*, "a trade war is only a shade more rational than a nuclear war, harder to launch, and nearly as unpalatable".

Trade-weighted average tariffs: a method of calculating the average impact of a tariff regime through weighting tariffs according to the amount of trade in a given tariff line. Items traded in high volumes therefore have a greater impact on the calculation of the ***average tariff*** than items less or rarely traded. The major problem with this analytical approach is that high tariffs discourage trade in the first place, and an average tariff calculated in this way is always likely to understate the actual level of tariff protection. Nevertheless, its general usefulness as an indicator of the overall incidence of tariff rates is not in doubt.

Trading rights: the right, accorded to selected firms, to import and export, particularly in ***centrally-planned economies*** or those in transition to ***market economies***. Trading rights may be limited to the export of goods or to trade in certain product categories. Firms need not be owned by the state to enjoy trading rights. See also ***state trading***.

Traditional comity: see ***negative comity***.

Traditional expressions: a term used in the administration of ***intellectual property rights*** as it may relate particularly to wine, spirits and food. Examples of traditional expressions for wine are Spätlese, Qualitätswein, Grand Cru, vin primeur, vino generoso de licor, denominazione di origine

controllata, etc. Such expressions may qualify for ***intellectual property protection*** under bilateral agreements. See also ***appellations of origin*** and ***geographical indications***.

Traditional knowledge: a new subject in discussions concerning the protection of ***intellectual property rights***. ***WIPO*** says that there is no agrred definition, but it is seen as ecompassing medicinal, agricultural and ecological knowledge, music and dance, stories and poetry (folklore), the production of artefacts and spiritual expressions. Traditional knowledge is transmitted from generation to generation orally and by example. It is subject to collective responsibility and ownership, and it keeps on evolving. All of these characteristics make the development of a framework of protection a difficult task because intellectual property rights are best suited for codified and documented materials. See also ***farmers' rights*** and ***folklore*** which raise similar considerations.

Traffic light approach: a procedural framework adopted during the ***Uruguay Round*** negotiations on the reduction or elimination of subsidies. Negotiators agreed to a system which ultimately led them to categorise ***prohibited subsidies*** as red, ***actionable subsidies*** (i.e. subsidies that may be subject to ***countervailing measures*** because they are causing to harm to producers in other countries) as amber, and ***non-actionable subsidies*** (on which no countervailing measures may be taken) as green. Agricultural subsidies did not fall into this framework, and separate rules were negotiated on them as part of the ***Agreement on Agriculture***. A similar approach had been tried unsuccessfully in the ***Tokyo Round*** and, indeed, in the early stages of the negotiations for the United States-Canada Free-Trade Agreement. ***UNCTAD*** has developed the concept of "red light" ***host country operational measures*** (HCOMs) denoting investment measures explicitly prohibited through multilateral agreements, such as the ***Agreement on Trade-Related Investment Measures***. "Yellow light" measures are additionally prohibited, conditioned or discouraged by inter-regional, regional or bilateral agreements. "Green light" HCOMs are the remaining measures not regulated by ***international investment agreements***.

Transactions in services: preferred by some analysts as an alternative to ***trade in services*** because they see it as emphasising that much international activity in services is dependent on foreign direct investment, and that it is not simply cross-border trade. The term is used by the Australian Bureau of Statistics in its publications. Trade in services, its competitor, appears to have won the day in ***trade policy*** formulation.

Transaction value: a method for valuing goods to be imported for the purpose of assessing the ***customs duties*** payable. Under the WTO ***Agreement on Implementation of Article VII*** *[customs valuation]* ***of the General Agreement on Tariffs and Trade 1994***, it is the price actually paid or payable for the goods when sold under competitive conditions for export to the country of import. This method is based on the

Brussels Definition of Value developed under the auspices of the Customs Cooperation Council, now the ***World Customs Organisation***. See also ***customs valuation***.

Transatlantic Business Dialogue: a mechanism established in 1995 involving European and United States business leaders to discuss trade and commercial issues of common interest and to propose solutions for the removal of obstacles to trade and investment across the Atlantic. See also ***New Transatlantic Agenda*** and ***New Transatlantic Marketplace***.

Transatlantic Free Trade Agreement: see ***TAFTA***.

Transfer of technology: defined in the ***Draft International Code of Conduct on the Transfer of Technology*** as the transfer of systematic knowledge for the manufacture of a product, for the application of a process or for the rendering of a service. It does not extend to transactions involving the mere sale or mere lease of goods. The ***Doha ministerial conference*** adopted a work program on ***trade and transfer of technology***.

Transfer pricing: the practice of using pricing policies that are not based on market prices in order to achieve savings in taxation payments, to optimise the use of foreign exchange or for other reasons. The reference price used to ascertain whether transfer pricing has occurred is the arm's-length price. This is the price that would obtain between completely unrelated parties. Intra-corporate transactions and transactions between related parties are generally thought to be more at risk of exposure to transfer pricing. Articles 33 and 34 of the ***Draft United Nations Code of Conduct on Transnational Corporations*** seek to minimise its occurrence. See also ***arm's-length pricing***.

Transitional dumping: defined by some as the pricing of products below marginal cost in order to maximise sales and expand market share. There is room for argument as to whether such a practice would be a form of ***predatory pricing***, especially if it were to continue for an extended period. See also ***dumping*** and ***anti-dumping measures***.

Transitional measures: measures usually associated with the implementation of a new trade agreement when the old and new systems often exist side by side. Such measures are time-bound. Sometimes transitional measures have the purpose of giving developing countries more time to adjust to the new regime.

Transitional Product-Specific Safeguard Mechanism: a safeguard mechanism established in 2001 under the protocol for China's ***accession*** to the ***WTO***. It deals with the possibility that Chinese products may cause or threaten to cause market disruption to domestic producers in other WTO members of directly competitive products. In such cases, WTO members may seek consultations aimed at finding a satisfactory solution, including possible recourse to the ***Agreement on Safeguards***. The protocol says that disruption shall exist whenever imports of an article, like or directly competitive with an article produced by the domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of

material injury, or threat of material injury, to the domestic industry. See also ***Transitional Review Mechanism***.

Transitional Review Mechanism: a mechanism established in 2001 under the protocol for China" ***accession*** to the ***WTO*** to review annually for eight years progress made by China in bringing its trade regime into conformity with the WTO rules. The final review will be made after ten years. Information to be provided by China includes economic data, economic policies, its framework for making and enforcing policies, policies affecting trade in goods and services, and its trade-related intellectual property regime. See also ***Transitional Product-Specific Safeguard Mechanism***.

Transitional safeguards *mechanism*: allows WTO members to impose restrictions against individual exporting countries if the importing country can show that both overall imports of a product and imports from the individual countries are entering the country in such increased quantities as to cause, or threaten, serious damage to the relevant domestic industry. The ***Agreement on Textiles and Clothing*** requires countries imposing these safeguards to show a link between increased imports of the product concerned and ***injury*** to industry. They must not do so on the grounds of technological changes, changes in consumer preference or other factors unrelated to increasing imports. Transitional safeguards must be administered and reviewed under strict conditions, and they must not exceed three years. See also ***safeguards*** and ***special safeguards***.

Transit zone: a place to which goods may be shipped temporarily pending their departure to their final destination. Usually, no further transformation of the goods takes place in a transit zone, and they are admitted free of duties other than applicable port or handling charges. See also ***entrepôt trade***.

Transnational corporations: TNC. Also called multinational corporations (MNC) or multinational enterprises (MNE). They are large and very large corporations and conglomerates with production facilities and sales offices in many countries established as branches, subsidiaries or other units. Individual units usually report to a head office which may be a holding company. It can be quite difficult to establish where effective control over a unit within a TNC in a particular case lies. Today, their ownership can be very diversified, and component units may have much autonomy in the conduct of their business. Units of a TNC may even compete with each other in world markets. Nevertheless, TNCs are typically thought of as having a single nationality despite their appearance in many places, such as Ericsson being Swedish, Ford American, Mitsui Japanese and ICI British. In many cases, such companies first rose to prominence in a single market, and their nationality was clear-cut then. In some circles TNCs have, because of their ***market power*** and ability to influence production patterns, been treated with great suspicion. Calls for greater controls over their activities have led, for example, to a ***Draft United Nations Code of Conduct for Transnational Corporations*** which, however, remains contentious and is unlikely to enter into force in the near future. More recently, TNCs have met a

much more welcoming climate in potential host countries and in international organisations concerned with development issues because of their ability to mobilise investment funds, promote the ***transfer of technology*** and create employment. A main focus for analysis of issues relating to TNCs is the ***Commission on Investment, Technology and Related Financial Services***, located within ***UNCTAD***, which also publishes the ***World Investment Report***. However, many other impressive and easily available academic studies on this subject are also available. The ***OECD*** countries have adopted the ***OECD Guidelines for Multinational Enterprises*** as one instrument governing their handling of TNCs. See also ***dependence theory***, ***intra-firm trade*** and ***multi-domestic corporation***.

Transparency: degree to which trade policies and practices, and the process by which they are established, are open and predictable. The transparency obligation is spelt out in Article X of the ***GATT***, Article III of the ***GATS*** and other provisions of the agreements administered by the WTO. Members are required to publish any laws, regulations, judicial decisions, administrative rulings of general application and international agreements pertaining to trade in goods and services. They must also administer these instruments reasonably and impartially. See also ***notification***, ***surveillance*** and ***Trade Policy Review Mechanism***.

Trans-Tasman Mutual Recognition Arrangement: TTMRA. An arrangement between Australia and New Zealand which enables the sale of goods originating in either country in the other country without the need for further testing or other conformance assessment. The TTMRA also covers skilled personnel. It enables a person registered to practise in either country to seek registration in the other without any need for further testing or the vetting of qualifications. The TTMRA entered into force on 1 January 1997. See also ***ANZCERTA***, ***mutual recognition arrangements*** and ***technical barriers to trade***.

Travaux préparatoires: the records produced by preparatory committees, expert groups, negotiating groups, etc., in the negotiations for a treaty or a convention. These records can give valuable guidance to the intentions of the drafters when ambiguous language has to be interpreted later, but this only works properly with consensus documents. Individual members of an agreement may make use of other, not agreed, *travaux préparatoires* to support their case in a dispute, but they still have to demonstrate that their interpretation is to be preferred. Article 32 of the ***Vienna Convention on the Law of Treaties*** sees *travaux préparatoires* as something to be employed with discretion and in the main only when the treaty text itself is not sufficiently clear to allow a single interpretation or when it would lead to a manifestly absurd or unreasonable result.

Treaties of Friendship, Commerce and Navigation: usually known as FCN treaties. It is a bilateral treaty form favoured in the past by the United States and some European countries. It sets out the terms under which

bilateral trade and shipping are conducted, and it describes the rights persons from one state conducting business in the other state or establishing a commercial presence there, including ownership of property. Main subjects covered by FCN treaties usually are rights of entry for business and residence, protection of individuals and companies, practice of professions, acquisition of property, ***patents***, taxes, remittance of earnings and capital, trade measures, expropriation and nationalisation, etc. Earlier versions of FCN treaties also contained consular and customs provisions. FCN treaties are considered by some as a form of ***preferential trade arrangements***. One of the earliest FCN treaties was that concluded between the United States and France in 1778. Some 25 modernised versions were concluded by the United States after World War II, and altogether nearly fifty are in force. The FCN treaty form has now been replaced in the United States by ***bilateral investment treaties***.

Treaty: usually defined as a binding agreement entered into between two or more states (countries) under international law. Other names for a treay are convention, covenant, ***protocol*** and exchange of letters. Treaties are legal instrument under which the parties establish mutual rights and obligations. Through acceding to a treaty, the parties undertake to become obliged to behave in accordance with it, and to face the possibility of sanction if they do not. Treaties usually have to be ratified, sometimes through a constitutionally defined process, before they enter into effect. See also ***Vienna Convention on the Law of Treaties***.

Treaty of Abuja: see ***African Economic Community***.

Treaty of Amsterdam: a ***European Union*** treaty which entered into force on 1 May 1999. It added transparency to European Union decision-making. It also simplified and consolidated the treaties constituting the law of the European Union. See also ***Merger Treaty***, ***Single European Act***, ***Treaty of Maastricht*** and ***Treaty of Rome***.

Treaty of Maastricht: the treaty, concluded on 7 February 1992 between the then twelve members of the European Communities, which establishes the ***European Union***. It entered into force on 1 November 1993. This Treaty goes beyond the ***Treaty of Rome*** in significant ways to ensure, through a single institutional framework, the consistency of European Union external activities as a whole in the context of external relations, security, economic and development policies. Responsibility for achieving this lies with the ***Council of the European Union***, (the Council of Ministers) and the ***European Commission***. The Treaty also replaces the term ***European Economic Community*** with ***European Community*** which is the principal pillar of the European Union. Only the European Community has a legal personality and can conclude international treaties. The Treaty also establishes a common foreign and security policy and cooperation in the fields of justice and home affairs as the two other pillars of the European Union. See also ***Treaty of Amsterdam*** and ***Treaty of Nice***.

Treaty of Montevideo: see ***ALADI***.

Treaty of Nice: a ***European Union*** treaty concluded on 11 December 2000 and likely to enter into force by the end of 2002. The main purpose of the Treaty of Nice is to prepare European Union institutions for the ***enlargement*** likely to occur over the next few years. It introduces new decision-making procedures for the ***Council of the European Union***. In 2005 the treaty will limit the number of commissioners to one per member, and the total number of commissioners will be capped permanently at fewer than 27 once the Union reaches 27 members.

Treaty of Rome: signed on 25 March 1957 by what became the six original members of the ***European Economic Community*** (EEC) and entered into force on 1 January 1958. The six were Belgium, Federal Republic of Germany, France, Italy, Luxembourg and Netherlands. The treaty has articles dealing with the free movement of goods, establishment of a ***customs union***, elimination of ***quantitative restrictions***, agriculture, free movement of persons, ***services*** and capital, a common transport policy, competition and taxation policy, economic and ***trade policy***, social policy, establishment of a European Investment Bank, association of overseas countries and territories with the treaty, and institutional measures. Another treaty signed at Rome at the same time was the one establishing the European Atomic Energy Community (Euratom). This dictionary is not further concerned with Euratom, and "Treaty of Rome" in these pages always refers to the treaty establishing the European Economic Community. See also ***European Coal and Steel Community***, ***European Community***, ***Common Agricultural Policy***, ***four freedoms*** and ***Article 113 Committee***.

Treaty on Intellectual Property in Respect of Integrated Circuits: one of the treaties which contains the standards of protection to be applied under the ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. It was concluded in Washington, DC, on 26 May 1992 under ***WIPO*** auspices, but it is not yet in force. Each party must afford intellectual property protection to original ***lay-out designs of integrated circuits*** (topographies) whether or not the integrated circuit is incorporated in an article. Parties to the Treaty must also accord ***national treatment*** to natural persons and legal entities of all other parties. Protection of integrated circuits must be for at least eight years. As a minimum, the reproduction of the layout-design, and the import, sale or other distribution for commercial purposes of the lay-out design or its incorporation in an article must be deemed illegal if it is done without the authorisation of the holder of the ***intellectual property rights***. See also ***sui generis right***.

Treble damages: under Section 77 of the Wilson *Tariff Act* of 1894 and Section 4 of the ***Clayton Act*** of 1914, which are part of the United States framework of ***antitrust laws***, the person injured because of a prohibited practice may recover through the courts three times the damages sustained. There is no upper limit on the damages that may be payable. The original antitrust law, the ***Sherman Act***, only set maximum fines or prison terms for guilty parties. See also ***clawback provisions***.

Trends in International Trade*:** see ***Haberler Report.

Triadisation: the recognition, described by the Group of Lisbon, that the process of technological, economic and socio-cultural integration is much more advanced among the three most developed regions of the word. The three regions are Japan plus the Asian ***newly industrialising countries***, Western Europe and North America. See also ***tripolarisation***.

Trigger price: a price level fixed in domestic support arrangements, particularly for agriculture, or international agreements which, once reached, will automatically authorise, and sometimes make mandatory, the taking of prescribed action. See also ***buffer stocks***, ***international commodity agreements***, ***peril points*** and ***special safeguards***.

TRIMS: Trade-Related Investment Measures. These include export targets, import limitations, local-purchase requirements or ***local-content requirements***, research and development requirements and similar conditions imposed on an enterprise as part of receiving permission to invest in another country. See also ***Agreement on Trade-Related Investment Measures***.

Tripolarisation: a term descriptive of the fact that much international economic activity is caused or influenced by actions originating in Western Europe, East Asia or North America. Every now and then a breathless work appears postulating that the world is about to break up into three trading areas centered around these regions, and this almost certainly will lead to a ***trade war***. So far, all of these predictions have been premature. See also ***triadisation***.

TRIPS: Trade-related aspects of intellectual property rights. See also ***Agreement on Trade-Related Aspects of Intellectual Property Rights***.

Tropical products: this is not a clearly defined group of products, but in the ***Uruguay Round***, where it received priority treatment, it included tropical beverages (coffee, cocoa and tea, and products based on them), spices, cut flowers, tropical plants and plant products, oilseeds, vegetable oils and oilcake, tobacco, rice, manioc and other tropical roots, tropical fruits and nuts, tropical wood and rubber, jute, sisal and other hard fibres.

