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## **An Agricultural Law Research Article**

### **International Trade in Agricultural Products: A Research Guide**

by

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# INTERNATIONAL TRADE IN AGRICULTURAL PRODUCTS: A RESEARCH GUIDE

LEE PEOPLES<sup>\*</sup>

## I. INTRODUCTION

Trade in agricultural products accounts for less than ten percent of world merchandise exports but is perhaps the most volatile of trade issues.<sup>1</sup> A former U.S. Secretary of Agriculture characterized agricultural trade as “enigmatic, often inexplicable, always exasperating” and the most distorted segment of the global economy.<sup>2</sup> Disagreements over trade in agriculture have been blamed in part for the recent breakdown of the World Trade Organization’s negotiations in Cancun, Mexico, and the less than ideal agreement produced during the Free Trade Area of the Americas negotiations in Miami Florida.<sup>3</sup> Conducting legal research into international agricultural trade may appear as daunting as the subject itself. The topic involves aspects of international and domestic law including: intergovernmental and nongovernmental

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1. *WTO International Trade Statistics, World Merchandise Exports by Product, 2002*, at [http://www.wto.org/english/res\\_e/statis\\_e/its2003\\_e/section4\\_e/iv01.xls](http://www.wto.org/english/res_e/statis_e/its2003_e/section4_e/iv01.xls) (last visited Apr. 22, 2005).

2. Clayton Yeutter, *Bringing Agriculture into the Multilateral Trading System*, in J. BHAGWATI AND M. HIRSCH EDS. *THE URUGUAY ROUND AND BEYOND: ESSAYS IN HONOR OF ARTHUR DUNKEL* (Germany: Springer Verlag 1998), as quoted in MELAKU GEBOYE DESTA, *THE LAW OF INTERNATIONAL TRADE IN AGRICULTURAL PRODUCTS: FROM GATT TO THE WTO AGREEMENT ON AGRICULTURE 8* (The Hague, NL: Kluwer Law International, 2003).

3. Lindsey Brink, *The Miami Fizzle: What Else But Cancun Redux*, WALL ST. J., Nov. 28, 2003, A9.

organizations; treaties and agreements; dispute resolution; customs; tariffs; domestic trade law and policy; and statistics. This guide aims to make researching international agricultural trade law less overwhelming by providing an introduction to the sources and methods involved in the research process.

## II. INTERNATIONAL ORGANIZATIONS AND AGREEMENTS

### A. World Trade Organization

Countries eager to re-establish trading relations after the Second World War agreed to the General Agreements on Tariff and Trade (GATT), which went into force in 1948.<sup>4</sup> The original GATT agreement technically applied to trade in agriculture but it contained many loopholes that were easily exploited by parties to the agreement.<sup>5</sup> Member nations tackled trade in agriculture during the Uruguay Round negotiations and, after lengthy debates and delays, produced a multilateral treaty called the Agreement on Agriculture in 1994.<sup>6</sup> The goals of the Agreement are to establish a trading system that is fair and market oriented by increasing market access and reducing domestic and export subsidies on agricultural products.<sup>7</sup> Article seventeen of the Agreement established a Committee on Agriculture to oversee the Agreement's implementation. Article nineteen of the Agreement provides for disagreements between member nations to be submitted to the Committee on Agriculture or handled through the WTO's dispute settlement procedures. The Uruguay Round also produced the Sanitary and Phytosanitary Measures Agreement (SPS), which allows member nations to take measures to protect human, animal, or plant life or health, and the Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement, which requires member nations to protect agricultural chemicals and plant varieties with patents.<sup>8</sup> The Agreement on

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4. *The GATT Years: From Havana to Marrakech*, at [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact4\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm) (last visited Apr. 22, 2005).

5. *Agriculture: Fairer Markets for Farmers*, at [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm3\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm) (last visited Apr. 22, 2005).

6. Kevin C. Kennedy, *International Trade in Agriculture: Where We've Been, Where We Are, And Where We're Headed*, 10 MICH. ST. U.-DCL J. INT'L L. 1, 2-3 (2001).

7. *Id.* at 3.

8. *Standards and Safety*, at [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm4\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm4_e.htm) (last visited Apr. 22, 2005); *Multilateral Trade Negotiations on Agriculture: A Resource Manual*, Part IV 3-4 (Rome: Food and Agriculture Organization of the United

Agriculture calls for additional reforms through continued negotiations which occurred at ministerial conferences at Doha, Qatar in 2001 and in Cancun, Mexico in 2003.<sup>9</sup> The Cancun negotiations ended in deadlock when ministers from poorer nations failed to reach an agreement with ministers representing richer nations on issues of agricultural trade, investment, and government procurement.<sup>10</sup> Over one year later on August 1, 2004, WTO member nations broke the deadlock by agreeing to a historic package of trade liberalizing frameworks and agreements that will eventually abolish all agricultural export subsidies.<sup>11</sup>

### 1. Researching the WTO and the Agreement on Agriculture

Researching the Agreement on Agriculture involves not only consulting the text of the Agreement but also the history of the negotiations, drafting of the Agreement, official documents issued by WTO bodies interpreting the Agreement, tariff schedules, documents produced during subsequent ministerial rounds, documents and legislation implementing the Agreement, Committee on Agriculture documents, and dispute settlement decisions. Researchers must also be familiar with the WTO documentation system, the WTO Web pages and the series *Basic Instruments and Selected Documents (BISD)*. Helpful research guides to the WTO include:

- *Trade Topics: Agriculture*, a useful jumping off point that provides background information and links, accessible at: [http://www.wto.org/english/tratop\\_e/agric\\_e/agric\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/agric_e.htm).
- Jeanne Rehberg. "WTO/GATT Research." Accessible at: <http://www.llrx.com/features/wto2.htm>.
- WTOTERM, a terminology database, accessible at: <http://wtoterm.wto.org/>.

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Nations 2000), at <http://www.fao.org/DOCREP/003/X7351E/X7351E00.HTM>.

9. *Agriculture: Fairer Markets for Farmers*, *supra* note 5.

10. Elizabeth Becker, *Delegates From Poorer Nations Walk Out of World Trade Talks*, N.Y. TIMES, Sept. 15, 2003, at A1.

11. *WTO News: Round the Clock Meetings Produce Historic Breakthrough*, at [http://www.wto.org/english/news\\_e/news04\\_e/dda\\_package\\_sum\\_31july04\\_e.htm](http://www.wto.org/english/news_e/news04_e/dda_package_sum_31july04_e.htm) (last visited Apr. 22, 2005).

*a. WTO Documentation System*

Official WTO documents are assigned symbols by the WTO Secretariat.<sup>12</sup> The symbols are a series of letters and numbers that identify and organize the documents.<sup>13</sup> The first part of the symbol identifies which collection the document belongs to.<sup>14</sup> Most documents related to trade in agriculture will belong to the trade in goods collection and be identified with the letter "G." Within document collections a further division is made into classes of documents sharing a common legal framework called a series.<sup>15</sup> For example, documents produced by the Committee on Agriculture would be further identified with the letters "AG." An additional letter is used to identify specific types of documents. For example, reports would be identified by the letter "R." Finally, documents are numbered in sequential order. Symbols are created when all of these letters and numbers are placed together.<sup>16</sup> For example, the Committee on Agriculture's first report would be identified by the symbol G/AG/R/1. More information on the documentation system is available from:

- *GATT Analytical Index: Guide to GATT Law and Practice*. 6<sup>th</sup> ed. Geneva: WTO and Bernan Press, 1995. Pages 8-18 provide a key to the document symbols.
- *WTO Analytical Index: Guide to WTO Law and Practice*. 1<sup>st</sup> ed. Lanham, MD: Bernan, 2003. The introduction provides an update to the information found in the GATT Analytical Index.
- Juan M. Mesa. "Legal and Documentary Research at WTO: The New Documents On-Line Database." *Journal of International Economic Law* 4 (2001): 245. Provides an introduction to the documentation system and a discussion of how to obtain documents online.

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12. Juan M. Mesa, *Legal and Documentary Research at WTO: The New Documents On-Line Database*, 4 J. INT'L ECON. LAW 245 (2001).

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

*b. Basic Instruments and Selected Documents (BISD)*

The series *Basic Instruments and Selected Documents (BISD)*. Geneva: Contracting Parties to the GATT, 1952 -. Lanham, MD: Bernan Press and WTO, 1998 -, is the official compilation of WTO documents. The first series covers 1952-1995. It contains the text of legal instruments, decisions, resolutions, recommendations, reports, texts of protocols of accession, dispute reports, and other material but omits summary records of ministerial conferences, council minutes, and secretariat documents. The second series begins with WTO material in 1995 and contains protocols of accession, decisions and reports adopted by WTO bodies, and select Uruguay Round documents but omits dispute panel reports, appellate body reports, and arbitration awards.<sup>17</sup> The series is kept up to date with annual supplements containing indexes. BISD is available on CD-ROM and is searchable in the Lexis database (INTLAW; BISD).

