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WTO's Trade Policy Review Mechanism: Explanations and Reflections

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The Trade Policy Review Mechanism (TPRM) constitutes one of the main functions of the World Trade Organization (WTO) as laid down in Article III of the Marrakesh Agreement (1994). Strictly speaking, the TPRM was already established in 1988 as an early result of the Uruguay Round negotiations (1986-1994), still under the General Agreement on Tariffs and Trade (GATT). However, its application since 1989 was provisional and its scope limited to trade in goods.¹

Legal foundation

Annex 3 of the Marrakesh Agreement forms the legal basis for the TPRM and specifies the characteristics of the mechanism in only three pages.

Objectives

Accurate, timely and easily accessible information on countries' trade regimes are important for policy makers, business and civil society that are involved in trade. In this respect, the TPRM plays a crucial role and fulfills, according to Annex 3, mainly three objectives:

- (i) To increase the transparency in and the understanding of WTO Members' trade policies, regulations and practices;
- (ii) To undertake a regular collective appreciation and evaluation of these policies and practices, and to assess their impacts on the functioning of the multilateral trading system; and
- (iii) To enable a debate on WTO Members' trade policies and practices, taking into account their wider economic and developmental needs, policies and objectives.

The TPRM is not intended to enforce WTO regulations and agreements, which is the purpose of WTO's Dispute Settlement Mechanism. However, by scrutinizing a country's trade policy, attention is indirectly drawn to its conformity with WTO obligations. Remarkably, WTO Members also agreed in Annex 3 (paragraph B) to increase domestic transparency of their decision-making on trade policy matters; yet on a voluntary basis.

Process

All WTO Members are reviewed periodically, but the frequency varies according to the country's share of world trade (see Box 1).

Box 1: Frequency of Trade Policy Reviews

- Every two years: first four trading entities (currently the European Communities, United States, Japan and China)
- Every four years: the following 16 WTO Members with lesser share of world trade
- Every six years: the remaining WTO Members, except for the Least Developed Countries (LDCs), which have the possibility to be reviewed at larger intervals.

For the list of countries that have been reviewed since 1995 and comprehensive documentation, see: http://www.wto.org/english/tratop_e/tp_r_e/tp_rep_e.htm#chronologically (consulted on 16 April 2009).

Two reports provide the basis for Trade Policy Reviews (TPRs): one produced by the WTO Secretariat (Trade Policies Review Division) and one from the government of the country under review. The detailed "Secretariat Report" starts with summary observations and contains the following four chapters: Economic Environment; Trade and In-

¹ For a short general introduction to the TPRM, see: WTO: Understanding the WTO, Geneva 2008.

vestment Regimes; Trade Policies and Practices by Measure; and Trade Policies by Sector. The "Government Report" is an official policy statement of approximately 15 pages. It explains the recent developments in and general objectives of the country's trade policy and sometimes identifies the country's trade-related assistance needs.

The TPR meetings are organized by the Trade Policy Review Body (TPRB) and are open to all WTO Members, but not to civil society organizations. The official reports, together with the proceedings of the discussion, are published a few weeks afterwards at WTO's website.

Recent reforms

The second chapter of the "Secretariat Report" usually contains a section on "Trade-related Technical Assistance". In 2008, this part was restructured and renamed as "Aid for Trade". It indicates the amount and type of trade-related development assistance that the respective country received and/or provided. Moreover, it identifies further needs for technical assistance in the case of developing countries.

A second reform was decided upon as reaction to the financial and economic crisis. WTO Director-General, Pascal Lamy, established a "specific monitoring mechanism to track, review and discuss trade policy developments during the crisis."² The WTO Secretariat already produced two reports in January and March on the financial and economic crisis and trade-related developments, which subsequently were discussed at the TPRB.³ While this practice will be continued, it is unclear if future TPRs will include an explicit assessment on whether or not and what kind of protectionist measures the respective country applied.

Reflections and suggestions

The TPRM has proven a useful instrument to monitor WTO member countries' trade policies, and the level of transparency has increased significantly. Apart from its main objectives, the TPRM fulfills three other valuable functions, which should be further developed:

First, it promotes inter-agency cooperation, mainly between the WTO, IMF and World Bank. It should include to a greater extent the expertise of UN organizations, such as UNCTAD, the ILO and others as far as their respective mandates and working areas are touched upon. This would improve the coherence of international and national policy-making. On the other hand, TPRs could serve as reference for other periodic country reviews, such as those undertaken by the UN Committee on Economic, Social and Cultural Rights or the Universal Periodic Review of the Human Rights Council.

Second, it turned out to be a technical cooperation measure for developing countries; those WTO Members that lack the necessary trade analysis capacity are assisted during the TPR preparation process. Such activities should be opened up for civil society. This would enhance the understanding of trade and trade-related issues in general.

Third, the TPRM occasionally served as a forum to discuss the impacts of trade on sustainable development and other "non-trade" issues. During China's last TPR in 2008, for instance, interactions between trade and exchange rates, the environment or even income inequality were addressed. However, the request of the International Trade Union Confederation (ITUC) to include a section on the implications of trade on core labour standards and decent work has not been taken up yet. Thus, ITUC has been producing parallel reports on the countries under review.⁴ All future TPRs should contain a sub-chapter on the impacts of trade on sustainable development.

Finally, to increase the transparency of the process, civil society should be allowed to attend presentations at the WTO or, even better, be consulted in the preparation phase. This is already the case for country reviews at the UN and has helped to trigger a nationwide dialogue on the respective policy areas. It would expand the understanding of the costs and benefits of a country's WTO membership among the broader population. In the long term, this could facilitate trade negotiations, such as of the protracted Doha Round.

² Lamy, Pascal: „Keeping trade open: Resisting isolationism“, Speech delivered in Seoul, Korea (23 February 2009), http://www.wto.org/english/news_e/sppl_e/sppl115_e.htm (consulted on 16 April 2009).

³ See WTO, JOB(09)/30, 26 March 2009, at: http://www.wto.org/english/news_e/news09_e/trdev_dg_report_14apr09_e.doc (consulted on 16 April 2009).

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⁴ For a list of ITUC country reports since 2007, see: <http://www.ituc-csi.org/spip.php?rubrique161> (consulted on 16 April 2009).