Tuna (Canada–United States, 1982): a dispute in the GATT between Canada and the United States. The facts were that on 31 August 1979 the United States prohibited imports from Canada of tuna and tuna products after some United States fishing vessels had been seized by Canadian authorities for fishing without authorisation in waters regarded by Canada to be under its jurisdiction. The United States, on the other hand, regarded these waters to be outside the tuna fisheries jurisdiction of any state. The United States action was based on Section 205 (Import Prohibitions) of the *Fishery Conservation and Management Act* of 1976 which required mandatory action in case of violation. The prohibition was lifted one year later following the conclusion of an arrangement with Canada, but before the dispute had been adjudicated in the GATT. From the outset, the ***panel*** did

not enquire into the question of jurisdiction over fishing grounds. The main arguments in this case by Canada were that the United States import prohibition contravened its obligations under GATT Articles I (General Most-Favoured-Nation Treatment), XI (General Elimination of Quantitative Restrictions) and XIII (Non-Discriminatory Administration of Quantitative Restrictions). The United States argued that its action was justified under Article XX(g) which provides an exemption from other GATT obligations for measures relating to the conservation of exhaustible resources, but only in combination with domestic restrictions on production and consumption. It based its opinion on advice from the United States National Marine Fisheries Service that tuna stocks were potentially subject to over-exploitation and exhaustion. It also argued that the United States and Canada shared the objective of conserving global tuna stocks through their membership of relevant international arrangements, and that Canada's unilateral seizure of United States tuna vessels was likely to discourage international cooperation in conservation. It claimed that the trade effects of the import prohibition were at best nominal. The panel noted that the dispute was part of a wider disagreement on fisheries matters between the United States and Canada, and that the trade aspects had to be seen in that context. It found that the United States prohibition on the import of tuna from Canada constituted a prohibition in terms of GATT Article XI:1. The panel also found that the requirements of Article XX(g) had not been satisfied in that the alleged conservation measures had not been coupled with restrictions on domestic production or consumption. See also ***herring and salmon***, ***tuna I***, ***tuna II*** and ***general exceptions***.

Tuna I: a dispute in the GATT between Mexico and the United States. The dispute arose from a prohibition mandated by the United States *Marine Mammal Protection Act* (MMPA) of 1972 concerning the "taking" (harassing, hunting, capture, killing or attempts to do so) of marine mammals and the import of marine mammals except where an authorisation had been issued. In specified circumstances, the ban on imports could be extended to other fishery products. The aim of the Act was to reduce to insignificant levels approaching zero the incidental kill or serious injury of marine mammals during commercial fishing. A practice targeted particularly by the Act was purse-seine fishing of tuna, a fishing technique leading to the catch of yellowfin tuna fish. At the same time, it produced, especially in the case of the Eastern Tropical Pacific Ocean, significant catches of dolphins because they tend to occupy the same waters as yellowfin tuna. The Act set numerical limits on the taking of marine mammals, and there were procedures in place for other countries to show that they met the requirements of the Act. On 10 October 1990 the United States imposed an embargo on tuna from Mexico in retaliation to the alleged taking of marine mammals. This was confirmed on 3 April 1991 with the inclusion in the ban also of Venezuela and Vanuatu. The Act provided that embargoes are effective against intermediary countries also, and this provision was enforced through the need for a certificate of origin.

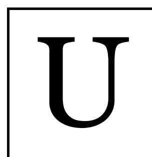
The ban on imports from offending countries was reinforced through a labelling standard for any tuna exported from or offered for sale in the United States. Mexico made three main claims. First, the embargo provisions contained in the Act violated GATT Article XI (General Elimination of Quantitative Restrictions), and their enforcement against specific geographical areas was in breach of Article XIII (Non-discriminatory Administration of Quantitative Restrictions). Second, the condition of comparison between yellowfin tuna regulation in the United States and other countries violated Article III (National Treatment), especially as it relates to "all laws, regulations or requirements" affecting products, rather than producers. Third, the possibility of an import ban on all fishery products from Mexico also violated Article XI. The United States rejected all of these claims. As in a similar case launched against it by Canada in 1982, the United States based its defence mainly on GATT Article XX (General Exceptions) which allows a GATT member to disregard other GATT provisions in strictly defined circumstances. Accordingly, it claimed that if there was any doubt whether the United States measures were consistent with the GATT, Article XX would ensure that the measures were not inconsistent its obligations under the GATT. Its measures were necessary to protect the lives or health of dolphins and were therefore justified under Article XX(b). A government could in any case prohibit imports of a product to protect the life or health of humans, plants or animals outside its jurisdiction. The United States also invoked Article XX(g) covering measures "relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption". Dolphin populations would not be able to sustain themselves if the mortality rate remained too high. The United States had also imposed comprehensive restrictions on domestic production practices expressly to conserve dolphins, and these were more stringent than those applied to production by foreign vessels. Additionally, Article XX(g) did not restrict the types of conservation measures that could be taken. More generally, United States measures did not constitute a means of arbitrary or unjustifiable discrimination between countries because the Act applied to all countries harvesting yellowfin tuna in the Eastern Tropical Pacific Ocean with purse-seine nets. They were not applied to other marine areas because no evidence existed that there was a similar threat to dolphins from tuna harvesting elsewhere. The ***panel*** found that the direct ban on the import of certain yellowfin tuna and yellowfin tuna products was not in conformity with the requirements of GATT Article XI:1. As for the law on the possible extension of the ban to all fishery product imports from Mexico, the panel recalled the ruling in ***Superfund*** that legislation merely giving executive authorities the power to act inconsistently with the GATT is not in itself inconsistent with the GATT. The panel rejected the extraterritorial application of Article XX(b) in the light of its drafting history which made it clear that it only applied to the importing country. It did not accept either that Article XX(g) could be applied extraterritorially

since this would enable a party to impose its conservation policies on another. It also noted that the unpredictable conditions resulting from the application of the Act meant that it could not be regarded primarily as aimed at conservation. The panel applied a similar reasoning to the ban on imports from intermediary countries, and that it was inconsistent with Article XX(d) also which allows the adoption or enforcement of measures necessary to ensure compliance with laws or regulations not inconsistent with the GATT. In its concluding remarks, the panel noted that the provisions of the GATT impose few constraints on a member's ability to implement domestic environmental policies. On the other hand, a member may not restrict imports of a product merely because it originates in a country with environmental policies different from its own. See also ***herring and salmon***, ***tuna (Canada–United States, 1982)***, ***tuna II***, ***general exceptions*** and ***trade and environment***.

Tuna II: a dispute in the GATT launched in 1992 by the European Economic Community (EEC) and separately the Netherlands on behalf of the Netherlands Antilles against the United States. It concerned restrictions maintained by the United States on the import of certain tuna products. In this abstract, the references to the EEC should always be understood as including also the Netherlands acting on behalf of the Netherlands Antilles. Tuna fish were commonly caught in commercial fisheries using large "purse seine" nets aimed at catching whole schools. In the Eastern Tropical Pacific Ocean tuna schools are often accompanied by herds of dolphin. The use of this fishing method leads to the unintentional killing of dolphin. An agreement reached between the members of the Inter-American Tropical Tuna Commission (IATTC) aimed to lower dolphin mortality to less than 5,000 by 1999. The United States *Marine Mammal Protection Act* (MMPA) of 1972 prohibits the "taking" (harassing, hunting, capturing or killing) of any marine mammal whether intentionally or not. It also prohibits the import into the United States of any marine mammal product or any fish product associated with the taking of marine mammals. This is known as the "primary nation embargo". The purpose of the prohibition is the conservation of marine mammals in danger of extinction or depletion. The MMPA establishes a standard for killing or injury of marine mammals, and this standard may not be exceeded. Foreign countries have an opportunity to demonstrate that they meet the standard, and they may export to the United States if they fulfil the requirements. Harvesting countries may also enter into formal agreements with the United States to meet certain commitments. A country importing yellowfin tuna for processing and later exporting to the United States had to show that it had not imported tuna products that may be prohibited in the United States. Such a country is called an "intermediary nation" under the MMPA. The EEC requested the ***panel*** to find that the United States import prohibitions (both the "intermediary nation embargo" and the "primary nation embargo") were contrary to GATT Article XI (General Elimination of Quantitative Restrictions), did not qualify as a border

adjustment under Article III (National Treatment), and were not covered by any of the exceptions under Article XX (General Exceptions). The panel concluded that Article III was not applicable, but it considered that the embargoes imposed by the United States were "prohibitions or restrictions" in terms of Article XI since they banned the import of tuna or tuna products from any country not meeting certain conditions. As far as Article XX(g) was concerned, the panel concluded that measures aimed at forcing other countries to change their policies could not be seen primarily as enforcing the conservation of an exhaustible natural resource. Nor would they render effective any restrictions on domestic production or consumption as Article XX(g) required. On the question of whether the United States measures were necessary to protect the life and health of dolphins, the panel found that if the measures were effective only if other countries changed their policies, they could not be considered "necessary". Therefore they did not meet an essential requirement of the Article. The panel also concluded that since it had already found that the measures taken under the primary nation embargo were inconsistent with Article XI, they could not serve as a basis for the justification of the intermediary nation embargo in terms of Article XX(d). In its final observations, the panel noted that the validity of the United States

Turtle excluder devices: see ***shrimp/turtle***.



Unbound commitments: commitments under the **GATS** *(General Agreement on Trade in Services)* which can be changed unilaterally by the country making them. They give the listing country complete flexibility to change its trading regime in the affected activity without the need to offer ***compensation***. Unbound commitments are therefore much less valuable than ***binding*** commitments, though they may in some cases assist ***transparency***.

UNCED: United Nations Conference on Environment and Development, held from 3 to 14 January 1992 in Rio de Janeiro. This conference adopted the ***United Nations Framework Convention on Climate Change***, the ***Convention on Biological Diversity***, ***Agenda 21***, the ***Rio Declaration*** and the Statement on Forest Principles.

UNCITRAL: United Nations Commission on International Trade Law. Established in 1966 for the purpose of reducing or removing legal obstacles to the flow of international trade and the progressive harmonisation and unification of the law of international trade. UNCITRAL has 36 members who are selected by the United Nations General Assembly. It is the core legal body within the United Nations system in the field of international trade law. UNCITRAL has pursued an extensive work program on subjects covering

particularly international commercial arbitration and conciliation and the international transport and sale of goods. It is located in Vienna.

UNCITRAL model law on procurement of goods, construction and services: a model law adopted by ***UNCITRAL*** in 1994 for use by national legislatures that are considering adopting new or revised ***government procurement*** legislation. Its main objectives are economy and efficiency in government purchasing, maximising participation of bidders and competition among them, fairness in the treatment of bidders, objectivity in decision-making, and transparency of regulations and process. The adoption by one state of all or part of the model law is not dependent on similar action by others.

UNCPC: *United Nations Central [Provisional] Product Classification*. It covers products that are an output of economic activities, including transportable goods, non-transportable goods and services. UNCPC was used as the basis for the original listings in the GATS ***schedules of commitments***.

UNCTAD: United Nations Conference on Trade and Development. Established in 1964 through United Nations General Assembly resolution (XIX) 1995 to promote a greater participation by developing countries in the global trading system and thereby promote their economic development. It now has a membership of 188 countries. UNCTAD describes itself as the primary forum for analysis, discussion and consenus-building on policies designed to achieve sustainable development in all regions to accelerate growth in weaker economies. The reasons leading to the formation of UNCTAD were broadly the difficulties developing countries appeared to experience in furthering their economic development, and the absence of any specialised international organisation which might have assisted them in this challenge. Pressure for adequate attention to their problems increased as many colonies became independent in the early 1960s. In 1961, the Second Committee of ***ECOSOC*** asked the United Nations Secretary-General to consult on the possibility of holding a world conference on international trade problems, and in 1962 the United Nations General Assembly decided to hold the conference in Geneva in 1964. This conference became known as UNCTAD I. One of its early effects was the formation of the ***Group of 77*** which quickly seized the initiative in formulating the UNCTAD work program. Many of the issues that would ultimately make up UNCTAD's work were discussed at this conference, including commodities trade and arrangements, manufactures, transfer of capital and shipping. Later additions to the work program included debt, insurance, ***ECDC*** (economic cooperation between developing countries), ***restrictive business practices***, ***transfer of technology***, and the problems of ***least-developed countries***, among others. Despite the contribution UNCTAD has made to the development of developing countries, it has on the whole not been able to achieve the role its proponents expected it to have. As early as 1968, J G Crawford (1968) noted that the question was whether UNCTAD could free itself sufficiently from the political atmosphere and debating practices of the United Nations General Assembly to get down

to the realities of securing action on the many trade issues listed in its charter. The reasons for this apparent failure to deal with realities are many, and they tend to be intertwined. UNCTAD is a universal organisation which gives its members many rights without any corresponding obligations. This can encourage unrealistic expectations. The width of its mandate was breath-taking from the beginning, with many of the developing countries expecting it to take up a role similar to the one originally intended for the ***ITO***, but with a strong bias towards what they saw as their special development concerns. The rigid ***group system*** peculiar to UNCTAD always tended to lead to a polarisation of views. The developed countries (Group B) and the developing countries often were on a collision course, with the socialist countries (Group D) stirring the pot when it suited them. The secretariat was at times given to irresponsible behaviour by promoting wild schemes, and the bloody-mindedness of Group B was nicely balanced by Group of 77 dogmatism. UNCTAD still has a strong focus on development, but it has largely liberated itself from the ***dependence*** theories of the 1960s and 1970s which severely undermined its credibility. UNCTAD has been particularly active in the development of the ***GSP*** and ***international commodity arrangements***. The secretariat prepares many useful reports, particularly the ***World Investment Report***, the *International Investment Agreement Issues Papers*, the ***Least Developed Countries Report*** and the ***Trade Development Report***, which do not always attract adequate discussion by the UNCTAD membership. Periodically, and at least very time a new Secretary-General is installed, members consult intensively on making UNCTAD a more effective and relevant organisation. Developed countries usually propose a range of procedural improvements which, however advisable, do not really address what the central role of UNCTAD should be and stress rather what it cannot be. These proposals nearly always are too much for the large number of developing countries that view the organisation, with all its recognised shortcomings, as the one place where they can get a sympathetic hearing for their difficulties and grievances. The institutional reforms adopted at UNCTAD X (1996) may, however, be more durable than previous efforts, if only because budgetary pressures confronting the whole United Nations system also require UNCTAD to re-examine its aims and working methods. The executive body of UNCTAD is the ***Trade and Development Board*** which meets once a year in a regular session. UNCTAD's substantive work is done under the auspices of the ***Commission on Trade in Goods and Services, and Commodities***, the ***Commission on Investment, Technology and Related Financial Issues*** and the ***Commission on Enterprise, Business Facilitation and Development***. UNCTAD is also the name used for the ministerial conference held every four years under its auspices. Apart from UNCTAD I which was held in Geneva, the other conferences were held at New Delhi (UNCTAD II, 1968), Santiago de Chile (UNCTAD III, 1972), Nairobi (UNCTAD IV, 1976), Manila (UNCTAD V, 1979), Belgrade (UNCTAD VI,

1983), Geneva (UNCTAD VII, 1987), Cartagena (UNCTAD VIII, 1992), Midrand (UNCTAD IX, 1996) and Bangkok (UNCTAD X, 2000). See also ***Common Fund for Commodities***, ***GSP***, ***Integrated Programme for Commodities*** and ***Trade Efficiency Programme***.

UNCTAD BIOTRADE initiative: a mechanism launched in 1996 under ***UNCTAD*** auspices to support the aims of the ***Convention on Biological Diversity***. It seeks to promote the adequate use of economic instruments and strategic partnerships to bring value to biodiversity resources, transfer the appropriate technologies and create export opportunities in these resources. The Initiative consists of seven components: (i) economic and market research on trends in the emerging biochemical prospecting market, described as the possibility of discovering commercially valuable compounds from biological material, (ii) analysis of strategies for the development of biological resource-based industries, (iii) evaluation of conservation and ***sustainable development*** opportunities, (iv) alternative contractual arrangements for biochemical prospecting activities, (v) training and capacity-building, (vi) private-sector collaboration and (vii) information dissemination and networking.

UNCTAD Liner Code: see ***Convention on a Code of Conduct for Liner Conferences***.

UNCTAD Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices: see ***restrictive business practices***.

Understanding on financial services: an adjunct to the ***GATS*** adopted by developed WTO members only. It defines further how fair trade in ***financial services*** should be understood in GATS terms. The Understanding forms the basis for ***negative listings*** in the ***schedules of commitments***.

Understanding on Rules and Procedures Governing the Settlement of Disputes: see ***WTO understanding on dispute settlement***.

Understanding on the Balance-of-Payments Provisions of the GATT: one of the ***Uruguay Round*** outcomes. Its purpose is to clarify the rules on the imposition of measures available to WTO members under GATT Articles XII and XVIII:B to improve their balance-of-payments conditions. In particular, it seeks to achieve greater ***transparency*** through an improved system of ***notifications*** and ***consultations***.

Unfair business practices: see ***restrictive business practices***.

Unfair pricing practices: a term used by some to mean ***dumping***.

Unfair trading practices: under WTO rules, this refers to the improper or illegal use of ***subsidies*** or the export of products at dumped prices. See also ***anti-dumping measures***, ***countervailing duties*** and ***dumping***.

Unfavourable balance of trade: see ***balance of trade*** and ***mercantilism***.

Unforeseen development: the unexpected event that can test the

appropriateness and responsiveness of any trade policy. It is one of the triggers for possible ***safeguard*** action under Article XIX of the GATT. See also ***Hatters' fur***.

