

**Friends of the CBD Workshop**  
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**Review mechanism under the World Trade Organization and its effectiveness**

Ambassador Atanas Paparizov, Permanent Representative of Bulgaria to the WTO,  
Chairman of the Trade Policy Review Body in 2015/2016

Mr. Chairman,

It is a great honor and pleasure for me to contribute to the deliberations during the Friends of the CBD Workshop in Bogis-Bossey, Switzerland on what existing or new mechanisms under the Convention on Biological Diversity could be used to strengthen its implementation by enhancing review. I hope that the experience of the WTO in this area may provide you with some useful suggestions.

Transparency in the WTO is mainly provided through the Trade Policy Review Mechanism, the specific provisions for transparency in Regional Trade Agreements, and the relevant notification obligations under many WTO Agreements. Surveillance in the WTO takes place principally through the various committees or WTO bodies. The raw material for this surveillance comes from the notifications, specific trade concerns raised by Members and requests for consultations. There are also comprehensive factual reports prepared by the Secretariat, such as the country-specific Trade Policy Review reports. There is an important link between the observance of transparency by Members, their ability to provide timely and accurate notifications to various WTO organs and the quality of the surveillance function of the WTO.

**TRADE POLICY REVIEW MECHANISM**

The Trade Policy Review Mechanism (TPRM) was originally established on a provisional basis in 1989 under the General Agreement on Tariffs and Trade (GATT); during the early periods TPRs covered only trade in goods and trade-related measures subject to GATT rules. This mechanism was a unique type of monitoring and surveillance exercise and the first example of a function in which Members vested greater responsibility in the Secretariat than they had been willing to cede in the past, by allowing it to produce independent reports on Members' trade policies.

The TPRM became a permanent function of the WTO in 1995. Annex 3 of the Marrakesh Agreement Establishing the WTO specified that its purpose is "to 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 hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of Members". With the birth of the WTO, the TPR coverage was expanded to new areas under the WTO Agreement (i.e., intellectual property rights and services) as well as any other measures affecting production and trade. The preparatory process, the review procedures, and the outcome's dissemination have been considerably streamlined in line with recommendations emanating from five appraisal exercises undertaken by the membership.

The TPRM mandate clearly specifies that the mechanism is not, however, intended to serve as a basis for the enforcement of specific obligations under the WTO Agreements, or for dispute settlement purposes, or to impose new policy commitments on Members.

The transparency that is achieved in the TPRM process covers four key elements of economic policy making: (i) first, a clear description of the nature of trade policies and measures; (ii) second, their rationale or objectives; (iii) third, the costs incurred in terms of expenditures or government revenue foregone in pursuit of these policies and measures; and (iv) lastly, an economic evaluation of the effectiveness of policies and measures in achieving their objectives.

The review by the Trade Policy Review Body (TPRB) of each Member's trade and trade-related policies and practices involves a two-day meeting held at the WTO's offices in Geneva whereby a high level team from capital (often headed by the Trade Minister from the Member under review) faces scrutiny from the WTO Membership. TPRB meetings allow for an open discussion, based on two reports (one from the Secretariat and the other from the Government) circulated to all Members at least five weeks prior to the scheduled date. All Members are allowed to submit advance written questions to the country being reviewed or to raise any issues at the meeting. The country under review is to provide responses to the questions and issues raised.

The trade policy reviews' frequency depends on Members' share in world trade in goods and services. The four biggest traders undergo a review every two years

(currently, the United States, the European Union, China and Japan). The next 16 largest trading entities are reviewed every four years. The rest of the Membership is reviewed every six years, with possibly a longer period for LDCs. By the end of 2015, the TPRB had conducted 429 reviews since 1989; the reviews had covered 151 out of 161 Members. The TPRB has conducted reviews of 24 Members (counting the EU as one) in 2015. The TPR programme for 2016 comprises 24 review meetings covering 24 Members.

Particular effort has been made to review LDCs; of the 34 least developed Members of the WTO, 31 have been reviewed by the end of 2015. Trade policy reviews of LDCs have helped them enhance their understanding of the WTO Agreements, and have facilitated better compliance with and integration into the multilateral trading system. When requested by the Member concerned, the Secretariat organizes follow-up workshops to discuss the outcome of its Trade Policy Review with domestic stakeholders.

More recently, efforts intensified to group the reviews of Members into one TPRB meeting (joint reviews) where Members agree to be grouped and such a grouping is justified by, for example, participation in a regional trade or economic agreement. In 2015 such review was undertaken for the South African Customs Union (SACU). The members of SACU are: Botswana, Lesotho, Namibia, South Africa and Swaziland.

## MONITORING OF TRADE AND TRADE-RELATED MEASURES

The TPRM requires Members, in between their reviews, to provide information on significant trade policy changes. The WTO Secretariat uses this and other information to prepare, on a regular basis, reports on the trade and trade-related developments of Members and Observer Governments. The information is consolidated and presented in the Director-General's Annual Report on Developments in the International Trading Environment, as called for by paragraph G of Annex 3 of the Marrakesh Agreement. The WTO Secretariat continues to receive good cooperation from Members in collecting this information.