*c. Text of the Agreement on Agriculture*

- Agreement on Agriculture, April 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, 1867 U.N.T.S. 410.
- *The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations*, Annex 1A Cambridge, U.K.: Cambridge University Press, 1999.
- Joseph F. Dennin, ed. *Law and Practice of the World Trade Organization*. Dobbs Ferry, N.Y.: Oceana, 1995 -.
- Agreement on Agriculture from the WTO Web site, accessible at: [http://www.wto.org/english/docs\\_e/legal\\_e/legal\\_e.htm#ag](http://www.wto.org/english/docs_e/legal_e/legal_e.htm#ag).
- In the Westlaw database (GATT) and in the Lexis database (INTLAW; GATT).

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17. Jeanne Rehberg, *WTO/GATT Research*, at [http://www.llrx.com/features/wto2.htm#IV\\_A](http://www.llrx.com/features/wto2.htm#IV_A) (last visited Apr. 22, 2005).

*d. Negotiation and Drafting of the Agreement, Interpretive, Ministerial and Implementation Documents*

- *GATT Analytical Index: Guide to GATT Law and Practice*. 6th ed., is a guide to the interpretation and application of the GATT and subsequent agreements up to January 1995. The work contains forty-three chapters, each devoted to a GATT Article, containing the text of the Article, application, and interpretation of the Article, drafting history of the Article, other relevant documents from the preparatory work, early years of the GATT, and the Review Session of 1954-55. The history of the Uruguay Round is covered in this volume. A subject index provides access to the contents.
- *WTO Analytical Index: Guide to WTO Law and Practice*. 1st ed., provides similar material as the *GATT Analytical Index* but for the period from January 1995 - June 30, 2001. Primary content includes the Marrakesh Agreements Establishing the World Trade Organization. Also accessible online at: [http://www.wto.org/english/res\\_e/booksp\\_e/analytic\\_index\\_e/analytic\\_index\\_e.htm](http://www.wto.org/english/res_e/booksp_e/analytic_index_e/analytic_index_e.htm).
- *The GATT Uruguay Round: A Negotiating History*. Boston: Kluwer Law and Taxation Publishers, 1993.
- *Guide to the Uruguay Round Agreements*. Boston: Kluwer Law International, 1999.
- John Croome. *Reshaping the World Trading System: A History of the Uruguay Round*, 2d. ed. Boston: Kluwer Law International, 1999.
- Linda C. Reif, "History of the Uruguay Round," In *Law and Practice of the World Trade Organization*, edited by Joseph F. Dennin. Dobbs Ferry, N.Y.: Oceana, 1995 -. See booklet A, p 1, Commentary Volume.
- John H. Jackson and Alan O. Sykes. *Implementing the Uruguay Round*. Oxford: Oxford University Press, 1997.

*e. Committee on Agriculture*

Annual Reports, Summary Reports (minutes) of regular meetings of the committee and Working Documents of the Committee are accessible from the WTO's Web page on the Agriculture Agreement at: [http://www.wto.org/english/tratop\\_e/agric\\_e/agric\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/agric_e.htm).

*f. Continued Negotiations*

The Agreement on Agriculture calls for the parties to negotiate additional reforms during the Agreement's implementation period. These negotiations have occurred during ministerial conferences at Doha, Qatar and Cancun, Mexico. The ministerial mandates, news of the negotiations, minutes of special meeting sessions, chairpersons' reports, proposals, secretariat background papers, working documents, and statements are all available from the WTO's Web page on the negotiations, accessible at: [http://www.wto.org/english/tratop\\_e/agric\\_e/negoti\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/negoti_e.htm). Additional information about the Cancun conference is available at: [http://www.wto.org/english/thewto\\_e/minist\\_e/min03\\_e/min03\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min03_e/min03_e.htm).

*g. Tariff Schedules*

- Consult the Marrakesh Protocol to the GATT 1994 and scroll down the page for access to each country's schedule of commitments: [http://www.wto.org/english/docs\\_e/legal\\_e/legal\\_e.htm#marrakesh](http://www.wto.org/english/docs_e/legal_e/legal_e.htm#marrakesh).
- *Uruguay Round of Multilateral Trade Negotiations: Legal Instruments Embodying the Results of the Uruguay Round*. Geneva: GATT Secretariat, 1994.
- *The Results of the Uruguay Round*. Geneva: WTO, 1996.
- *World Trade Organization Agreements on CD-ROM: The Legal Texts and Schedules: Services Issue I*. Geneva: WTO, 2002.

When member nations apply certain tariffs or safeguard procedures they are required to notify the Committee on Agriculture. These notifications are accessible from the WTO's Web page on the Agreement



on Agriculture at: [http://www.wto.org/english/tratop\\_e/agric\\_e/agric\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/agric_e.htm).

*h. United States Implementing Legislation*

- Uruguay Round Agreements Act, Pub. L. 103-465, 108 Stat. 4809, 19 U.S.C. 3501(1994) *et seq.*
- Bernard D. Reams and Jon S. Schultz. *Uruguay Round Agreements Act: A Legislative History of Public Law No. 103-465*. Buffalo, N.Y.: William S. Hein & Co., 1995.

*B. United Nations Entities*

The Food and Agriculture Organization (FAO) is a specialized agency within the United Nations (UN). It was founded in 1945 with the mandate of raising nutritional levels, improving productivity, improving standards of living, and bettering the conditions of rural populations.<sup>18</sup> The FAO gives assistance to developing countries, serves as a clearinghouse for agricultural information, and provides a neutral forum for member nations to discuss agricultural policies.<sup>19</sup> The Basic Texts of the FAO govern its structure and function, and includes a constitution and various rules.<sup>20</sup> The FAO is governed by a Conference of the member nations.<sup>21</sup> The Conference elects members to serve on the executive branch of the organization, the Council. The FAO Web page is accessible at: <http://www.fao.org/>.

The FAO has identified trade as one of a number of “priority areas” for development. The organization is working to enhance the relationship between agriculture, economic development, food security, and trade.<sup>22</sup> The organization also works to inform and include developing countries in WTO negotiations on agriculture.<sup>23</sup> The Web page “Trade in Agriculture, Fisheries and Forestry” provides a number of

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18. *FAO at Work*, at [http://www.fao.org/UNFAO/about/index\\_en.html](http://www.fao.org/UNFAO/about/index_en.html) (last visited Apr. 22, 2005).

19. *Id.*

20. *Id.*

21. *Id.*

22. *FAO Trade in Agriculture, Fisheries and Forestry: About This Site*, at [http://www.fao.org/trade/about\\_en.asp](http://www.fao.org/trade/about_en.asp) (last visited Apr. 22, 2005).

23. *Id.*

features including: detailed discussions of the implementation of the WTO Agreement on Agriculture; a database of agriculture statistics called FAOSTAT; a database of commodity prices and tariffs called AMAD; a database of national laws and regulations relating to food and agriculture called FAOLEX; an archive of country profiles; a mapping information system; a virtual library with many documents in full text; a glossary of terms; and various reports and studies. The Web site is accessible at: <http://www.fao.org/trade/>.

Other United Nations entities relevant to international trade in agricultural products include:

- International Fund for Agricultural Development (IFAD), created to combat hunger and rural poverty, accessible at: <http://www.ifad.org/>.
- Hague Conference on Private International Trade Law, accessible at: <http://www.hcch.net/e/index.html>.
- United Nations Commission on International Trade Law (UNCITRAL), accessible at: <http://www.uncitral.org/>.
- United Nations Conference on Trade and Development (UNCTAD), accessible at: <http://www.unctad.org/Templates/StartPage.asp?intItemID=2068>.
- Permanent Court of Arbitration, accessible at: <http://www.pca-cpa.org/>.
- International Court of Justice, accessible at: <http://www.icj-cij.org/>.
- The World Bank is a specialized United Nations agency devoted to fighting poverty and improving living conditions worldwide.<sup>24</sup> The Agricultural Trade Group of the World Bank studies agricultural economies of developing countries and disseminates agricultural trade knowledge.<sup>25</sup> The Group

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24. *The World Bank: About Us*, at <http://www.worldbank.org/about> (last visited Apr. 22, 2005).

25. *Agriculture Trade*, at <http://lnweb18.worldbank.org/ESSD/ardext.nsf/11ByDoc>

is currently conducting studies into agricultural trade in developing countries and the ongoing WTO negotiations and is developing a handbook on these trade issues. The World Bank Web site provides news, data, statistics, studies and publications, accessible at: <http://www.worldbank.org/>.

## 1. Researching UN Entities

### *a. UN Documentation System*

The UN has a system of document symbols that must be understood to competently conduct research. The symbols are basically a series of letters and numbers separated by slashes. The letters and numbers represent the institution from which the document originated, any subsidiary organs involved with the document, the type of document, any modifications made to the original, and the year the document was issued.<sup>26</sup> For more information see:

- United Nations Documentation: Research Guide, accessible at: <http://www.un.org/Depts/dhl/resguide/>.
- Jeanne Rehberg, "United Nations: Lawmaking Activities and Documentation." In *Accidental Tourist on the New Frontier: An Introductory Guide to Global Legal Research*, edited by Jeanne Rehberg and Radu D. Popa. Littleton, Colo.: Fred B. Rothman, 1998.

## 2. Tools for UN Research

- UNBIS Thesaurus is an online thesaurus containing terminology used in United Nations documents, accessible at: <http://unhqappspub01.un.org/LIB/DHLUNBISThesaurus.nsf>.
- UNBISnet is a catalog that searches bibliographic records of UN documents, voting records, and indexes to speeches, accessible at: <http://unbisnet.un.org/>.