Unilateralism: this term has two quite different meanings in ***trade policy***. The first is the praiseworthy policy or action of lowering tariffs or removing other impediments to trade unilaterally without the expectation of reciprocal action by others. The second meaning is the desire to impose one's view of the desirable features of global trade policy or trade in a particular product on others, and have it accepted by them. Unilateralism of this kind only works if one has the advantage of overwhelming economic dominance, but success is not assured even then. It can achieve some of one's objectives, but it usually leads to a prolonged adversarial atmosphere. For most countries, the cost exacted in terms of resources to be used and the likely benefits to be gained would not make it an option anyway. See also ***Section 301***, ***Special 301***, ***Super 301***, ***bilateralism***, ***multilateralism*** and ***reciprocity***.

United Nations Conference on Environment and Development: see ***Rio Declaration on Environment and Development***, ***UNCED*** and ***World Summit on Sustainable Development***.

United Nations Conference on the Least Developed Countries: see ***SNPA***.

United Nations Conference on Trade and Development: see ***UNCTAD***.

United Nations Conference on Trade and Employment: the conference held in Havana from November 1947 to March 1948 which considered the draft ***Havana Charter*** and made further amendments to it. The conference was preceded by three preparatory committee meetings. The first meeting, the first preparatory session for the Havana Conference, held in London in 1946, considered a draft of a Charter for an International Trade Organisation (ITO). The second, a meeting of the drafting committee, at Lake Success, New York, in January-February 1947, resulted in the first full draft of a ***GATT***, with language drawn mainly from the draft Charter. The third meeting, the second preparatory session for the Havana Conference, held in Geneva from April to August 1947, completed a further draft of the Charter for transmission to the Havana Conference. It also completed the GATT, and it conducted some tariff negotiations. See also ***GATT 1947***, ***ITO*** and ***trade and employment***.

United Nations Convention on the Law of the Sea: adopted on 10 December 1982 and entered into force on 16 November 1994. The Convention creates a framework for the protection of the sea, the seabed and subsoil as well as the airspace above it. It is intended to promote the peaceful uses of the seas and oceans, the equitable and efficient utilisation of their resources, and the study, protection and preservation of the marine environment. Part V of the Convention is of greatest interest to ***trade policy***. It creates the Exclusive Economic Zone (EEZ) not extending beyond 200 nautical miles from the baseline, normally the low-water line along the coast. In the EEZ the coastal

state has sovereign rights for the purpose of exploring and exploiting, conserving and managing the the natural resources of the sea and the seabed. It has the same right for the economic exploitation and exploration of the EEZ, such as the production of energy from the water, current and winds.

United Nations economic sanctions: Under Article 39 of the United Nations Charter, the Security Council can determine the existence of any threat to the peace, breach of the peace or act of aggression and make recommendations. It may also, under Article 41, decide on measures not involving the use of armed force to give effect to its decisions, and to call upon members of the United Nations to apply these measures. This may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, as well as the severance of diplomatic relations. The effectiveness of ***economic sanctions*** as a foreign policy tool has been hotly debated for many years. In nearly all cases, it is impossible to ensure that all United Nations members with a significant interest in the matter participate. This is partly because it can be difficult to convince countries that their exporters will not suffer equally or more than the industry in the country against which sanctions are directed. One of the ***security exceptions*** listed in GATT Article XXI allows WTO members to suspend their obligations under the Agreement to the extent necessary to comply with a United Nations decision.

United Nations Educational, Scientific and Cultural Organisation: UNESCO. One of the ***United Nations specialised agencies***. Several agreements and conventions with an actual or potential trade effect have been negotiated under its auspices. The more important ones include the ***Beirut Agreement***, ***Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property***, ***Florence Agreement*** and the ***Universal Copyright Convention***. UNESCO is located in Paris.

United Nations Framework Convention on Climate Change: adopted on 9 May 1992. Its objective is to achieve the stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a timeframe to allow ecosystems to adapt naturally to ***climate change***, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner. Parties to the Convention are guided by five principles: (1) protecting the climate system for the benefit of past and future generations, (2) giving full consideration to the special needs of developing countries, (3) taking precautionary measures, (4) to promote ***sustainable development***, and (5) measures taken to combat climate change should not constitute a means of arbitrary or unjustifiable discrmination or a disguised restriction on international trade. The Convention divides its members into ***Annex I countries*** (OECD countries, Russia and some East European countries), ***Annex II*** countries (OECD members) and the remaining group (mainly developing countries).

See also ***greenhouse gases***, ***Kyoto Protocol*** and ***trade and development***.

United Nations Industrial Development Organisation: UNIDO. Established in 1966 as an autonomous organisation within the United Nations. It became a specialised agency in 1986. Its mandate is to promote and accelerate industrial development and modernisation in developing countries, and to promote cooperation and development at the global, regional and national level as well as in individual industrial sectors. UNIDO also coordinates all activities in the United Nations system relating to industrial development. It is located in Vienna. See also ***United Nations specialised agencies***.

United Nations Millennium Declaration: adopted on 8 September 2001, mainly concerned with political and security matters, but it has a bearing also on trade policy. The declaration stresses ***good governance*** at home and internationally as well as ***transparency*** in the financial, monetary and trading system. It also contains a commitment to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system. The declaration calls on developed countries to give duty- and quota-free access for essentially all exports from the ***least-developed countries***, and it encourages the pharmaceutical industry to make essential drugs more widely available and affordable by all who need them in developing countries.

United Nations Monetary and Financial Conference: see ***Bretton Woods agreements***.

United Nations regional economic commissions: bodies established under the United Nations system to promote the economic development of their member countries and to strengthen and improve economic relations between them. Some also have work programs on social issues. They are not usually engaged in the elaboration of binding trade rules. Their immediate parent body is ***ECOSOC***. Existing regional economic commissions are ***Economic Commission for Africa*** (established in 1958), ***Economic Commission for Europe*** (1947), ***Economic Commission for Latin America and the Caribbean*** (1948), ***ESCAP*** (1947) and ***Economic and Social Commission for Western Asia*** (1973).

United Nations specialised agencies: these are intergovernmental agencies constituted as separate and autonomous organisations related to the United Nations through their own arrangements. They have their own legislative and executive bodies, membership and budgets. They work with each other and the United Nations through ***ECOSOC***. The specialised agencies are the ***Food and Agricultural Organisation***, ***IBRD*** (World Bank), ***IMF*** (International Monetary Fund), ***International Civil Aviation Organisation***, ***International Fund for Agricultural Development***, ***International Labour Organisation***, ***International Maritime Organisation***, ***International Telecommunication Union, United Nations Educational, Scientific and Cultural Organisation***, ***United Nations Industrial Development Organisation*** (UNIDO), Universal

Postal Union, World Health Organisation, ***WIPO*** (World Intellectual Property Organisation) and World Meteorological Organisation.

United States Agricultural Trade and Development Act: see ***PL 480***.

United States-Caribbean Basin Trade Partnership Act: see ***Caribbean Basin Initiative***.

United States—Central America Free Trade Agreement: proposed on 16 January 2002 by President Bush. Membership would consist of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the United States.

United States – Import Prohibition of Certain Shrimp and Shrimp Products: see ***shrimp/turtle***.

United States–Japan financial services agreement: formal name *Measures by the Government of Japan and the Government of the United States Regarding Financial Services*. It was concluded in February 1995 following United States complaints about closed financial markets in Japan. The Agreement gives United States fund management and securities firms a measure of improved market access as well as greater ***transparency***. The main components of the Agreement are that Japan will (a) provide unrestricted access to its public pension fund market by investment advisory companies, (b) eliminate balanced funds requirements, thus enabling more firms to compete, (c) move towards market value accounting for pension liabilities, (d) permit dual licensing of investment trust businesses and discretionary investment management businesses, (e) liberalise restrictions on the introduction of new financial instruments, (f) introduce a domestic asset-backed securities market in Japan, and (g) eliminate restrictions on the offshore securitisation of Japanese assets. There are also provisions promoting the further integration of the Japanese capital market into global capital markets. The benefits of the Agreement have been made available to WTO members on a ***most-favoured-nation*** basis to the extent that they are amenable to the provisions of the ***GATS***.

United States–Japan Framework for a New Economic Partnership: concluded in July 1993 to create more avenues of entry for United States firms into Japan. Japan committed itself to address five major areas: (a) ***government procurement***, (b) regulatory reform and competitiveness, (c) other major sectors, including cars and car parts, (d) economic harmonisation, aimed at correcting macroeconomic imbalances in the Japanese market, and especially its low inflow of foreign investment, and (e) implementation of existing arrangements and measures. See also ***Market-Oriented Specific-Sector talks***, ***Structural Impediments Initiative*** and ***United States–Japan financial services agreement***.

United States Marine Mammal Protection Act: see ***Tuna I*** and ***Tuna II***.

United States Merchant Marine Act: see ***Jones Act***.

United States Omnibus Trade and Competitiveness Act: a trade bill passed by Congress in 1988 after three years of bargaining and deliberations. With 467 pages, it was by far the largest trade act ever, 15 times longer than

the *Trade Expansion Act* of 1962 which made possible American participation in the ***Kennedy Round***. I M Destler offers a captivating description of its progress through Congress and the many policy areas it covers. The Act gave the President ***fast-track*** negotiating authority for the ***Uruguay Round*** negotiations until 1 June 1991 when the Round was intended to be well and truly over. It also instructed ***USTR*** to launch ***market-opening actions*** on behalf of many domestic industries, partly through the use of the newly-drafted ***Super 301***. Another new provision, ***Special 301***, deals particularly with the protection by other countries of United States-owned ***intellectual property rights***. The Act also requires regular reports on the observance of ***worker rights*** by others. The role of USTR itself was strengthened through giving it the power to decide which foreign countries were behaving unfairly and to recommend the appropriate remedy. Previously USTR had only been able to make recommendations to the President. In May 19991, the fast-track negotiating authority was renewed until 1 June 1993. Progress in the Uruguay Round negotiations required a further extension, and 15 December 1993 became the definitive deadline for negotiations. See also ***mandatory but not compulsory*** and ***priority foreign country***.

United States – prohibition of imports of tuna and tuna products from Canada: see ***tuna (Canada–United States, 1982)***.

United States Reciprocal Trade Agreements Program: established by the *Reciprocal Trade Agreements Act* of 1934 which is an amendment to the *Tariff Act* of 1930, known also as the ***Smoot-Hawley Tariff Act***. It authorised the President to enter into trade agreements with foreign governments and to modify existing duties, ***import restrictions*** and customs or excise treatment as necessary to carry out the agreements made with them. There was no sense, however, that tariffs on agricultural products would be included in the program of prospective reciprocal tariff reductions. It should be noted that some of the earlier tariff acts had contained provisions permitting reciprocal tariff reductions, but these were not used, either because the conditions were too strict, or because there was no inclination anyway to reduce tariffs. Until the passing of the *Reciprocal Trade Agreements Act*, the tariff levels prescribed by the 1930 *Tariff Act* were mandatory, and they could only be changed with the consent of Congress. The Reciprocal Trade Agreements Program's importance for the ***multilateral trading system*** partly stems from the language included in some of the 32 bilateral agreements negotiated under it between 1934 and 1945. For example, all of the seventeen general clauses contained in the United States-Mexico bilateral trade agreement of December 1942 are reflected to a greater or lesser extent in the GATT. These include a ***most-favoured-nation*** clause, ***national treatment***, agreed rules for the non-discriminatory application of ***quantitative restrictions***, ***customs valuation***, ***transparency***, ***safeguards***, etc. The tenor of the safeguards clause was changed considerably by a strengthened element of consultation. Other GATT

articles drawing on this agreement contain additional principles reflecting the views of other trading countries. The 1934 *Reciprocal Trade Agreements Act*, as amended, was superseded by the *Trade Expansion Act* of 1962. See also ***United States trade agreements legislation***.

United States – restrictions on imports of tuna: see ***tuna I***.

United States – Standards for Reformulated and Conventional Gasoline: see ***reformulated gasoline***.

United States Tariff Act of 1930: see ***Smoot-Hawley Tariff Act***.

United States – taxes on petroleum and certain imported substances: see ***Superfund***.

United States trade agreements legislation: like other countries, the United States has a range of legislation covering its import and export trade, but the influence of the United States in the world economy, the GATT and the WTO, and the role Congress has in the formulation of external economic relations have always meant that its trade legislation is viewed as particularly important by other countries. This entry mainly deals with the legislation enabling the United States to participate in ***multilateral trade negotiations*** in recognition of the leading part it has so far taken in them. The starting point for such legislation is the *Reciprocal Trade Agreements Act* of 1934 which authorised the President to enter into trade agreements with other governments and to modify the United States tariff regime for the entry of goods. This Act was extended with minor changes in 1937, 1940, 1943 and 1945. On the expiry of the 1945 extension on 1 June 1948, it was extended for one year with the significant inclusion of ***peril points***. The 1949 extension, to 30 June 1951, repealed this change. The *Trade Agreements Extension Act* of 1955 permitted the President to make limited tariff reductions which, with some minor changes, was carried forward into the 1958 extension, due to expire in 1962. It reintroduced the idea of peril points. This limited negotiating authority was a major reason for the meagre results of the ***Dillon Round***. Up to 1962, then, the President did not have the authority to deal with ***systemic issues***. The passage of the *Trade Expansion Act* of 1962 extended the presidential authority considerably, largely because of a realisation of what the economic and trade potential of the ***European Economic Community*** (EEC), now that Europe had fully recovered from the damage caused by the war, might mean to United States trading interests. The Act allowed a reduction of existing tariffs by 50% and even to zero if they were less than 5%, but leaving it to the President how this might be achieved. This allowed experimentation with the ***linear tariff cut*** formula. Some prospective reductions to zero were conditional on an agreement with the EEC. There was provision in the Act for retaliatory action if foreign governments harmed the trade of the United States. Industries and workers injured by increased imports became eligible for direct assistance. Finally, this Act also created the Office of the Special Representative for Trade Negotiations, the forerunner of the ***USTR***. When the 1962 negotiating authority expired in 1967, it was not renewed until the *Trade Act* of 1974

which gave the President authority to participate in the ***Tokyo Round*** negotiations until 5 January 1980. This was the first appearance of ***fast-track***. This Act also formalised the retaliatory power of the United States government in cases of illegal or unfair action by foreign governments through the infamous ***Section 301***. This section became part, in amended form, of all subsequent trade legislation. The *Trade Agreements Act* of 1979 adopted the Tokyo Round outcomes. The next act, the *Trade and Tariffs Act* of 1984, did not give the President new negotiating authority. That had to wait until 1988 with the passing of the *Omnibus Trade and Competitiveness Act*. This was also the first time since the end of World War II that a major trade act did not emanate from the executive. The President appeared to have regained the initiative when he tabled the *Export Expansion and Reciprocal Trade Agreements Act* in September 1997. There appears to be some intended symbolism in the choice of the title in that it harks back to the great trade acts passed during the presidencies of Franklin Delano Roosevelt and John F Kennedy. In the end, Congress did not act on the bill. When in early 2001 the new administration again sought fast-track authority (not yet granted), it renamed it the ***Trade Promotion Authority***. See also ***Smoot-Hawley Tariff Act***, ***Jackson-Vanik Amendment***, ***United States Omnibus Trade and Competitiveness Act*** and ***United States Reciprocal Trade Agreements Program***.

Universal Copyright Convention: administered by the ***United Nations Educational, Scientific and Cultural Organisation*** (UNESCO). Many of its basic principles are the same as those contained in the ***Berne Convention***, except for the requirement of a copyright notice on the copyright work itself. See also ***copyright***.

UPOV: Union internationale pour la protection des obtentions végétales. See ***International Convention for the Protection of New Varieties of Plants***.

Upper-middle-income economies: a group of 38 economies classified in this way by the ***IBRD*** and the ***World Development Report***. these countries have a per-capita GNI (gross national income) ranging from $2,996 to $9,265. See also ***high-income economies***, ***low-income economies*** and ***lower-middle-income economies***.

Upward harmonisation: harmonisation of standards on the principle that participants in a harmonisation arrangement will meet the highest standard prevailing among them. See also ***harmonisation of standards and qualifications***.

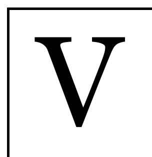
Uruguay Round: multilateral trade negotiations launched at Punta del Este, Uruguay, on 25 September 1986 and concluded in Geneva on 15 December 1993. Signed by Ministers in Marrakesh, Morocco, on 15 April 1994. The objectives of the negotiations were (i) further liberalisation and expansion of world trade, (ii) strengthening the role of the GATT and improving the ***multilateral trading system***, (iii) increasing the responsiveness of the GATT to the international economic environment and (iv) foster international

cooperative economic action. Participants agreed to a ***standstill*** on trade-restrictive measures during the negotiations and a ***rollback*** provision. The subjects for negotiations, the widest of any GATT round, were ***tariffs***, ***non-tariff measures***, ***tropical products*** as a priority area, ***natural resource-based products***, textiles and clothing, agriculture, review of GATT articles, ***safeguards***, ***Tokyo Round*** agreements and arrangements, subsidies and countervailing measures, ***dispute settlement***, ***trade-related aspects of intellectual property rights***, ***trade-related investment measures*** and the Functioning of the GATT System (FOGS). Each of these subjects was managed by a negotiating group established for the purpose. Negotiations on ***trade in services*** were to be held on a legally separate track at the insistence of a group of developing countries who did not then accept that services should be covered by the GATT. Ministers agreed that negotiations would conclude within four years. The negotiations can be divided into three stages: (a) from the launch at Punta del Este to the Montreal mid-term review in December 1988, (b) the period from then on up the Brussels Ministerial meeting in December 1990 which was supposed to mark the end of the negotiations, and (c) the events leading up to the Marrakesh ministerial meeting in April 1994. Substantive negotiations ended on 15 December 1993 when the second extension to the United States negotiating authority, the ***fast-track*** authority, expired. The Uruguay Round was therefore by far the longest round of ***multilateral trade negotiations***. It would be wrong, however, to view it as a continuous set of negotiations. Long stretches of its seven-and-a-half years were spent waiting for this or that participant or group of participants to come to terms with the need for a change in its negotiating position. This was the case especially in the third period when the ***Blair House Accord*** was negotiated and then renegotiated. The text of the "first approximation to the Final Act" of the Uruguay Round, submitted by the Director-General of the GATT to the Brussels Ministerial meeting in December 1990, was in fact very close to the agreement finally adopted at Marrakesh in April 1994. The main achievements of the Uruguay Round included a ***trade-weighted average tariff*** cut of 38%, conclusion of the ***Agreement on Agriculture*** which brought agricultural trade for the first time under full ***GATT*** disciplines, adoption of the ***General Agreement on Trade in Services***, the ***Agreement on Trade-Related Aspects of Intellectual Property Rights*** and the ***Agreement on Trade-Related Investment Measures***, the creation of a unified and predictable ***dispute settlement*** mechanism, confirmation of the ***Trade Policy Review Mechanism***, the establishment of the ***World Trade Organisation*** which administers 15 multilateral and four plurilateral trade agreements. Other results of the round were strengthened provisions on anti-dumping, subsidies and safeguards. The new ***Agreement on Textiles and Clothing*** will bring this sector under the GATT rules by replacing the ***Multi-Fibre Arrangement***. See also ***audiovisual services in the Uruguay Round***, ***Cairns Group***,

financial services interim agreement and ***Marrakesh Agreement Establishing the World Trade Organisation***.

