

Introduction to Trade Policy Review in the WTO

OBJECTIVE

- Introduction to the Trade Policy Review Mechanism.

I. INTRODUCTION

The Marrakesh Agreement Establishing the WTO (the "Agreement Establishing the WTO") has four Annexes. Annexes 1, 2, and 3, which include the "Multilateral Trade Agreements", apply to all the WTO Members.

In this Module, we will introduce Annexes 2 and 3 to the Agreement Establishing the WTO, which set out the rules relating to two of the main functions of the WTO:

- **Annex 2 - [Understanding on Rules and Procedures Governing the Settlement of Disputes](#)** (The DSU); and,
- **Annex 3 - [Trade Policy Review Mechanism \(TPRM\)](#).**

[Annex 2](#) relates to the function of providing a forum for the settlement of disputes between WTO Members. The dispute settlement system plays an important role in the multilateral trading system (MTS) by enforcing and clarifying the legal obligations contained in the WTO "covered Agreements" (that is, most importantly, the Agreement Establishing the WTO, and the Agreements in Annexes 1 and 2). [Annex 3](#) provides for regular surveillance of national trade policies through the TPRM.

The first part of the Module will provide you with an overview of the main functions and objectives of the WTO dispute settlement system, its main features and the process for settling trade disputes among WTO Members as set forth in the DSU. The second part will explain the functioning of the TPRM, including its main objectives and the collective review process undertaken on the trade policies of all Members.

Why is the WTO dispute settlement system important?

The best international agreement is not worth very much if its obligations cannot be enforced when one of the signatories fails to comply with such obligations. An effective mechanism to settle disputes thus increases the practical value of the commitments the signatories undertake in an international agreement. The fact that the WTO Members established the current dispute settlement system during the Uruguay Round of multilateral trade negotiations underscores the high importance they attach to compliance by all Members with their obligations under the WTO Agreement.

Settling disputes in a timely and structured manner is important. It helps to prevent the detrimental effects of unresolved international trade conflicts and to mitigate the imbalances between stronger and weaker players by having their disputes settled on the basis of rules rather than having power determine the outcome. Most people consider the WTO dispute settlement system to be one of the major results of the Uruguay Round. After the entry into force of the WTO Agreement in 1995, the dispute settlement system soon gained practical importance as Members frequently resorted to using it.

II. IN BRIEF: TRADE POLICY REVIEW MECHANISM (TPRM)

The TPRM is a permanent mechanism which applies to all Members on a rotary basis and involves a peer-group assessment of each Members' trade policies and practices and their impact on the functioning of the MTS.

Contrary to the dispute settlement mechanism, the TPRM is not intended to evaluate individual Members compliance to specific rules.

The reviews conducted¹ have enabled other countries to understand a Member's trade policies and practices and, at the same time, have provided feedback to the reviewed Member. Furthermore, they have stimulated the internal evaluation of trade policies in Members, particularly in developing countries and LDCs.

The frequency of the reviews depends on the Members' share of world trade in goods and services and is based on two documents, a written report prepared independently by the Secretariat and a policy statement by the Member under review. These two documents are discussed by the TPRB, composed by the WTO Membership.

¹ 365 by the end of 2008 Out of which 57 under GATT 1947.

III. THE TRADE POLICY REVIEW MECHANISM (TPRM)

IN BRIEF

One of the functions of the WTO is to implement the Trade Policy Review Mechanism (TPRM) provided for in [Annex 3](#) to the Agreement Establishing the WTO. The TPRM was an early result of the Uruguay Round being provisionally introduced into GATT in 1989 following the Mid-Term Review of the Uruguay Round. With the creation of the WTO in 1995 it was made permanent and broadened to cover also services trade and intellectual property.

The TPRM is the only WTO forum where all aspects of trade policies come under discussion by the whole membership. The Mechanism constitutes an objective independent evaluation of the trade and economic situation of Members. All WTO Members are subject to review under the TPRM. The frequency of each Member's review varies according to its share of world trade.

The reviews take place in the Trade Policy Review Body (TPRB) which is the WTO General Council operating under special rules and procedures. In practice the reviews have two broad results: they enable outsiders to understand a Member's trade policies and practices and they provide feedback to the reviewed Member.