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Name/TopicsAgriculturalTrade (last visited Apr. 22, 2005).

26. Mesa, *supra* note 12.

- UN-I-QUE is a ready-reference file created by the Dag Hammarskjöld Library to respond to frequently asked questions and to provide quick access to document symbols for UN materials, accessible at: <http://lib-unique.un.org/lib/unique.nsf>.
- The UN Document Centre provides access to a variety of basic UN documents, accessible at: <http://www.un.org/documents/>.
- FAO Trade in Agriculture Glossary and Acronyms, accessible at: <http://www.fao.org/trade/glos.asp?menuItem=sub8>.

### 3. Treaties Deposited With the UN

The FAO Constitution empowers the Conference to approve and submit conventions and agreements concerning food and agriculture to member nations.<sup>27</sup> The Organization also serves as a depository for these agreements once they have been concluded.<sup>28</sup> The conventions and agreements are accessible from the FAO Web site, at: <http://www.fao.org/Legal/treaties/treaty-e.htm>. The FAO Web site also provides links to multilateral agreements related to trade in agriculture, accessible at: <http://www.fao.org/trade/agre3.asp?menuItem=sub8>.

#### *C. Other International Organizations*

- Carins Group was formed in 1986 to promote free trade in agricultural products.<sup>29</sup> Its seventeen member nations export one-third of all agricultural exports worldwide.<sup>30</sup> The group's Web site contains information about its history, documents from ministerial meetings, proposals, scholarly papers, and links. It is accessible at: <http://www.cairns-group.org/index.html>.

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27. *Food and Agriculture Organization of the United Nations: Legal Office*, at <http://www.fao.org/Legal/treaties/treaty-e.htm> (last visited Apr. 22, 2005).

28. *Id.*

29. *The Carins Group: Carins Group Milestones*, at <http://www.cairnsgroup.org/milestones.html> (last visited Apr. 22, 2005).

30. *The Carins Group: An Introduction*, at <http://www.cairnsgroup.org/introduction.html> (last visited Apr. 22, 2005).

- Global Forum on Agricultural Research (GFAR), is a neutral forum for the discussion of strategic issues in agricultural research for development, with the goals of ending poverty, increasing food security, and promoting the sustainable use of natural resources. It is accessible at: <http://www.egfar.org/>.
- International Coffee Organization works with the countries producing and consuming coffee to improve living conditions. It is accessible at: <http://www.ico.org/index.htm>.
- International Federation of Agriculture Producers (IFAP) is a cooperative group of agricultural producers that aims to meet the nutritional and consumption needs of the world population and is accessible at: <http://www.ifap.org/>.
- International Federation of Organic Agriculture Movements is attempting to secure the worldwide use of organic agriculture principles. It is accessible at: <http://www.ifoam.org/>.
- International Food and Agribusiness Management Association, accessible at: <http://www.ifama.org/>.
- Organization for Economic Co-operation and Development (OCED) is a group of thirty member countries committed to democratic governments and improving market economies.<sup>31</sup> Browse by topic and select “Agriculture, Food and Fisheries” and “Trade and Agriculture” to view statistics and reports discussing the agricultural trade policies of member countries, accessible at: <http://www.oecd.org/home/>.

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31. *Organization for Economic Co-Operation and Development: About OECD*, at [http://www.oecd.org/about/0,2337,en\\_2649\\_201185\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/about/0,2337,en_2649_201185_1_1_1_1_1,00.html) (last visited Apr. 22, 2005).

## III. REGIONAL TRADE ORGANIZATIONS AND AGREEMENTS

A. *The Americas*

## 1. North American Free Trade Agreement (NAFTA)

The NAFTA Agreement is designed to liberalize trade and remove trade barriers between the United States, Mexico, and Canada. Trade in agriculture was one of the most sensitive issues addressed by the Agreement. The United States and Canada were reluctant to agree to major changes because of the powerful farm lobbies in both countries.<sup>32</sup> The *ejido* communal land system and communal farming protected by the Mexican Constitution further complicated the negotiations.<sup>33</sup> An agreement on agricultural issues was finally reached through two separate bilateral agreements, an exception to the single trilateral agreements reached on all other NAFTA issues.<sup>34</sup>

The provisions of the agreement relating to trade in agriculture are primarily found in chapter seven of the NAFTA Agreement. The Agreement keeps in place trading rules that existed between the United States and Canada under the Canada-United States Free Trade Agreement (CFTA).<sup>35</sup> Additionally, the NAFTA Agreement aims to restrain export subsidies, eliminate trade barriers, reduce and eventually eliminate tariffs between the United States and Mexico, provides for dispute resolution, and institutes Sanitary and Phytosanitary Measures (SPS), similar to those found in the Uruguay Agreement, to protect human, animal and plant life.<sup>36</sup>

*a. Text of the NAFTA Agreement*

- North American Free Trade Agreement Between the Government of the United States, the Government of Canada and the Government of the United Mexican States, Washington D.C.: GPO, 1993 (not yet printed in the UST).

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32. RALPH H. FOLSOM, NAFTA IN A NUTSHELL 106 (St. Paul, MN: West 1999).

33. *Id.*

34. RALPH H. FOLSOM & W. DAVIS FOLSOM, UNDERSTANDING NAFTA AND ITS INTERNATIONAL BUSINESS IMPLICATIONS 242 (Matthew Bender 1996).

35. FOLSOM, *supra* note 32.

36. FOLSOM, *supra* note 32, at 106-116.

- James R. Holbein and Donald J. Musch, eds. *North American Free Trade Agreements*. Dobbs Ferry, N.Y.: Oceana, 2003 - present.
  - Available from the NAFTA Secretariat's Web site at: <http://www.naftasecalena.org>.
  - *International Legal Materials*, Washington D.C.: American Society of International Law, 1963 - present, reprinted the NAFTA in volume 32 at pages: 289, 605, 1480, 1499, 1519.
  - Accessible from the Westlaw and Lexis databases (NAFTA).
- b. Domestic Implementing Legislation and Legislative History

### *1. United States*

- North American Free Trade Agreement Implementation Act, Pub. L. No. 103-182, 107 Stat. 2057 (1993); 19 U.S.C. 3301 *et seq.*
- Bernard D. Reams. *The North American Free Trade Agreement (NAFTA): Documents and Materials Including a Legislative History of the North American Free Trade Agreement Implementation Act, Public Law 103-182*. Buffalo, N.Y.: William S. Hein & Co., 1994.

### *2. Mexico*

- "El Tratado de Libre Comercio en America del Norte," D.O. 14 de Diciembre de 1993.
- Translated into English in: James R. Holbein, and Donald J. Musch, eds. *North American Free Trade Agreements*, Dobbs Ferry, N.Y.: Oceana, 2003 - vol. 2, booklet 13.

### *3. Canada*

- North American Free Trade Implementation Act of June 23, 1993, ch. 44, 1991- 1993 S.C.

- Reprinted in: James R. Holbein, and Donald J. Musch, eds. *North American Free Trade Agreements*, Dobbs Ferry, N.Y.: Oceana, 2003 - vol. 2, booklet 12.
- Accessible from the Department of Justice of Canada at: <http://laws.justice.gc.ca/en/N-23.8/index.html>.

## 2. Other Regional Trade Agreements and Associations

- Inter-American Institute for Cooperation on Agriculture (IICA) was founded in 1942 and currently has thirty-four member states.<sup>37</sup> The organization analyzes and builds a consensus on agricultural policies and issues, and specifically attempts to foster successful participation in the international trading markets. It is accessible at: <http://www.iica.int/eliica/>.
- Andean Community is based upon the Cartagena Agreement and its members include Bolivia, Columbia, Ecuador, Peru and Venezuela.<sup>38</sup> The Community's agreements, legislation, dispute settlement decisions and other documents are available from the Community's Web site, accessible at: <http://www.comunidadandina.org/endex.htm>.
- Caribbean Common Market (CARICOM) was established in 1973 by the Treaty of Chaguaramas.<sup>39</sup> The organization has regional trade agreements and a common food marketing agreement called the "Agreement Establishing the Caribbean Food Corporation."<sup>40</sup> CARICOM's Web site provides access to news, press releases, treaties, protocols, agreements, information about the Caribbean Court of Justice and statistics, accessible at: <http://www.caricom.org/>.

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37. *Inter-American Institute for Cooperation on Agriculture*, at <http://www.iica.int/eliica/> (last visited Apr. 22, 2005).

38. *Andean Community: Who We Are*, at <http://www.comunidadandina.org/ingles/who.htm> (last visited Apr. 22, 2005).

39. *Caribbean Community: The Community History*, at <http://www.caricom.org/> (last visited Apr. 22, 2005).

