

INDEX

Agreement on Application of Sanitary Secretariat raising attention and Phytosanitary Measures. of, 74 See SPS Agreement Members' engagement in Agreement on Technical Barriers to transparency, 141-42 Trade. See TBT Agreement special needs of, 203-5 dispute settlement good offices of chair as tool of barriers to trade non-tariff. See non-tariff trade dispute prevention, 96-97 harriers notifications and Members' access tariff. See tariffs to information, and, 71 bilateral trade agreements (BTAs) resources for accessing enquiry points, 85 adjudication, 253-60 notification requirements in, 59 Members' legal capacity, private stakeholders as 256-60 Members' relative resources, addressees, 77 transparency provisions in, 17-18 254-56 Brandeis, Justice Louis, 1 overall resources of country, 253-54 cigarettes, 2, 59-60 SPS Agreement, and, 1, 9 conformity assessment TBT Agreement, and, 1, 9 mutual recognition of, 114-15 transparency, and, 10, 71. See also procedures (CAPs), 27, 29 transparency as complement costs, 29 for dispute settlement; definition of, 29 transparency as substitute for examples of, 29 dispute settlement objective of provisions on, 29 equalising access to process, 2 notifications, effects of, 71 developing countries WTO Dispute Settlement asymmetry between private parties Body. See WTO from developed Members Dispute Settlement and from, 71 Body (DSB) importance of transparency for private actors in, 69 electronic tools e-mails to Members, use of, 81-82 making regulations known, 47 ability to request special enhancing effectiveness of assistance through comments transparency, 81-83 on notifications, 89 importance of, 82



INDEX 317

increase in use of/ePing, 82-83	objectives of measures,
online tools to publish/notify trade	consideration of, 26
measures, encouraging use of, 8	SPS and TBT Agreements, and
publication of notices, use of	47, 49
internet for, 65, 66	discriminatory measures,
WTO Secretariat's role in ensuring	restrictions on, 3
availability by, 144–47	measures 'beyond border', 3
disseminating information	measures of 'general application',
through e-mail alerts and	interpretation of, 54–55
online databases, 145, 147	non-discrimination obligation, 38
notification through electronic	regulatory autonomy principle,
Notification Submission	based on, 23
System, 144–45	specific trade concerns (STCs),
emergency notifications, 75–76,	95–96
80-81	tariffs
enquiry points	focus on reducing in first years
bilateral nature of dialogue with,	of, 5
93–94	progressive reduction of, 21
bridging gap between regulators	schedules of concessions, 5
and traders, 93–94	trade barriers, as, 2-3
failure to provide information,	transparency
effect of, 91	Article X (general
importance of, 89	transparency
objectives of, 90	provision), 5, 11, 12–14,
obligation to establish, 84–85,	49, 66
89–94	Article XI (quantitative
private sector, and, 85, 91–92	restrictions), 5
providing information	disclosure and due process,
Members and other interested	12–14
parties, to, 91–92	ex post, 51, 53
proposed/adopted regulations,	general commitment to notify,
on, 89–91	nature of, 53
regional trade agreements, and, 85	measures in early stages of
	GATT, 5
GATT	objectives in early negotiations
Article X, 11, 14, 49	47, 49
disclosure and due process,	public availability of
12–14	information on domestic
general transparency provision,	regulations, 49
as, 5, 12–13	publication obligations, 54-55,
governments' regulatory policy,	66, 68–69
and, 13	General Agreement on Tariffs and
obligation of publication, 66	Trade. See GATT
objectives, 13	global value chains, 2
barriers created by domestic	Good Regulatory Practices (GRPs),
regulations, and, 21	115–18
exceptional cases under Article	discussion of, 122
XX, 23, 26, 31	importance of, 116



INDEX

318

Good Regulatory Practices (cont.) Organisation for Economic Co-operation and Development (OECD), 115-16 SPS and TBT Agreements, 116-18 governments citizen participation in democratic process, 12 domestic frameworks, WTO transparency and, 16-17 first-generation transparency as 'decentralised' transparency, 6 GATT Article X, and, 13-14 holding accountable through open access, 5, 12

harmonisation SPS Agreement, under, 105-9 exceptions to obligation, 108-9 monitoring of process, SPS Committee, 124 objective of, 106 obligation to base domestic measures on international standards, 106-7 obligation to participate in standardising bodies, 107-8 TBT Agreement, under, 109-12 deviations from international standards, 111 differing approaches across Members, 112 identification of international standards, 110 importance of international standards to facilitate trade, 109-10 Members' role in preparation of standards, 112 nature of obligation regarding international standards, 110-11