Uruguay Round *acquis:* a term used particularly by the ***European Community*** for the agreements and decisions that make up the ***Uruguay Round*** outcome. See also ***acquis communitaire*** and ***Marrakesh Agreement Establishing the World Trade Organisation***.

USTR: refers both to the Office of the United States Trade Representative and the person of cabinet rank in charge of it. First created in 1962 as Special Trade Representative and upgraded to cabinet rank in 1974. It was renamed USTR in 1980. USTR is the principal United States locus for ***trade policy*** coordination and negotiations, including commodity negotiations. In ***financial services***, USTR has responsibility for insurance, but Treasury handles banking, funds management and securities. USTR publishes annually the ***National Trade Estimate Report on Foreign Trade Barriers***, an inventory of the perceived most important barriers affecting United States exports of goods and services, ***foreign direct investment*** by United States persons, and protection of ***intellectual property*** rights. See also ***Monitoring and Enforcement Unit***, ***Section 301***, ***Section-306 monitoring***, ***Special 301***, ***Super 301*** and ***United States trade agreements legislation***.



Value-added telecommunications: also called enhanced services. It includes services such as electronic mail, voice mail, enhanced facsimile services, including store-and-forward services. See also ***basic telecommunications***.

Variable levies: customs duty rates which vary in response to domestic criteria. They are intended to ensure that the price of a product on the domestic market remains unchanged regardless of price fluctuations in world markets and always well above world prices. Variable levies are a feature of the ***Common Agricultural Policy***. See also ***Chicken War*** and ***oilseeds case*** for examples of trade tension caused by the introduction of variable levies.

VER: voluntary export restraint. See ***voluntary restraint arrangement***.

Vertical arrangements: see ***competition policy***.

Vertical foreign direct investment: this refers to ***foreign direct investment*** by a firm either upstream or downstream of its own production activity. For example, a cloth manufacturer might invest in a wool processing plant or in a garment factory.

Vertical *keiretsu*: see ***keiretsu relationships***.

Vestigial thought: the term used by Robert Reich in his *Work of Nations* to

describe economic analysis based on conditions that no longer apply, or that now apply to a limited extent only. It follows that vestigial thinking offers a fair prospect of leading to the wrong conclusions. See also ***conventional wisdom*** and ***QWERTY principle***.

VIE: see ***voluntary import expansion***.

Vienna Convention on the Law of Treaties: entered into force on 27 January 1980. It applies to treaties between states. Part II of the Convention contains provisions concerning the conclusion of treaties, the formulation of reservations, and the entry into force and provisional application of treaties. Part III is concerned with the observance, application and interpretation of treaties, Part IV with amendments and modifications, and Part V with invalidity, termination and suspension of the operation of treaties. Part VI deals with problems arising from the succession of states, hostilities and severance of diplomatic and consular relations. Part VII covers depositaries, modifications, corrections and registration of treaties. An annex deals with procedures for conciliation. The Convention is drafted in unusually clear language, and it is in fact an excellent introduction to the main elements and principles of international treaties law. See also ***pacta sunt servanda***.

Virtuous circle: used in many policy areas to describe a beneficial sequence of events. One frequently mentioned in ***trade policy*** consists of economic development, the growth of trade and social progress. See also ***social dimension of the liberalisation of international trade***.

Visegrad countries: Czech Republic, Hungary, Poland and Slovakia. The name for these countries had its origin in the Declaration of Visegrad, made on 15 February 1991 by Hungary, Poland and the then Czechoslovakia. This declaration marked the first sign that these countries would seek closer cooperation with the ***European Community***. Visegrád is a small town on the Danube not far from Budapest. See also ***CEFTA***.

Vitamin B12: a case brought by the ***European Economic Community*** (EEC) against the United States in 1981 on the grounds that the United States was not honouring one of its ***Tokyo Round*** commitments. The United States had agreed to abolish the ***American Selling Price*** (ASP) as part of the Tokyo Round outcome. Imports of both Vitamin B12 feedgrade and pharmaceutical quality were subject to the ASP at a bound rate negotiated in the ***Kennedy Round***. At the time of the binding, the United States had reserved the right the change the tariff rate for goods in the event that the ASP was abolished, as seemed possible at the time. Between 1976 and 1980 Vitamin B12 pharmaceutical quality entered the United States at a higher rate than Vitamin B12 feedgrade quality. When the Valuation Code, one of the ***Tokyo Round agreements***, entered into force on 1 July 1980, the two rates were combined at the weighted average of the actual charges collected for both rates, which meant that Vitamin B12 feedgrade was now subject to a higher duty. In an understanding dated 2 March 1979 the EEC and the United States had agreed to consult on differences arising from the conversion of ASP rates. The ***panel*** held that the United States had no

obligation to maintain a tariff rate differentiation for feedgrade quality and pharmaceutical quality Vitamin B12. The EEC could have foreseen that the ASP conversion would in some cases result in higher tariff rates, but not to the extent that i actually affected its trade. The panel therefore felt that the United States should be invited to advance the tariff reductions envisaged in the implementation of the Tokyo Round commitment on feedgrade Vitamin B12 at a rate that would allow imported vitamins to regain their traditional competitive position in the United States.

Voluntarism: one of the principles pervading the activities of ***APEC***. By and large, participation in many APEC sub-programs and working groups is voluntary, as long as the end-dates for full trade liberalisation expressed in the ***Bogor Declaration*** are met. In practice, however, member economies find that it can be quite difficult to opt out of an activity when most of thers are willing to pursue it. The famous example is the APEC initiative for ***early voluntary sectoral liberalisation*** (EVSL). Some APEC members have complained that in its pursuit of the EVSL objective APEC has acquired adversarial negotiating environment resembling that of the ***WTO***. In their view, cooperation forms the foundation of APEC.

Voluntary export restraint: VER. See ***voluntary restraint arrangement***.

Voluntary import expansion: VIE. A bilateral arrangement under which a country agrees, ostensibly voluntarily, to adopt measures promoting the use of imported products of particular export interest to the other country. Such arrangements appear to be taking the place of the ***grey-area measures*** which are now illegal under WTO rules.

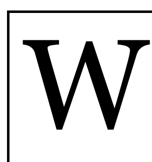
Voluntary restraint arrangement: VRA. Bilateral arrangement whereby an exporting country (government or industry) agrees to reduce or restrict exports without the importing country having to make use of quotas, tariffs or other import controls. VRAs have been used for steel, cars, semi-conductors and other products in so-called ***sensitive sectors***. These arrangements are voluntary only to the extent that the exporting country wishes to avert an even greater threat to its trade and therefore chooses the lesser of two evils. VRAs not only deny the benefits of ***comparative advantage*** to efficient suppliers. They can also lead to an inefficient allocation of resources because industries affected by them may be forced to invest in less efficient markets to retain access to them. Another possible outcome is that they give exporters and importers windfall profits because of lessened competition. Miachael Kostecki has proposed a useful three-part framework for considering the reasons underlying the imposition of ***export quotas*** under VRAs. First, there is the home-industry approach under which a certain minimum level of projected domestic demand is allocated to producers in the importing country. Second, under the exporters-first approach a certain maximum level of exports is fixed and the rest of the market left to producers in the importing country. Third, the risk of demand fluctuation in the importing country is shared equally between domestic producers and foreign suppliers. The WTO

Agreement on Safeguards makes new VRAs illegal, and all those in existence on 1 January 1995, when the WTO was established, had to be phased out within five years.

Voting rights in the WTO: each WTO member is entitled to one vote regardless of its ranking as a trading nation. The ***European Communities*** are entitled to a number of votes equalling the number of their member states. See also ***amendments to WTO agreements***, ***consensus*** and ***decision-making in the WTO***.

VRA: see ***voluntary restraint arrangement***.

Vulnerability index: a concept currently under discussion in United Nations forums to permit a more objective assessment of the needs of ***least developed countries*** and their eligibility for treatment as a least-developed country. Various proposals have been put forward for the construction of a vulnerability index, but none enjoy widespread support.



Wage-differential argument: the proposition that countries with low wages are able to undercut countries with high wages, and that they therefore enjoy a competitive advantage. Economists have been satisfied for 150 years that this is not the case, and that the difference in wages can be accounted for by a gap in productivity. In ***trade policy*** the argument lives on, and it underlies part of the debate on ***trade and labour standards*** and the alleged need for a ***social clause***. See also ***race-to-the-bottom argument***.

Waiver: a dispensation granted by WTO members to another member freeing it from the obligation to apply a particular provision to a defined aspect of its international trade. Under WTO rules, waivers must be approved by three-quarters of WTO members. Once granted, they are subject to periodic review. Waivers may also be available under domestic legislation of various countries, such as in the case of the suspension of the United States ***competitive-need limitation*** under its ***GSP*** scheme for some ***least-developed countries***. See also ***ASTP*** and ***section 22 waiver***.

Washington consensus: a term proposed in 1993 by the economist John Williamson for a set of principles he and many others, including the Washington-based ***IBRD*** and ***IMF***, see as forming the basis of good economic management. The principles are: trade liberalisation, promotion of inward direct investment, fiscal discipline, efficient public expenditure priorities, tax reform, financial liberalisation, competitive exchange rates, privatisation, deregulation, and secure property rights. Many opponents of ***globalisation*** also oppose the validity of these principles.

Washington Treaty: see ***Treaty on Intellectual Property in Respect of Integrated Circuits***.

Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies: this arrangement, adopted on 12 July 1996 for entry into force on 1 November 1996, is the successor to ***COCOM***. The purpose of the Arrangement is to promote transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies. The Arrangement is not directed against any state or group of states, and each member country enforces its own export control laws. The Arrangement has 33 members, including the members of the former Warsaw Pact. See also ***dual purpose exports***.

Watch list: see ***priority foreign countries*** and ***Special 301***.

Water in the tariff: an expression used in the ***Uruguay Round*** negotiations on ***tariffication*** (the conversion of ***non-tariff measures*** into ***tariff equivalents***), but of much earlier origin. Negotiators accept that such conversions can never be completely accurate because of legitimate differences about the impact of these measures and the methodologies to be adopted. There were cases, however, where countries offered tariff equivalents that were obviously inflated. The difference between what would be seen as a defensible tariff conversion and the one actually offered was described as "water in the tariff" or "dirty tariffication".

WCO: World Customs Organisation. A multilateral body located in Brussels through which participating countries seek to simplify and rationalise customs procedures.

Webb-Pomerene Act: a United States law first adopted in 1918 which permits American companies to combine within certain limits for the purpose of engaging in export trade. Firms may not, as a result of combining, restrain trade in the United States or restrain the export trade of competitors. That would still be illegal under the ***Sherman Act*** and other ***antitrust laws***. See also ***competition policy***.

West African Economic and Monetary Union: established in 1994 with the aim of achieving full economic integration with a ***common external tariff***, a common ***trade policy*** and harmonised economic policies. Its members are Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo. Its secretariat is located at Ouagadougou, Burkina Faso.

West African Economic Community: established in 1966. It consists of Benin, Burkina Faso, Côte d'Ivoire, Mali, Mauritania, Niger and Senegal. See also ***ECOWAS***.

Western European Union: established in 1948 as the Western Union under the *Treaty of Economic, Social and Cultural Cooperation and Collective Self-Defence* and renamed Western European Union in 1954. It is mainly concerned with political and security matters and organisationally quite distinct from the ***European Union***. It is located in Brussels.

Western Hemisphere Free Trade Agreement: see ***FTAA***.

Westinghouse Uranium: a case brought in the mid-1970s by Westinghouse, a manufacturer of nuclear power stations, under United States ***antitrust laws*** against 29 domestic and foreign uranium suppliers. Much of the case

against the foreign companies had to be conducted under ***extraterritoriality*** provisions. The matters raised by this case were eventually settled, partly because the foreign companies were loath to lose their access to the United States market. One of its longer-term effects was, however, the emergence of ***blocking statutes*** and ***clawback provisions***.

Wheat flour*:** this case was based on a complaint in 1982 by the United States that the European Economic Community (EEC) subsidies on exports of wheat flour were not applied in accordance with Article 10:1 of the ***Tokyo Round Subsidies Code, one of the ***Tokyo Round agreements***. The United States also alleged that the subsidies provided by the EEC resulted in prices below those of other suppliers to the same market, in contravention of Article 10:3, and that they nullified and impaired benefits accruing to the United States and caused ***serious prejudice*** to its interests. The facts were that EEC export refunds on wheat flour were part of the internal single market mechanism. A threshold price for wheat flour was established each year which served as the internal price standard. The EEC trade regime for wheat flour provided for import and export licensing as well as import levies and export refunds under certain conditions and in a prescribed manner. A ***variable levy*** equal to the gap between the import price and the threshold price was charged on imports of wheat flour. Export refunds could be granted to cover the difference between the price for wheat flour in the EEC and that obtaining on third markets. The funding of the export refund on wheat flour was made from the same budget allocation as that for the export refund on wheat in the natural state. The first part of the case was concerned with the meaning of "more than an equitable share". An important question was therefore the selection of the representative period to assess whether a signatory had obtained more than an equitable market share. The United States supplied a detailed statistical account to support its case. It had selected the three marketing years before the establishment of the ***Common Agricultural Policy*** in 1962, since in its view only this could give a true picture. On this basis, the EEC had increased its market share from 29% to 75%, and that of all other major exporters had fallen. This displacement had resulted from the export subsidies which made price undercutting possible. The ***panel***'s conclusions were that (a) EEC export refunds for wheat flour were a subsidy in terms of Article XVI (Subsidies) of the GATT, (b) the EEC share of world exports of wheat flour had increased considerably, and that the share of the United States and others had decreased, (c) in the light of the many factors to be considered, a ruling on whether this had resulted in "more than an equitable share" was not possible, (d) market displacement in the sense of Article 10:2(a) of the Subsidies Code, under which the effect of an export subsidy has to be taken into account, was not evident, (e) there was insufficient evidence concerning price undercutting, (f) the EEC export refunds had caused undue disturbance to the normal commercial interests of the United States, and (g) the EEC should make greater efforts to limit the use of subsidies on the exports of wheat flour. The panel also expressed concern,

from a broader economic and trade policy perspective, about the effectiveness of the legal provisions regarding export subsidies and other aspects of trade in wheat flour. It found it anomalous that the EEC, which would not be able to export substantial quantities of wheat flour without subsidies, had become the world's largest exporter. It suggested that a clearer understanding of the concept of "more than an equitable share" was needed to make the concept more operational. It also questioned whether international understandings on sales on non-commercial terms adequately complemented the intended disciplines on export subsidies. See also ***equitable share of the market***.

Wider competition policy: this deals with the approach of governments to the promotion of competition in sectors currently benefiting from regulation now seen as inappropriate or the opening of so-called natural monopolies to competition. See also ***antitrust laws***, ***competition policy***, ***deregulation***, ***narrow competition policy*** and ***re-regulation***.

Wine gallon assessment: the United States practice, now terminated, of assessing spirits imported at less than 100 proof as though they were 100 proof since they same rule would have applied to domestic spirits of less than 100 proof if withdrawn from bond. The importer could get around this by purchasing spirits at 100 proof or more and diluting them later. This meant importing in bulk and bottling in the United States. Customers, however, generally preferred spirits bottled in the country of origin. This rule therefore disadvantaged foreign products even though there was no difference in the treatment of similar domestic products. The wine gallon assessment is often used to show how formally identical ***national treatment*** can in fact be discriminatory. See also ***implicit discrimination***.

Wine lake: the name given in popular parlance to the wine surplus created in Europe through the ***Common Agricultural Policy***. See also ***butter mountain***.

WIPO: World Intellectual Property Organisation. The main intergovernmental organisation responsible for the protection of ***intellectual property rights*** and, through it, the encouragement of innovation and economic development. The two most important agreements administered by WIPO are the ***Paris Convention for the Protection of Industrial Property*** and the ***Berne Convention for the Protection of Literary and Artistic Works***. The WIPO secretariat is located in Geneva. See also ***Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure***, ***folklore***, ***Geneva Convention***, ***Lisbon Agreement***, ***Madrid Agreement Concerning the International Registration of Marks***, ***Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods***, ***moral rights***, ***Patent Cooperation Treaty*** and ***Rome Convention***.