40. *Id.*



- Free Trade Area of the Americas (FTAA) is an organization that was created in 1994 by thirty-four governments endeavoring to unite their economies into a single free trade area where barriers to trade and investment would be progressively eliminated.<sup>41</sup> The Web site provides information on trade negotiations and summits, drafts of the FTAA Agreement, ministerial declarations and documents, documents from negotiating groups, a trade and tariffs database, and information about special committees. It is accessible at: [http://www.ftaalca.org/alca\\_e.asp](http://www.ftaalca.org/alca_e.asp). The Negotiating Group on Agriculture is working to negotiate the text of the Agreement relating to agriculture.<sup>42</sup> The specific mandates given to the Group on Agriculture and press communiqués outlining the Group's achievements are available from the Group's Web site at [http://www.ftaalca.org/ngroups/ngag\\_e.asp](http://www.ftaalca.org/ngroups/ngag_e.asp). Links to bilateral trade agreements and customs unions between countries within the FTAA are available from the Foreign Trade Information Center (SICE), accessible at: [http://www.ftaalca.org/NGROUPS/NGMADB\\_E.asp](http://www.ftaalca.org/NGROUPS/NGMADB_E.asp).
- Southern Cone Common Market (MERCOSUR) is a free trade area agreement between Argentina, Brazil, Paraguay, and Uruguay created in 1991 by the Treaty of Asunción.<sup>43</sup> Article 1 § 1 of the Treaty creates a common market that includes the co-ordination of policies in foreign trade, agriculture, and other areas. The Treaty also includes dispute settlement provisions in Annex III. The text of the treaty in English, protocols, decisions and resolutions, and articles about the Treaty are available from the SICE Web page at: [http://www.sice.oas.org/agreements/Mercin\\_e.asp#MERCOSUR](http://www.sice.oas.org/agreements/Mercin_e.asp#MERCOSUR).
- The MERCOSUR secretariat's Web site provides information in Portuguese and Spanish only, accessible at: <http://www.mercosur.org.uy/>.

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41. *Free Trade Area of the Americas: About the FTAA*, at [http://www.ftaalca.org/View\\_e.asp](http://www.ftaalca.org/View_e.asp) (last visited Apr. 22, 2005).

42. *Id.*

43. Treaty of Asunción, March 26, 1991, 30 I.L.M. 1041.

*B. Europe*

## 1. European Union

The domestic and international agricultural policy of the European Community was first announced in 1957 by Articles 32 to 38 in Title II of the Treaty of Rome, now known as the Treaty Establishing the European Community. The objectives of the common agricultural policy (CAP) set forth in Article 33 of the Treaty are: the increase of productivity; maintenance of a fair standard of living for farmers; stabilization of markets; and provision of products to consumers at reasonable prices. Article 34 provides that the CAP shall be achieved by establishing common agricultural markets (COM) in the form of common rules on competition, co-ordination of national markets, a European market organization, and common machinery for stabilizing imports or exports. According to Article 37 of the Treaty, the Council of the European Union (Council), acting on proposals from the European Commission and in consultation with the European Parliament, sets up market organizations which are then implemented by the Commission.<sup>44</sup> Market organizations exist for most agricultural products produced within the EU. Their primary function is to set common prices, grant aid to producers, control production, and regulate trade.<sup>45</sup> Market organizations may require importers to obtain import licenses or pay import levies, and may take measures to safeguard the community market. Organizations also pay subsidies to EU exporters to bring their prices in line with the world markets.<sup>46</sup>

The CAP has evolved since its introduction. The early policy of community preference, adopted by the European Council in 1962, gave preferences and price advantages to EU agricultural products over imported goods, and protected the internal market from price fluctuations and cheap imported products.<sup>47</sup> In 1992 prices were reduced in an effort

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44. Treaty Establishing the European Economic Community, March 25, 1957, 298 U.N.T.S. 3, 4 Eur. Y.B. 412. Also known as the Treaty of Rome. In 1993 the Maastricht Treaty renamed it the Treaty Establishing the European Community.

45. *Common Organization of the Agricultural Markets: Introduction*, at <http://europa.eu.int/scadplus/leg/en/lvb/l11047.htm> (last visited Apr. 22, 2005).

46. *Id.*

47. *Agriculture: Introduction*, at <http://europa.eu.int/scadplus/leg/en/lvb/l04000.htm> (last visited Apr. 22, 2005).

to become more competitive in the international market.<sup>48</sup> Radical and fundamental reform of the CAP began in 1997 to prepare for enlargement of the EU and the implementation of the Uruguay Round agreements of the WTO.<sup>49</sup> The reforms contain measures aimed at making the EU more competitive in the world agricultural market, doing away with trade distorting practices, and allowing farmers to produce what the world market demands.<sup>50</sup>

*a. Researching EU Agricultural Law*

In researching the agricultural trade law of the EU it is important to be familiar with the different types of documents produced by Council, Commission, and Parliament. The Council and Commission issue Regulations, Directives, and Decisions.<sup>51</sup> Regulations are binding on member states and are a statement of what needs to be done to achieve goals.<sup>52</sup> Directives provide a framework that must be enacted into the local law of member states.<sup>53</sup> Decisions bind the member states or parties they are addressed to.<sup>54</sup> The researcher may also encounter Commission publications called Green Papers, which are communications on a specific policy area, and White Papers, which are proposals for Community action in a specific area.<sup>55</sup> Legislation introduced in the Commission is called a "COM" document and is assigned an accession number including the last two digits of the year and other information. The Parliament produces Session Documents, Opinions, and Debates that are relevant to legislation.<sup>56</sup>

Guides helpful in conducting research are:

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48. *Id.*

49. *Id.*

50. *EU Agriculture and the WTO*, at [http://europa.eu.int/comm/agriculture/external/wto/backgrou/cancun\\_en.pdf](http://europa.eu.int/comm/agriculture/external/wto/backgrou/cancun_en.pdf) (last visited Apr. 22, 2005).

51. Marilyn J. Raisch, *European Union: Basic Legal Sources*, in ACCIDENTAL TOURIST ON THE NEW FRONTIER: AN INTRODUCTORY GUIDE TO GLOBAL LEGAL RESEARCH 189-198 (Jeanne Rehberg and Radu D. Popa eds. Littleton, CO: Rothman 1998).

52. *Id.* at 194.

53. *Id.* at 195.

54. *Id.*

55. Marilyn J. Raisch, *European Union Law: An Integrated Guide to Electronic and Print Research*, at <http://www.llrx.com/features/eulaw.htm> (last visited Apr. 22, 2005).

56. *Id.*

- Duncan E. Alford. "European Union Legal Materials: A Guide for Infrequent Users." *Law Library Journal* 97 (2005): 49-76.
- Marylin J. Raisch. "European Union Law: An Integrated Guide to Electronic and Print Research." Accessible at: <http://www.llrx.com/features/eulaw.htm>.
- Glossary of EU terms: <http://europa.eu.int/scadplus/leg/en/cig/g4000.htm>.
- The Web page "Trade in Agricultural Goods and Fishery Products" provides current legislation relating to trade in agricultural products, updates on WTO negotiations, and information about sanitary, psytosanitary, and biotechnology trade issues, accessible at: [http://europa.eu.int/comm/trade/issues/sectoral/agri\\_fish/index\\_en.htm](http://europa.eu.int/comm/trade/issues/sectoral/agri_fish/index_en.htm)
- The Web page "Activities of the European Union: Agriculture" is the jumping off point for information about agriculture and the European Union. It provides general information and links to EU institutions and resources, accessible at: [http://europa.eu.int/pol/agr/index\\_en.htm](http://europa.eu.int/pol/agr/index_en.htm).
- Information about CAP reform is available from these Web pages: "EU Agriculture and the WTO," accessible at: [http://europa.eu.int/comm/agriculture/external/wto/backgrou/cancun\\_en.pdf](http://europa.eu.int/comm/agriculture/external/wto/backgrou/cancun_en.pdf), and "CAP Reform," accessible at: [http://europa.eu.int/comm/agriculture/capreform/index\\_en.htm](http://europa.eu.int/comm/agriculture/capreform/index_en.htm).

*b. Treaty Establishing the European Community/Treaty of Rome*

Treaty Establishing the European Economic Community (hereinafter Treaty), March 25, 1957, 298 U.N.T.S. 3, 4 Eur. Y.B. 412. Also known as the Treaty of Rome. In 1993 the Maastricht Treaty renamed it the Treaty Establishing the European Community.<sup>57</sup>

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57. Treaty on European Union, Feb. 7, 1992, 1992 O.J. (C 191) 1 (1992).

- The Treaty is accessible from the Eur-Lex Web site at [http://europa.eu.int/eurlex/en/treaties/dat/C\\_2002325EN.003301.html](http://europa.eu.int/eurlex/en/treaties/dat/C_2002325EN.003301.html).
- Accessible from the Lexis database (TREATY) and the Westlaw database (EU-TREATIES).

*c. Sources of Agricultural Legislation*

- Eur-Lex's analytical register provides all agriculture legislation currently in force and arranged in a topical outline form. It is accessible at [http://europa.eu.int/eurlex/en/lif/ind/en\\_analytical\\_index\\_03.html](http://europa.eu.int/eurlex/en/lif/ind/en_analytical_index_03.html).
- Summaries of the different market organizations (e.g., eggs, rice, tobacco . . .), including the CAP objective, citations and hyperlinks to community measures, and information about implementation are accessible at: <http://europa.eu.int/scadplus/leg/en/s04004.htm>.
- The official gazette of the EU is the *Official Journal* (OJ) and is available on-line at: <http://europa.eu.int/eur-lex/en/oj/>. The OJ is divided into two parts: Series L contains legislation in the form of regulations and directives adopted by the Council and the Commission; Series C contains information and notices in the form of a variety of information including communications and proposed legislation, and is updated daily. References to the OJ indicate what part the material is published in, either L or C, the volume, and the page number. For example, L/20/19 refers to a document published in the L Series, volume twenty and on page nineteen. The L series is accessible on Westlaw in the database (EU-LEG). The C Series is accessible on Westlaw in the database (EU-OJCSERIES). Both series are available in the Lexis CELEX database (ECLAW).
- Preparatory and final legislation are available in the Westlaw database (EU) and in the Lexis database (ECLAW).