impact assessments. See regulatory impact assessments (RIAs) information availability of, 5-7, 47-49

centralising by WTO Secretariat. See WTO Secretariat centrality to regulatory dialogue, 155-65 enabling dialogue, 7-8, 83-99 exchange of, 121 improving availability of, 278-86 broadening information available, 282-86 encouraging use of domestic RIAs to estimate trade effects of regulation, 283-84 enhancing incentives for transparency, 279-81 enhancing information about bilateral dialogue, 286 improving dialogue with private sector, 284-85 improving information about entire regulatory policy cycle, improving information about trade effects of regulations, 283-85 increasing information about domestic regulations, 279-82 supporting notifications by Members who rarely notify, 281-82 making regulations known/available to interested parties, 47-49 need for more accessible sources of, 6 new technologies, use of. See electronic tools private sector obtaining information from, 252–53 role of in chain of information, 269 - 71

sensitive, political difficulties related

100, 101, 118, 129, 177, 288, 295

104-12, 115, 122, 124, 149, 175, 181, 185, 199-201, 202, 203,

57-59, 69, 72, 85, 101, 103,

207, 210, 213, 222, 224-26,

258, 276, 282, 291, 297

international regulatory co-operation,

international standards, 37, 51-52,

to, 150

sharing, 1



More Information

Cambridge University Press & Assessment 978-1-108-73237-6 — Transparency in the WTO SPS and TBT Agreements: The Real Jewel in the Crown Marianna B. Karttunen Index

INDEX 319

legitimate objectives, 34–37, 57, 68, 70, 72, 80, 102, 111, 116, 191–93, 197, 204, 259, 295

mutual recognition of domestic requirements, 112–15 conformity assessment, TBT Agreement, 114–15 equivalence of international and foreign regulation, 113–14 forms of, 112–13 'rules', examples of, 113

non-discrimination. See non-tariff trade barriers: SPS and TBT Agreements non-tariff trade barriers domestic regulations, 21 GATT. See GATT non-tariff trade barriers: SPS and TBT Agreements, 22 justification of domestic measures, 30–38

balancing regulatory autonomy and free trade, 23–24 justification of domestic measures, 30–38

legal principles applying to domestic regulations under SPS and TBT Agreements, 23–45 prohibition of discrimination within limits of regulatory autonomy, 38–45 scope of SPS and TBT

Agreements, 25–30 SPS Agreement: necessity of domestic measures, 32–33

SPS Agreement: scientific evidence, 33–34

TBT Agreement: measures pursuing legitimate objectives, 36

TBT Agreement: risks that non-fulfilment would create, 37–38

prohibition of discrimination within limits of regulatory autonomy, 38–45 non-discrimination under SPS
Agreement, 38–42
non-discrimination under TBT
Agreement, 42–45
scope of SPS and TBT Agreements,
25–30
measures under SPS Agreement,
25–27
TBT measures: CAPs, 29
TBT measures: standards, 30
TBT measures: technical
regulations, 27–29
notification authorities, 73–74

Organisation for Economic
Co-operation and
Development (OECD)
Good Regulatory Practices (GRPs),
115–16
international regulatory
co-operation (IRC), 101, 115

private sector
asymmetry between private
parties from developed
Members and developing
Members, 71
enquiry points, responses from, 85,
91–92
importance of transparency for, 69
improving dialogue, 284–85
obtaining information from,
252–53

private stakeholders as addressees,
76–77
bilateral and regional trade
agreements, in, 77
role in providing comments to
notifications, 86, 88–89
role in chain of information, 269–71
role in measuring impacts of
domestic regulations, 166–73
assessing impact of
notifications, 169

drafting STCs, 169–70 existing processes to co-operate with private sector, 170–72



