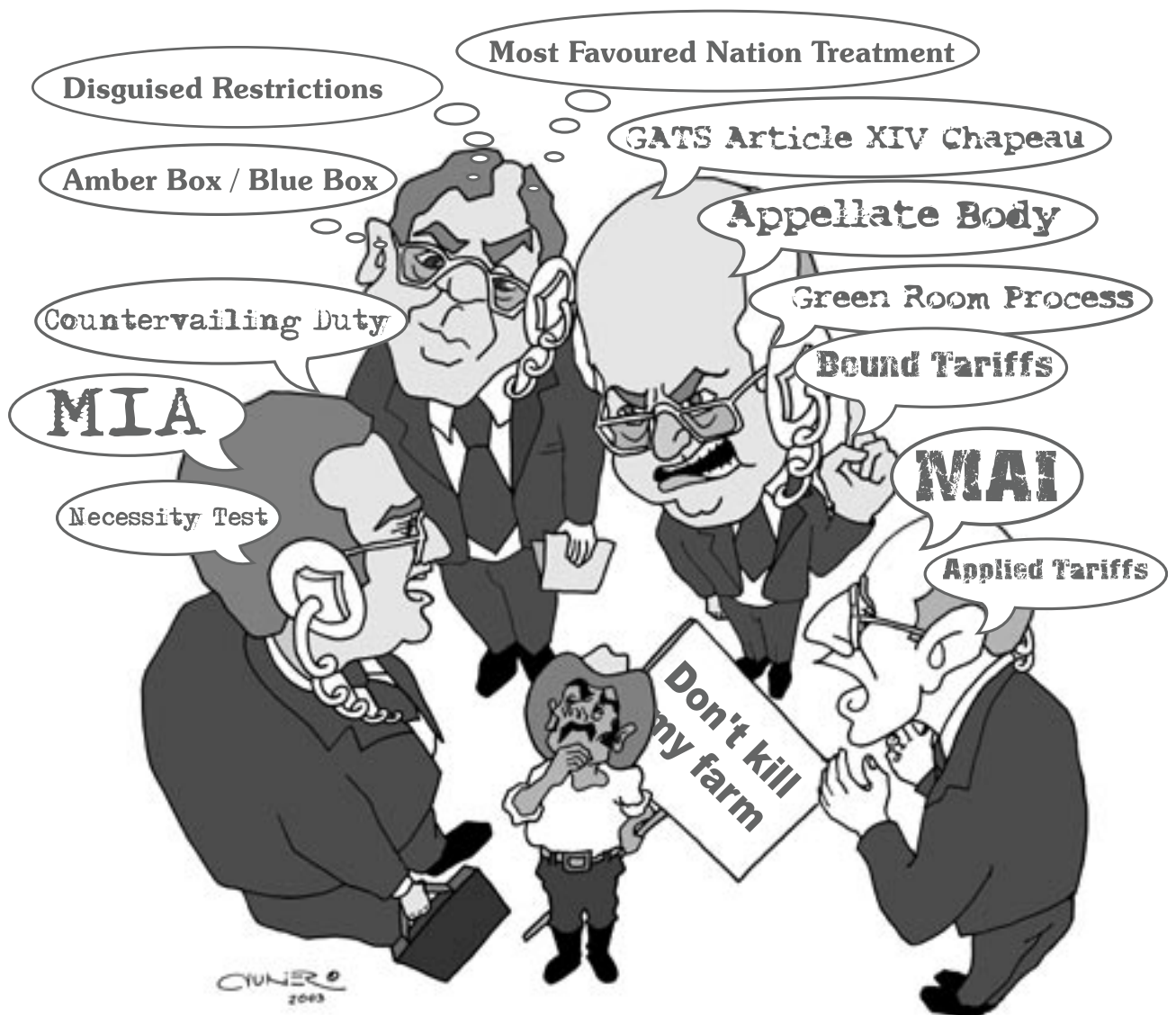




**Friends of
the Earth
International**

cracking the wto code: understanding trade terms



decoding the wto: defining terms of trade

introduction

This is a guide to help would-be trade campaigners crack the WTO code. Understanding trade jargon is an essential first step for anyone wanting to understand or change the international trade system. For the sake of simplicity this guide does not attempt to analyse any of the terms that are included – it is more like a quick-reference dictionary. Also, this tool does not in any way cover the entire range of terms used on a day-to-day basis by those that are on WTO-related issues.

other possible online reading sources

For a comprehensive critique of the international trade system from the social justice and environmental perspective, please also read '*The World Trade System: How it works and what's wrong with it*' and '*The World Trade System: winners and losers – a resource book*', by Friends of the Earth International, which can be found at <http://www.foei.org>. For analysis of what is wrong with the current framework for trade liberalization under the WTO and what should be done about it to promote human development, the United Nations Development Programme's report titled '*Making Global Trade Work for People*' is available at <http://www.boell.org/docs/UNDPTradeBook2003NEW.pdf>.

Official de-restricted documents and other official information regarding WTO activities may be found on the WTO's website at <http://www.wto.org>. Other news and information regarding

WTO-related issues may also be found on the Institute of Agriculture and Trade Policy's Trade Observatory website at <http://www.tradeobservatory.org/pages/home.cfm>, while weekly accounts of the on-going WTO negotiations and other WTO-related information may be found on the BRIDGES Trade Weekly Digest published by the International Center for Trade and Sustainable Development at <http://www.ictsd.org/>.