III.A. OBJECTIVES OF THE TPRM

Surveillance of national trade policies is a fundamentally important activity running throughout the work of the WTO. At the centre of this work is the Trade Policy Review Mechanism (TPRM). The main objectives of the TPRM as set out in [Annex 3](#) of the Agreement Establishing the WTO (paragraph A) include:

- the smoother functioning of the multilateral trading system by achieving **greater transparency and understanding of the trade policies and practices of Members;**
- contribute to **improved adherence by all Members to rules, disciplines and commitments** made under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements; and,
- **enable the collective appreciation and evaluation of the full range of individual Members' trade policies and practices and their impact on the functioning of the multilateral trading system.**

The reviews focus on Members' trade policies and practices. **But they also take into account the Members' wider economic and developmental needs, their policies and objectives, and the external environment** that they face. The review of broad macroeconomic and structural policies attempts to place trade and trade-related policies in their broader policy setting, thereby contributing to a better assessment of their impact on the functioning of the multilateral trading system.

The TPRM is **NOT**, however, intended to serve as:

- a basis for the enforcement of specific obligations under the Agreements,
- for dispute settlement procedures, or,
- to impose new commitments.

Benefits of the Trade Policy Review Mechanism (TPRM)

BENEFITS FOR THE MULTILATERAL TRADING SYSTEM

The TPRM has increased transparency in the trade policies and practices of GATT and WTO Members. It has frequently illuminated areas of WTO obligations that may have received insufficient attention to date and thus helped to ensure that these are addressed. The Mechanism has covered virtually all players in the WTO trading system and has highlighted the most significant trends.

BENEFITS FOR THE MEMBER UNDER REVIEW

The TPRM has stimulated the internal evaluation of trade policies in Members, particularly in developing countries. The Review process strengthens the hands of domestic agencies promoting trade and economic efficiency, improves the understanding of the role played by each domestic agency in trade policy formulation and implementation, supports trade reforms and, thus, helps individual Members to become better WTO citizens.

OTHER BENEFITS

The reviews conducted (365 by the end of 2008, out of which 57 under GATT) have highlighted interlinkages between trade and internal economic reform, the inter-sectoral effects of protection (and liberalization), and their implications for the multilateral system. Many reviews have also illustrated the importance of "new" issues such as the relationship between trade and competition policy, and the trade impact of investment measures.

III.B. SCOPE OF REVIEWS

Reviews in the TPRM highlight the extent to which individual trading entities follow basic WTO principles concerning:

- transparency of trade policies;
- non-discrimination in treatment of trading partners;
- the degree of stability and predictability of trade policies;
- the pattern of protection and the extent to which tariffs only are used as measures of protection in trade in goods;
- restrictions used in trade in services;
- the record of adherence to the multilateral trading system, and participation in dispute settlement.

III.C. THE TPRM IN PRACTICE

III.C.1. FREQUENCY OF REVIEWS

Trade Policy Reviews are an exercise in which Member countries' trade and related policies are subject to periodic reviews. **The frequency of reviews of a Member is related to its weight in the multilateral trading system**, as defined by the Member's share of world trade in goods and services. On this basis, **Members are reviewed under one of three different cycles:**

- **the four biggest traders** — the European Union, the United States, Japan and China (the "Quad") — are examined once **every two years**.
- the next 16 countries with a lesser share in world trade are reviewed every four years.
- **the rest of the Membership** (most developing country Members and economies in transition) are reviewed **every six years**, with the possibility of a **longer interim period for least-developed country (LDCs) Members**.

In 1994, flexibility of up to six months was introduced into the review cycles. Accordingly, all WTO Members are to come under review over a period of time. However, variations in trade in goods and services flows may alter the ranking of Members and thus their review cycles, for example as a result of changes in commodity prices. The accession of new Members to the WTO could also affect the position of existing Members in all the three review cycles.

III.C.2. BASIS FOR REVIEWS

For each review, two documents are prepared:

- 1. A detailed report written independently by the WTO Secretariat in the Trade Policies Review Division; and,**
- 2. A policy statement by the Member under review.**

These two documents, which form the basis of the a review, are then discussed by the WTO's full membership in the TPRB. Both documents and the proceedings of the TPRB's meetings are published shortly afterwards.

a. WTO SECRETARIAT REPORT

The Secretariat report focuses on the trade policies and practices of the Member under review, seen, to the extent necessary, in the context of the evolution of overall macro-economic and structural policies in a representative period up to the present date. The aims and structure of the report are essentially the same for all Members, variations reflecting the Members' frequency of review and economic characteristics.