320 INDEX

private sector (*cont.*)
forms of collaboration with
private sector, 170–73
initiative addressing STCs, 169
private sector's role in trading
system, 166–67
STCs citing private sector, 167–68

reasoned transparency. See transparency regional trade agreements (RTAs) enquiry points, 85 notification requirements in, 59 private stakeholders as addressees, 77 transparency provisions in, 17–18 regulatory co-operation enabled by SPS and TBT institutional framework, 118–28

downstream activities of policy cycle, regulatory co-operation in, 124–28

data collection and policy analysis, 121

developing of rules, standards and guidance, 122–23

discussion of Good Regulatory Practices (GRPs), 122

exchange of information, 121 negotiating of international agreements, 123

opportunities for co-operation through SPS and TBT Committee work, 119–28

regulatory co-operation in downstream activities of policy cycle, 124–28

regulatory co-operation in upstream activities of policy cycle, 121–23

upstream activities of policy cycle, regulatory co-operation in, 121–23

dispute settlement, 127–28 monitoring of implementation, 124–26

monitoring of process of harmonisation, 124 STCs, discussion of, 125 Trade Policy Review Mechanism (TPRM), monitoring by, 125–26 WTO, SPS and TBT Committees, 118–19

regulatory co-operation under SPS and TBT Agreements, 100–28

Good Regulatory Practices (GRPs), 115–18

importance of, 116 Organisation for Economic Co-operation and

Development (OECD), 115–16 SPS and TBT Agreements, 116–18

harmonisation under SPS

Agreement, 105–9 exceptions to obligation, 108–9 objective of harmonisation, 106 obligation to base domestic measures on international

measures on international standards, 106–7

obligation to participate in standardising bodies, 107–8

harmonisation under TBT Agreement, 109–12

deviations from international standards, 111

differing approaches across Members, 112

identification of international standards, 110

importance of international standards to facilitate trade, 109–10

Members' role in preparation of standards, 112

nature of obligation regarding international standards, 110–11

institutional framework enabling regulatory co-operation. See regulatory co-operation enabled by SPS and TBT institutional framework

international standards, adoption of, 104–12

characteristics of positive integration in SPS/TBT Agreements, 105



> INDEX 321

harmonisation under SPS Agreement, 105-9 harmonisation under TBT Agreement, 109-12 SPS/TBT Agreements reducing regulatory heterogeneity, 104 - 5mutual recognition of domestic requirements, 112-15 conformity assessment, TBT Agreement, 114-15 equivalence of international and foreign regulation, 113-14 forms of, 112-13 'rules', examples of, 113 nature of international regulatory co-operation (IRC), 101 - 4co-operation, nature of, 102-3 costs reduction, regulatory co-operation contributing to, 102 definition of, 101 OECD, and, 101 trade liberalisation, regulatory co-operation contributing to, 102 regulatory co-operation encouraged under SPS and TBT Agreements, 104-18 adoption of international standards, 104-12 **Good Regulatory Practices** (GRPs), 115-18 mutual recognition of domestic requirements, 112-15 transparency, and, 100 regulatory impact assessments (RIAs) ex ante, 61 use of, 61 regulatory transparency. See transparency

significant effect on trade, 59-60 information about relevant measures in WTO context, 59-62

publication of draft regulations where potential for significant effect, 59-60 specific trade concerns (STCs) comments on notifications to STCs. from, 162-65 domestic regulatory process, contribution to, 185-205 concerns involving opportunity to comment, 187-88 concerns with time to adapt, 189-90 discrimination, 201-3 international standards, 199-201 questioning necessity of measure, 190-99 rationale behind measure, 192-96 restrictive requirements, 197–99 special needs of developing countries, 203-5 timely opportunity to discuss and influence measures, 186 - 90using STCs for regulatory co-operation on priority issues, 287-88 evolving Committee practice, 95-99 good offices of chair, 96-97 practice under GATT, 95-96 practice under WTO, 96-97 STCs in Committee discussions today, 98-99 GATT, under, 95-96 general trends regarding disputes, 220 - 33issues raised in STCs and disputes, 224-28 participating Members, 228–33 increasing importance of, 94 Members raising, 7-8 multilateral dialogue between all WTO Members, as, 15, 94-97 notifications to STCs, from, 156-58 practical impediment to trade, addressing, 205-7 private sector



More Information

Cambridge University Press & Assessment 978-1-108-73237-6 — Transparency in the WTO SPS and TBT Agreements: The Real Jewel in the Crown Marianna B. Karttunen Index