*d. Council of the European Union*

According to the Treaty, the Council's role is to make common agricultural policy by setting up market organizations. Activities of the Council include issuing Regulations, Directives, and Decisions. These documents are found in:

- *The Official Journal.*
- The Council's Web page contains timetables and agendas, summary of Council acts, minutes, press releases, and other information, accessible at: <http://ue.eu.int/en/Info/index.htm>.
- Press releases from Council meetings on agriculture and fisheries are available from the Council's Web site from 1996 – present at <http://ue.eu.int/Newsroom/loadbook.asp?BID=100&LANG=1>.

*e. European Commission*

According to the Treaty, the Commission's role is to submit proposals to the Council and to implement the policies and market organizations made by the Council. The Commission issues Regulations, Directives, and Decisions. These documents are found in:

- *The Official Journal.*
- PreLex is a database that follows all Commission proposals from their transmission to the Council or Parliament, accessible at: <http://europa.eu.int/prelex/apcnet.cfm?CL=en>.
- The Commission's Web site on agriculture provides news, various publications, links to agricultural committees, statistics, and links to the international trade relations in agriculture Web page, accessible at: [http://europa.eu.int/comm/agriculture/index\\_en.htm](http://europa.eu.int/comm/agriculture/index_en.htm).
- Agriculture Directorate General is an organ of the Commission responsible for the implementation of the CAP. Its Web site provides news and a directory of employees,

accessible at: [http://europa.eu.int/comm/dgs/agriculture/index\\_en.htm](http://europa.eu.int/comm/dgs/agriculture/index_en.htm).

- The Commission's general Web page provides news, publications, statistics, summaries of legislation, and internal Commission documents, accessible at [http://europa.eu.int/comm/index\\_en.htm](http://europa.eu.int/comm/index_en.htm).

#### *f. European Parliament*

According to the Treaty, the Parliament's role is to consult with the Council and the Commission in making common agricultural policy and setting up market organizations. Documents are available at:

- The *Official Journal*.
- The Parliamentary Committee on Agriculture and Rural Development Web page contains a calendar of meetings, meeting documents, adopted reports, and information on conference and hearings, accessible at: [http://www.europarl.eu.int/committees/agri\\_home.htm](http://www.europarl.eu.int/committees/agri_home.htm).
- The Europarl Web page provides access to internal and external documents, records of proceedings, allows you to track measures as they move through the Parliament, and provides a variety of other information, accessible at: [http://www.europarl.eu.int/home/default\\_en.htm](http://www.europarl.eu.int/home/default_en.htm).

#### 2. Other European Regional Trade Agreements and Associations

- European Free Trade Association (EFTA) was established in 1960 and is currently composed of Iceland, Lichtenstein, Norway and Switzerland.<sup>58</sup> The Association promotes free trade and economic integration. EFTA's Web site provides news about the Association and legal texts, including the text of the Convention Establishing the European Free Trade Association (EFTA or Vaduz Convention), the Agreement on the European Economic Area (EEA), and trade

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58. *The EFTA Secretariat*, at <http://secretariat.efta.int/> (last visited Apr. 22, 2005).

agreements with third party countries. The Convention contains a number of provisions applicable to trade in agricultural products, including import and export duties, tariff concessions negotiated with other countries, and the adoption of the WTO's SPS measures. The Web site is accessible at: <http://secretariat.efta.int/>.

- Central Europe Free Trade Area (CEFTA) was created in 1992 when the Czech Republic, Hungary, Poland, Slovak Republic, Slovenia, and Romania signed the Central Europe Free Trade Agreement.<sup>59</sup> The aims of the Agreement include ensuring fair trade between member countries, removing trade barriers, and balanced expansion of world trade.<sup>60</sup> The Agreement covers agricultural products and other goods and services. The agreement is harmonized with the GATT and WTO agreements and calls for a reduction in customs duties and trade barriers for agricultural products.<sup>61</sup> The CEFTA Web site provides information about the organization, information about member countries, the text of the Agreement, minutes from past meetings, and detailed trade statistics, accessible at: <http://www.cefta.org/>.

### *C. Asia*

- Asia-Pacific Economic Cooperation (APEC) is a forum for facilitating economic growth, trade, and investment in the Asia-Pacific region that does not require binding treaty obligations of its twenty-one member nations.<sup>62</sup> The Agricultural Technical Cooperation Working Group attempts to develop cooperation among member nations on agricultural technology issues and other matters including trade in agriculture.<sup>63</sup> APEC's Web site contains news about

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59. *Central Europe Free Trade Agreement*, at <http://www.cefta.org/> (last visited Apr. 22, 2005).

60. *Id.*

61. *Id.*

62. *Asia-Pacific Economic Cooperation: About APEC*, at [http://www.apecsec.org.sg/apec/about\\_apec.html](http://www.apecsec.org.sg/apec/about_apec.html) (last visited Apr. 22, 2005).

63. *Asia-Pacific Economic Cooperation: Agricultural Technical Cooperation Working Group*, at [http://www.apecsec.org.sg/apec/apec\\_groups/working\\_groups/agricultural\\_technical.html](http://www.apecsec.org.sg/apec/apec_groups/working_groups/agricultural_technical.html) (last visited Apr. 22, 2005).



APEC and the economy of member nations, ministerial statements, and publications, accessible at: <http://www.apecsec.org.sg/>.

- Association of Southeast Asian Nations (ASEAN) was established in 1967 by the Bangkok Declaration to promote regional economic growth and today has ten member countries.<sup>64</sup> ASEAN's Web site provides the basic documents of the organization, statistics, information on summit meetings, and publications, accessible at: <http://www.aseansec.org/home.htm>. The Bangkok Declaration calls for ASEAN member nations to cooperate in expanding trade in agriculture.<sup>65</sup> This mandate has been broadened over the years and most recently the Strategic Plan of Action on Cooperation in Food, Agriculture and Forestry was announced with a focus on enhancing the international competitiveness of ASEAN agricultural products.<sup>66</sup> The Food, Agriculture and Forestry Ministry's Web site contains press releases, a summary of the ministry's organization and structure, status reports, agreements, publications, and other documents, accessible at: <http://www.aseansec.org/4921.htm>.

#### *D. Africa*

- Common Market for Eastern and Southern Africa (COMESA) was created by the Common Market for Eastern and Southern Africa Treaty in 1994 by twenty-one member states in pursuit of a free trade area, removal of internal trade barriers, a common external tariff, trade liberalization, and customs cooperation.<sup>67</sup> The Treaty outlines specific undertakings in the field of agriculture and specifically emphasizes cooperation in various areas, including co-

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64. *Association of Southeast Asian Nations: Overview*, at <http://www.aseansec.org/64.htm> (last visited Apr. 22, 2005).

65. *Id.*

66. *Association of Southeast Asian Nations: Food, Agriculture and Forestry*, at <http://www.aseansec.org/6167.htm> (last visited Apr. 22, 2005).

67. *Common Market for Eastern and Southern Africa*, at <http://www.comesa.int/about/Overview/view> (last visited Apr. 22, 2005).

operation in agricultural exports.<sup>68</sup> COMESA is attempting to increase agricultural trade by making trade in agricultural products more transparent and competitive.<sup>69</sup> Twenty COMESA member states are members of the WTO.<sup>70</sup> The COMESA Web site contains background information about the organization, the text of the COMESA Treaty, documents, publications, tables of agricultural statistics, judgments of the COMESA Court of Justice, and a report on the harmonization of agricultural policy for COMESA countries, accessible at: <http://www.comesa.int/>.

- Southern African Development Community (SADC) was formed by the Declaration and Treaty of the Southern African Development Community, signed by fourteen member states in 1992.<sup>71</sup> The liberalization and promotion of agricultural trade is one goal of the SADC.<sup>72</sup> The Protocol on Trade calls for trade liberalization, the elimination of trade barriers and of import and export duties, harmonization with the trading practices of the WTO, and SPS measures.<sup>73</sup> One of the main functions of the Directorate of Food, Agriculture and Natural Resources is to promote trade in agriculture.<sup>74</sup> SADC's Web site contains news, general information about SADC, legal texts, and documents including treaties, protocols, and agreements, accessible at: <http://www.sadc.int/index.php?lang=english&path=&page=index>.
- Economic Community of West African States (ECOWAS) is a regional group of fifteen countries formed in 1975 to promote integration in agriculture and other fields.<sup>75</sup> The

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68. *Id.*

69. *Id.*

70. *Id.*

71. *Southern African Development Community: The Origins*, at [http://www.sadc.int/index.php?action=a1001&page\\_id=about\\_history](http://www.sadc.int/index.php?action=a1001&page_id=about_history) (last visited Apr. 22, 2005).

72. *Southern African Development Community*, at <http://www.sadc.int/> (last visited Apr. 22, 2005).