The latest trade monitoring report covered measures taken over the period from mid-October 2014 to mid-May 2015. The report provided information on the trends in the number of trade-restrictive measures as well as on those facilitating trade. The report noted that Members overall continue to refrain from introducing new trade-restrictive measures. The total stock of measures nevertheless continues to rise due to the slow pace of removal of previous restrictions. The report underscored the need for continued vigilance from WTO Members in monitoring

the evolution of trade restrictions. On an encouraging note, the report noted that Members continued to adopt trade-liberalizing measures at a faster pace that is faster than trade-restrictive measures.

The WTO monitoring of trade policy developments started in the wake of the global financial and economic crisis that began in 2008 with the objective of enhancing transparency of trade policy developments around the world and providing WTO members and observers with regular updates on the main trends in the implementation of trade measures (both liberalizing as well as restricting).

At the heart of the WTO monitoring exercise lies the so-called "verification step" which ensures that all information received and collected by the Secretariat from different external sources is systematically sent for verification by the concerned Member. This unique step is fundamental to the transparency, accuracy and credibility of the monitoring exercise in identifying important trade policy developments and to the stakeholder relationship between the Secretariat and the membership.

All the country-specific information collected by the WTO Secretariat since the beginning of the trade monitoring exercise is made publicly available through a dedicated Database (the Trade Monitoring Database), which constitutes another layer of additional transparency provided to the general public.

## LESSONS LEARNED

Enhanced surveillance and regular monitoring of trade policies and practices have significantly contributed to global efforts at countering the potential threat of hidden information on trade barriers and of protectionist pressures, ensuring compliance with trade commitments and helping reduce the incidence of trade disputes.

The transparency required of the trade measures taken by Members, and in general of their trade regime, and the knowledge that the institution stands on watchful guard creates a powerful incentive for Members to abide by their commitments. This increases the level of confidence in the system.

The mechanism has guaranteed a minimum level of policy transparency and provided an opportunity for neutral and unbiased information sharing. The mechanism has facilitated country comparisons as virtually the same questions are asked for all countries, trade matters are analyzed using consistent methods, and a similar standard of rigor is applied in its outcomes.

The TPRM has also helped throw light on how policies and measures not necessarily covered by WTO rules (e.g., competition, corporate governance, and environmental policy matters) may have an important bearing on the international movement of goods, services, capital, and labour, and can have effects equivalent to more conventional measures that are subject to existing WTO disciplines.

The TPRs attempt to place trade and trade-related policies in their broader policy setting, thereby assessing the coherence of these policies in achieving their objectives and improving policy formulation and implementation. By fostering transparency, particularly evaluating the effectiveness of policies and measures in achieving their objectives and their overall impacts (intended or unintended) on the economy, the TPRM can be a catalyst for unilateral reform, including liberalization of trade and FDI regimes. It has the potential to assist in generating support for trade-related reforms either unilateral or in connection with bilateral, regional or multilateral trade agreements. The TPRM is often welcomed by Members under review as a catalyst for introspection and, as such, can encourage unilateral reform. The TPRM benefits for developing countries could also involve reduction in policy uncertainty as well as reinforcement of the credibility and rationality of home policies regarding the domestic and international economy.

The TPR's preparatory process remains a unique opportunity for institutional co-ordination, policy coherence and training exercise for many Members. To deal with the preparatory phase of their first TPR, many Members had to set an inter-institutional body to co-ordinate work between different government agencies that would not otherwise have communicated with each other; this setting has often remained in place for the Member's subsequent TPRs as well as a regular domestic policy co-ordination body.

In several cases particularly in its early days, the TPR process has provided an opportunity for internal debate and raising awareness as well as for making reforms better known. The TPRM helps the government and domestic constituents in the country under review to learn about its own country's trade and trade-related policies and their explicit and implicit effects.

The TPRM reduces the informational disadvantage of small and developing countries. By making information about foreign trade practices a public good, the TPRM has the greatest marginal value to small countries that do not have the resources to collect information by themselves.

Transparency activities in the WTO, in particular those based on institutional reporting, i.e. the TPRM (TPRs, Trade Monitoring), have been gradually expanded over the years. The TPRs remain a unique activity of this type worldwide in terms of scope and frequency. The TPRM has been beneficial to the system, individual members, and domestic stakeholders. Members have become inter alia much more transparent in their policies and measures, and, academic and think-tank research, as well as commercial intelligence, has multiplied.

The regular trade monitoring exercise strengthened the transparency functions and scope of the TPRM and has become a useful complement to the country-specific TPRs and receives considerable public interest, in particular from the press. The WTO monitoring reports have been widely welcomed by both the WTO membership and the G-20 economies as significant contributions towards understanding trends and developments in trade policy making during the financial crisis as well as in its aftermath.

Mr. Chairman,

I hope this overview will help participants identify key issues and options that may be taken into consideration when preparing recommendations for a multi-dimensional review system under the Convention on Biological Diversity.

Thank you for your attention!