322 INDEX

specific trade concerns (STCs) (cont.) drafting STCs, 169-70 initiative addressing STCs, 169 STCs citing, 167-68 regulatory co-operation and, 125 source of information, as, 158-60 text of agreements, 94-95 transparency, information clarification, 178-85 lack of transparency in draft measure, 181-85 request for clarification on scope of requirements, 180-81 request for information, clarification, 178-81 request for update on status of draft measure, 179-80 understanding domestic regulation of WTO Members, 175-78 when transparency is enough, 207-13 resolved STCs: international standards, scientific justification, and control, inspections and approval procedures, 210-11 resolved STCs: procedural questions/practical impediments to trade, 208-12 resolving concerns regarding large or small trading nations, 211-12 resolving practical impediments to trade, 209-10 STCs assumed to be resolved due to short discussion/long periods of inactivity, 212-13 SPS Agreement discriminatory or restrictive practices, 3

of appropriate level of protection, meaning of, 33 criteria for necessity of measure, 32

dispute settlement, and, 1, 9 domestic measures, justification

necessity of measures as core discipline, 31

necessity of SPS measures, 32–33 scientific evidence, 33–34 enabling dialogue between Members, 7–8 GATT, and. See GATT good offices of chair, 96–97 harmonisation. See harmonisation measures defined by their purpose, 25–27 nature/definition of SPS measures,

determining purpose of, 26 objective of, 26–27 nature of SPS Agreement, 3 negative integration approach,

nature of, 3 non-discrimination under SPS Agreement, 38–42, 44–45 consistency of protection,

consistency of protection, 39–42 SPS Committee guidelines,

PS Committee guidelines, 40–42

test, 38–39

transparency, importance of, 41 warning signals of discrimination, 41

non-tariff trade barriers. See nontariff trade barriers: SPS and TBT Agreements

regulatory co-operation. See regulatory co-operation under SPS and TBT Agreements

scope of SPS Agreement, 25 STCs, Members raising. *See* specific trade concerns (STCs)

transparency. See transparency/ transparency obligations under SPS and TBT Agreements

GATT, and. See GATT trade barriers, as, 2–3 TBT Agreement discriminatory or restrictive practices, 3 dispute settlement, and, 1, 9

tariffs



INDEX 323

enabling dialogue between	TBT measures: standards, 27, 30
Members, 7–8	definition of, 30
GATT, and. See GATT	private, 30
harmonisation under. See	voluntary regulations of, 30
harmonisation	TBT measures: technical
nature of, 3	regulations, 27–29
necessity to fulfil legitimate policy	characteristics defining, 28
objectives, 34–38	definition of, 28
measures pursuing legitimate	document, meaning of, 28
objectives, 36	governmental nature of, 30
necessity of measures as core	mandatory character of
principle, 31	measures, 28-29, 30
risks that non-fulfilment would	transparency. See transparency/
create, 37–38	transparency obligations
steps to determine necessity of	under SPS and TBT
measure, 35-36	Agreements
negative integration approach,	tobacco. See cigarettes
nature of, 3	Tokyo Round Standards Code, 47
non-discrimination under TBT	Trade Policy Review Mechanism
Agreement, 38, 42–45	(TPRM), 11
absence of general exception	criticisms of, 15
clause, 43	enhancing enforcement of WTO
establishing measure as	obligations, 10
discriminatory, 42	establishment of, 7
legitimate regulatory	monitoring by, 280
distinction, concept of,	peer reviews under, 14–15
43-44	purpose of, 7
non-tariff trade barriers. See non-	role as 'guardian' of transparency in
tariff trade barriers: SPS and	multilateral trading system,
TBT Agreements	14–16
regulatory autonomy of Members,	WTO Secretariat, and, 15
importance of, 42	transparency
regulatory co-operation. See	complement for dispute settlement
regulatory co-operation	See transparency as
under SPS and TBT	complement for dispute
Agreements	settlement
scope, 55	important trend in international
STCs, Members raising. See specific	law, as, 12
trade concerns (STCs)	information. See information
TBT Committee discussions on	provisions in bilateral
REACH Regulation, 16	and regional trade
TBT measures: conformity	agreements, 17–18
assessment procedures	reasoned transparency, meaning
(CAPs), 27, 29	of, 4
costs, 29	regulatory transparency, meaning
definition of, 29	of, 4
examples of, 29	role in implementation of TBT and
objective of provisions on, 29	SBT Agreements, 1



