

GLOSSARY OF TERMS¹

Accession

The process by which countries or “separate customs territories” become WTO members. Article XII of the *Marrakesh Agreement* provides that accession takes place on terms agreed between the applicant and the WTO. General terms are negotiated within an accession working party, established by the General Council, and when they are finally agreed, they become the Protocol of Accession. Commitments on market access for trade in goods, services and agricultural products emerge from bilateral negotiations with interested trading partners. The accession package includes the Report of the Working Party, the Protocol of Accession and the schedules of concessions and commitments of the new member.

Actionable Subsidies

Subsidies not explicitly prohibited by the WTO but against which member countries are permitted to levy countervailing duties and that may be subject to challenge under the DSU. Such subsidies (sometimes referred to as “amber” subsidies) are not explicitly outlawed by the *Agreement on Subsidies and Countervailing Measures*. However, Part III of the Agreement sets out the conditions under which they may be challenged under the DSU. In particular, they should not injure the domestic industry, nullify or impair GATT 1994 benefits or cause serious prejudice to the interests of another WTO member.

Ad Valorem Duty

A tariff applied according to the value of the good; it is defined as the percentage value of an imported good, as opposed to the weight or other basis for calculation.

Ad Valorem Equivalent (AVE)

A specific duty (e.g. \$/ton) expressed as an *ad valorem* rate (percentage of price). The transformation of specific duties into their *ad valorem* equivalents is necessary for the application of the tariff reduction formulae in the Doha Work Programme in both agriculture and NAMA negotiations.

Aggregate Measurement of Support (AMS)

For individual WTO members, a measure of the annual total level of domestic support - which is subject to reduction commitments - benefiting particular agricultural products or the farm sector in general. The AMS was adopted in the Uruguay Round as a means of determining, measuring and overseeing reform commitments entered into by participants at the conclusion of the negotiations. See definition in Article 1 of the Agreement on Agriculture.

Amber Box Support

Domestic support in agriculture that distorts trade. At the conclusion of the Uruguay Round, under the Agreement on Agriculture, the annual spending on such support was to be expressed as the Aggregate Measurement of Support (AMS) and made subject to annual reduction commitments. Other domestic support, which fell within the “blue box” or the “green box”, was excluded from the AMS calculation and exempted from reduction commitments.

¹ Note – This information is taken from the AITIC *Glossary of Commonly Used International Trade Terminology with Particular Reference to the WTO* which is available on CD from AITIC

Anti-Dumping / Anti-Dumping Duties

Additional duties that offset the competitive advantage of dumped imports. Dumping is the sale of a product in an export market "at less than its normal value" i.e. when it is sold for less than the normal value or at less than the price of that product in the domestic market of the exporting country. It is condemned under Article VI of the GATT when it causes or threatens material injury to a domestic industry or materially retards the establishment of a domestic industry. Where dumping, material injury and a causal link between them can be determined, anti-dumping duties may be imposed.

Applied Tariffs

Duty rate actually applied by customs authorities on an imported product. May be below the bound tariff rate.

Autonomous Liberalisation

Trade liberalisation conducted unilaterally outside WTO trade rounds and other multilateral processes. Credit may be offered for such liberalisation during trade rounds, notably in the area of industrial goods. The 1 August 2004 General Council Decision (July Package) on the Doha Work Programme allows for credit to be provided to developing countries in the NAMA negotiations for autonomous liberalisation that has been bound (on a most-favoured-nation basis) in the WTO since the conclusion of the Uruguay Round.

Best Endeavour Clause

Usually an undertaking which entails no legally-binding commitment in the WTO. Thus failure to implement a best endeavour clause or undertaking would be difficult to counter through recourse to the DSU. Developing countries have repeatedly remarked that special and differential treatment provisions are best endeavour clauses.

Binding Overhang

The gap between bound and applied MFN tariffs.

Blue Box Support

Direct income support payments to farmers under production-limiting programmes. Under defined circumstances (Article 6.5), the WTO Agreement on Agriculture excludes such payments from reduction commitments.