1. **STRUCTURE OF THE SECRETARIAT REPORT**

Most secretariat reports are prepared following a format containing a "**Summary Observations**" which summarizes the report and presents the Secretariat's perspective on the Member's trade policies, and four chapters:

- **I. The economic environment** (covering major features of the economy, recent economic performance, trade patterns in goods and services, evolution of foreign investment, and economic outlook);
- **II. Institutional aspects of trade and investment policy-making**, including participation in multilateral and regional agreements, and trade disputes and consultations;
- **III. Trade policies and practices by measure** (covering all types of measures directly affecting imports and exports of goods and services, as well as production, and measures affecting production and trade);
- **IV. Trade policies and practices by sector** (e.g. agriculture, forestry, fisheries, manufacturing, mining, energy and services).

2. **MEMBER'S PARTICIPATION IN THE SECRETARIAT REPORT**

The report is **based on official information and comments provided by the authorities, complemented by material from other sources deemed appropriate by the Secretariat**. All chapters of the Secretariat report are checked for factual accuracy with the Member concerned, although the Secretariat retains final responsibility for their contents.

The "Summary Observations" (which are in effect the Secretariat's conclusions on the trade policies being reviewed) are not shown to the Member under review until the report is ready to be issued to all Members.

b. **MEMBER'S POLICY STATEMENT**

Reports by Members under review take the form of **policy statements** which **aim to outline the objectives and main directions of trade policies, in a forward-looking perspective**. A statement may also contain a succinct presentation of recent trends and problems, including those encountered in foreign markets. **Statements are typically between 10 and 30 pages**. The actual form and length are in the last instance determined by the Member under review.

III.C.3. THE TPRM REVIEW PROCESS

A TPRM review consists of **several steps** whose timing is agreed between the Secretariat and the Member under review. The following general sequence may be identified:

1. **Set a date for the review meeting of the TPRB** - it is crucial for the Secretariat and the Member under review to agree right at the beginning of the process upon the date for the review meeting of the TPRB, as that largely determines the timing of other steps, given the time required to complete various tasks and the rules of procedure agreed by WTO Members.

In the case of LDC Members, but also increasingly so in the case of other developing country Members and under certain specific circumstances (such as in the case of the very first review of the Member), the

Secretariat may have a first visit to the Member under review, among others, to introduce the TPRM and to collect information (see below). The visit counts as one of the annual national activities that all developing country Members are entitled to ask for at the WTO.

2. **Collection of information** - a request for information is prepared by the WTO Secretariat and is sent to the Member under review, which will then have some four to six weeks to prepare and provide information, including official publications and other official data on core issues.
3. **Preparation of the Secretariat Report** - the Secretariat drafts its report, progressively submitting all chapters to national authorities of the Member under review for verification and comments. After visiting the capital (see below), the Secretariat then incorporates the comments by the authorities and finalizes its draft. The Secretariat report and the policy statement are circulated, after translation, five weeks before the review meeting;
4. **Visit to the capital** - a Secretariat team undertakes a visit of one week to ten days to the Member under review for discussions with the authorities. The visit takes place on the basis of the preliminary draft of the Secretariat report. The Secretariat's team often consults also with private sector organisations (Chambers of Manufacturers, Commerce, etc) and research institutes;
5. **Review meeting conducted by the TPRB** - the TPRB review takes place in two sessions (each typically of half a day). For the general procedure of the TPRB review meeting, see the Box below; and,
6. **Publication of documents** - the Secretariat report and the Member's policy statement are published after the review meeting, along with the minutes of the meeting and the text of the TPRB Chairperson's Concluding Remarks delivered at the conclusion of the meeting. All these documents can be found at http://www.wto.org/english/tratop_e/tpr_e/tpr_e.htm.