Withdrawal of trade benefits: an expression meaning the imposition of trade sanctions or resort to ***retaliation***.

Worker rights: an issue identified by sections of the United States Congress as

relevant to the emergence of more equitable trade practices and policies. It is partly based on the view that some governments gain a competitive advantage by denying their workforces the conditions considered normal in the United States. The issue also has a more general human rights dimension. In practice the two strands are difficult to disentangle, but for many the human rights aspect is more important. The ***United States Omnibus Trade and Competitiveness Act*** of 1988, the *Uruguay Round Agreements Act* (URAA) and other United States trade laws contain provisions permitting discretionary action, including the withdrawal of ***GSP*** benefits, if there is a persistent denial of worker rights. The *Omnibus Trade and Competitiveness Act* also contains three negotiating objectives which American negotiators must pursue in their trade negotiations. These are (i) promoting respect for worker rights, (ii) ensuring a review of the relationship of worker rights to the GATT and related rules, and (iii) adoption of the principle that the denial of worker rights should not be a means for a country or its industries to gain a competitive advantage in international trade. ***Section 301*** requires ***USTR*** to take action if a foreign country shows a persistent pattern of conduct that (a) denies workers the right of association, (b) the right to organise and bargain collectively, (c) permits any form of forced or compulsory labour, (d) fails to provide a minimum age for the employment of children, or (e) fails to provide standards for minimum wages, hours of work, and occupational safetyand health of workers. Section 131 of the URAA requires the President to seek the establishment of a working party in the WTO to explore the linkage between international trade and internationally recognised worker rights. See also ***core labour standards***, ***social clause***, ***trade and human rights*** and ***trade and labour standards***.

Working Group on the Relationship between Trade and Investment: established in December 1996 at the WTO ***Singapore Ministerial Conference*** to examine the relationship between ***trade and investment***.

Working Group on the Interaction between Trade and Competition Policy: established in Deecmber 1996 at the WTO ***Singapore Ministerial Conference*** to study issues related to the interaction between ***trade policy*** and ***competition policy***, including anti-competitive practices. Its task is to identify any areas that need to be considered further in the WTO framework. See also ***trade and competition***.

Working Group on Transparency in Government Procurement: established at the December 1996 WTO ***Singapore Ministerial Conference*** to conduct a study on ***transparency*** in ***government procurement*** practices. It has developed elements for inclusion in an appropriate agreement, but it does not have a negotiating mandate.

Working Party on Domestic Regulation: established by the ***WTO*** on 26 April 1999 to develop disciplines aimed at ensuring that licensing requirements, technical standards and qualification requirements do not

become unnecessary barriers to trade in services. The mandate for this Working Party also reflects to a large extent Article VI:4 of the ***General Agreement on Trade in Services***. See also ***Working Party on Professional Services***.

Working Party on Professional Services: WPPS. A ***WTO*** working party established in 1995 to examine the extent to which qualifications, licensing and standards requirements are impediments to trade in professional services, and to develop appropriate multilateral disciplines. After much labour it produced the ***Guidelines for Mutual Recognition Agreements or Arrangements in the Accountancy Sector***. The WPPS was abolished on 26 April 1999 and a ***Working Party on Domestic Regulation*** established instead. See also ***mutual recognition arrangements***.

World Association of Investment Promotion Agencies: established in April 1995 under the auspices of ***UNCTAD***. Its objectives are (a) to promote and develop understanding and cooperation among investment promotion agencies, (b) to strengthen information-gathering systems and information exchange amongst investment promotion agencies, (c) to share country and regional experiences in attracting investment, (d) to help investment promotion agencies gain access to technical assistance and training through referrals to relevant agencies, (e) to facilitate access to funding and other assistance through referrals to relevant bilateral and multilateral agencies for the development and implementation of investment promotion programs, and (f) to assist investment promotion agencies in advising their respective governments in the formulation of appropriate investment promotion policies and strategies. Its secretariat is located in Geneva.

World Bank: see ***IBRD***.

World Bank Guidelines on the Treatment of Foreign Direct Investment: a set of voluntary principles adopted in September 1992 to address governmental treatment of good-faith foreign investors. The Guidelines do not deal with the conduct of foreign investors. The broad aim of the Guidelines is to encourage foreign investment because of its benefits in terms of improving the long-term efficiency of the host country through greater competition, transfer of capital, technology and managerial skills, enhancement of market access and expansion of international trade. Article I states that the Guidelines are based on the general premise that equal treatment of investors in similar circumstances and free competition among them are prerequisites of a positive investment environment, and that there is no suggestion that foreign investors should receive better treatment than national investors. Article II seeks an open environment for the admission of investment. Article III exhorts states to extend to investments by nationals of any other state fair and equitable treatment. Article IV deals with expropriation and unilateral alterations or terminations of contract. Article V seeks to promote the orderly settlement of disputes, either through national courts or through other agreed mechanisms. See also ***Multilateral***

Investment Guarantee Agency.

World Commission on Environment and Development: established in 1983 by the United Nations General Assembly to work out an action plan for long-term environmental strategies and to strike a balance between the aims of development and the protection of natural resources. It was chaired by Gro Harlem Brundtland, Prime Minister of Norway. The Commission's report, *Our Common Future*, was completed in 1987. The final chapter of the report called for an international conference to review progress and to create a follow-up structure. This became the ***United Nations Conference on Environment and Development***.

World Customs Organisation: previously known as the Customs Cooperation Council (CCC). Based in Brussels. It is the principal body for international cooperation on customs matters. It developed and administers the ***Harmonised Commodity Description and Coding System***, and it also administers the ***Istanbul Convention*** and the ***Kyoto Convention***.

World Development Report: a report published annually by the World Bank on issues of particular relevance to the development process. It often contains useful analysis on trade policy issues. See also ***IBRD***.

World Economic Forum: an independent non-profit organisation founded in 1971 and located in Geneva. It aims to bring together people in politics, business, academia and other circles to explore current political, social and economic issues.

World Food Programme: WFP. A body established in 1961 by the United Nations. It began operations on 1 January 1963. Its mission is to manage food aid to low-income food-deficit countries as well as to victims of natural disasters. The WFP also runs programs aimed at economic and social development of these countries. It cooperates closely with the ***Food and Agricultural Organisation***. Its administration is located in Rome.

World Investment Report: an annual report issued by the ***Commission on Investment, Technology and Related Financial Services*** of ***UNCTAD*** on global investment trends and issues related to them. It contains much useful analysis, and its recent issues have become very readable. At times it still tends to ascribe some of the problems experienced by developing countries to actions taken, or not taken, by ***transnational corporations***, but on the whole it now sees foreign investment by these corporations as a good thing, as indeed do many developing countries.

World Organisation for Animal Health: see ***International Office of Epizootics***.

World Summit for Social Development: see ***Copenhagen Declaration and Programme of Action***.

World Summit on Sustainable Development: WSSD. This summit will be held in Johannesburg, South Africa, in September 2002. Its purpose is to review progress in the implementation of the United Nations Conference on Environment and Development of 1992, now renamed WSSD. The summit will examine what further efforts may be needed to implement ***Agenda 21***.

See also ***Rio Declaration***.

Worst forms of child labour: defined in the ***Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO*** Convention No 182) as (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict, (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances, (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties, and (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. The promotion of ratification and full compliance with this Convention is one of the objectives of the United States ***Trade Promotion Authority***.

WTO: World Trade Organisation, established on 1 January 1995 as the successor to the ***GATT*** *(General Agreement on Tariffs and Trade)* and its secretariat. The GATT now is one of the agreements administered by the WTO. The two other main agreements it manages are the ***GATS*** *(General Agreement on Trade in Services)* and the ***Agreement on Trade-Related Aspects of Intellectual Property Rights***. The WTO has about 130 members. The WTO is an organisation for the discussion, negotiation and resolution of trade issues covering goods, services and intellectual property. Its essential functions are administering and implementing the multilateral and plurilateral trade agreements that constitute it, acting as a forum for ***multilateral trade negotiations***, seeking to resolve trade disputes, overseeing national trade policies and cooperating with other international institutions involved in global economic policy-making. *Trading into the Future*, available on www.wto.org, offers the best description of how the WTO works. See also ***Marrakesh Agreement Establishing the World Trade Organisation***.

WTO Agreement: see ***Marrakesh Agreement Establishing the World Trade Organisation***.

WTO built-in agenda: see ***built-in agenda.***

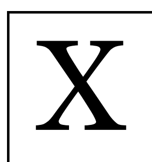
WTO ministerial conference: a conference composed of the representatives of all WTO members at ministerial level which is to meet at least once very two years. It has authority to take decisions on all matters under any of the multilateral trade agreements under its jurisdiction. The four ministerial conferences so far have been held in Singapore (9–13 December 1996), Geneva (18–20 May 1998), Seattle (30 November–3 December 1999) and Doha (9–13 November 2001). The fifth ministerial conference is scheduled to be held in Cancun, Mexico, from 10 to 14 September 2003. See also ***Doha ministerial conference***, ***Seattle ministerial conference*** and ***Singapore ministerial conference***.

WTO plurilateral trade agreements: these are the: ***Agreement on***

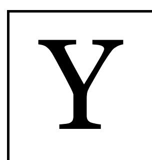
Trade in Civil Aircraft, ***Agreement on Government Procurement***, ***International Dairy Agreement*** and ***International Bovine Meat Agreement***. They are included in Annex 4 to the ***Marrakesh Agreement Establishing the World Trade Organisation***. These agreements were originally negotiated as so-called "codes" during the ***Tokyo Round***. They contain additional disciplines for each of the sector they cover. Membership of these agreements is not a pre-condition of WTO membership. The *International Bovine Meat Agreement* and the *International Dairy Agreement* were terminated on 31 December 1997, and they have been deleted from Annex 4. See also ***Tokyo Round agreements***.

WTO plus: used especially for provisions in ***free-trade agreements*** and other economic cooperation agreements that go beyond the WTO framework of rules. For example, an agreement may contain provisions on competition policy.

WTO understanding on dispute settlement: formal name *Understanding on Rules and Procedures Governing the Settlement of Disputes*. One of the ***Uruguay Round*** outcomes. Its underlying theme is that prompt settlement of disputes is essential for the proper functioning of the WTO. The understanding therefore sets out in some detail the procedures and timetable to be followed in resolving disputes. There is little scope for delaying tactics. The first stage in the resolution of a dispute consists of ***consultation*** between the parties who may call on the WTO Director-General to mediate. If consultation is unsuccessful, the formation of a ***panel*** is almost automatic. If the parties disagree with the panel's findings, they may appeal to the ***appellate body***, but the grounds for such appeals must be confined to legal issues. Some have argued that the automaticity of the new mechanism is more likely to lead to the emergence of a dynamic "case law" system in the WTO, but this is not yet evident.

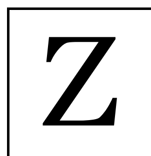


X-ing out: this can mean either a ***carve-out*** or a decision to leave an aspect of negotiations aside until some other problems have been solved.



Yaoundé Convention: an agreement of association between the ***European Economic Community*** and eighteen African developing countries giving

them a range of trade and economic benefits. It was concluded on 20 July 1963, superseded in 1975 by the ***Lomé Convention*** and again replaced on 1 March 2000 by the ***ACP-EC Partnership Agreement***.



Zanzibar Declaration: a statement adopted at a meeting in Zanzibar in July 2001 of trade ministers representing ***least developed countries*** in preparation for the ***Doha Ministerial Conference***. It calls on WTO members to make a range of greater efforts to promote increased integration of least developed countries into the multilateral trading system. Among these are cancellation of debts, incresed ***official development assistance*** and duty-free and quota-free access for products from these countries.

Zero binding: a legally binding undertaking in the ***WTO*** to eliminate ***customs duties*** altogether on defined products.

Zero-for-zero tariff reductions: a request/offer system for the achievement of ***tariff*** reductions in which the parties involved aim at reducing tariffs to zero (i.e. at eliminating tariffs) on a reciprocal basis in complete sectors, such as pharmaceuticals or wood products. The ***Information Technology Agreement*** is a recent example of this approach. See also ***requests and offers*** and ***sectoral trade negotiations***.

Zero-margin harmonisation: a situation in which there is complete harmonisation of laws, regulations, standards, etc., in one or more areas of economic activity.

Zero option: this usually refers to a United States proposal early in the ***Uruguay Round*** negotiations on agriculture to the effect that all subsidies distorting agricultural trade or production should be eliminated within ten years.

Zero-price knowledge: a concept used as part of the justification of protection for ***intellectual property***. If knowledge always is free, i.e. available at a zero price, there will be less incentive to add to the stock of knowledge since adding will not be rewarded. Granting the originator of knowledge the right to profit from it through the protection of ***intellectual property rights*** provides this incentive.

Zero rating: said to be attracted by goods that enter a country free of any ***customs duties***.

Zero-sum nationalism: the view that in the conduct of international trade and economic relations countries only have a choice between winning or not winning. A win by another country, however temporary, is considered a loss by the country making the comparison. This is essentially a broader, more political, restatement of the idea underpinning ***mercantilism*** which sees the aim of trade as the accumulation of specie and foreign exchange, the

maximisation of manufacturing exports and the minimisation of manufacturing imports. It completely ignores the benefits available through the ***international division of labour*** and the effect of ***globalisation*** on the international economy.

Zollverein: (*Ger.* customs union). Established under Prussian leadership in 1834 through the unification of several local customs unions. Its growth continued through the adhesion of other German states until 1871 when it was subsumed in the newly formed German Empire. The Zollverein is given credit for much of Germany's economic progress in the first half of the eighteenth century. However, as its early years coincided with the industrial revolution in Germany, its exact contribution to economic development, though clearly substantial, is difficult to assess. See also ***customs union***.

Appendix 1:

Marrakesh Agreement Establishing the World Trade Organisation: a synopsis

Article I: *Establishment of the Organisation*
The World Trade Organisation is hereby established.

Article II: *Scope of the WTO*
The agreements and associated legal instruments included in Annexes 1, 2 and 3, the "Multilateral Trade Agreements", are binding on all members. Those in Annex 4, the "Plurilateral Trade Agreements", are only binding on those that have accepted them. The General Agreement on Tariffs and Trade 1994 is legally distinct from the General Agreement on Tariffs and Trade dated 30 October 1947.

Article III: *Functions of the WTO*
The WTO implements, administers and operates this Agreement and the Multilateral Trade Agreements. It also provides the framework for the implementation and administration of the Plurilateral Trade Agreements. It provides a forum for negotiations among members concerning their multilateral trade relations. It administers also the Dispute Settlement Understanding and the Trade Policy Review Mechanism.

Article IV: *Structure of the WTO*
The Ministerial Conference shall meet at least once every two years. It has authority to take decisions on all matters under any of the Multilateral Trade Agreements. In the intervals between ministerial meetings, the General Council carries carries out these functions. It also convenes as the Dispute Settlement Body and the Trade Policy Review Body. Below the General Council are the Council for Trade in Goods, the Council for Trade in Services and the Council for Trade-Related Aspects of Intellectual Property Rights. Each of these may establish subsidiary bodies.

Article V: *Relations with Other Organisations*
The General Council makes arrangements for effective cooperation and consultation with intergovernmental and non-governmental organisations with

related responsibilities.

Article VI: *The Secretariat*

The Secretariat is headed by a Director-General who is appointed by the Ministerial Conference. The Director-General appoints the staff of the WTO and determines their duties and conditions of service in accordance with the regulations adopted by the Ministerial Conference.

Article VII: *Budget and Contributions*

This Article sets out broadly the procedures to be followed for the establishment of the budget and the financial contributions to be paid by members.

Article VIII: *Status of the WTO*

The WTO has legal personality with privileges and immunities as are necessary for the exercise of its functions.

Article IX: *Decision-Making*

The WTO follows the practice of making decisions by consensus as was done under the GATT. Where a decision by consensus is not possible, the matter is decided by voting as set out in the Article. The Ministerial Conference and the General Council have the exclusive authority to adopt interpretations of this Agreement and the Multilateral Trade Agreements. The Ministerial Council may decide whether to grant a member a waiver in respect of any obligation. Waivers have to be reviewed annually. Decisions under a Plurilateral Trade Agreement are made under the provisions of the agreement concerned.

Article X: *Amendments*

Any member of the WTO may initiate a proposal to amend this Agreement or the Multilateral Trade Agreements. The majority required for carrying an amendment depends on the nature of the proposed change, but some amendments can only be made if all agree. The Article sets out the details of this as well as the measures members have to take to accept an amendment.

Article XI: *Original Membership*

All contracting parties of the GATT 1947 at the time this Agreement enters into force are original members of the WTO, provided that they have lodged Schedules of Concessions and Commitments under the GATT and Schedules of Specific Commitments under the GATS. Least-developed countries only have to undertake commitments and concessions consistent with their development, financial and trade needs or their administrative and institutional capabilities.

Article XII: *Accession*

Any state or separate customs territory having full autonomy to conduct its external commercial relations may accede to this Agreement on terms to be agreed between it and the WTO. Agreement on the terms of accession requires a two-thirds majority of WTO members. Accession to a Plurilateral Trade Agreement is governed by the provisions of that Agreement.

Article XIII: *Non-Application of Multilateral Trade Agreements between Particular Members*

This Agreement shall not apply to any member and any other member if either of the members, at the time one becomes a member, does not consent to such application. A decision not to apply the Agreement to another member is valid only if the member not consenting to do so has notified the Ministerial Conference before it adopts the terms of accession.