324 INDEX

transparency (cont.) social order, contributing to, 2 substitute for dispute settlement. See transparency as substitute for dispute settlement TPRM, and. See Trade Policy Review Mechanism (TPRM) trading system, improving operation of, 2 WTO, transparency in. See transparency/transparency obligations in WTO transparency as complement for dispute settlement, 1, 9, 217-91 alternative fora/negotiating capacity, 273 enhancing scope and benefits of regulatory co-operation, 286-91 better co-operation between trade and regulatory communities, 288-90 enhancing regulatory co-operation to balance trade/ non-trade matters, 288-91 including non-trade considerations in discussion, 290-91 using STCs for regulatory co-operation on priority issues, 287-88 general trends regarding SPS and TBT STCs and disputes, 220 - 33Committee discussions preceding majority of SPS disputes, 220-23 issues raised in STCs and disputes, 224-28 participating Members, 228-33 TBT Committee discussions complementing dispute settlement, 223-24 general trends regarding SPS and TBT STCs and disputes: participating Members, 228-33 Members active in SPS STCs and disputes, 229-32

Members active in TBT STCs and disputes, 232-33 improving availability of information, 278-86 broadening information available, 282-86 encouraging use of domestic RIAs to estimate trade effects of regulation, 283-84 enhancing incentives for transparency, 279-81 enhancing information about bilateral dialogue, 286 improving dialogue with private sector, 284-85 improving information about entire regulatory policy cycle, improving information about trade effects of regulations, 283 - 85increasing information about domestic regulations, 279-82 supporting notifications by Members who rarely notify, 281 - 82information about other Members' regulations, 266-71 role of private sector in chain of information, 269-71 SPS and TBT transparency to improve information disparities, 266-69 information about WTOinconsistent measures, 250 - 53better capacity to detect deviations, 250-51 difficulty of identifying SPS and TBT measures at origin of trade effect, 251-52 obtaining relevant information from private sector, 252–53 information and dialogue towards mutually acceptable solution, 217-18 lack of alternative for a to address trade frictions, 260-64



INDEX 325

informal dialogue, 261-62 preferential trade agreements (PTAs), 262-63 requests for consultations, 264 resources, 272-73 resources for accessing adjudication, 253-60 Members' legal capacity, 256-60 Members' relative resources, 254 - 56overall resources of country, 253 - 54SPS and TBT requests for consultations: overview of transparency steps, 233-46 disputes that emerged out of nowhere, 243-46 major SPS and TBT disputes and transparency, 235-43 transparency and disputes, 219-20 whether current interaction between transparency and dispute settlement is best it can be, 274–78 transparency as substitute for dispute settlement, 1, 9 base of WTO disputing pyramid: centralised access to measures of WTO Members, 138-55 Members' notification practices: engagement in SPS/TBT transparency, 138-47 shortcomings of notifications systems, 147-54 use made of notifications by other Members or stakeholders, 154-55 centralised information to regulatory dialogue, 155-65 comments on notifications to STCs, from, 162-65 notifications to STCs, from: WTO framework, 156-58 role of regulatory dialogue in improving understanding of measure, 159-61 STCs: source of information, 158 - 60

explanation of 'pyramid' metaphor, 132 - 35main counterpart in private sector, 172 - 73Members' notification practices: engagement in SPS/TBT transparency, 138-47 disseminating information through e-mail alerts and online databases, 145, 147 increase in notifications means increase in transparency, 139-41 Members' engagement in transparency by development status, 141-42 notification through electronic Notification Submission System, 144-45 opportunity for comments on notifications, 142-44 Secretariat's role in ensuring availability by electronic tools, 144-47 opportunities for dialogue, 131-32 preventing conflicts by ex ante transparency, 131 private sector's role in measuring impacts of domestic regulations, 166-73 assessing impact of notifications, 169 drafting STCs, 169-70 existing processes to co-operate with private sector, 170-72 forms of collaboration with private sector, 170-73 initiative addressing STCs, 169 private sector's role in trading system, 166-67 STCs citing private sector, 167–68 shortcomings of notifications systems, 147-54 political difficulties related to sensitive information, 150 practical difficulties involving resource constraints, 148-49 remaining information gaps from notifications, 150-54