For discussions on how the WTO negotiations can impact local communities and what can be done about it, you can also read '*From Doha to Cancun: The WTO Trade Negotiations and Its Implications to Communities*', by the World Resources Institute, at http://governance.wri.org/pubs_description.cfm?PubID=3776. For an in-depth and inside account of how the WTO works in practice you should also read '*Power Politics in the WTO*', by Focus on the Global South, available at <http://www.focusweb.org>.

how to use this tool

The terms included in this tool were selected based on the relative frequency with which they are used by trade policymakers and negotiators, the media, the academe, and activists who are working on WTO-related issues. The terms are arranged alphabetically. Terms that have been *italicized* in the "What It Means" column indicate that their corresponding definitions are cross-referenced and may be found elsewhere in the document under the appropriate alphabetized "WTO Term" entry.

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wto term	what it means
a	
Agreement on Agriculture (AoA)	This is the <i>Uruguay Round agreement</i> that covers and sets out trade rules governing the trade of agricultural products across national borders.
Agreement on Sanitary and Phytosanitary Measures (SPS Agreement)	This is the <i>Uruguay Round agreement</i> that sets out the rules under which <i>WTO Members</i> may establish and apply <i>sanitary and phytosanitary measures</i> that could directly or indirectly affect international trade in goods.
Agreement on Subsidies and Countervailing Measures (SCM Agreement)	This is the <i>Uruguay Round agreement</i> that sets out the rules under which <i>WTO Members</i> may provide and apply <i>subsidies</i> for domestic products or impose <i>countervailing measures</i> on subsidized imported products.
Agreement on Technical Barriers to Trade (TBT Agreement)	This is the <i>Uruguay Round agreement</i> that sets out the rules under which <i>WTO Members</i> may establish and apply technical regulations and standards, including packaging, marking and labeling requirements. It also sets out the procedures for assessment of whether domestic and imported goods comply with such technical regulations and standards.
Amber box	This refers to <i>subsidies</i> that support the prices or the production of agricultural products, which have to be reduced or eliminated under the <i>Agreement on Agriculture</i> .
Anti-dumping (AD) measure	This is a governmental action that seeks to stop and remedy the <i>dumping</i> of imported goods into the <i>WTO Member's</i> territory.
Appellate Body (AB)	This is the seven-person body established by the <i>WTO's Dispute Settlement Body (DSB)</i> under the <i>Dispute Settlement Understanding (DSU)</i> to hear and resolve appeals made by <i>WTO Members</i> from recommendations in <i>dispute settlement</i> cases made by <i>dispute settlement panels</i> . The members of the Appellate Body serve four-year terms, with one possible reappointment, and are supposed to be

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Appellate Body (AB) cont.

persons who are considered as experts in international trade law. In effect, the Appellate Body serves as the Supreme Court for the *WTO*. Decisions of the Appellate Body are called “reports” and may uphold, modify or reverse the findings of the panels. These Appellate Body reports are normally automatically adopted by the *Dispute Settlement Body* and unconditionally accepted by *WTO Members* unless the *Dispute Settlement Body* decides by consensus not to adopt the report within 30 days from its circulation to the *WTO Members*.

Applied tariffs

These are *tariffs* that are actually being applied by *WTO Members* on imported products. These could be equal to or lower than, but cannot be more than, *bound tariffs*.

Article 20 AoA

This is the provision in the *Agreement on Agriculture* that mandated the *WTO* to engage in new negotiations to further undertake *trade liberalization* in trade in agricultural goods beginning in the year 2000.

b

Bilateral investment treaty (BIT)

These are international agreements between two countries in which both of them agree to encourage and facilitate the flow of investments between them by protecting investors’ rights and minimizing regulatory obstacles.

Blue box

This refers to *subsidies* or direct payments to agricultural producers that are provided by *WTO Members* under the *Agreement on Agriculture* (Article 6.5). Such payments must be part of programs aimed at limiting agricultural production and must also meet certain specified production-related criteria. These payments do not need to be reduced or eliminated.

Bound tariffs

These refer to the *tariffs* specified by *WTO Members* in their *schedule of concessions* as the maximum level of *tariffs* that they can apply to imported products as part of their *WTO* obligations (i.e. maximum tariffs).

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c

Cairns Group	This is a grouping of seventeen agricultural exporting <i>WTO Members</i> established during the <i>Uruguay Round</i> that promotes trade liberalization in trade in agricultural products. It includes: Argentina, Australia, Bolivia, Canada, Chile, Colombia, Costa Rica, Fiji, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand, and Uruguay.
Civil society organization	There are no globally accepted definitions of what constitutes a civil society organization. For the <i>WTO</i> and most other international intergovernmental organizations, this would refer to, and is used interchangeably with, the term <i>non-governmental organization</i> , regardless of the issues that the organization promotes or advocates, and would also include business or industry associations but not for-profit commercial corporations.
Committee on Agriculture (CoA)	This is the <i>WTO</i> committee that, in its regular sessions, oversees the implementation of the <i>Agreement on Agriculture</i> . Negotiations for further <i>trade liberalization</i> in trade in agricultural goods under <i>Article 20 AoA</i> are conducted by this committee through special sessions. Membership in the committee is open to representatives of all <i>WTO Members</i> .
Committee on Trade and Development (CTD or COMTD)	This is the <i>WTO</i> committee that, in its regular sessions, reviews the implementation of the provisions of the various <i>Uruguay Round agreements</i> in favor of <i>least-developed countries</i> . In its special sessions, the committee is supposed to negotiate on how to operationalise and make effective the various <i>special and differential treatment</i> provisions in favor of developing countries contained in the various <i>Uruguay Round agreements</i> ; and to discuss the new <i>Doha issue</i> of how to increase the integration of small economies into the <i>multilateral trade system</i> . Membership in the committee is open to representatives of all <i>WTO Members</i> .