The Trade Policy Review Body (TPRB) Review Meeting

Trade policy reviews are undertaken by the Trade Policy Review Body (TPRB), which is the WTO General Council in another guise and comprises all the WTO Membership. A discussant is chosen from the membership to act in his/her personal capacity to stimulate the debate in the TPRB. Intergovernmental organizations (e.g. IMF, World Bank, OECD, UNCTAD) may attend the meetings as observers. Members should submit written questions to the Member under review at least two weeks before the first session of the review meeting, to allow time to prepare replies. These questions have to be answered in writing by the start of the first session. All other questions have to be answered, in principle, during the second session.

The TPRB review meeting is normally conducted in the following process:

First session: the Member under review makes an initial statement, which provides an overview of policies, noting any new developments since the completion of the reports by the Secretariat and the Member under review), followed by the statement by the discussant and remarks and additional questions from Members.

Second session: the Member under review provides a summary of its answers, and replies to additional questions, followed by the comments by Members and the Chairperson's concluding remarks.

III.D. THE TPRM & DEVELOPING COUNTRIES

III.D.1. IMPORTANCE OF THE TPRM FOR DEVELOPING COUNTRIES

The TPRM is a **valuable tool for the development of trade policies** in developing Members and LDC Members. **Given the fact that these Members may confront with particular difficulties in adjusting their domestic policies in compliance with the multilateral trade rules, a trade policy review would assist them to undertake a process of self-assessment, including an examination of their participation in the multilateral trading system and their engagement with the WTO.** Members that are in an active process of trade policy reform also have a valuable opportunity to present the process and its results. Furthermore, **the preparation of the review and discussion during the review, can help them to encourage substantial trade policy-making in directions foreseen in the WTO Agreements** and contribute to a Member's greater integration into the MTS.

III.D.2. SPECIAL SUPPORT PROVIDED TO DEVELOPING COUNTRY MEMBERS IN THE TPRM

Preparation for and participation in a trade policy review can be onerous for small developing countries that may have little practical experience in addressing the implications of the Uruguay Round Agreements. In this regards, the WTO Secretariat may assist the Member concerned during the review process. Assistance has been provided in the past to countries under review by the Trade Policy Review Division as well as the Institute for Training and Technical Cooperation.

III.D.3. SPECIAL PROVISIONS IN THE TPRM

Specific procedures for LDC Members are included in paragraphs C and D of Annex 3 of the Agreement Establishing the WTO:

- Paragraph C(ii) provides that a longer period (than six years between reviews) may be fixed for LDC Members;
- Paragraph D requires particular account to be taken of difficulties presented to LDC Members in compiling their reports; and,
- Paragraph D includes provisions for technical cooperation to be provided, on request, to developing country Members and in particular to the LDC Members.

EXERCISES

1. What are the objectives of the WTO TPRM?

IV. SUMMARY

The objective of the TPRM is to facilitate the smooth functioning of the MTS by enhancing the transparency of Members' trade policies through periodic peer-group assessments carried out by all WTO Members.

The **TPRM** is a permanent mechanism which applies to all Members on a rotary basis and involves a peer group assessment of each Members' trade policies and practices and their impact on the functioning of the MTS. Contrary to the dispute settlement mechanism, the TPRM is not intended to evaluate individual Members compliance to specific rules. Furthermore, it cannot serve as a basis for dispute settlement procedures. The frequency of the reviews depends to the Members' share of world trade in goods and services and is based on two documents, a written report prepared independently by the Secretariat and a policy statement by the Member under review. These two documents are discussed by the Trade Policy Review Body, composed by the WTO Membership.

PROPOSED ANSWERS

1. The main objectives of the TPRM as set out in [Annex 3](#) of the Agreement Establishing the WTO (paragraph A) include: (i) the smoother functioning of the MTS by achieving greater transparency and understanding of the trade policies and practices of Members; (ii) contribute to improved adherence by all Members to rules, disciplines and commitments made under the multilateral WTO Agreements; and, (iii) enable the collective appreciation and evaluation of the full range of individual Members' trade policies and practices and their impact on the functioning of the MTS. The TPRM is not meant to serve as a basis for enforcement of specific obligations or to impose new commitments.

Videos

Juneyoung, Economic Analyst, Trade Policy Review Division -

http://WTO.http.internapcdn.net/WTO/flash/2010_openday_june_portrait.mp4

Other videos - <http://www.youtube.com/user/WTO>