

Trade Defence Instruments

Anti-dumping

[TR_AD_PROV]Is there an Anti-dumping provision?

0	no
1	yes

[TR_AD_WTO]Is there a reference to GATT/WTO

0	no
1	yes

Explanation: Both partners accept the provisions in GATT or WTO. Reference to international treaties in this area are also coded as 1. Yet, joint efforts to elaborate future rules (with help of GATT/WTO) are not coded.

[TR_AD_ALLOWED]Is is allowed to use AD measures?

0	no mentioning
1	yes

[TR_AD_OUTRULED]Is the use of AD explicitly out-ruled?

0	no mentioning
1	yes

Explanation: explicit statement not to take recourse to AD measures.

Anti-dumping: Specific Provisions

[TR_ADMAS] Do parties search for mutually accepted solutions prior to investigation?

0	no mentioning
1	yes

[TR_ADTRANSIT]Do parties allow AD measures only during a transition period?

0	no mentioning
1	yes

[**TR_ADMARKET**] Do parties explicitly agree on a minimum market share that differs from the GATT/WTO?

0	no mentioning
1	yes

Explanation:WTO - if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 per cent of total production of the like product produced by the domestic industry. In a separate column we specify the exact thresholds.

[**TR_ADDEMINIMIS**] Do parties explicitly agree on a de minimis dumping margin (or dumped volume) that differs from the GATT/WTO?

0	no mentioning
1	yes

Explanation:WTO - margin less than 2%, volume less than 3%. In a separate column we specify the exact thresholds.

[**TR_ADSUNSET**] Do parties agree on a duration of AD duty that differs from GATT/WTO?

0	no mentioning
1	yes

Explanation:WTO - the sunset requirement establishes that dumping duties shall normally terminate no later than five years after first being applied. In a separate column we specify the exact thresholds.

[**TR_ADLESSERDUTY**]Do parties explicitly agree on a lesser duty rule?

0	no mentioning
1	yes

Explanation: The WTO talks about the desirability, no obligation. We also include the disallowance of zeroing.

[**TR_ADPUBLIC**] Do parties agree on taking broader public interest in account (beyond sector interests)?

0	no mentioning
1	yes

[**TR_ADEXCLUDED**] Are certain goods excluded from AD measures?

0	no mentioning
1	yes

Explanation: In a separate column we specify the sectors.

[**TR_ADINCLUDED**] Are certain goods explicitly mentioned for inclusion of AD measures?

0	no mentioning
1	yes

Explanation: In a separate column we specify the goods.

[**TR_ADLEGAL**] The PTA's dispute settlement does not apply to AD

0	no mentioning
1	yes

[**TR_ADLEGALWTO**] Parties agree that the resolution of a dispute can occur in the WTO

0	no mentioning
1	yes

Subsidies and Countervailing Duties

[**TR_SUB_PROV**] Are there any subsidy provisions?

0	no
1	yes

Explanation: We code articles with titles “subsidies” or “state aid”. We also include specific subsidies (e.g. “agricultural subsidies” or “export subsidies”). We list all subsidies-related provisions in an extra column.

[**TR_SUB_GEN_REF**] Is there a general reference to subsidies?

0	no
1	yes

Explanation: We code general references such as “Any aid granted by a State Party to this Agreement or through State resources in any form whatsoever... shall be incompatible with the proper functioning of this Agreement” or “The Member States shall not introduce new, or expand existing subsidies and shall work towards the elimination of any such measures by ... ”.

[**TR_SUB_WTO**] Is there a reference to GATT/WTO?

0	no
1	yes

Explanation: Parties refer to WTO/GATT provisions on subsidies or countervailing duties (also if only countervailing duties are mentioned).

[**TR_SUB_POLICY**] Do parties develop a common policy on subsidies?

0	no
1	yes

Explanation: Joint procedures in case of safeguard are not sufficient to be coded, there need to be joint rules that refer to a common policy. We included also following two cases (if one party is allowed to provide more subsidies than another party; if one party is called to create an institution that focuses on state aid).

[**TR_SUB_ALLOWED**] Is there an explicit reference to allowing subsidies?

0	no
1	yes

Explanation: For instance when parties explicitly mention their right to use subsidies.

[**TR_SUB_OUTRULED**] Is there an explicit reference to outrule subsidies?

0	no
1	yes

Explanation: e.g. wording such as “Neither Party shall introduce or maintain any subsidy on any good destined for the territory of the other Party.” Are only limits to certain areas listed, we code 1 in [**TR_SUB_GEN_REF**]

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[**TR_COUNTERVAIL**] Are countervailing duties mentioned in the agreement?

0	no
1	yes

Explanation: Measures against subsidies or “countervailing duties”.

Safeguard / Escape Clause

[**TR_SAFE_PROV**] Does the agreement contain specific safeguard provisions for PTA parties?

0	no
1	yes

[**TR_SAFE_WTO**] Does the agreement refer to GATT/WTO provisions on safeguards?

0	no
1	yes

Explanation: parties retain rights and obligations under GATT Art. XIX, Safeguards Agreement; also if parties only retain the rights and obligations of the investigation provisions of the GATT/WTO safeguard agreements, we code 1.

[**TR_SAFE_OUTRULED**] Does the agreement outrule the use of safeguards?

0	no
1	yes

Explanation: All “quantitative restrictions” or “safeguards measures” are explicit banned.

[**TR_SAFE_GLOBEXCL**] Do PTA members agree on conditions under which partners will be excluded from multilateral safeguard measures?

0	no
1	yes

Explanation: If there are exceptions for PTA partners in case a general/global safeguard is applied (code 1). Exceptions could define a different substantial share of total imports or it is mentioned that imports from the other Party does not contribute to serious injury or threat thereof.

[**TR_SAFE_TRANS**] Parties allow safeguard measures only during a transition period?

0	no
1	yes

[**TR_SAFE_CEILING**] Parties allow safeguard measures on products up to the MFN duty or the temporal suspension of a duty reduction

0	no
1	yes

Explanation: This is a measure that controls for the scope and degree of the measure taken. If a tariff measure is introduced it is less than MFN duty (or applied duty, base rate) or it could mean that the speed of tariff liberalization is affected (for some period the duty stays at the same number).

[**TR_SAFE_DUR**] Parties agree on a duration (and extension) of safeguard duty that is different from GATT/WTO.

0	no
1	yes

Explanation: Safeguards in the WTO are up to 4 years renewable once, therefore on aggregate 8 years. We only specify if on the aggregate this number is different. There has to be a number, the expression “what is strictly necessary, to remedy the situation” is not sufficient to code 1.

Additional Issues

[**TR_STRUCT_ADJUST**]

0	no mentioning
1	structural adjustment mentioned

Explanation: Besides “structural adjustment”, another term used is the “protection of an infant industry”.

[**TR_BOP**]

0	no mentioning
1	balance of payment mentioned

Explanation: Often BOP provisions are found in the chapter “safeguards”.