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Committee on Trade and Environment (CTE)	This is the <i>WTO</i> committee that was created under the 1994 Uruguay Round Ministerial Decision on Trade and Environment. It is intended to be the <i>WTO</i> body tasked to identify the relationship between <i>trade measures</i> and environmental measures in order to promote sustainable development, and to make recommendations to the <i>WTO</i> on whether changes in the provisions of the various <i>Uruguay Round agreements</i> are needed in light of such relationship. It originally did not have any negotiating mandate but, as a result of the <i>Doha Ministerial Declaration (DMD)</i> , it was mandated to conduct negotiations, through special sessions, on various trade and environment-related issues under <i>Paragraph 31(i), (ii), and (iii)</i> of the DMD. Membership in the committee is open to representatives of all <i>WTO Members</i> .
Council for Trade in Goods (CTG or Goods Council)	This is the <i>WTO</i> council that oversees the implementation of the various <i>Uruguay Round agreements</i> relating to trade in goods – i.e. those agreements annexed to the <i>WTO Agreement</i> as Annex 1A. Membership in the council is open to representatives of all <i>WTO Members</i> .
Council for Trade in Services (CTS)	This is the <i>WTO</i> council that oversees the implementation of the <i>General Agreement on Trade in Services (GATS)</i> annexed to the <i>WTO Agreement</i> as Annex 1B. Membership in the council is open to representatives of all <i>WTO Members</i> .
Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council)	This is the <i>WTO</i> council that oversees the implementation of the <i>Trade-Related Intellectual Property Rights Agreement (TRIPS)</i> annexed to the <i>WTO Agreement</i> as Annex 1C. Membership in the council is open to representatives of all <i>WTO Members</i> .
Countervailing measure (CVM)	Also known as “countervailing duty”, this refers to a special duty or tax imposed by an importing country on an imported product for the purpose of offsetting any <i>subsidies</i> provided in the exporting country, directly or indirectly, for the making, production, or export of the product.

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d

Discrimination (in the WTO)	This refers to an action taken by a <i>WTO Member</i> that provides favorable treatment to the goods, services, or intellectual property rights coming from: (i) its own nationals as compared to those coming from other <i>WTO Members</i> ; or (ii) one or some <i>WTO Members</i> selected as beneficiaries for such favorable treatment as compared to those coming from other non-selected <i>WTO Members</i> . This is the kind of governmental action that the WTO obligations of <i>most favored-nation treatment</i> and <i>national treatment</i> are designed to address and stop.
Disguised restriction on international trade	This refers to any measure taken by a <i>WTO Member</i> for which the stated or formal policy objective is not trade-related, but which upon implementation would have the effect of restricting trade in a manner that violates the <i>WTO Member's</i> WTO obligations such as <i>national treatment</i> and <i>most-favored-nation</i> .
Dispute settlement (in the WTO)	This refers to the process by which any trade disputes among <i>WTO Members</i> can be settled in the <i>WTO</i> following a specific set of rules and procedures, ranging from bilateral consultations, to mediation and arbitration, to the actual initiation and continuation of a trial-like proceeding in which the disputing parties get to present their evidence and argue their case before a panel of trade law experts acting as judges. The objective of dispute settlement is to make <i>WTO Members</i> correct any actions that they may have taken in violation of their <i>WTO</i> obligations. <i>Dispute settlement</i> proceedings can be brought under the <i>Dispute Settlement Understanding</i> for violations of any <i>WTO</i> obligation provided for under the <i>Uruguay Round agreements</i> .
Dispute Settlement Body (DSB)	This is the <i>WTO</i> body tasked with overseeing the implementation of the <i>Dispute Settlement Understanding</i> (DSU) and the <i>dispute settlement</i> mechanism of the <i>WTO</i> . Membership in the DSB is open to representatives of all <i>WTO Members</i> .

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Dispute settlement panel

This refers to a panel established by the *Dispute Settlement Body*, and composed of three to five persons usually drawn from a list of governmental and non-governmental trade experts maintained by the *WTO Secretariat*. A panel is formed to conduct proceedings to settle a particular dispute upon the request of a *WTO Member*. Panels are required to comply with the rules of procedures set out in the *Dispute Settlement Understanding*. This basically involves conducting hearings, accepting submissions from the parties to the dispute (including third parties), and making a report to the DSB of their findings. A panel report is automatically adopted by the DSB 60 days after its circulation to the *WTO Members* unless: (i) a party to the dispute appeals part or all of the panel report to the *Appellate Body* before the 60-day period expires; or (ii) the DSB decides by consensus not to adopt the panel report.

Dispute Settlement Understanding (DSU)

This is the *Uruguay Round agreement* that sets out the rules under which *WTO Members* can initiate and maintain dispute settlement proceedings against other *WTO Members*.

Doha Development Agenda (DDA)

This is the term being used by the *WTO Secretariat* and by those *WTO Members* who are in favor of further *trade liberalization* to describe the package of negotiations currently being undertaken under the terms of the *Doha Ministerial Declaration*.