326 INDEX

transparency as substitute for dispute settlement (cont.) remaining practical difficulties in notifications, 147-50 STCs: domestic regulatory process, contribution to, 185-205 concerns involving opportunity to comment, 187-88 concerns with time to adapt, 189-90 discrimination, 201-3 international standards, 199-201 questioning necessity of measure, 190-99 rationale behind measure, 192-96 restrictive requirements, 197-99 special needs of developing countries, 203-5 timely opportunity to discuss and influence measures, 186-90 STCs: practical impediment to trade, addressing, 205-7 STCs: transparency, information clarification, 178-85 lack of transparency in draft measure, 181-85 request for clarification on scope of requirements, 180-81 request for information, clarification, 178-81 request for update on status of draft measure, 179-80 STCs: understanding domestic regulation of WTO Members, 175 - 78what Members need to know to prevent disputes from arising, 174-75 when transparency is enough, 207-13 resolving practical impediments to trade, 209-10 resolving STCs: international standards, scientific justification, 210-11 resolving STCs: large or small trading nations, 211-12

resolving STCs: procedural questions/ practical impediments to trade, 208-12 STCs assumed to be resolved due to short discussion/long periods of inactivity, 212-13 transparency tools in SPS and TBT Agreements, typology of, 62 - 99centralised transparency/access to information, 62-63, 71-83 electronic tools to enhance effectiveness of transparency, notifications: Members' rights to access information, 71-81 centralised transparency: notifications/Members' access to information, 71-81 addressees of notifications, content of notification obligation, 72-73 dispute settlement, and, 71 emergency notifications, 75-76, 80-81 establishment of notification authorities, 73-74 follow-up to original notification, 79-80 Members as addressees of notifications, 74-76 no requirement to notify adopted regulations, 78-79 private stakeholders as addressees of notifications, 76 - 77SPS format for notifications, 73 TBT format for notifications, 73 timing of notification obligation, 77 - 79collaborative transparency: enabling dialogue among WTO Members, 63, 83-99 basis of, 83 obligation to establish enquiry

points, 84-85, 89-94



INDEX 327

responding to enquiries and comments: transparency that fosters dialogue, 84-89 STCs: mechanism of multilateral regulatory dialogue, 94-99 collaborative transparency: obligation to establish enquiry points, 84-85, 89-94 bilateral nature of dialogue with enquiry points, 93-94 bridging gap between regulators and traders, 93-94 enquiry points providing information on proposed/ adopted regulations, 89-91 failure to provide information, effect of, 91 importance of, 89 objectives of enquiry points, 90 private parties, responding to, 91-92 providing information to Members and other interested parties, 91 - 92regional trade agreements, and, 85 collaborative transparency: responding to enquiries and comments, 84-89 additional procedures specific to SPS Agreement, 89 comments on notifications, 86 - 89obligation to respond to enquiries, 84-86 obligation to take comments into account, 86-88 private sector's role in providing comments, 86, 88-89 collaborative transparency: STCs, 94 - 97evolving Committee practice, 95 - 99increasing importance of, 94 text of agreements, 94-95 comprehensive system of transparency of domestic regulations, 62

electronic tools to enhance effectiveness of transparency, e-mail to Members, use of, 81 - 82importance of electronic tools, 82 increase in use of electronic tools/ePing, 82-83 right-to-know transparency, 62, ensured through obligation of publication, 63 publication of adopted regulations, 66-71 publication of notice, 63-66 right-to-know transparency: publication of adopted regulations, 66-71 adopted regulation, nature of, 67 full transparency throughout domestic regulatory cycle, ensuring, 66 location of publication, 68 scope of obligation as inclusive as possible, 66-67 targeting of publication, 68-71 timing for publication of adopted measures, 67-68 right-to-know transparency: publication of notice, 63-66 content and location of obligation to publish notice, 64-66 internet, use of, 65, 66 SPS Committee publication requirements, 65 TBT Committee publication requirements, 64-65 timing of publication of notice, 66 transparency/transparency obligations in WTO case study of right-to-know, targeted and interactive transparency in WTO, 8-11 domestic frameworks, WTO transparency and, 16-17 ex post transparency as dominant dynamic, 53



328 INDEX

transparency/transparency obligations in WTO (cont.) fragmentation of production cycles in multilateral trading system, 2 GATT. See GATT information/dialogue centralised by WTO Secretariat. See **WTO** Secretariat overview of transparency in WTO, first-generation transparency as 'decentralised' transparency, forms of transparency as threegeneration process, 4-5 information technology tools enabling centralised transparency, 8 interactive/collaborative transparency: information enabling dialogue, 7–8 need for more accessible sources of information, 6 right-to-know transparency: availability of information, 5-6 targeted transparency: access to information, 6-7 purpose of transparency requirements, 3-4 reasoned transparency, 4 reasons for, 2 allowing Members to monitor implementation of Agreements, 2 regulatory co-operation, enabling, 3 regulatory transparency, 4 transparency/transparency obligations under SPS and TBT Agreements absence of international standard: information only about measures presumed divergent, 57-59 bilateral/regional trade agreements, notification requirements of, 59