Built-in Agenda

Issues on which WTO Agreements call explicitly for future negotiations, reviews or other work, illustrating the fact that although the Uruguay Round was concluded, an extensive work programme was left for the future. Written into individual WTO Agreements, the built-in agenda included new negotiations on agriculture and trade in services, due to start in 2001, as well as further work on geographical indications (TRIPS) and a review of the DSU. Some of these issues have become elements of the Doha Work Programme. Basic telecommunications, financial services and movement of natural persons under the GATS, were largely dealt with in the later 1990s.

Claw Back

List of products developed by the EU on which it wishes to reassert protection of geographical indications (GIs). Although raised in the context of the Doha Work Programme agricultural negotiations it has become linked to the TRIPS negotiations related to the possible extension of additional GI protection to products other than wines and spirits and to the establishment of an international register of GIs.

Common Agricultural Policy (CAP)

The complex system of internal and export supports and market protection that underpins agriculture in the European Union. At its centre is a system of price supports and, sometimes, production quotas / restraints that shelter many European farmers' incomes from global market conditions. The CAP has undergone a series of reforms in the past decade, in part driven by negotiations in the GATT and the WTO. Many WTO members consider the CAP as one of the most damaging influences on their prospects in international farm trade.

Compulsory Licence

A measure under which a government may allow a third party to produce a patented good or use a patented process, without the consent of the patent holder. Article 31 of the TRIPS Agreement sets out conditions under which compulsory licences may be issued. Recourse to Article 31 was the subject of a special declaration at the 2001 Doha Ministerial Conference and of continuing work with respect to the access of developing countries to medicines.

Counter-Cyclical Payments

Payments made to farmers in the US whenever the market price of a covered commodity falls below a set target price. System introduced in the 2002 Farm Bill.

Countervailing Duties (CVD)

Duties imposed by an importing country to offset subsidies granted on the product concerned in the exporting country. Conditions for the imposition of countervailing duties are contained in GATT Article VI (Anti-dumping and Countervailing Duties) and the WTO Agreement on Subsidies and Countervailing Measures. An investigation must demonstrate the existence of a subsidy, an actual or threatened damage to a domestic industry and a causal relationship between the two.

Decoupling / Delinkage

Policy changes in agricultural domestic support programmes that allow for direct income-support payments for farmers disassociated from their production. Hence "decoupled support" is regarded as less trade-distorting than payments dependent on and related to production. Such decoupled support is usually regarded as falling within the "green box" of permissible domestic support measures that are not subject to reduction commitments.

De Minimis

A Latin term for an amount that is small enough to be ignored. Used to ensure that legal provisions, including laws regarding international trade, are applied only to amounts of activity or trade that are not trivially small. Employed routinely throughout the various WTO agreements, including: 5% for the Aggregate Measurement of Support (AMS), 2% for Anti-dumping.

An exemption from the calculation of Aggregate Measurement of Support (AMS) in the Uruguay Round Agreement on Agriculture. For example, product-specific and non product-specific *de minimis* (i.e. <5%) payments are not subject to amber box reduction commitments. Currently one of the issues under negotiation in the Doha agriculture discussions.

In the WTO Anti-dumping Agreement: when the margin of dumping, calculated on the basis of the export price, is less than 2%, it should be considered *de minimis*, in which case investigations must be terminated (Article 5.8).

In the WTO Agreement on Subsidies and Countervailing Measures: when the amount of subsidies, calculated on the basis of the *ad valorem* value, is less than 1%, it should be considered *de minimis*. Article 27.12 of that Agreement provides for special and differential treatment for developing countries in application of the *de minimis* criteria.

Enabling Clause

The legal basis for the extension of non-reciprocal trade preferences to and among developing countries. The *Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries*—normally referred to as the Enabling Clause—was adopted under the Tokyo Round of the GATT in 1979. Preferences, like those under the Generalised System of Preferences (GSP), would otherwise have been inconsistent with MFN treatment and had been covered, until then, by individual waivers.