Doha issues

These are the new issues of particular importance to the developing countries that have been placed on the *WTO's* discussion agenda as a result of the *Doha Ministerial Declaration*. These issues are to be discussed by two new working groups and by the *General Council* (through the *Committee on Trade and Development* (CTD) in special sessions), and include the following: (i) the relationship between trade, debt, and finance to be handled by the *Working Group on Trade, Debt, and Finance*; (ii) the relationship between trade and transfer of technology to be handled by the *Working Group on Trade and Transfer of Technology*; and (iii) issues relating to the trade of small economies to be handled by the *General Council*, through the CTD in special sessions.

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Doha Ministerial Decision on Implementation-related Issues and Concerns (Doha Implementation Decision)

One of the main outcomes of the *Doha Ministerial Conference* of the WTO that took place in November 2001, this ministerial decision mandated *WTO Members* to undertake negotiations that would resolve *implementation-related issues* that have been raised by developing countries since the beginning of the WTO.

Doha Ministerial Declaration (DMD)

One of the main outcomes of the *Doha Ministerial Conference* of the WTO that took place in November 2001, this declaration provides the overall framework and mandate for the launch of negotiations on various issues, most of them as part of a *single undertaking*, within the ambit of the so-called *Doha Development Agenda*. Together with the on-going negotiations on agriculture under *Article 20 AoA* and on trade in services under *GATS Article XIX*, this declaration mandated the launch of further *trade liberalization* negotiations on *implementation-related issues, special and differential treatment, market access* for non-agricultural goods, trade and environment, and geographical indications for wines and spirits. It also mandated the launch of negotiations on improvements and clarifications of the *Dispute Settlement Understanding*. Discussions on the *Singapore issues* were also mandated to be continued, while discussions on the *Doha issues* were to start. The declaration itself was the product of a long, complicated, non-transparent, and non-participatory process among *WTO Members*, in which there was virtually no participation or input solicited from *non-governmental organizations*.

Doha Ministerial Declaration on TRIPS and Public Health (TRIPS and Public Health Declaration)

Another one of the main outcomes of the *Doha Ministerial Conference* of the WTO that took place in November 2001, this declaration sought to clarify the extent to which *WTO Members* may use the flexibilities in the *TRIPS Agreement* in order to address their public health concerns. Among others, it recognized the right of *WTO Members* to protect public health and to promote access to medicines for all.

Dumping

Dumping, as generally understood in the WTO, occurs when a product is exported to other countries at a price that is less than what its price would be if it

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Dumping (*cont.*)

(or a comparable or similar product) were to be sold domestically in the exporting country (for the full technical definition, see Art. 2.1 of the WTO Anti-Dumping Code). When used by NGOs in the context of the agriculture negotiations, *dumping* involves “the sale of agricultural products at less than the cost of production prices in the local markets of developing countries” (see Sophia Murphy, *MANAGING THE INVISIBLE HAND: MARKETS, FARMERS AND INTERNATIONAL TRADE*, Institute for Agriculture and Trade Policy, 2002)

e

Eco-labeling

This refers to packaging or labeling requirements that indicate the environmental origin, performance, or characteristics of a particular product. Eco-labeling is primarily governed by the *TBT Agreement*. Packaging and labeling requirements directly related to food safety are considered as *sanitary and phytosanitary measures* covered by the *SPS Agreement*.

Environmental goods

The WTO still does not have a clear definition of what constitutes “environmental goods.” Currently, the working classification being used in the negotiations on *market access* for non-agricultural goods has been an informal and non-exhaustive listing of industrial products or technologies that can: (i) prevent pollution (such as air pollution filters); (ii) measure pollution (such as air pollution meters); or (iii) remedy pollution or other environmental damage (such as oil spill booms).

Environmental services

The current working definition of “environmental services” being used in the WTO is that contained in the W/120 GATS classification list, which classifies as “environmental services” the following sectors: sewage services, refuse disposal services, sanitation and similar services, cleaning of exhaust gases, noise abatement services, nature and landscape protection services.

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f

Free trade

In WTO lingo, this would be the final result of progressive *trade liberalization*, and would be characterized by a trading regime in which *tariffs* are zero and there are no *non-tariff barriers* or *technical barriers to trade*.

Foreign direct investment (FDI)

This refers to investments (i.e. capital) coming from abroad in order to establish or buy a controlling interest in a profit-generating business or project in the host country, with a view to long-term involvement. This is distinct from speculative investment where foreign capital is invested in the stock or equity of existing domestic companies in the host country, which can be a short-term investment.

g

GATS Article XIV chapeau

This refers to the introductory section or heading of this GATS provision. It lays down the requirement that measures taken by *WTO Members* as exceptions to their GATS obligations must not be applied in such a way that they would be arbitrarily or unjustifiably discriminatory between countries where similar conditions prevail, or be a *disguised restriction on international trade* in services.

GATS Article XIV(b)

This refers to the environmental exception in GATS. Read together with the *GATS Article XIV chapeau*, it allows *WTO Members* to take measures “necessary to protect human, animal or plant life or health” even if such measures may violate or be inconsistent with their GATS obligations. The *necessity test* in this provision has not yet been defined by the *WTO Appellate Body*, but considering the similar language, would likely be defined as similar to the *necessity test* for *GATT Article XX(b)*.

GATS Article XIX

This refers to the provision in the GATS that requires *WTO Members* to undertake progressively higher levels of *trade liberalization* in trade in services through successive rounds of trade negotiations as from the year 2000.