Article XIV: *Acceptance, Entry into Force and Deposit*

This Article sets out the procedures to be followed for accepting the terms of accession to this Agreement either as an original member of the WTO or through a later accession. Some of the obligations contained in the Multilateral Trade Agreements are implemented according to a timetable starting with the entry into force of this Agreement. If a member accedes at any time after the entry into force, it has to follow the timetable as if it had been an original member.

Article XV: *Withdrawal*

Any member may withdraw from this Agreement. A withdrawal becomes effective six months after the Director-General of the WTO has received written notice of the intention to withdraw.

Article XVI: *Miscellaneous Provisions*

Except as otherwise provided in this Agreement or the Multilateral Trade Agreements, the WTO is to be guided by the decisions, procedures and practices followed by the GATT. If there is a conflict between the provisions of this Agreement and a provision contained in any of the Multilateral Agreements, this Agreement prevails. No reservation may be made in respect of any provision of this Agreement. Reservations under the Multilateral Trade Agreements and the Plurilateral Trade Agreements may be made to the extent that these Agreements permit them.

List of Annexes to the Marrakesh Agreement Establishing the World Trade Organisation

Annex 1

Annex 1A *Multilateral Agreements on Trade in Goods*

General Agreement on Tariffs and Trade 1994

Agreement on Agriculture

Agreement on the Application of Sanitary and Phytosanitary Measures

Agreement on Textiles and Clothing

Agreement on Technical Barriers to Trade

Agreement on Trade-Related Investment Measures

Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

Agreement on Preshipment Inspection

Agreement on Rules of Origin

Agreement on Import Licensing Procedures

Agreement on Subsidies and Countervailing Measures

Agreement on Safeguards

Annex 1B *General Agreement on Trade in Services and Annexes*

Annex 1C *Agreement on Trade-Related Aspects of Intellectual Property Rights*

Annex 2

Understanding on Rules and Procedures Governing the Settlement of Disputes

Annex 3

Trade Policy Review Mechanism

Annex 4

Plurilateral Trade Agreements

Agreement on Civil Aircraft

Agreement on Government Procurement

International Dairy Agreement

International Bovine Meat Agreement

Appendix 2:

The General Agreement on Tariffs and Trade: a synopsis

The General Agreement on Tariffs and Trade (GATT) consists of 38 articles and nine annexes. The following paragraphs describe briefly the main purpose these articles and how the annexes work. Some of the articles have been interpreted in subsidiary agreements. These are listed immediately after the summary of the article concerned. Some articles and annexes are now only of historical interest.

Part I

Article I: *General Most-Favoured-Nation Treatment*

All contracting parties must accord any advantage, favour, privilege or immunity granted to any product from any other country immediately and unconditionally to all other members. This includes customs duties, other import and export charges, international transfers of payments, and all rules and formalities connected with importing and exporting. This does not apply to some preferential agreements in force at the time the Agreement was concluded, but the margins of preference under them may not be increased.

Article II: *Schedules of concessions*

Each contracting party must maintain a schedule which sets out the terms and conditions under which a product may be imported. This is usually known as the tariff schedule. No other charges may be levied on imported goods. The methods for determining the amount of duty to be paid or the conversion of currencies may not be altered so as to negate tariff concessions. Parties may request consultations if they consider that their expectations of what the other party undertook to do have not been met.

The *Understanding on the Interpretation of Article II:1(b) of the General Agreement on Tariffs and Trade 1994* explains further the meaning of "other duties and charges".

Part II

Article III: *National Treatment on Internal Taxation and Regulation*

Contracting parties may only apply internal taxes and other charges to imported goods to the extent that they apply these charges to the same goods made locally. Laws, regulations and other requirements concerning the sale, offering

for sale, purchase, transport, distribution or use of imported goods must be no less favourable than those applying to the same domestic products. No contracting party may maintain any internal quantitative regulation relating to the mixture, processing or use of products which would require some components to be supplied from domestic sources. Such regulations are, however, permitted to the extent allowed by Article IV. This Article does not apply to government procurement.

The *Agreement on Trade-Related Investment Measures* contains more detailed disciplines concerning the prohibition of internal quantitative regulations.

Article IV: *Special Provisions Relating to Cinematograph Films*

If a contracting party maintains quotas or the screening of films, they must conform to certain conditions. Such quotas are also subject to negotiations for their limitation, liberalisation or elimination.

Article V: *Freedom of Transit*

Goods, vessels and other means of transport have freedom of transit through the territory of each party via the routes most convenient for international transit. "Traffic in transit" is defined as the passage across the territory of another contracting party when this is only part of a journey that begins and ends elsewhere. It may include trans-shipment, warehousing, breaking bulk or a change in the mode of transport. Traffic in transit is exempt from customs duties or any other transit duties except charges for transportation and the administrative cost of services rendered. Contracting parties may not discriminate between goods that have been transshipped and those that have been shipped on a direct route.

Article VI: *Anti-dumping and Countervailing Duties*

This article sets out the basic conditions under which anti-dumping and countervailing duties may be imposed.

The *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* contains detailed provisions on the use of anti-dumping measures. The *Agreement on Subsidies and Countervailing Measures* sets out the procedures to be used in the case of countervailing measures.

Article VII: *Customs Valuation*

The value for customs purposes of imported merchandise should be based on the actual value of the goods. Assessments must not be based on national origin or on arbitrary or fictitious values. The article sets procedures for valuation if the actual value is not available.

The *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* contains more detailed provisions on customs valuation procedures.

Article VIII: *Fees and Formalities Connected with Importation and Exportation*

All fees connected with the import or export of goods must be limited to the approximate cost of the services rendered. They may not be used for protection or for fiscal purposes.

Article IX: *Marks of Origin*

Contracting parties may not discriminate among other parties concerning the marking requirements for imported products. Marks of origin must not be used to disadvantage the products of other contracting parties. It should be permissible to affix marks of origin at the time of importation. No special duty or penalty should be imposed for failure to comply with marking requirements before importation unless there is unreasonable delay or deception.

Article X: *Publication and Administration of Trade Regulations*

Each contracting party must publish promptly all laws, regulations, judicial decisions and administrative rulings of general application concerning its import and export trade to enable other governments to become acquainted with them. All laws, regulations, etc., must be administered in a uniform, impartial and reasonable manner. Measures must be published officially before they can be applied. Contracting parties must maintain judicial, arbitral or administrative tribunals or procedures for the review of administrative action relating to customs matters.

Article XI: *General Elimination of Quantitative Restrictions*

Contracting parties may not maintain or institute prohibitions or restrictions other than duties, taxes and other charges. Quotas, import or export licences and other measures are prohibited except for some closely defined circumstances. This includes the prevention or relief of critical food shortages and import and export prohibitions or restrictions necessary to the application of standards for commodities in international trade.

The *Agreement on Import Licensing Procedures* contains rules for the non-discriminatory administration of import licensing where this is permitted.

Article XII: *Restrictions to Safeguard the Balance of Payments*

Contracting parties may resort to import restrictions in order to safeguard their external financial position, but no more than is necessary to forestall the imminent threat of a serious decline in monetary reserves or to achieve a reasonable increase in monetary reserves if these are very low. Detailed procedures apply to institution, surveillance and termination of such restrictions.

The *Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994* is also relevant for the use of this article.

Article XIII: *Non-discriminatory Administration of Quantitative Restrictions*

Contracting parties may not discriminate among other parties in their use of

quantitative restrictions. The article sets out rules on how to achieve this.

The *Agreement on Import Licensing Procedures* contains rules for the non-discriminatory administration of import licensing where this is permitted.

Article XIV: *Exceptions to the Rule of Non-discrimination*

Discrimination in the use of restrictions may be permitted if the benefits to the parties concerned outweigh substantially any injuries to the trade of other contracting parties. This may only be done under defined conditions.

Article XV: *Exchange Arrangements*

This article sets out the basis for the relationship between the GATT and the IMF (International Monetary Fund) with the aim of a coordinated policy concerning exchange questions, the domain of the IMF, and quantitative restrictions, the domain of the GATT.

Article XVI: *Subsidies*

All subsidies must be notified. Contracting parties should seek to avoid the use of subsidies on the export of primary products. Contracting parties recognise that the granting of a subsidy may have harmful effects on others, and they should seek to avoid subsidies on the export of primary products. From 1 January 1958, contracting parties agree not to use subsidies on goods other than primary products if this results in undercutting the price in the importing market.

The *Agreement on Subsidies and Countervailing Measures* sets out the rules concerning the use of subsidies.

Article XVII: *State Trading Enterprises*

State trading enterprises must act in a manner consistent with the general principle of non-discrimination prescribed for private traders. Governments must notify the products trade by state trading enterprises. This article does not apply to purchases by governments of products for their own use.

The *Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994* should also be consulted.

Article XVIII: *Governmental Assistance to Economic Development*

This article sets out the conditions under which developing countries may deviate temporarily from other provisions in the Agreement if they have to support lower standards of living or are in the stages of early development. This may include the imposition of balance-of-payments measures or measures for the promotion of infant industries.

The *Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994* is also relevant for the use of this article.

Article XIX: *Emergency Action on Imports of Particular Products*

Under defined conditions contracting parties may impose temporary import restrictions if, as a result of tariff concessions, an import surge threatens to cause or causes serious injury to domestic producers. Such import restrictions must be applied in a non-discriminatory manner.

The *Agreement on Safeguards* contains detailed procedures concerning the imposition of safeguard measures.

Article XX: *General Exceptions*

This article sets out ten situations under which contracting parties are not obliged to adhere to the provisions of the Agreement if this necessary to achieve the goal concerned. They may not use this Article as a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or as a disguised restriction on international trade. The ten situations are: (a) protection of public morals, (b) protection of human, animal or plant life or health, (c) import or export of gold and silver, (d) securing compliance with laws that are not inconsistent with the GATT, protection of intellectual property rights or the prevention of deceptive practices, (e) products of prison labour, (f) protection of national treasures of artistic, historic or archaeological value, (g) conservation of natural resources if accompanied by restrictions on domestic production or consumption, (h) obligations under international commodity agreements, (i) restrictions on the export of domestic materials to prevent shortages, and (j) acquisition or distribution of products in short supply.

Article XXI: *Security Exceptions*

Contracting parties are not required to apply the provisions of the Agreement if (a) it meant disclosing information considered contrary to their essential security interests, (b) if they wish to take any action necessary for the protection of essential security interests relating to fissionable materials, traffic in arms, ammunition and other implements of war, and in times of war and other international emergencies, and (c) if it prevented them from discharging their obligations under the United Nations Charter.

Article XXII: *Consultation*

Each contracting party must respond sympathetically to requests for consultations by other contracting parties on any matter concerning the operation of the Agreement.

The operation of this article is now subject to the *Understanding on Rules and Procedures Governing the Settlement of Disputes.*

Article XXIII: *Nullification or Impairment*

This article creates the legal basis for the GATT dispute settlement mechanism and sets out some basic procedures to be followed.

The operation of this article is now subject to the *Understanding on Rules and Procedures Governing the Settlement of Disputes.*

Article XXIV: *Territorial Application – Frontier Traffic – Customs Unions and Free-trade Areas*

The Agreement applies to the customs territory of contracting parties, defined as any territory with respect to which separate tariffs are maintained for a substantial part of its trade with other territories. Frontier traffic between adjacent countries is not affected by this Agreement. Contracting parties may enter into customs unions or free-trade areas under defined conditions. These include that they cover substantially all the trade between the partners and that all customs duties and other restrictive regulations of commerce are eliminated. Contracting parties must also take reasonable measures to ensure observance of the provisions of the Agreement by the regional and local governments and authorities within their territory.

The *Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994* contains further guidance on how to use this article.

Article XXV: *Joint Action by Contracting Parties*

Contracting parties are to meet from time to time to consider the operations of the Agreement and to further its objectives. They may adopt waivers in exceptional circumstances.

The *Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994* states that any waiver in existence at the time of the establishment of the WTO will terminate unless it is reauthorised under WTO rules.

Article XXVI: *Acceptance, Entry into Force and Registration*

The article describes the conditions under which governments could become members, and when the Agreement would enter into force.

Article XXVII: *Withholding or Withdrawal of Concessions*

Contracting parties do not have to maintain concessions they negotiated with a government that did not become, or ceased to be, a party to this Agreement.

Article XXVIII: *Modification of Schedules*

This article sets out the conditions under which contracting parties may modify or withdraw tariff concessions [which used to be limited to three years and then open to changes] and the avenues and procedures available to other contracting parties to obtain compensation.

The *Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade 1994* sets out the conditions applying to principal supplying rights which may be used to initiate tariff negotiations.

Article XXVIIIbis: *Tariff Negotiations*

Contracting parties may launch multilateral tariff negotiations from time to time. Tariff negotiations may be conducted on a product-by-product basis or other agreed procedures. The success of multilateral negotiations depends on

the participation of all those who conduct a substantial part of their trade with other parties. Negotiations must take account of the needs of developing countries.

Article XXIX: *The Relation of this Agreement to the Havana Charter*

This article describes how the Agreement was to be treated if the Havana Charter had entered into force, and if, as it happened, it did not.

Article XXX: *Amendments*

Amendments to Part I of the Agreement require the acceptance of all contracting parties. Amendments to the remainder need the acceptance by two-thirds of the contracting parties.

Amendments to the GATT are now covered by the provisions of the *Marrakesh Agreement Establishing the World Trade Organisation.*

Article XXXI: *Withdrawal*

Any contracting party may withdraw upon giving six months' notice.

Withdrawals from the GATT are now possible only as part of a withdrawal from the *Marrakesh Agreement Establishing the World Trade Organisation*.

Article XXXII: *Contracting Parties*

Describes what governments are to be considered contracting parties to the Agreement.

It is no longer possible to be a member of the GATT only. Governments must accede to the WTO, and the provisions of the *Marrakesh Agreement Establishing the World Trade Organisation* now cover membership matters.

Article XXXIII: *Accessions*

Any government may accede to the Agreement on terms to be agreed between it and the existing contracting parties.

It is no longer possible to be a member of the GATT only. Governments must accede to the WTO, and the provisions of the *Marrakesh Agreement Establishing the World Trade Organisation* now cover membership matters.

Article XXXIV: *Annexes*

The annexes to this Agreement are an integral part of it.

Article XXXV: *Non-application of the Agreement between Particular Contracting Parties*

The Agreement does not apply between contracting parties if the two parties have not entered into tariff negotiations and if either of them, at the time the other becomes a contracting party, does not consent to this.

The provisions of the *Marrakesh Agreement Establishing the World Trade Organisation* now cover non-application matters.

Part IV: Trade and Development

Article XXXVI: *Principles and Objectives*

In order to ensure a rapid and sustained expansion of the export earnings of developing countries, there is a need for more favourable market access for products of interest to them. Processed and manufactured products matter particularly. Developed countries do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of developing countries.

Article XXXVII: *Commitments*

Developed contracting parties are to give high priority to the reduction and elimination of trade barriers to products of interest to developing countries and not to institute new ones that would affect developing countries in particular. Developing countries will take steps in favour of other developing countries to the extent that their circumstances permit.

Article XXXVIII: *Joint Action*

Contracting parties agree to collaborate in order to further the objectives set out in Article XXXVI.

Annexes

The Agreement has nine annexes, eight of which are mainly of historical interest. Annex I contains notes and supplementary provisions of importance to the interpretation of many of the articles.

Appendix 3:

The General Agreement on Trade in Services: a synopsis

The GATS consists of 29 articles and eight annexes. The following paragraphs describe briefly the main objectives of these articles and annexes.

Part I : scope and definition

Article I: *Scope and definition*

The GATS covers trade in services, except bilateral air traffic rights, regardless of how services are delivered. It defines “measures by government” as measures taken by central, regional or local governments and authorities.

This article also describes four modes of delivery for a service: (1) cross-border supply (seller and customer do not meet); (2) consumption abroad (customer goes abroad to buy the services); (3) commercial presence (seller establishes an office in the market); and (4) through the presence of natural persons.

Part II : general obligations and disciplines

Article II: *Most-Favoured-Nation (MFN) treatment*

This article, a general obligation, ensures non-discrimination between foreign services and service suppliers. Members of the GATS must apply the same treatment standards to all other members. It is possible to obtain an exemption from this obligation for individual traded services under defined conditions.

Article III: *Transparency*

Members must publish domestic regulations affecting trade in services. If they are members of international agreements covering trade in services, they must also publish them. Members have to notify the Council for Trade in Services of major changes to regulations, but there is no need to supply certain types of confidential information.

Members have to establish enquiry points where detailed information on regulations may be obtained.

Article IV: *Increasing participation of developing countries*

This article notes the specific interests of developing countries in the expansion of their services trade. Developed country members have to establish enquiry points for the use of developing countries.

Article V: *Economic integration and labour markets integration agreements*

GATS members may enter into free-trade or economic integration arrangements under defined conditions. If they meet these conditions, do not have to extend the benefits available under such agreements on an MFN basis. It is also possible to have arrangements for the integration of labour markets.

Article VI: *Domestic regulation*

This article requires members to ensure that all general domestic regulations affecting trade in services are administered reasonably and impartially. Adequate procedures must be in place for the verification of professional qualifications. This article does not take away the right of governments to regulate their economies.

Article VII: *Recognition*

Qualifications and experience for professionals may not be used as a barrier to trade. Members may recognise qualifications issued in another country. They can also enter into mutual recognition arrangements without the need to extend them to other members.