Export Credits / Export Credit Guarantees/ Export Credit Insurance

Loans to importers by the exporter or by the government of the exporter when the goods are shipped prior to payment. When exporters receive this kind of official finance or guarantee by their governments with low interest rates, or favourable repayment terms, these credits may be considered export subsidies. Export credit terms are governed by the OECD *Arrangement on Guidelines for Officially Supported Export Credits*. The WTO *Subsidies Agreement* declares export credits prohibited if they are made at less than commercial rates, unless in accordance with the OECD Arrangement.

Export Subsidies

Direct government payments or other financial contributions by governments provided to domestic producers or exporters contingent on the export of goods or services. They are prohibited under the WTO *Agreement on Subsidies and Countervailing Measures* (Article 3) and, in the agricultural sector, have been subject to reduction commitments under the *Agreement on Agriculture* (Part V).

Farm Bill (2002)

The *Farm Security and Rural Investment Act* of 2002, better known as the 2002 Farm Bill, is the legislative instrument that governs the US federal farm programs for six years until 2007. It was signed into law in May 2002 and is the continuation of the 1996 Farm Bill. The Farm Bill provides income support for wheat, feed grains, upland cotton, rice, and oilseeds through three programs: direct payments, counter-cyclical payments, and marketing loans. The cost of the 2002 Farm Bill was estimated to be above USD 70 billion over its implementation period.

“Fast Track”

The US fast track authority introduced in 1974 (since 2000 renamed “Trade Promotion Authority”) is a procedure adopted by the US Congress to negotiate trade agreements that will be accepted in their entirety without amendments. It is believed by many to be a pre-condition for the US to seriously engage in trade negotiations.

First Approximation

A term first used in early 2005 to denote an intended skeletal draft of an agreement on full modalities in the Doha negotiations to be adopted in December at the Hong Kong Ministerial Conference. The “first approximations” largely applied to the agricultural and NAMA negotiations. Term abandoned after failure to make progress in Summer 2005.

Generalised System of Preferences (GSP)

International rules under which industrialised countries provide a margin of preference in the tariffs of developing country exports to developed countries as a means to increase developing country competitiveness. These preferences are non-reciprocal. Within these rules, agreed in UNCTAD in 1968 and entered into force in 1971, countries can design their own preference systems. Twenty-seven industrialised countries maintain GSP programs. Tariff reductions resulting from multilateral trade negotiations reduce the importance of GSP.

Genetically-Modified Organisms (GMOs)

The products of genetic engineering in which genes are artificially moved within or between species. Organisms modified in this way are referred to as being transgenic or genetically modified or simply as GMOs. GMO technology thus gives the ability to add, subtract, alter or exchange an individual gene or a group of genes, which are known to influence an individual characteristic. The term “living modified organisms” is also sometimes employed.

Geographical Indications (GIs)

Indications which identify goods as originating in a particular region or locality with which characteristics of the product—including quality and reputation—are closely associated. Examples include: “Champagne”, “Tequila” and “Roquefort”. Article 22 of the *TRIPS Agreement* defines the term and requires members to provide the legal means to protect geographical indications from misleading usage. Article 23 provides for negotiations on additional protection for wines and spirits.

Green Box Support

Generally non-trade distorting domestic support in the agricultural sector which is not subject to reduction commitments in the *Agreement on Agriculture*. Annex 2 of the Agreement lists many forms of such support including decoupled income support to farmers, domestic food aid, general services to farmers and the rural community, natural disaster relief, producer retirement programmes, environmental programmes, etc.

Horizontal Commitments

Within national schedules of specific commitments on services, members may list commitments and limitations that apply to all covered services sectors. Mode 4 commitments relating to the movement of workers and professional personnel are commonly covered on a horizontal basis.

Intellectual Property Rights (IPRs)

Measures which protect the exploitation of innovative and creative ideas. The owners of intellectual property - people, firms or organisations - enjoy rights to an intangible asset which can be bought, sold, licensed, exchanged or given away. The rights included in the *TRIPS Agreement* are: copyright, trademarks, geographical indications, industrial designs, patents, integrated circuit layouts and trade secrets.