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GATT Article XX chapeau

Like the *GATS Article XIV chapeau*, this refers to the introductory section or heading of GATS Article XX and likewise lays down the requirement that measures taken by *WTO Members* as exceptions to their *GATT 1994* obligations must not be applied in such a way that they would be arbitrarily or unjustifiably discriminatory between countries where similar conditions prevail, or be a *disguised restriction on international trade* in goods. The application of this provision was clarified by the *WTO Appellate Body* in, for example, the *US – Reformulated Gasoline* case.

GATT Article XX(b)

This refers to the first environmental exception in *GATT 1994*, and must be read together with the *GATT Article XX chapeau*. It allows *WTO Members* to take measures “necessary to protect human, animal or plant life or health” even if such measures may violate or be inconsistent with their *GATT 1994* obligations. The *necessity test* in this provision was clarified by the *WTO Appellate Body* in the *EC – Asbestos* case.

GATT Article XX(g)

This is the second environmental exception in *GATT 1994*, and must also be read together with the *GATT Article XX chapeau*. It allows *WTO Members* to adopt or enforce measures “relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.” The application of this provision has been clarified by the *WTO Appellate Body* in the *US – Shrimp-Turtle* and *US – Reformulated Gasoline* cases.

General Agreement on Tariffs and Trade 1947 (GATT 1947)

This is the original agreement drafted in 1947 that was supposed to form part of the 1947 Havana Charter that would have created the International Trade Organization (ITO) as a sister institution to the World Bank and the IMF. The failure of the United States to ratify the 1947 Havana Charter caused the ITO to be still-born. Pending the creation of a new international institution that would administer it, GATT 1947 was, instead, adopted and applied by countries on a provisional basis from 1947 to 1994 through so-called “Protocols of Provisional Accession.” The text of GATT 1947 as it stood on 15 April 1994 was absorbed completely directly into the text of the *GATT*

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General Agreement on Tariffs and Trade 1947 (GATT 1947) (cont.) 1994, such that any references to specific provisions in *GATT 1994* would indicate provisions found in the text of *GATT 1947*.

General Agreement on Tariffs and Trade 1994 (GATT 1994) This is the *Uruguay Round agreement* that serves as the successor to *GATT 1947*. *GATT 1994* covers: (i) the text of *GATT 1947*; (ii) various legal instruments created by *GATT 1947* member countries that entered into force under the *GATT 1947* before the entry into force on 1 January 1995 of the *WTO Agreement*; (iii) various “understandings” agreed upon by countries during the *Uruguay Round* with respect to the interpretation of various provisions in the *GATT 1947* text of *GATT 1994*; and (iv) the Marrakesh Protocol to *GATT 1994*.

General Agreement on Trade in Services (GATS) This is the *Uruguay Round agreement* annexed to the *WTO Agreement* that lays down the rules under which international trade in services may take place among *WTO Members*.

General Council (GC) *The General Council* performs the functions of the *Ministerial Conference* as the highest policy- and decision-making body of the *WTO* in the period between meetings of the *Ministerial Conference*. It is composed of Geneva-based representatives of all *WTO Members*, and meets frequently in the *WTO* headquarters in Geneva. It essentially carries out day-to-day policy- and decision-making functions.

Green box This refers to that category of agricultural subsidies that are government-funded and do not involve price support. Under the AoA, these subsidies are given the “green light” in that they need not be reduced or eliminated. Examples of such subsidies are expenditures for programs that provide services or benefits to agriculture or rural communities such as pest and disease control or agricultural infrastructure services; expenses to build up public food security stocks; domestic food aid; payments under environmental programs, etc.

Green room process This refers to meetings of representatives of a limited number of *WTO Members* in order to work out an agreement among themselves, and then present such agreement to the broader *WTO* membership for

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Green room process (*cont.*)

general acceptance. Participation in such meetings is often limited only to a shortlist of *WTO Members* specifically selected and invited by the host (either another *WTO Member*, the WTO Director-General, or the Chair of the *General Council*) to participate in the meeting. Non-invitees, even if they are also *WTO Members*, may not attend the meeting. The term “green room” originally arose as a result of such closed-door, limited and selective participation, meetings attended by a few *GATT 1947* member countries (usually the major developed countries) during the *Uruguay Round* hosted by the GATT 1947 Director-General in the conference room next to his office in which the walls were painted green.

i

Intellectual property rights (IPRs)

These refer to rights that accrue to the creator of an intellectual property, including: copyrights, trademarks, geographical indications, industrial designs, patents, lay-out designs of integrated circuits (e.g. computer chips), and undisclosed commercial information or data.

Implementation-related issues (IRIs)

These refer to the issues and concerns raised by developing countries with respect to the implementation of the *GATT 1947* and/or the *WTO Agreement* and its annexed trade agreements and relevant decisions and understandings. Among others, these include:

- the implementation by developed countries of their trade commitments and obligations under the GATT system;
- imbalances in rights and obligations for developed and developing countries contained in the texts of the *Uruguay Round agreements*;
- operationalization of GATT/WTO provisions on *special and differential treatment* for developing countries;
- difficulties in and flexibility for the implementation of commitments and obligations by developing countries; and
- recognition of the fact that developing countries

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Implementation-related issues (IRIs) (*cont.*)

have not received the benefits that they had expected and were promised during the *Uruguay Round*, especially in the areas of export interest to developing countries such as agriculture and textiles and clothing.

m

Market access

This refers to the extent – depending on the level of *tariffs* and *non-tariff barriers* – to which a country allows imported products to enter its territory and be sold or consumed in competition with domestic products.