conformity of regulations to international standards, effect of, 57-58 international standard criteria. criticism of, 57-58 SPS Committee encouraging notification of compliant measures, 58 TBT Committee encouraging notification where no international standards, 59 active use by Members of developed transparency framework, 8-9 allowing Members to monitor implementation, 2 case study of right-to-know, targeted and interactive transparency, 8-11 core principle under SPS and TBT Agreements, transparency as, dialogue on draft measures between Members to encourage regulatory coherence, 50-51 consultations reinforcing transparency, 51 ex ante transparency, 51 obligation of notification, 51 opportunity/right to comment on draft measures, importance of, 50 ensuring implementation of TBT obligations, 10 making regulations known/ available to interested parties, obligation of publication, 48 TBT and SPS Agreements publicity obligations compared, 48 proposed regulations: broad range of measures under transparency framework, 54-57 SPS measures or regulations, 54 - 55TBT Agreement: CAPs, 55-56



More Information

Cambridge University Press & Assessment 978-1-108-73237-6 — Transparency in the WTO SPS and TBT Agreements: The Real Jewel in the Marianna B. Karttunen Index

INDEX

TBT Agreement: transparency of standards, 56-57 TBT Agreement: transparency of technical regulations, 55-56 purpose of transparency under SPS and TBT Agreements, 3-4, dialogue on drafts between Members to encourage regulatory coherence, 50-51 information: making regulations known/available to interested parties, 47-49 predictability: allowing traders time to adapt to new measures/costs, 49-50 regulatory co-operation, enabling, 3 scope of transparency obligations: proposed regulations, 51–62 absence of international standard: information only about measures presumed divergent, 57-59 ex post transparency as marginal aspect of transparency obligations, 53 proposed regulations: broad range of measures under transparency framework, 54-57 proposed regulations: emphasis on ex ante transparency, 52 - 53scope of basic ex ante transparency obligations, 52 significant co-ordination between authorities at domestic level, 51-52 significant effect on trade: information about relevant measures in WTO context, 59-62 transparency obligations applying to measures having

329 existence of potential for significant effect, determining, 60 - 61impacts on trade, determining, publication of draft regulations where potential for significant effect, 59-60 regulatory impact assessments, use of, 61 trade-facilitating measures, treatment of, 61-62 SPS and TBT Agreements transparency tools. See transparency tools in SPS and TBT Agreements, typology of Uruguay Round (1986-1994), 6, 10 World Trade Organization (WTO) Dispute Settlement Body. See WTO Dispute Settlement Body (DSB) GATT. See GATT legal system, strength of, 2 Secretariat. See WTO Secretariat SPS Agreement. See SPS Agreement TBT Agreement. See TBT Agreement TPRM. See Trade Policy Review Mechanism (TPRM) transparency obligations in. See transparency/ transparency obligations in WTO WTO Dispute Settlement Body (DSB) costs of, 9, 10-11

effect on trade, 51-52



330 INDEX

WTO Dispute Settlement Body (DSB) (cont.) resources for accessing adjudication, 253-60 Members' legal capacity, 256 - 60Members' relative resources, 254-56 overall resources of country, 253 - 54transparency. See also transparency as complement for dispute settlement; transparency as substitute for dispute settlement dispute settlement, and, 10, 71 equalising access to, 2 notifications, effects of, 71 WTO Secretariat centralisation of information and dialogue, 3, 7, 49, 71 data collection and policy analysis, 121 electronic tools to enhance effectiveness of transparency, 81-83 disseminating information through e-mail alerts/online databases, 145, 147

e-mails to Members, use of, 81-82, 145, 147 importance of, 82 increase in use of electronic tools/ePing, 82-83 notification through electronic Notification Submission System, 144-45 online tools to publish/notify trade measures, encouraging use of, 8 Secretariat's role in ensuring availability by, 144-47 Members' notification obligations, 6, 7, 71 notification authorities, 74 notifications addressees of, 74-77 electronic tools to improve effectiveness of transparency, 81 - 83Members, 71, 74-76 regulatory co-operation preventing disputes, 128 TPRM, and, 15 transparency obligations under TBT Agreement, description of, 62