Linear Tariff Cuts

Normally an agreed set of tariff cuts based on reduction by a single percentage figure. This contrasts with other more complex formula-based approaches which may seek to harmonise duties or to deal with tariff peaks more severely than with low tariffs.

Modes of Delivery / Modes of Supply

Four means of delivering services recognised for the purpose of providing GATS commitments. “Mode 1” entails cross-border delivery (e.g. insurance cover bought in a second country); “Mode 2”, on consumption abroad, involves the movement of consumers (e.g. tourism, healthcare); “Mode 3” requires commercial presence (e.g. establishment of a bank subsidiary); “Mode 4” is the “movement of natural persons” (e.g. accountants, informatics experts or construction workers arriving from overseas on a temporary basis). Scheduled trade in services commitments refer to each mode.

Most-Favoured-Nation (MFN) Treatment

The cornerstone of non-discrimination among WTO members. Article I of the GATT requires that any favourable treatment provided by a contracting party (WTO member) to any other country must immediately and unconditionally be provided to all other contracting parties (WTO members). The concept is reflected in Article II of the GATS and Article 4 of the *TRIPS Agreement*. In particular, MFN permits small and weak economies to benefit automatically from the advantages agreed among the most powerful.

Movement of Natural Persons

A means of delivering services recognised for the purpose of providing GATS commitments. Known as “Mode 4” delivery, it covers the temporary stay of personnel but not residence, permanent employment, or citizenship. An annex to the original GATS provided for further negotiations in this area. These took place in 1995 and results were formalised in the *Third GATS Protocol*.

Multifunctionality

A concept stressing the multitude of functions served by a sector or industry aside from production, mostly applied to agriculture and the rural community. Also referred to in the *Agreement on Agriculture* as “non-trade concerns”. Developed in the context of WTO negotiations in the agricultural sector, the principle has been sponsored by countries with high cost agriculture or with special rural development objectives. They point to environmental protection, landscape preservation, animal rights, rural development and employment, food security, traditional habits, etc., as reasons for taking a conservative view of trade liberalisation commitments.

National Schedules

Lists of products, services and the access conditions attached to them for each WTO member. All members have three sets of schedules: goods, services and agricultural products. Goods schedules largely concern tariff rates; those for services include commitments on market access and national treatment as well as MFN exemptions; those for agriculture cover domestic support and sometimes export subsidies.

National Treatment (rule)

Provision of conditions for imported goods or foreign service suppliers at least as good as that provided to the same domestic goods or local services providers. Along with MFN treatment, national treatment is a fundamental concept of non-discrimination. For trade in goods, under Article III of the GATT, it is an automatic contractual right. Under the GATS (Article XVII) it is a negotiated commitment to be included in services schedules where the member so chooses.

Non-actionable Subsidies (Green Box Subsidies)

Subsidies on non-agricultural goods not subject to challenge under the DSU. The *Agreement on Subsidies and Countervailing Measures* (SCM) provides, in Article 8, that non-specific subsidies (i.e. those that are in general available within a member) are non-actionable. Specific subsidies can also be non-actionable if they meet criteria set out in the same article—broadly; these are: research activities, assistance to disadvantaged regions and assistance to meet environmental requirements.

Plurilateral Trade Agreements

WTO Agreements to which not all WTO members subscribe. The four plurilateral agreements mentioned in the *Marrakesh Agreement Establishing the WTO* are those covering trade in civil aircraft, dairy products and bovine meat products, as well as that on government procurement. Those on dairy and meat products were scrapped in 1997. Other long-standing GATT plurilateral agreements (e.g. those on technical barriers to trade and anti-dumping) were multilateralised in the Uruguay Round.

Policy Space

Capacity for national authorities to take policy decisions unencumbered by international obligations. Used increasingly as a reason for avoiding new WTO commitments, notably in the agriculture and services sectors.