Mini-ministerial

This is a recent spin-off from, and is also a reflection of, the *green room process*. This refers to meetings hosted by a *WTO Member* within its territory and attended by trade ministers of around only 24 or so other *WTO Members* (mostly other major developed countries, the big developing countries, and smaller developing countries that represent key developing country groupings in the WTO), plus the WTO Director-General. At these meetings, attempts are made to focus on and hammer out agreements on areas in which agreements could not be reached by their Geneva-based representatives.

Ministerial Conference (MC)

This is the highest policy- and decision-making body of the WTO, composed of the trade ministers of all *WTO Members*, and meets at least every two years.

Modes of supply of services

These are the ways in which trade in services can take place – i.e. the ways in which a service is supplied to the consumer. Under the *GATS*, there are four modes of supply of services: (i) *Mode 1 (cross-border supply)*; (ii) *Mode 2 (consumption abroad)*; (iii) *Mode 3 (commercial presence)*; and (iv) *Mode 4 (movement of natural persons)*.

Mode 1 (cross-border supply)

This refers to the situation in which, for example, a French architectural firm is hired by an Argentinian company to draft architectural plans for a building, and the French firm sends the plans to Argentina by e-mail through the Internet.

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**Mode 2
(consumption abroad)**

This refers to the situation in which, for example, a British tourist goes to Canada and checks into a hotel in Montreal and enjoys (“consumes”) the hotel services being provided by the Canadian hotel.

**Mode 3
(commercial presence)**

This refers to the situation in which, for example, a US accountancy firm sets up a subsidiary corporation or a branch or representative office in Mexico in order to provide accountancy services in Mexico.

**Mode 4
(movement of natural persons)**

This refers to the situation in which, for example, a British corporate management consultancy firm is hired by a Malaysian corporation to provide business management consultancy services, and the British firm sends one of its staff to the Malaysian company’s office in Kuala Lumpur for a specified period (e.g. a few weeks or months) to provide such services on-site in Kuala Lumpur.

Most Favored Nation treatment (MFN)

This means that *WTO Members* are normally required not to prefer or favor one or some *WTO Member* over other *WTO Members*. There should be equal treatment in terms of market access for goods, services, service suppliers, and *Intellectual Property Rights* coming from other *WTO Members* regardless of origin. This is reflected in Article I of *GATT 1994*, Article II of *GATS*, and Article 4 of the *TRIPS Agreement*.

Multilateral Agreement on Investment (MAI)

This was the international agreement drafted under the auspices of the Organization for Economic Cooperation and Development (OECD) that would govern how governments were supposed to protect investors’ rights and facilitate investment entry. This agreement, however, was not concluded because of a combination of intense public opposition in both the US and Europe, and France’s refusal to support the agreement.

Multilateral Environmental Agreements (MEAs)

These refer to international intergovernmental treaties or agreements among countries that pursue or promote environmental protection or conservation objectives and provide for various degrees of binding obligations. There are over 200 of these kinds of agreements currently in existence. Of these, around

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Multilateral Environmental Agreements (MEAs) (cont.)

20 have trade-related provisions – i.e. provisions that expressly or implicitly allow or require countries to undertake specific *trade measures* as part of their treaty obligations.

Multilateral Investment Agreement (MIA)

This is the proposed name for the proposed new WTO agreement that would result from any negotiations relating to the relationship between trade and investment as part of the *Singapore issues*. It is intended to enhance the protection of investors' rights, and effectively place limits on governmental regulation of foreign investments, by bringing these rights and limits within the regulatory and *dispute settlement* framework of the WTO.

Multilateral Trade System (MTS)

This refers to the global system of international, regional and bilateral institutions and rules governing international trade in goods, services, and *IPRs*.

n

National Treatment (NT)

This refers to the obligation to treat domestic and imported goods, services, service suppliers, investments, and *IPRs* equally or in the same way. This is reflected in Article III of *GATT 1994*, Article 2(1) of the *TRIMS Agreement*, Article XVII of the *GATS*, and Article 3 of the *TRIPS Agreement*.

Necessity test [GATT Art. XX(b) and (d)]

This refers to the test to be used in *GATT Art. XX(b)* and *GATT Art. XX(d)* which requires that for a measure to be considered as a valid exception to *GATT 1994* obligations, the measure must be “necessary.” For the measure to be considered “necessary” under the terms of *GATT Art. XX(b)* and (d), according to various *GATT 1947* dispute settlement panels (see e.g. the Thai – Cigarettes case) and the *WTO Appellate Body* (see e.g. the Korea – Beef and EC – Asbestos cases) and it must be the least trade-restrictive measure reasonably available to the country that can achieve the policy objective being promoted. This means that there must be no other alternative measure consistent or less inconsistent with *GATT 1994* that is reasonably available to the *WTO Member* to achieve the same

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Necessity test
[GATT Art. XX(b) and (d)]
(cont.)

purpose. This imposes a requirement on the *WTO Member* in question to demonstrate that it has met this requirement.