73. *Id.*

74. *Id.*

75. *Economic Community of West African States*, at <http://www.ecowas.int/> (last visited Apr. 22, 2005).

goals of the organization are to suppress customs duties and barriers, to establish a common external tariff, to harmonize economic and financial policies, and to create a monetary zone.<sup>76</sup> The ECWAS Web site provides information about the institution, member states, conferences, press releases, publications, and trade opportunities, accessible at: <http://www.ecowas.int/>.

For other regional and national organizations related to international trade in agricultural products consult the topics: TRADE, AGRIBUSINESS, AGRICULTURAL LAW and AGRICULTURE in the *Encyclopedia of Associations: International Organizations*. Detroit: Gale Research, 1989 - present.

#### IV. UNITED STATES TRADE IN AGRICULTURAL PRODUCTS

United States law that impacts trade in agricultural products is found in international agreements the U.S. enters into, in U.S. statutory and administrative law, and in the decisions of U.S. Courts.

##### *A. International Trade Agreements*

The United States is a party to many international trade agreements related to agriculture. The most notable are the WTO Agreement on Agriculture, the NAFTA Agreement, and the Free Trade Agreement of the Americas. For a general introduction to researching international agreements the United States is a party to see:

- Marci Hoffman, "Researching U.S. Treaties and Agreements." Accessible at: <http://www.llrx.com/features/ustreaty.htm#international>.

When researching international agreements the United States is a party to it is useful to understand how the United States enters into treaties. Some useful resources include:

- Robert E. Dalton, "National Treaty Law and Practice: United States." Accessible at: <http://www.asil.org/dalton.pdf#page mode=bookmarks>.

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76. *Id.*

- Erwin C. Surrency. "How the United States Perfects an International Agreement." *Law Library Journal* 85 (1993): 343.
- *Treaties and Other International Agreements: The Role of the United States Senate*, accessible at: [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106\\_cong\\_senate\\_print&docid=f:66922.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_senate_print&docid=f:66922.pdf).
- State Department Trade Glossary, accessible at: <http://usinfo.state.gov/products/pubs/trade/>.

### 1. Sources of the Text of International Agreements

- United States treaties appear first in slip form in *Treaties and Other International Acts Series (TIAS)* and then are cumulated into *United States Treaties and Other International Agreements (UST)* (1950 - present). TIAS is currently five to six years behind and UST is twelve years behind.
- *Hein's United States Treaties and Other International Agreements* provides a more up to date source of treaties.
- Also, consult the Lexis database (USTRTY) and the Westlaw database (USTREATIES).

### 2. Indexes and Finding Aids

- Igor I. Kavass, ed. *US Treaty Index*. Buffalo, N.Y.: William S. Hein & Co., 1991 -, is a comprehensive index of all documented treaties and international agreements from 1776 to present. The set provides access chronologically by country and by subject. To find treaties related to agricultural trade consult the topics: "AGRICULTURAL COMMODITIES," "AGRICULTURAL PRODUCTS," "TRADE AND COMMERCE," and under the names of international organizations. *US Treaty Index* is updated semi-annually by *Current Treaty Index*.

- Igor I. Kavass and Adolph Sprudz, eds. *A Guide to the United States Treaties in Force*. Buffalo, N.Y.: William S. Hein & Co., 1982 -, is a three volume annual publication that tells the researcher: what international agreements the U.S. has with a particular country or on a particular subject matter; if a particular agreement is in force; where the text can be found; and, what other countries are parties. Volume one is devoted to numerical lists for bilateral and multilateral treaties; volume two lists treaties by country and subject; and volume three is a chronological index and directory. To determine what treaties the United States has with a particular country consult "treaties listed by country" in volume two. To search for treaties by subject consult the following headings in volume two: "AGRICULTURAL COMMODITIES," "AGRICULTURE," "CUSTOMS," "TRADE," "TRADE AND COMMERCE," and under the names of international organizations. If you do not have access to this publication, use the official United States government publication *Treaties in Force*, also accessible online at: <http://www.state.gov/s/l/c8455.htm>.
- The United States Department of Agriculture Foreign Agricultural Service's Web page, "Trade Agreements," lists agreements the United States has with other individual countries and provides information about ongoing and proposed negotiations. Multilateral agreements are not included. It is accessible at: <http://www.fas.usda.gov/itp/agreements.html>.
- The United States Department of State's Web site, "Trade Topics," provides information about negotiations currently under way in the area of agriculture, accessible at: <http://usinfo.state.gov/topical/econ/wto/wtotrade.htm#agriculture>.

### *B. Domestic Legislation*

- An excellent place to research federal statutes regulating U.S. agricultural trade is the Compilation of Agriculture Law created by the U.S. Senate Committee on Agriculture, Nutrition, and Forestry. The topic "Agricultural Trade Laws" organizes all federal statutes relevant to trade in

agriculture under nine broad topics. It is accessible at: [http://agriculture.senate.gov/Legislation/Compilations/compilations\\_entry.html](http://agriculture.senate.gov/Legislation/Compilations/compilations_entry.html).

- Consult Title 7 “Agriculture” of the *United States Code*, available in print from Cornell’s Legal Information Institute, accessible at: <http://www4.law.cornell.edu/uscode/7/>, in the Westlaw databases (USC) or (USCA) and in the Lexis databases (USC) or (USCS).
- The National Center for Agricultural Law Research and Information provides a variety of information from its Web site including the text, history, and analysis of past and present Farm Bills, congressional resources related to agriculture, and information on specific agricultural laws in subject specific reading rooms. It is accessible at: <http://www.nationalaglawcenter.org/>.

### C. Administrative Agencies

Agencies involved with trade in agricultural products include the Department of Agriculture (USDA), the Treasury Department’s Office of Foreign Assets Control (OFAC) and Customs Service, the Department of Commerce’s Bureau of Industry and Security, the Census Bureau, the United States Trade Representative’s (USTR) Agriculture Sector, and the United States International Trade Commission. The activities of these agencies include the administration of reporting requirements and export restrictions on trade in certain agricultural products or with certain countries, entities or persons known as Specially Designated Nationals (SDN).<sup>77</sup>

- The Foreign Agricultural Service (FAS) of the USDA works to open up new markets to U.S. agricultural producers, coordinates trade policy and trade negotiations, and collects and analyzes trade data and administers aid programs. FAS’s Web site contains a multitude of useful information including: pages for importers and exporters, an explanation

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77. *Global Marketplace: Agricultural Products Legal Aspects*, at [http://www.agriculture.state.pa.us/agriculture/lib/agriculture/pdfdocs/legal\\_handbook.pdf](http://www.agriculture.state.pa.us/agriculture/lib/agriculture/pdfdocs/legal_handbook.pdf) (last visited Apr. 22, 2005).

of U.S. agricultural trade law and policy, links to multilateral and bilateral agricultural trade agreements, reports and information about specific countries and markets, news, and statistical information, accessible at: <http://www.fas.usda.gov/>.

- The United States Trade Representative is a cabinet level administrative agency responsible for formulating trade policy and negotiating trade agreements. The Web site of USTR's Agriculture Sector contains the text of the Annual Report on agriculture, documents and proposals discussing trade policy and reform, and press releases and updates on world wide dispute settlement decisions involving U.S. trade in agriculture, accessible at: <http://www.ustr.gov/sectors/agriculture.shtml>.
- The Office of Foreign Assets Control (OFAC) of the U.S. Treasury Department administers sanctions programs and publishes the list of Specially Designated Nationals with whom trading is prohibited or restricted. The agency publishes regulations and the SDN list in Title 31 of the *Code of Federal Regulations*. Additional information including the SDN list, blocked persons list, regulations, legal documents and other information is available from the OFAC's Web site, accessible at: <http://www.ustreas.gov/offices/eotffc/ofac/>.
- The Bureau of Industry and Security at the U.S. Department of Commerce also administers sanctions programs and Export Administration Regulations, known as "EARs." EARs are found in the *Code of Federal Regulations* at Title 15 Parts 700 to 799. Policies and regulations, licensing, EAR's, news and other information is accessible from the Bureau's Web site at: <http://www.bxa.doc.gov>.
- The U.S. Customs Service enforces regulations made by other U.S. government agencies at the point of export. Their Web site is accessible at: <http://www.customs.ustreas.gov/>.

- The Census Bureau administers reporting requirements and collects statistical data on all agricultural exports.<sup>78</sup> Information is collected on the form “Shippers Export Declaration” or filed electronically through the Automated Export System.<sup>79</sup> Reporting requirements are published in Title 15 Part 30 of the *Code of Federal Regulations*. Information about reporting requirements is accessible at: <http://www.census.gov/foreign-trade/www/index.html>.
- The International Trade Commission administers trade laws, provides independent analysis to the executive and congressional branches of government and maintains the Harmonized Tariff Schedule (HTS).<sup>80</sup> The HTS classifies goods imported into the U.S. and states the applicable tariff rate.<sup>81</sup> Information, publications, and the Harmonized Tariff Schedule are available from the Commission’s Web site, accessible at: <http://www.usitc.gov/>.