Article VIII: *Monopolies and exclusive service suppliers*

Monopoly suppliers of services must provide their services in line with the MFN obligation and the specific commitments a country has made. A member establishing or maintaining a monopoly supplier can be asked to provide information concerning its operation.

Article IX: *Business practices*

The GATS recognises that some business practices may restrain competition and restrict trade in services. Members therefore have the right to consultations leading in time to the elimination of such practices.

Article X: *Emergency safeguard measures*

This article states that there will be further negotiations on emergency safeguard measures. The results of the negotiations are expected to enter into force in 1998.

Article XI: *Payments and transfers*

Members may not impose restrictions except as described in Article XII on international transfers and payments for current transactions in sectors where they have made a commitment.

Article XII: *Restrictions to safeguard the balance of payments*

Members may impose restrictions on trade in services in order to maintain an adequate level of financial reserves, but they may not discriminate among members to do this. Some other conditions also apply.

Article XIII: *Government procurement*

The GATS MFN, market access and national treatment provisions do not apply to purchases made by governments. This articles also mandates the start of multilateral negotiations on government procurement of services.

Article XIV: *General and security exceptions*

A range of general and security exceptions may override other GATS disciplines. One example is the need to protect human, animal or plant life or health. Others relate more generally to essential security interests.

Article XV: *Subsidies*

The GATS recognises that subsidies may distort trade in services. It also requires members to enter into negotiations on rules concerning subsidies.

Part III : specific commitments

Articles XVI, XVII and XVIII only apply to services listed in a country's schedule of commitments.

Article XVI: *Market access*

GATS members must not maintain or adopt quota limitations, other value or numerical limitations on service transactions, economic needs tests and shareholding limitations. Exceptions are permitted if measures are listed in the schedule of specific commitments.

Article XVII: *National treatment*

The national principle requires a country to accord to services and services suppliers of other countries treatment no less favourable than that accorded to its own services and suppliers. In other words, domestic and foreign suppliers have to be treated in the same way. Laws and regulations must not be used to make foreign firms less competitive in the domestic market. Formally different treatment of foreign firms is possible if formally identical treatment were disadvantaging them.

Article XVIII: *Additional commitments*

In some cases, members may wish to make commitments going beyond market access and national treatment. They may include, for example, matters concerning qualifications, standards or licensing.

Part IV : progressive liberalisation

Article XIX: *Negotiation of specific commitments*

There will be new rounds of negotiations aimed at liberalising trade in services

further. The first of these rounds will start no later than 1 January 2000.

Article XX: *Schedules of specific commitments*
This article describes the contents of schedules. Entries on market access and national treatment are obligatory, but it is also possible to state that a certain activity will be open to foreign suppliers on a certain date.

Article XXI: *Modification of schedules*
As a rule, a commitment once made cannot be reduced or withdrawn inside three years. If such a change is unavoidable, the member withdrawing a commitment may have to compensate other GATS members. Unilateral improvements may be made at any time.

Part V : institutional provisions

Article XXII: *Consultation*
A member may request consultations with another member on matters concerning the operation of the agreement.

Article XXIII: *Dispute settlement and enforcement*
If a member considers that the outcome of consultations has not been satisfactory, it may seek a solution to the problem through the dispute settlement mechanism. The unified procedures handled by the WTO apply.

Article XXIV: *Council for Trade in Services*
The Council for Trade in Services administers the GATS, and it may establish subsidiary bodies for the consideration of specialised subjects.

Article XXV: *Technical cooperation*
Technical assistance is available to developing countries through the Council for Trade in Services.

Article XXVI: *Relationship with other international organisations*
The General Council of the WTO can make arrangements for cooperation with United Nation bodies and other intergovernmental organisations concerned with services.

Part VI : final provisions

Article XXVII: *Denial of benefits*
It is possible to deny the benefits of the agreement to a service supplier under closely defined conditions.

Article XXVIII: *Definitions*

This article defines some of the more important terms used in the agreement.

Article XXIX: *Annexes*

The GATS contains eight annexes specifying how the agreement will operate in some sectors.

Annex on Article II exemptions: Article II of the GATS contains the obligation to extend MFN treatment to the other members of the agreement. Exceptions to this rule are possible under the conditions prescribed in the annex. MFN exemptions must have a specific aim, and they should not last longer than ten years.

Annex on movement of natural persons supplying services under the Agreement: this annex states that the GATS does not apply to measures regarding citizenship, residence or employment on a permanent basis. GATS members may regulate entry to their territories, but they must not use this right to negate their specific commitments.

Annex on air transport services: the GATS does not apply to bilateral air traffic rights or services directly related to them. This exception will be reviewed after five years.

Annex on financial services: this annex describes in greater detail how the GATS rules apply to trade in financial services.

Second annex on financial services: this annex is the basis of the negotiations on trade in financial services which concluded on 28 July 1995.

Annex on negotiations in maritime transport services: MFN treatment and MFN exemptions in maritime services will only enter into force once the negotiations on maritime transport services have concluded. [These negotiations have now been deferred to 2000.]

Annex on telecommunications: members must ensure that foreign service suppliers have access to public telecommunications networks on reasonable and non-discriminatory terms. The annex specifies how this should be done.

Annex on negotiations on basic telecommunications: MFN treatment and MFN exemptions in basic telecommunications will only enter into force once the negotiations have concluded. This is now expected to be on 1 November 1997.

Appendix 4:

Acronyms used in international trade relations

AA	Association Agreement
AACP	Alleged anti-competitive practice
ABAC	APEC Business Advisory Council
ACDS	APEC Communications and Database System
ACP	African, Caribbean and Pacific [states]
ACV	Agreement on Customs Valuation
AD	Anti-dumping
ADP	Anti-dumping practices
ADR	Alternative dispute resolution
AEC	African Economic Community
AECF	Asia-Europe Cooperation Framework 2000
AEM	ASEAN Economic Ministers
AFL-CIO	American Federation of Labor–Congress of Industrial Organizations
AFTA	ASEAN Free Trade Agreement
AGP	Agreement on Government Procurement
AIA	Advance Informed Agreement
AIA	ASEAN Investment Area
AICO	ASEAN Industrial Cooperation [scheme]
AIJV	ASEAN Industrial Joint Venture [scheme]
AISP	ASEAN Integration System of Preferences
AITIC	Agency for international trade information and cooperation
ALADI	Asociación Latinoamericana de Integración (Latin American Integration Association)
ALOP	Acceptable level [of sanitary or phytosanitary] protection
AMS	Aggregate measure of support
AMU	Arab Maghreb Union
ANZCERTA	Australia New Zealand Closer Economic Relations Trade Agreement
AOSIS	Alliance of Small Island States
AP	Administrative protection
APEC	Asia Pacific Economic Cooperation
ARMS	Actions Reporting and Monitoring System (APEC)
ASEAN	Association of South East Asian Nations
ASEM	Asia-Europe Meeting

ASP	American Selling Price
ATC	Agreement on Textiles and Clothing
ATCA	Agreement on Trade in Civil Aircraft
ATL	Accelerated tariff liberalisation
ATPC	Association of Tin Producing Countries
AV	Audiovisual [services]
AVE	*Ad valorem* equivalent
BAA	Buy American Act
BDV	Brussels Definition of Value
BEM	Big Emerging Market
BIA	Built-in agenda (World Trade Organisation)
BIMP-EAGA	Brunei-Indonesia-Malaysia East ASEAN Growth Area
BISD	[GATT] Basic Instruments and Selected Documents
BIT	Bilateral Investment Treaty
BOB	Balance of benefits
BOP	Balance of Payments
BOT	Balance of trade
BTA	Bilateral trade agreement
BTN	Brussels Tariff Nomenclature
BTS	Basic telecommunications services
CAA	Clean Air Act (United States)
CACEU	Central African Customs and Economic Union
CACM	Central American Common Market
CAFTA	China-Asean Free-Trade Agreement
CAP	Collective Action Plan (APEC)
CAP	Common Agricultural Policy
CARIFTA	Caribbean Free Trade Association
CBD	Convention on Biodiversity
CBERA	Caribbean Basin Economic Recovery Act
CBI	Caribbean Basin Initiative
CBTPA	[United States]-Caribbean Basin Trade Partnership Act
CCC	Commodity Credit Corporation (United States)
CCC	Customs Cooperation Council
CCFF	[IMF] Compensatory and Contingency Financing Facility
CCP	Common Commercial Policy
CCT	Common customs tariff
CE	Council of Europe
CEA	Chinese Economic Area
CEAO	West African Economic Community
CEC	Commission of the European Community
CEEC	Central and East European Countries
CEFTA	Central European Free Trade Agreement
CEPAL	Comisión Económica de las Naciones Unidas para América Latina y el Caribe [ECLAC]
CEPT	Common Effective Preferential Tariff (ASEAN)

CER	[Australia New Zealand] Closer Economic Relations
CERDS	Charter of Economic Rights and Duties of States
CET	Common external tariff
CF	Common Fund
CFC	Chlorofluorocarbons
CFF	Compensatory Financing Facility
CG-18	Consultative Group of Eighteen (GATT)
CHOGM	Commonwealth Heads of Government Meeting
CHOGRM	Commonwealth Heads of Government Regional Meeting
CI	Consular invoice
CIEC	Conference on International Economic Cooperation
CIPEC	Conseil intergouvernemental des pays exportateurs du cuivre (Intergovernmental Council of Copper Exporting Countries)
CIS	Commonwealth of Independent States
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CLMV	Cambodia, Laos, Myanmar and Vietnam
CM	Common market
CMEA	Council for Mutual Economic Assistance
COCOM	Co-ordinating Committee for Multilateral Export Controls
COMESA	Common Market for Eastern and Southern Africa
COREPER	Committee of Permanent Representatives (EC)
CP	Contracting Party (GATT)
CPE	Centrally-planned economy
CRTA	Committee on Regional Trade Agreements (WTO)
CSD	Commission on Sustainable Development
CSE	Consumer subsidy equivalent
CTD	Committee on Trade and Development (WTO)
CTE	[WTO] Committee on Trade and Environment
CTH	Change in Tariff Heading
CTI	[APEC] Committee on Trade and Investment
CU	Customs union
CUSTA	Canada-United States Trade Agreement
CXT	Common external tariff
CVD	Countervailing duties
DA	Development assistance
DAE	Dynamic Asian Economy
DDAGTF	Doha Development Agenda Global Trust Fund
DEIP	Dairy Export Incentive Program
DG	Directorate-General (European Commission)
DIAC	Draft International Antitrust Code
DISC	Domestic International Sales Corporation (United States)
DME	Developed market economy
DPG	Domestically prohibited goods
DSB	Dispute Settlement Body

DSM	Dispute settlement mechanism
DSP	Dispute settlement procedures
EAC	East African Cooperation
EAEC	East Asia Economic Caucus
EAFTA	East Asia Free Trade Agreement
EAGA	East ASEAN Growth Area
EAGGF	European Agricultural Guidance and Guarantee Fund
EAI	Enterprise for the Americas Initiative
EC	European Community
ECABS	Economic Cooperation Area of Black Sea Countries
ECAFE	[United Nations] Economic Commission for Asia and the Far East
ECDC	Economic Cooperation between Developing Countries
ECE	[United Nations] Economic Commission for Europe
ECJ	European Court of Justice
ECLAC	[United Nations] Economic Commission for Latin America and the Caribbean
ECO	Economic Cooperation Organisation
ECOSOC	[United Nations] Economic and Social Council
ECOWAS	Economic Community of West African States
ECSC	European Coal and Steel Community
ECT	Energy Charter Treaty
EDI	Electronic Data Interchange
EEA	European Economic Area
EEC	European Economic Community
EEP	Export Enhancement Program
EEZ	Exclusive Economic Zone
EFTA	European Free Trade Association
e-IAP	Electronic Individual Action Plan
EIT	Economies in transition
ELS	Eco-labelling scheme
EME	Emerging Market Economy
EMEA	Euro-Mediterranian Economic Area
EMR	Exclusive marketing right
EMS	Equivalent measure of support
EPC	European Political Cooperation
EPG	Eminent Persons Group
EPR	Export performance requirement
EPZ	Export Processing Zone
ERA	Effective rate of assistance
ERA	Export Restraint Arrangement
ERP	Effective rate of protection
ESCAP	[United Nations] Economic and Social Commission for Asia and the Pacific
ESCWA	[United Nations] Economic and Social Commission for Western

	Asia
ESM	Emergency safeguards mechanism
EVSL	Early Voluntary Sectoral Liberalisation
EU	European Union
EUROSTAT	Statistical Office of the European Communities
EVL	Early voluntary liberalisation (APEC)
FAC	Food Aid Convention
FAO	[United Nations] Food and Agricultural Organisation
FCCC	[United Nations] Framework Convention on Climate Change
FCN	[Treaties of] Friendship, Commerce and Navigation
FCPA	Foreign Corrupt Practices Act (United States)
FDI	Foreign direct investment
FEALAC	Forum for East Asia and Latin American Cooperation
FEEEP	Food, Energy, the Environment, Economic Growth and Population
FEOGA	Fonds européen d'orientation et de garantie agricole
FIAS	Foreign Investment Advisory Service (World Bank)
FIG	Food-importing Group
FIPA	Foreign investment protection agreement
FIRA	Foreign Investment Review Act [or Agency] (Canada)
FMO	Framework of Mutual Obligations
FOGS	Functioning of the GATT System
FPTA	Full preferential trade agreement
FSC	Foreign Sales Corporation (United States)
FTA	Free-trade area, free-trade agreement, free trade-arrangement
FTAA	Free Trade Area of the Americas
FTZ	Free-trade zone
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GBT	Group on Basic Telecommunications
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
GEF	Global Environment Facility
GI	Geographical indication
GII	Global Information Infrastructure
GLP	Good Laboratory Practice
GMM	Genetically modified micro-organism
GMO	Genetically modified organism
GMP	Good Manufacturing Practice
GNG	Group of Negotiations on Goods
GNI	Gross national income
GNS	Group of Negotiations on Services
GPA	Government Procurement Agreement
GRULAC	Group of Latin American and Caribbean Countries
GSP	Generalised System of Preferences

GSTP	Global System of Trade Preferences
GTC	Grains Trade Convention
GTPN	Global Trade Point Network (UNCTAD)
HACCP	Hazard Analysis and Critical Control Points [program]
HCOM	Host country operational measures
HGP	Hormone growth promotant
HIC	High-income country
HLM	High-level meeting
HS	Harmonised [Commodity Description and Coding] System
HST	Hegemonic Stability Theory
HTS	Harmonised Tariff Schedule
IAC	Industrially advanced country
IAJJP	International Agreement on Jute and Jute Products
IAS	International Accounting Standards
IASC	International Accounting Standards Committee
IATTC	Inter-American Tropical Tuna Commission
IBA	International Bauxite Association
IBMA	International Bovine Meat Agreement
IBRD	International Bank for Reconstruction and Development
ICA	International Commodity Agreement
ICAC	International Cotton Advisory Council
ICAO	International Civil Aviation Organisation
ICB	International Commodity Body
ICC	International Chamber of Commerce
ICCA	International Cocoa Agreement
ICCICA	Interim Co-ordinating Committee for International Commodity Arrangements (ECOSOC)
ICCO	International Cocoa Organisation
ICDR	International commercial dispute resolution
ICFA	International Coffee Agreement
ICIDI	Independent Commission on International Development Issues
ICFO	International Coffee Organisation
ICJ	International Court of Justice
ICREA	International commodity-related environment agreement
ICSG	International Copper Study Group
ICSID	International Centre for Settlement of Investment Disputes
ICSG	International Copper Study Group
IDA	International Development Association
IDL	International division of labour
IEA	International Energy Agency
IEC	International Electrotechnical Commission
IFA	Interregional framework agreement
IFAD	International Fund for Agricultural Development
IFC	International Finance Corporation
IFDI	Inward foreign direct investment

IFI	International Financial Institution
IGC	Intergovernmental Conference (European Union)
IGC	International Grains Council
IIA	International investment agreement
IIT	Intra-industry trade
IJO	International Jute Organisation
IJSG	International Jute Study Group
ILO	International Labour Organisation
ILP	[Agreement on] Import Licensing Procedures
ILSA	Iran–Libya Sanctions Act (United States)
ILZSG	International Lead and Zinc Study Group
IMC	International Meat Council
IMF	International Monetary Fund
IMO	International Maritime Organisation
INR	Initial negotiating right
INRA	International Natural Rubber Agreement
INRO	International Natural Rubber Organisation
INSG	International Nickel Study Group
IOOA	International Olive Oil Agreement
IOOC	International Olive Oil Council
IOR	Indian Ocean Rim
IOR-ARC	Indian Ocean Rim Association for Regional Cooperation
IORI	Indian Ocean Regional Initiative
IOSCO	International Organisation of Securities Commissions
IP	Intellectual property
IPC	Integrated Programme for Commodities
IPE	International political economy
IPEC	International Program for the Elimination of Child Labour
IPIC	Treaty on Intellectual Property in Respect of Integrated Circuits
IPPA	Investment Promotion and Protection Arrangement
IRA	Import risk assessment
IRE	Independent Review Entity
IRSG	International Rubber Study Group
IRTM	Investment-related trade measure
ISA	International Sugar Agreement
ISD	Investment Services Directive (European Community)
ISIC	International Standard Industrial Classification
ISO	International Organisation for Standardisation
ISO	International Sugar Organisation
ISONET	International Organisation for Standardisation Information Network
ITA	Information Technology Agreement
ITA	International Tea Agreement
ITA	International Tin Agreement
ITC	International Trade Centre (UNCTAD/WTO)