Non-governmental organization (NGO)

The common understanding of this term is that it refers to local, national, regional, or international non-profit organizations, associations, federations, or social movements that advocate public interest or public welfare-related issues or concerns such as, but not limited to, animal welfare and protection, consumer protection, development, environment, fair trade, gender rights, human rights, labor rights, poverty reduction, migrant worker rights, rural reconstruction and development, etc. According to the United Nations Department of Public Information, an NGO is “any non-profit, voluntary citizens’ group which is organized on a local, national or international level. Task-oriented and driven by people with a common interest, NGOs perform a variety of services and humanitarian functions, bring citizens’ concerns to Governments, monitor policies and encourage political participation at the community level. They provide analysis and expertise, serve as early warning mechanisms and help monitor and implement international agreements. Some are organized around specific issues, such as human rights, the environment or health” (see UN DPI’s website at <http://www.un.org/dpi/ngosection/brochure.htm>).

Non-tariff barriers (NTBs)

These are measures that have trade-restrictive effects on trade in goods or services, but do not involve *tariffs*. These include *technical barriers to trade* and *quantitative restrictions*. They can include standards intended to promote health and protect the environment.

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Paragraph 31(i) DMD

This is the provision in the *Doha Ministerial Declaration* that requires *WTO Members* to conduct negotiations to clarify the relationship between specific trade obligations in *MEAs* and existing *WTO* rules, in particular with respect to the applicability of existing *WTO* rules to the countries that are parties to *MEAs*.

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Paragraph 31(ii) DMD

This is the provision in the *Doha Ministerial Declaration* that requires *WTO Members* to conduct negotiations relating to: (i) procedures for regular information exchange between *MEA Secretariats* and relevant *WTO committees*; and (ii) the criteria for the granting of *WTO observer status* to non-*WTO bodies* or organizations.

Paragraph 31(iii) DMD

This is the provision in the *Doha Ministerial Declaration* that requires *WTO Members* to conduct *trade liberalization* negotiations in *environmental goods* and *environmental services*.

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Quantitative Restrictions (QRs)

These are *trade measures* that impose a quantitative limit or cap on the importation or exportation of specific goods. It includes, for example, import or export bans and embargoes.

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Sanitary and phytosanitary measures (SPS)

These are measures that are needed to protect human, animal, or plant life or health as detailed in the *SPS Agreement*.

Schedule of commitments in GATS

This refers to the list of commitments or obligations that a *WTO Member* commits itself to with respect to the *GATS* that would allow the service providers of other *WTO Members* to access its domestic services market. This list can also specify any limitations or conditions that foreign service suppliers need to comply with.

Schedule of concessions in GATT

This refers to the list of trade liberalization commitments or obligations that a *WTO Member* commits itself to with respect to trade in goods under *GATT 1994*.

Seattle Ministerial Conference

This refers to the third *WTO Ministerial Conference* held in Seattle, Washington, USA. Externally, it was marked by the large-scale presence of mass demonstrations against globalization held outside the conference venue, and episodes of violent dispersals of the demonstrations by the police. Internally, it was marked by intense disagreement among *WTO*

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Seattle Ministerial Conference (*cont.*)

Members with respect to the contents of the draft *Ministerial Declaration*, as well as by the use of informal, non-transparent, and non-participatory processes that eventually led some Latin American, African, and Caribbean *WTO Members* to denounce such processes and withhold their agreement to any consensus with respect to the contents of the draft Ministerial Declaration.

Special and differential treatment (S&D)

This refers to the principle that would provide developing countries with special privileges vis-à-vis compliance with WTO obligations in view of their different or lower state of economic development. This usually takes the form of exemptions from some WTO rules or else in the form of special trade rights (such as longer transition periods or lesser degrees of trade liberalization needed).

Singapore issues

These are the four issues identified in the *Singapore Ministerial Conference* in 1996 in which the WTO agreed to create four separate working groups to discuss the issues as part of the WTO's work program. These four issues are: (i) the relationship between trade and investment; (ii) the relationship between trade and competition policy; (iii) trade facilitation; and (iv) transparency in government procurement.

Discussions on these issues have been focused on whether or not negotiations in the *WTO* should be launched in order to come up with new agreements within the *WTO* framework. Essentially, the ultimate objective of the discussions on these issues is how to increase the *market access* of foreign (especially European, Japanese, and US firms) in the markets of *WTO Members* (especially developing countries).

The trade and investment issue focuses on the idea of creating rules under which investors' rights would be protected from any interference by the host country. The trade and competition issue is essentially about the idea of creating rules that would effectively require governments to enforce free competition among foreign and domestic companies. Trade facilitation essentially relates to creating new rules that would require governments to simplify and lower the costs of

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Singapore issues (cont.)	border customs transactions and procedures. <u>Transparency in government procurement</u> would require governments to provide for publicly-announced bidding exercises for government equipment purchases, and hence effectively allow foreign companies to compete with domestic ones in bidding for government contracts.
Singapore Ministerial Conference	This refers to the first WTO <i>Ministerial Conference</i> held in Singapore in 1996. One of the major results of this conference was the inclusion of the four <i>Singapore issues</i> into the WTO's work program.
Single undertaking	This is a concept used in the WTO to refer to a negotiating approach in which the conduct and the outcomes of the negotiations in various negotiating areas are considered as part of a single negotiating package. This would allow <i>WTO Members</i> to negotiate trade-offs among the various negotiating areas, in which gains obtained in one negotiating area would be off-set by concessions given in other negotiating areas.
Subsidies	This refers to any direct or indirect payments made, or revenues foregone (e.g. tax exemptions or write-offs), by governments as a result of laws or measures requiring such actions in order to support the production, manufacture, or trade of goods or services.
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Tariffs	This is a tax on imported products imposed by governments.
Tariffication	This refers to the conversion of <i>non-tariff barriers</i> to <i>tariffs</i> that would provide roughly the equivalent level of trade restrictions on imported products.
Technical Barriers to Trade (TBT)	These refer to trade restrictions that are effectively caused by technical regulations or standards such as packaging or labeling requirements, certification requirements, <i>sanitary or phytosanitary measures</i> , testing requirements, health and safety regulations, product quality standards, etc, as laid out in the <i>TBT Agreement</i> .