### 1. Sources of Regulations

Administrative regulations appear first in the *Federal Register*, accessible from GPO Access at: <http://www.gpoaccess.gov/fr/index.html>; from the Hein-Online database; from the Westlaw database (FR); and, from the Lexis database (FEDREG). Additional sources of regulations include:

- The National Center for Agricultural Law Research and Information’s Federal Register Digest project contains a brief summary of significant agricultural regulations appearing from 2002 to present, organized by agency. Click on the name of the agencies identified *infra* for regulations relevant to trade in agriculture. It is accessible at: <http://www.nationalaglawcenter.org/reporter/registerdigest/>.

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78. U.S. Census Bureau, *Foreign Trade Data*, at <http://www.census.gov/foreign-trade/www/> (last visited Apr. 22, 2005).

79. *Id.*

80. Catherine L. Krieps, *U.S. Regulation of International Trade: A Research Guide*, in *INTRODUCTION TO INTERNATIONAL BUSINESS LAW: LEGAL TRANSACTIONS IN A GLOBAL ECONOMY* 87-89 (Gitelle Steer and Maria Smolka-Day eds., 1996).

81. *Id.*



- *BNA's International Trade Reporter*. Washington D.C.: BNA, 1984 -, provides current information about policies, regulations, and decisions of administrative agencies related to international trade in a bi-weekly format. Consult the topics index heading "Agriculture" for regulations and decisions relevant to trade in agricultural products.
- Final rules and regulations related to agriculture are codified in Title 7 of the *Code of Federal Regulations* and other Titles identified *infra*. The *Code of Federal Regulations* is accessible online at: <http://www.gpoaccess.gov/cfr/index.html>, and from the Westlaw and Lexis databases (CFR).

#### *D. Administrative and Judicial Decisions*

The Office of Foreign Assets Control of the Department of the Treasury hears requests for release of blocked funds and arguments that individuals or entities were improperly placed on the SDN list or otherwise improperly sanctioned.<sup>82</sup> The OFAC may also initiate civil penalty proceedings or administrative proceedings before an administrative law judge for violations of various regulations and statutes the OFAC is charged with enforcing.<sup>83</sup> OFAC's Web site "Civil Penalties Information" contains enforcement guidelines and releases regarding enforcement actions, accessible at: <http://www.ustreas.gov/offices/eotffc/ofac/civpen/index.html>.

The Bureau of Industry and Security (formerly the Bureau of Export Administration) within the Department of Commerce may impose civil or criminal penalties for violations of the EARs and other regulations.<sup>84</sup> A party charged with a violation in a case where a criminal or civil penalty may be imposed is entitled to a hearing before an administrative law judge.<sup>85</sup> Decisions may be appealed to the Under Secretary for Export Administration and then to the United States Court of Appeals for the District of Columbia Circuit.<sup>86</sup> The Electronic Reading Room of the Bureau of Industry and Security provides access to documents and

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82. 37 FEDERAL PROCEDURE, LAWYERS EDITION § 37:1088-1111 (2000).

83. *Id.*

84. 37 FEDERAL PROCEDURE, LAWYERS EDITION § 37:1012-1083 (2000).

85. *Id.*

86. *Id.*

transcripts from administrative proceedings, accessible at: <http://efoia.bis.doc.gov/>.

The USDA administers a variety of statutes that require the availability of administrative hearings.<sup>87</sup> Several of the statutes are relevant to trade in agriculture because they regulate inspection and quarantine of agricultural products. The first hearing is conducted by the Office of Administrative Law Judges.<sup>88</sup> Administrative Law Judge's decisions may be appealed to the Office of Judicial Officer and then to United States District Court.<sup>89</sup> USDA Administrative Law Judges and Judicial Officer decisions are available from:

- *Agriculture Decisions*. Washington D.C.: GPO, 1942 - present. This official publication from the Secretary of Agriculture contains decisions of the Administrative Law Judges, Judicial Officer, and select District Court opinions along with a subject matter index.
- In the Westlaw database (USDA).
- Administrative Law Judges decisions from 2000 to present are available at the ALJ's Web site, accessible at: <http://www.usda.gov/da/oaljdecisions/>.
- Summaries of Judicial Officer decisions from 1971 to present are available at the Judicial Officer's Web site, accessible at: <http://www.usda.gov/da/ojo.htm>.
- The National Center for Agricultural Law Research and Information provides the text of major USDA decisions from 2002 to present, accessible at: <http://www.nationalaglawcenter.org/decisions/>.

Customs Service Decisions are issued at the request of the parties involved and are an interpretation and application of customs regulations and laws to specific facts. Decisions are binding on all Customs Service

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87. *United States Department of Agriculture: Office of Administrative Law Judges*, at <http://www.usda.gov/da/oalj.htm> (last visited Apr. 22, 2005).

88. *Id.*

89. *Id.*

personnel and represent the official position of the Department.<sup>90</sup> Decisions are available from:

- *Customs Bulletin*. Washington D.C.: GPO, 1968 - present, and its predecessor *Treasury Decisions Under Customs and Other Laws*. Washington D.C.: GPO, 1868-1968, are the official publications of Customs Service Decisions.
- Customs Ruling Online Search System (CROSS) contains over 90,000 decisions from 1989 to present, accessible at: <http://rulings.customs.gov/>.
- In the Westlaw database (FINT-CUSTB) and the Lexis database (ITRADE;CUSBUL).

The United States International Trade Commission (USITC) makes determinations in investigations involving unfair practices in import trade, mainly involving allegations of infringement of U.S. patents and trademarks by imported goods.<sup>91</sup> If it finds a violation of the law, the USITC may order the exclusion of the imported product from the United States.<sup>92</sup> More information, dockets and complaints involving hearings are available from the USITC's Web site at: <http://www.usitc.gov/>.

- Decisions are also found in *BNA's International Trade Reporter* and are accessible from the Westlaw database (FINT-ITC) and the Lexis database (ITRADE;ITC).

United States Court of International Trade, formerly known as the U.S. Customs Court (1926-1979) and the Board of U.S. General Appraisers (1890-1926), hears international trade disputes arising out of U.S. law against the United States and its officers and agencies. The Court's Web site provides rules and forms, information about the court and the judges, and slip opinions from 1999 to present, accessible at: <http://www.cit.uscourts.gov/>. Decisions are also found in:

- *United States Court of International Trade Reports*. Washington D.C: GPO, 1983 - present.

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90. Krieps, *supra* note 80, at 86.

91. *Id.* at 87-89.

92. *Id.*

- *United States Customs Court Reports*. Washington D.C.: GPO, 1938-81.
- *International Trade Reporter*. Washington D.C.: BNA, 1984 - present.
- Court of International Trade and Customs Court Reports are available from the Westlaw Database (FINT-CIT) and the Lexis database (GENFED;NEWER).

United States Court of Appeals for the Federal Circuit (CAFC) was created in 1982.<sup>93</sup> This federal appellate court's jurisdiction includes customs and international trade law appeals from the U.S. Court of International Trade and appeals of unfair competition cases from the U.S. International Trade Commission.<sup>94</sup> Predecessor courts include the Court of Customs and Patent Appeals (1929-1982), the Court of Customs Appeals (1909-1929), and the Court of Claims (1855-1982).<sup>95</sup> Opinions, decisions, court rules, and a list of pending cases are available at the Court's Web site, accessible at: <http://www.fedcir.gov/index.html>. Decisions are also found in:

- *Cases Decided in United States Court of Appeals for the Federal Circuit: Trade Cases Adjudged in the Court of Appeals for the Federal Circuit*. Washington D.C.: GPO, 1982 - .
- *Federal Reporter*. St. Paul, MN: West, 1880 - present.
- *United States Customs Court Reports*. Washington D.C.: GPO, 1938-81.
- *Cases Decided in the United States Court of Claims*. Washington D.C.: GPO, 1863-1984.

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93. *U.S. Court of Appeals for the Federal Circuit: About the Court*, at <http://fedcir.gov/about.html> (last visited Apr. 22, 2005).

94. *Id.*

95. *Id.*

- In the Westlaw database (CTAF) and the Lexis database (CAFC).

## V. TRADE LAWS OF OTHER COUNTRIES

The domestic laws of other countries are relevant because they establish restrictions on the importation of agricultural products in the form of tariffs and other trade barriers.

### *A. Sources of Foreign Agricultural Trade Laws*

The United Nations Food and Agriculture Organization (FAO) Legal Office maintains a full text database of national laws and regulations on food and agriculture, accessible at: <http://faolex.fao.org/faolex/index.htm>.

The USDA's Foreign Agriculture Service provides a wealth of information on the laws and regulations of other countries at its Web site. Information includes:

- The Food and Agricultural Import Regulations and Standards (FARIS) database which provides information on the technical requirements (food laws, labeling and import procedures) imposed by foreign countries for the importation of agricultural products, accessible at: [http://www.fas.usda.gov/itp/ofsts/fairs\\_by\\_country.asp](http://www.fas.usda.gov/itp/ofsts/fairs_by_country.asp).
- The Library of Export Requirements provides an importing country's requirements for meat and poultry products including: product eligibility, labeling and processing requirements, and documentation, accessible at: <http://www.fsis.usda.gov/OFO/export/explib.htm>.
- Market research resources describing the general agricultural business climate of countries are accessible from the FAS page on export assistance, accessible at: <http://www.fas.usda.gov/agexport/markresea.html>.