Precautionary Principle

Pre-emptive action taken on environmental or public health grounds against a perceived risk which is unconfirmed by scientific study. Government measures, using the precautionary principle as justification, which have led to import prohibitions on food products, have caused controversy in the WTO. Views differ on whether or not the principle is fully recognised in the *Agreement on the Application of Sanitary and Phytosanitary Measures*.

Quantitative Restrictions (QRs) / Quotas

Restrictions which limit the quantity of imports (or exports) of a specific product. Direct quotas and import licensing systems are the main tools for imposing such limits. Generally, they are prohibited under Article XI of the GATT. However, quotas remain in the textile sector (with China) and the agricultural sector (as tariff quotas). They can be imposed under the WTO *Safeguards Agreement* and often figure in preferential access conditions.

Request / Offer

A common approach to negotiating market access on goods and services. Requests for reduced tariffs on specified products or improved access or conditions of establishment for services providers are exchanged by trading partners. These are generally followed by initial offers, after which bilateral negotiations seek to find mutually advantageous results. A formula approach to tariff negotiations may reduce or eliminate the need for a request / offer process.

Rules of Origin

Rules by which customs and other authorities determine the source of an imported product. The rules are necessary, for instance, to ensure the appropriate duty is imposed at the border or whether a good falls within a particular quota. Rules of origin can be complex and differ between product groups as well as between preferential or non-preferential trade (e.g. those for textiles quotas can be different from those related to administering anti-dumping duties). The WTO *Agreement of Rules of Origin* provides

disciplines to prevent abuse and provides for harmonisation of non-preferential rules of origin; however, numerous deadlines for completing the harmonisation programme have been missed, the latest one July 2003.

Safeguards / Safeguard Measures

Temporary tariffs or quotas imposed where a build up of imports is damaging a domestic industry, or threatens to do so. The conditions under which such measures may be applied are set out in GATT Article XIX and the WTO *Safeguards Agreement*. The imports in question may be traded “fairly”—i.e. neither subsidised nor dumped.

Sanitary and Phytosanitary Measures (SPS)

Measures to protect human, animal or plant life and health. They include regulations to ensure food safety and to prevent the spread of animal and plant diseases. “Sanitary” refers to animal and human health measures; “phytosanitary” to the health of plants. The WTO *SPS Agreement* seeks to ensure that such measures are not arbitrary or discriminatory restrictions on trade while leaving governments free to determine the standards of protection they wish to apply.

Sectoral Approach / Sectoral Initiative

Approach used in tariff negotiations during the Uruguay Round. Tariff elimination or low-duty harmonisation in a particular industrial sector. May include elimination of non-tariff barriers also. Usually undertaken outside, and in addition to, the mainstream tariff reduction effort of a trade round. The potential for sectoral initiatives in the Doha negotiations was recognised in the “July Package”. Normally, requires a “critical mass” of members to support action in a sector before it will move ahead. Final agreement is on a plurilateral basis and applies to all WTO members on an MFN basis.

Sensitive Products

Currently, agricultural products whose domestic production is regarded by individual WTO members as strategically important but vulnerable to import competition. The “July Package” sets out terms under which members could nominate sensitive products for tariff cuts below those implied by the general formula. Unlike “special products”, this provision would apply to all members.

Singapore Issues

The Ministerial Declaration of the First Ministerial Conference held in Singapore in 1996 established three working groups: one to examine the relationship between trade and investment, another on trade and competition; and a third working group to study transparency in government procurement practices. In addition, the Council for Trade in Goods was instructed to undertake exploratory and analytical work on the simplification of commercial procedures in order to evaluate the possibility of establishing rules in the WTO on trade facilitation. Subsequently these four issues were included as areas for negotiation in the Doha Ministerial Declaration, provided that WTO members agreed by “explicit consensus” on modalities for negotiations at the Fifth Ministerial Conference in Cancun. At Cancun, members could not agree on modalities. As the Doha negotiations resumed in 2005, an eventual compromise was reached: members agreed to drop three of the Singapore issues, but to include modalities on negotiations on trade facilitation as Annex D of the 1 August 2004 General Council Decision (July Package). The Negotiating Group on Trade Facilitation was established on 12 October 2004.