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Trade in services	This refers to the supply of a service by a service supplier to a service consumer, through any of the four <i>modes of supply of a service</i> , across national borders.
Trade liberalization	This refers to the process of reducing or eliminating <i>tariff</i> and <i>non-tariff barriers</i> , including <i>technical barriers to trade</i> and <i>quantitative restrictions</i> , in order to encourage international trade in goods and services (export and import of goods or services), with the ultimate objective of achieving <i>free trade</i> at the bilateral, regional, or global level.
Trade measures	These are laws, rules, or regulations adopted by governments that may either promote <i>trade liberalization</i> or impose limitations on the pace of <i>trade liberalization</i> .
Trade Negotiations Committee (TNC)	This refers to the body established by the <i>Doha Ministerial Conference</i> to oversee the conduct of the <i>single undertaking</i> negotiations mandated under the <i>Doha Ministerial Declaration</i> . It is composed of representatives from all <i>WTO Members</i> . The WTO Director-General is its <i>ex officio</i> Chairperson.
Trade-Related Intellectual Property Rights Agreement (TRIPS Agreement)	This is the <i>Uruguay Round agreement</i> that, among others, makes the trade concepts of <i>national treatment</i> and <i>most favored nation</i> treatment applicable to the protection, application, and use of <i>Intellectual Property Rights</i> . Any violation of the <i>TRIPS Agreement</i> can be brought for <i>dispute settlement</i> under the <i>Dispute Settlement Understanding</i> . Like most other <i>Uruguay Round agreements</i> , this agreement is binding on all <i>WTO Members</i> .
Trade-Related Investment Measures Agreement (TRIMS Agreement)	This is the <i>Uruguay Round agreement</i> that covers and sets up rules under which the provisions of <i>GATT 1994</i> requiring <i>national treatment</i> , prohibiting <i>quantitative restrictions</i> , and requiring transparency, are made applicable to measures that <i>WTO Members</i> may adopt or implement to encourage or regulate investments. Any violation of the <i>TRIMS Agreement</i>

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Trade-Related Investment Measures Agreement (TRIMS Agreement) (cont.)

can be brought for *dispute settlement* under the *Dispute Settlement Understanding*. Like most other *Uruguay Round agreements*, this agreement is binding on all *WTO Members*.

TRIPS Article 27.3(b)

This is the provision in the *TRIPS Agreement* that allows *WTO Members* to exclude plants, animals, and biological processes for the production of plants and animals (except micro-organisms and non-biological and microbiological processes) from being patented. At the same time, it also requires *WTO Members* to protect *Intellectual Property Rights* in plant varieties through patents, or through a special ("*sui generis*") protection system, or through a combination of both. This provision has been up for review since 1999.

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Uruguay Round (UR)

This refers to the negotiations under the auspices of *GATT 1947* that were launched at Punta del Este, Uruguay, in 1986 and concluded at Marrakesh, Morocco, in April 1994. They resulted in the conclusion of the *Uruguay Round agreements* and the creation of the *WTO*.

Uruguay Round agreements

These refer to the package of trade agreements concluded by governments at the conclusion of the *Uruguay Round*. The main agreement is the *WTO Agreement*, to which is annexed all the other trade agreements, decisions, and understandings agreed to during the Uruguay Round. The annexed trade agreements include the following main ones:

Annex 1

Annex 1A: Multilateral Agreements on Trade in Goods

GATT 1994

Agreement on Agriculture

SPS Agreement

Agreement on Textiles and Clothing

Agreement on Technical Barriers to Trade

TRIMS Agreement

Anti-Dumping Code

Customs Valuation Code

Agreement on Pre-shipment Inspection

Agreement on Rules of Origin

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Uruguay Round agreements (cont.)

Agreement on Import Licensing Procedures
Agreement on *Subsidies and Countervailing Measures*
Safeguards Agreement
Annex 1B: *GATS*
Annex 1C: *TRIPS Agreement*
Annex 2: *Dispute Settlement Understanding*
Annex 3: Trade Policy Review Mechanism
Annex 4: Plurilateral trade agreements

W

World Trade Organization (WTO)

This international intergovernmental organization came into being on 1 January 1995. At the time of writing it has 146 countries as members. It is tasked with overseeing the implementation of the various *Uruguay Round agreements*, including the *WTO Agreement*, in pursuit of *trade liberalization* and *free trade* and to serve as the permanent forum for multilateral trade negotiations at the global level.

WTO Agreement

This is the main framework treaty creating the *WTO* and to which is annexed the various other *Uruguay Round agreements*. It entered into force on 1 January 1995. Currently, 146 countries have ratified or acceded to the *WTO Agreement*.

WTO Member

This refers to those countries or “separate customs territories” – territories whose customs laws are administered autonomously but which are politically deemed to be part of another country, e.g., Hong Kong and Taiwan with respect to China – that have ratified or acceded to the *WTO Agreement*. There are currently 146 members of the *WTO*.