ITC	International Trade Commission (United States)
ITCB	International Textiles and Clothing Bureau
ITO	International Trade Organisation
ITSG	International Tin Study Group
ITTA	International Tropical Timber Agreement
ITTO	International Tropical Timber Organisation
ITU	International Telecommunications Union
IUCN	International Union for the Conservation of Nature and Natural Resources
IVANS	International value-added network services
IWA	International Wheat Agreement
IWC	International Wheat Council
JTC	Joint Trade Committee
JV	Joint venture
LAC	Latin America(n) and Caribbean
LAC	Less-advantaged countries
LAFTA	Latin American Free Trade Association
LAIA	Latin American Integration Association
LCA	Life cycle assessment
LCR	Local content requirement
LDC	Less-developed country
LLDC	Least-developed country
LMG	Like-minded Group
LMICs	Low and middle-income countries
LMO	Living modified organism
LTA	Long-Term Arrangement Regarding International Trade in Cotton Textiles
LTFV	Less than fair value
MAC	Multilateral agreement on competition
MAI	Multilateral Agreement on Investment
MAPA	Manila Action Plan for APEC
MAV	Minimum access volume
MCA	Monetary Compensation Amount
MCM	Ministerial Council Meeting (OECD)
MDB	Multilateral development bank
MEA	Multilateral environment agreement
METI	Ministry of Economy, Trade and Industry (Japan)
MFA	Multi-fibre arrangement
MFN	Most-favoured-nation [treatment]
MIGA	Multilateral Investment Guarantee Agency
MIP	Minimum import price
MITI	Ministry of International Trade and Industry (Japan)
MMPA	Marine Mammal Protection Act (United States)
MNC	Multinational corporation
MNE	Multinational enterprise

MOP	Margin of preference
MOSS	Market-Oriented Sector-Selective [talks]
MOU	Memorandum of Understanding
MRA	Mutual Recognition Agreement
MRU	Mano River Union
MSA	Multilateral Steel Agreement
MSSA	Multilateral Specialty Steel Arrangement
MTA	Material transfer agreement
MTA	Mini-trading area
MTA	Multilateral trade agreement
MTN	Multilateral Trade Negotiations
MTO	Multilateral Trade Organisation
MTS	Multilateral trading system
NAALC	North American Agreement on Labour Cooperation
NAFTA	New Zealand-Australia Free Trade Agreement
NAFTA	North American Free Trade Agreement
NAM	Non-Aligned Movement
NBIP	Non-binding investment principles (APEC)
NCPI	New Commercial Policy Instrument
NEAFTA	North East Asia Free-Trade Area
NFDIC	Net food-importing developing country
NFIC	Net food-importing country
NGBT	Negotiating Group on Basic Telecommunications
NGMTS	Negotiating Group on Maritime Transport Services
NGO	Non-government organisation
NIC	Newly-industrialising country
NIDL	New international division of labour
NIE	Newly-industrialising economy
NIEO	New International Economic Order
NIP	New Industrial Policy
NIS	Newly Independent States
NLC	Newly liberalising country
NRA	Nominal rate of assistance
NRBP	Natural resource-based product
NRP	Nominal rate of protection
NT	National treatment
NTA	New trade agenda
NTA	New Transatlantic Agenda
NTB	Non-tariff barrier
NTE	National Trade Estimate [report] (United States)
NTI	National Treatment Instrument
NTM	New Transatlantic Marketplace
NTM	Non-tariff measure
NTR	Normal trade relations
NTT	New trade theory

NWO	New World Order
OAA	Osaka Action Agenda (APEC)
OAS	Organisation of American States
OAU	Organisation of African Unity
ODA	Official development assistance
OECD	Organisation for Economic Cooperation and Development
OECS	Organisation of Eastern Caribbean States
OEEC	Organisation for European Economic Cooperation
OFDI	Outward foreign direct investment
OIE	Office International des Epizooties
OIV	Office international de la vigne et du vin
OMA	Orderly Marketing Arrangement
OPEC	Organisation of Petroleum Exporting Countries
OPTAD	Organisation of Pacific Trade and Development
OTC	Organisation for Trade Cooperation
OTCA	Omnibus Trade and Competitiveness Act
PACER	Pacific Agreement on Closer Economic Relations
PAFTA	Pacific Free Trade Area
PBEC	Pacific Basin Economic Conference
PBR	Plant breeders' right
PECC	Pacific Economic Cooperation Council
PFC	Priority Foreign Country
PFP	Partners for Progress (APEC)
PGE	Permanent Group of Experts
PIC	Prior informed consent
PICTA	Pacific Island Countries Trade Agreement
PIF	Pacific Islands Forum
PITs	Partners in Transition (OECD)
PL 480	Public Law 480 (United States)
PMD	Processing, marketing and distribution [of commodities]
PMV	Passenger motor vehicle
PNTR	Permanent normal trade relations
PPA	Protocol of Provisional Application
PPM	Processes and production methods
PPTA	Partial preferential trade agreement
PRA	Pest risk assessment
PRGF	Poverty Reduction and Growth Facility
PSE	Production subsidy equivalent
PSI	Pre-shipment inspection
PTA	Preferential trade agreement (or area)
PTA	Preferential Trade Area for Eastern and Southern African States
QR	Quantitative restriction
RA	Risk assessment
RBPs	Restrictive business practices
REI	Regional economic integration

REIO	Regional economic integration organisation
REPA	Regional Economic Partnership Agreement
RHQ	Regional Headquarters
RIA	Regional integration arrangement
ROOs	Rules of origin
RTA	Regional trade agreement
RTAA	Reciprocal Trade Agreements Act (United States)
SAARC	South Asian Association for Regional Cooperation
SACA	Special Agreement on Commodity Arrangements
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAFTA	South American Free Trade Area
SAP	Structural Adjustment Program (IBRD)
SAPTA	South Asian Preferential Trade Area
SBA	Strategic business alliance
SBCD	Second Banking Coordination Directive (European Community)
SCM	Subsidies and countervailing measures
SCU	Sectoral customs union
S+D	Special and differential [treatment]
SEA	Single European Act
SEE	State economic enterprise
SELA	Sistema Económico Latinoamericano (Latin American Economic System)
SEM	Single European Market
SFTA	Sectoral free-trade area
SIECA	[Permanent] Secretariat of the General Treaty on Central American Economic Integration
SICA	Sistema de la Integración Centroamericana
SIDS	Small island developing states
SII	Structural Impediments Initiative
SITC	Standard International Trade Classification
SMC	Singapore Ministerial Conference
SNPA	Substantial New Programme of Action [for the 1980s for the Least Developed Countries]
SOM	Senior Officials' Meeting
SPARTECA	South Pacific Regional Trade and Economic Cooperation Agreement
SPF	South Pacific Forum
SPM	Sanitary and Phytosanitary Measures
SPS	Sanitary and Phytosanitary [measures]
SREZ	Sub-regional economic zone
SSG	Special safeguard
SSP	Special safeguard provisions
STA	Semiconductor Trade Arrangement
STA	Short-Term Arrangement Regarding International Trade in

	Cotton Textiles
STABEX	[System for the] Stabilisation of Export Earnings (European Community)
STE	State-trading enterprise
STO	State trading organisation
STR	Special Trade Representative
SYSMIN	System for the Promotion of Mineral Productin and Exports (European Community)
TABD	Trans-Atlantic Business Dialogue
TAFTA	Trans-Atlantic Free Trade Area
TBT	Technical Barriers to Trade
TCDC	Technical Cooperation between Developing Countries
TCF	Textiles, clothing and footwear
TDB	Trade and Development Board
TDR	Trade and Development Report
TE	Traditional expression
TEA	Trade and economic agreement
TEA	Trade Expansion Act (United States)
TECA	Trade and Economic Cooperation Agreement
TEL	Temporary Exclusion List (AFTA)
TEU	[Maastricht] Treaty of European Union
TIDDB	Trade and Investment Data Database (APEC)
TIFA	Trade and Investment Facilitation Agreement
TIFA	Trade and Investment Framework Agreement
TILF	Trade and investment liberalisation and facilitation (APEC)
TIS	Trade in services
TLT	Trademark Law Treaty (WIPO)
TMB	Textiles Monitoring Body
TNC	Trade Negotiations Committee
TNC	Trans-national corporation
TOT	Transfer of technology
TPA	Trade Promotion Authority
TPM	Trigger Price Mechanism
TPRB	Trade Policy Review Body
TPRM	Trade Policy Review Mechanism
TQ	Tariff quota
TRACLAP	Trade-related aspects of competition law and policy
TRAPs	Trade-related antitrust principles
TREM	Trade-restrictive environmental measure
TREPS	Trade-related aspects of environmental policies
TRIMS	Trade-related investment measures
TRIPS	Trade-related aspects of intellectual property rights
TRQ	Tariff rate quota
TRTA	Trade-related technical assistance
TSB	Textile Surveillance Body

TSUS	Tariff Schedule of the United States
TTMRA	Trans-Tasman Mutual Recognition Arrangement
UAP	Unprocessed agricutlural products
UDEAC	Union douanière et économique de l'Afrique centrale (*see* CACEU)
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNCITRAL	United Nations Commission on International Trade Law
UNCLOS	United Nations Convention on the Law of the Sea
UNCPC	United Nations Central [Provisional] Product Classification
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Program
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNFCCC	United nations Framework Convention on Climate Change
UNGA	United Nations General Assembly
UNGASS	United Nations General Assembly Special Session
UNIDO	United Nations Industrial Development Organisation
UNISTE	United Nations International Symposium on Trade Efficiency
UPOV	International Union for the Protection of New Varieties of Plants (*Fr.* Union internationale pour la protection des obtentions végétales)
UR	Uruguay Round
URAA	Uruguay Round Agreements Act (United States)
USITC	United States International Trade Commission
USTR	United States Trade Representative
UTL	Unilateral trade liberalisation
VER	Voluntary Export Restraint
VIE	Voluntary Import Expansion [program]
VRA	Voluntary Restraint Agreement
WAEMU	West African Economic and Monetary Union
WAIPA	World Association of Investment Promotion Agencies
WCED	World Commission on Environment and Development
WCO	World Customs Organisation
WDR	World Development Report
WEF	World Economic Forum
WEU	Western European Union
WFP	World Food Programme
WHFTA	Western Hemisphere Free Trade Agreement
WIPO	World Intellectual Property Organisation
WIR	World Investment Report
WPPS	Working Party on Professional Services
WSSD	World Summit on Sustainable Development
WTO	World Trade Organisation
ZFZ	Zero-for-zero [tariff reductions]

Bibliography

American Law Institute (1986), *Restatement (Third) of the Foreign Relations Law of the United States*, American Law Institute Publishers, St Paul, Minn.
Asian Development Bank (2002), *Asian Development Outlook 2002,* Manila
Baldwin, Richard (1993), *A Domino Theory of Regionalism,* NBER Working Paper no. 4465, Cambridge, MA
Bayard, Thomas O, and Elliott, Kimberley Ann (1994), *Reciprocity and Retalisation in U.S. Trade Policy*, Institute for International Economics, Washington DC
Bhagwati, Jagdish N. (1988), *Protectionism*, MIT Press, Cambridge, Mass.
Bhagwati, Jagdish N., and Hudec, Robert E. (1995), *Fair Trade and Harmonization: Prerequisites for Free Trade*, 2 vols., MIT Press, Cambridge, Mass.
Brandt Commission (1980), *North-South: A Programme for Survival*, Pan Books, London
Brandt Commission (1983), *Common Crisis: North-South: Cooperation for World Recovery*, Pan Books, London
Cheng, Chia-Jui, ed. (1999), *Basic Documents on International Trade Law*, 3rd ed., Kluwer Law International, The Hague
Corden, W. Max (1974), *Trade Policy and Economic Welfare*, Clarendon Press, Oxford
Corden, W. Max (1985), *Protection, Growth and Trade*, Basil Blackwell, London
Croome, John (1995), *Reshaping the World Trading System*, World Trade Organization, Geneva
Curzon, Gerard (1965), *Multilateral Commercial Diplomacy*, Michael Joseph, London
Dam, Kenneth W. (1970), *The GATT: Law and International economic Organisation*, University of Chicago Press
Das, Bhagirath Lal (1999), *The World Trade Organisation: A Guide to the Framework of International Trade*, Zed Books Ltd., London and New York
Dryden, S. (1995), *Trade Warriors: USTR and the American Crusade for Free Trade*, Oxford University Press, Oxford and New York
Evans, John W. (1972), *The Kennedy Round in American Trade Policy*, Harvard University Press
Galbraith, John Kenneth (1981), *A Life in Our Times*, Houghton Mifflin Company, Boston
Garner, Richard N. (1969), *Sterling-Dollar Diplomacy*,Oxford University Press, new, expanded edition
GATT Secretariat (1952-1994), *General Agreement on Tariffs and Trade: Basic Instruments and Selected Documents*, GATT, Geneva
Gilpin, Robert (1987), *The Political Economy of International Relations*,

Princeton University Press
Hill, T. P. (1977), "On Goods and Services", *Review of Income and Wealth*, 23, pp. 315-338
Hoekman, Bernard (1995), *Trade Laws and Institutions: Good Practices and the World Trade Organization*, World Bank Discussion Papers No. 282, World Bank, Washington DC
Hoekman, Bernard, and Kostecki, Michael. (1995), *The Political Economy of the World Trading System: from GATT to WTO*, Oxford University Press, Oxford
Hudec, Robert E. (1999), *Essays on the Nature of International Trade Law*, Cameron May, London
Jackson, John H. (1969), *World Trade and the Law of the GATT*, TheMichie Company, Charlottesville VA
Jackson, John H., and Sykes, Alan O., eds. (1997), *Implementing the Urugay Round*, Clarendon Press, Oxford
Kindleberger, Charles P. (1973), *The World in Depression 1929-1939*, Allen Lane, The Penguin Press, Harmondsworth
Kirton, John J., and Maclaren, Virginia W. (2002), *Linking Trade, Environment and Social Cohesion: NAFTA exxperiences, global challenges*, Ashgate Publishing Company, Aldershot
Marceau, Gabrielle (1994), *Anti-Dumping and Anti-Trust Issues in Free Trade Areas*, Clarendon Press, Oxford
Martin, Will, and Winters, Alan L., eds. (1995), *The Uruguay Round and the Developing Countries*, World Bank Discussion Papers No 307, World Bank, Washington DC
McDonald, Brian (1998), *The World Trading System: The Uruguay Round and Beyond,* Macmillan Press Ltd, London
OECD (2001), *DAC Guidelines on Strengthening Trade Capacity for Development,* Paris
Palmeter, David, and Mavroidis, Petros C. (1999), *Dispute Settlement in the World Trade Organization: Policy and Practice*, Kluwer Law International, The Hague
Parry, Clive, and Grant, John P. (1988) *The Encyclopaedic Dictionary of International Law*, Oceania Publications, New York
Porter, Michael E. (1990), *The Competitive Advantage of Nations*, Free Press, New York
Preeg, Ernest H. (1970), *Traders and Diplomats: An Analysis of the Kennedy Round of Negotiations under the General Agreement on Tariffs and Trade*, The Brookings Institution, Washington DC
Preeg, Ernest H. (1995), *Traders in a Brave New World: The Uruguay Round and the Future of the International Trading System*, University of Chicago Press
Reich, Robert R. (1991), *The Work of Nations*, Simon & Schuster, London
Ricardo, David (1960) *[1817], The Principles of Political Economy and Taxation*, Everyman's Library, London

Ruttley, Philip, MacVay, Iain, and Masa'deh, Ahmad (1999), *Liberalisation and Protectionsim in the World Trading System*, Cameron May, London

Smith, Adam (1991) *[1776], An Enquiry into the Nature and Causes of the Wealth of Nations*, Everyman's Press, London

The American Society of International Law, *International Legal Materials*, (bi-monthly), Washington DC

Trade Policies for a Better Future" The 'Leutwiler Report', the GATT and the Uruguay Round (1987), Martinus Nijhoff Publishers, Dordrecht

Trebilcock, Michael J., and Howse, Robert (1999), *The Regulation of International Trade*, 2nd ed., Routledge, London and New York

Trends in International Trade: Report by a Panel of Experts (1959), GATT Secretariat, Geneva

UNCTAD (1996-), *International Investment Instruments: A Compendium*, United Nations, Geneva

UNCTAD (2001), *Host Country Operational Measures*, UNCTAD series on issues in international investment agreements, Geneva

UNCTAD, *The Least Deeveloped Countries Report*, annual, United Nations, Geneva

UNCTAD, *Trade and Development Report*, annual, United Nations, Geneva

UNCTAD, *World InvestmentReport*, annual, United Nations Geneva

United Mexican States v. Metalclad, (2001), British Columbia Supreme Court (Tysoe J.), 2001 B.C.D. Civ. J. 1708

Viner, Jacob (1950), *The Customs Union Issue*, Stevens & Sons, London

Weiler, J.H.H., ed. (2000), *The EU, the WTO and the NAFTA*, Oxford University Press, Oxford

Winham, Gilbert R. (1986), *International Trade and the Tokyo Round Negotiations*, Princeton University Press

World Trade Organization (1995), *Analytical Index: A Guide to GATT Law and Practice*, updated 6th edition, Geneva

World Trade Organization (1999), *Guide to the Uruguay Agreements*, Kluwer Law international, The Hague

World Trade Organization (1999), *The Legal Texts: Results of the Uruguay Round of Multilateral Trade Negotiations*, Cambridge University Press, Cambridge

World Trade Organization (2001), *The WTO Dispute Settlement Procedures: a collection of the relevant legal texts*, 2nd ed., Cambridge University Press, Cambridge

The International Trade Law Reports, Cameron May, London