Single Undertaking

The normal condition for a trade round in which all issues under negotiation must be agreed and implemented in a single package. Often defined as “nothing is agreed until

everything is agreed”, the approach should ensure that a balanced result is achieved that reflects the interests of all participants. However, early provisional implementation is allowed if participants agree (early harvest). The Doha Work Programme is a single undertaking, except for the improvements and clarifications of the DSU, to be agreed not later than May 2003 with results entering into force as soon as possible thereafter. This deadline was missed.

Special Agricultural Safeguard (SSG)

For tariffed products, WTO members have the right to invoke special safeguard provisions of the Agreement on Agriculture (Article 5) allowing an additional tariff if a reservation (“SSG”) appears beside the products concerned in the relevant member’s schedule. 38 WTO members have this right for a limited number of products.

Special Safeguard Mechanism (SSM)

Various special safeguard provisions have existed in the WTO, including in the Uruguay Round Agreement on Agriculture and the accession agreement for China. However, the current usage of an SSM relates to the Doha agriculture negotiations where such a mechanism is proposed for developing countries. It would allow them to raise bound tariffs under defined market conditions.

Swiss Formula

Mathematical formula used in GATT / WTO tariff negotiations. The original Swiss formula was adopted in the Tokyo Round to provide a consistent basis on which participants would calculate their tariff reductions. The formula had the effect of bringing existing high tariffs down more significantly than low tariffs, thus tending to harmonise overall.

Tariff Bindings

Tariff rates of WTO members listed in national schedules. Once included in a schedule the duty rate is effectively frozen—or “bound”. Article II of the GATT provides for the schedules of concessions. In rare instances, WTO members negotiate increases in bound tariffs under the conditions set out in GATT Article XXVIII. Applied rates of duty may, in reality, be lower than bound rates.

Tariff Cap

Current usage in the Doha agriculture market access negotiations refers to the proposal that a maximum bound tariff be applicable after the tariff reduction process has concluded. It is assumed that different tariff caps would apply to different groups of members.

Tariff Escalation

Where tariffs on a manufactured product are high compared with those on the semi-processed goods and / or raw materials on which the product is based. Such escalation protects the domestic industry in the import market and discourages industrial diversification in the exporting country. The practice is considered to damage development prospects in poorer countries that are rich in basic commodities but lack processing or manufacturing capacity.

Tariffication

The process by which non-tariff trade restrictions in agriculture were transformed into tariffs in the Uruguay Round. The *Agreement on Agriculture* sets out rules by which quantitative restrictions, variable import levies and other measures were to be replaced

by tariffs—having roughly the same protective impact—based on the difference between domestic and external prices for the product concerned.

Tariff Peaks

Especially high import duties. While most tariffs on industrial products in advanced economies are now very low—averaging below 5%—some individual products retain exceptionally high market protection—perhaps 15-30%. Examples are to be found in the textiles, clothing and leather products sectors—markets which are important to least-developed economies. Developing countries with higher average duties also often maintain particularly high tariffs on sensitive products—sometimes ranging above 100%.

Tariff Quota / Tariff Rate Quota (TRQ)

A quota within which imports enter a market with a tariff advantage. A tariff rate quota is a volume of imports whose tariff is lower than the tariff charged for imports above the quota. Market access within the TRQ is also known as “within access” or “in-quota”. Imports in excess of the specified tariff quota volume also known as “over access” or “out-of-quota” face higher tariffs. Tariff quotas have been used extensively under the *Agreement on Agriculture*, especially with products subject to tariffication.

Tariff Schedule

Detailed lists of products and the import duties they face in the market of each WTO member. All members have a schedule which forms an integral part of the contractual obligations of WTO membership.

Zero-for-Zero Approach

A request/offer approach to negotiating industrial tariffs aimed at eliminating tariffs on a reciprocal basis. The “zero-for-zero” was adopted during the Uruguay Round to eliminate tariffs in highly traded sectors such as wood and wood products, pharmaceuticals, toys, etc. This approach was followed in the *Information Technology Agreement* negotiations.