The U.S. Trade Representative's annual report "National Trade Estimate Report on Foreign Trade Barriers" lists trade barriers by country and is accessible at: <http://www.ustr.gov/reports/index.shtml>.

Country Commercial Guides are prepared by the U.S. Embassy Staff in each country. The guides describe the economic and political climate of countries worldwide, including information on trade regulations, accessible at: <http://www.export.gov/OneStopConsumer/OneStop/mrl/login.jsp>.

### *B. Tariff Databases*

- The Harmonized System of Tariff Nomenclature is used by 190 countries and customs unions.<sup>96</sup> It is administered by the World Customs Organization (WCO). The WCO's Web page provides links to the tariff schedules of countries worldwide, accessible at: <http://www.wcoomd.org/ie/index.html>.
- Agricultural Market Access Database (AMAD) is a joint effort among several intergovernmental organizations to create a database of tariff schedules from countries around the world.<sup>97</sup> Fifty countries are currently included in the database, accessible at: <http://www.amad.org/>.
- Free Trade Area of the Americas Tariff Database, accessible at: [http://www.ftaaalca.org/NGROUPS/NGMADB\\_E.asp](http://www.ftaaalca.org/NGROUPS/NGMADB_E.asp).

### *C. General Resources for Finding Foreign Laws*

- Thomas H. Reynolds, and Arturo A. Flores. *Foreign Law: Current Sources of Codes and Basic Legislation in Jurisdictions of the World*. Littleton, CO: Fred B. Rothman, 1989 -, provides basic information about the legal systems of over 150 countries, including citations to enactments by subject for each jurisdiction. Generally there are not entries under the subject "AGRICULTURE" but relevant laws may also be located under the following subjects: "CUSTOMS

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96. *World Customs Organization: The Harmonized System: The Language of International Trade*, at <http://www.wcoomd.org/ie/En/AboutUs/fiche2%20A%20ng.pdf> (last visited Apr. 22, 2005).

97. *Agricultural and Market Access Database*, at <http://www.amad.org/> (last visited Apr. 22, 2005).

## TARIFFS," "FOREIGN TRADE," and "NATURAL RESOURCES."

- Kenneth Robert Redeen, ed. *Modern Legal Systems Cyclopedia*. Buffalo, N.Y.: William S. Hein & Co., 1984 -, briefly summarizes the legal systems of countries.
- *Martindale Hubble International Law Digest*. New Providence, NJ: LexisNexis, 1991 -, contains short summaries of the legal systems of countries.
- Silke Sahl, "A Selective List of Guides to Foreign Legal Research." (2003) Columbia Law School, Arthur W. Diamond Law Library. Accessible at: <http://library.law.columbia.edu/foreignguide.html>.
- LLRX Research Center – Foreign and Comparative Law contains research guides to the legal systems of over fifty countries world wide, accessible at: [http://www.llrx.com/comparative\\_and\\_foreign\\_law.html](http://www.llrx.com/comparative_and_foreign_law.html).
- Library of Congress Guide to Law Online – Nations of the World. If a foreign jurisdiction provides online access to its laws this site will have them, accessible at: <http://www.loc.gov/law/guide/nations.html>.

## VI. BIBLIOGRAPHIES OF BOOKS AND ARTICLES

Sally J. Kelley. *Agricultural Law: A Selected Bibliography*. 1985- . This publication of the National Center for Agricultural Law Research and Information contains citations to books and articles. See the topic "international trade" for relevant materials, accessible at: <http://www.nationalaglawcenter.org/research/bibliographies/>.

Drew L Kershen. *Agricultural Law Bibliography*. American Agricultural Law Association, 2001. Professor Kershen teaches Agriculture Law at the University of Oklahoma College of Law. His bibliography provides citations to books, reports and articles organized around forty-eight categories. Category twenty-six contains materials dealing with international trade. Coverage begins in the mid-1980s. Accessible at: <http://www.aglawassn.org/biblio/findarticle.html>.

Search the following indexes for citations to books and articles:

- *Current Law Index*. Farmington Hills, MI: The Gale Group, 1980 - present. Search under the subject headings: "AGRICULTURE," "AGRICULTURE INDUSTRY," "AGRICULTURE LAW," "COMMERCIAL TREATIES," "CUSTOMS ADMINISTRATION," "EXPORT CONTROLS," "FREE TRADE," "IMPORT QUOTAS," "INTERNATIONAL TRADE," "RESTRAINT OF TRADE," "RULES OF ORIGIN," "TARIFFS," and the names of international organizations.
- *Index to Foreign Legal Periodicals*. Berkeley, CA: University of California Press, 1960 - present. Search under the subject headings: "AGRICULTURE," "INTERNATIONAL TRADE," "EXPORTS AND IMPORTS," "CUSTOMS AND TARIFFS," and the names of international organizations and agreements.
- *Index to Legal Periodicals and Books*. New York: HW Wilson, 1908 - present. Search under the subject headings: "AGRICULTURE," "CUSTOMS LAWS," "EXPORTS AND IMPORTS," "INTERNATIONAL SALES," "INTERNATIONAL TRADE," "MOST-FAVORED-NATION CLAUSE," "PROTECTIONISM," "SUBSIDIES," "UNFAIR TRADE PRACTICES," and the names of international organizations and agreements.
- Search the LegalTrac database under the subject "AGRICULTURE" and subdivision "INTERNATIONAL TRADE."
- Search WilsonWeb Index to Legal Periodicals under the subjects "INTERNATIONAL TRADE," "TARIFF AND CUSTOMS LAWS," and "AGRICULTURE."
- Search in the Westlaw databases (TP-ALL) and (INT-TP) and the Lexis databases (LAWREV) and (INTLR).



## VII. RESEARCH GUIDES AND LINKS

- AgricultureLaw.com is a commercial site that provides news and information on domestic and international issues, links to laws and regulations, an agriculture dictionary, and a list of acronyms, accessible at: <http://www.agriculturelaw.com/links2/dictionary2.htm>.
- Export.gov is the U.S. government portal of trade resources, accessible at: <http://www.export.gov/>.
- Hieros Gammos' page of agriculture law links focuses on international aspects of agricultural law and trade, accessible at: <http://www.hg.org/agri.html>.
- Marci Hoffman, "Revised Guide to International Trade Law Sources on the Internet." This guide provides a general introduction to international trade law, accessible at: <http://www.llrx.com/features/trade3.htm>.
- Jean M. Wegner, "International Trade Law," is another general guide to international trade law, accessible at: <http://www.asil.org/resource/iel1.htm#III.%20INTERNATIONAL%20TRADE%20LAW>.
- The National Center for Agricultural Law Research and Information has several useful guides addressing agriculture law in general and aspects of trade in agricultural products, including the International Trade Law Research Guide, the Westlaw Databases Useful in Agricultural Law Research Guide, and the Agricultural Law Research Guide by Sally J. Kelley, Research Professor and Center Librarian, available in print at the Center. The Center's Web page "Reference Desk" contains many useful links, including several on-line glossaries of agricultural trade terms, accessible at: <http://www.nationalaglawcenter.org/reference/>.
- The United States National Agricultural Library Web site contains a variety of resources including: an agriculture thesaurus; Agricultural on-line access (AGRICOLA), the library's catalog and journal index; the Agriculture Network

Information Center (AgNIC), a guide to internet information selected by a group of libraries and institutions; and many other resources, accessible at: <http://www.nal.usda.gov/>.

- WAICENT is a world agriculture information portal designed by the UN's Food and Agriculture Organization. The subject Trade and Agribusiness contains links relevant to international trade in agricultural products, accessible at: [http://www.fao.org/waicent/index\\_en.asp](http://www.fao.org/waicent/index_en.asp).

### VIII. STATISTICS

The USDA provides a variety of statistical information useful for conducting research in international agricultural trade including:

- The Economic Research Service (ERS) is the main source of USDA data and research. The ERS's Web site contains the following pages relevant to trade including: "key topic: trade" with summaries of U.S. trade in agriculture data; "briefing rooms" containing detailed discussions and synthesis of data relevant to trade issues; and the page Foreign Agricultural Trade of the United States (FATUS), which aggregates agricultural import and export data collected by the Customs Service. The ERS's Web site is accessible at: <http://www.ers.usda.gov/data/FATUS/>.
- The Office of Chief Economist maintains the World Agricultural Outlook Board which provides statistics at its Web site, accessible at: <http://www.usda.gov/agency/occe/waob/index.htm>.
- The Economics and Statistics System contains over 300 datasets covering domestic and international agriculture, accessible at: <http://usda.mannlib.cornell.edu/>.

Agricultural statistics are available from the European Commission's Web site, accessible at: [http://europa.eu.int/comm/agriculture/agrista/index\\_en.htm](http://europa.eu.int/comm/agriculture/agrista/index_en.htm).

The National Agricultural Library's AgNIC internet gateway topic "International Statistics" provides links to a number of useful statistical sources, accessible at: <http://agecon.lib.umn.edu/AgNIC/statIntl.html>.

The UN's Food and Agriculture Organization (FAO) maintains its own statistical database containing over one million records. Select "Agriculture" for relevant statistics, accessible at: <http://apps.fao.org/default.htm>. FAO's Web site also provides access to a statistical portal, accessible at: [http://www.fao.org/waicent/portal/statistics\\_en.asp](http://www.fao.org/waicent/portal/statistics_en.asp).