

Transparency & Public Consultation in International Trade

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Trade Transparency

- There are different meanings of ‘trade transparency’. One of which refers to the extent to which the legal instruments governing international trade **are known, clear and comprehensible** to the parties.

- Transparency is not only dealing with the **clarity of expression in the text** itself but also with certain **preconditions** that make it possible for the **parties to know** and **understand** the text.

Preconditions:

1. The **publication** of documents;
2. The right to receive **notification** of the text or changes affecting it or its implementation;
3. The right and the **capacity to participate in decision-making**;
4. The right to have **access** to relevant documents, to **ask questions** about them and to be able to read documents in one's own language.

- ‘Trade transparency’ is the subject of a very large number of provisions in WTO agreements.
- These provisions establish several **types of obligations** designed to enhance and insure ‘trade transparency’.

Transparency obligations:

- i. Publish;
- ii. Provide information;
- iii. Give public notice or notify;
- iv. Consult;**
- v. Become a Member or to participate;
- vi. Provide an opportunity to compete;
- vii. Ensure, provide or improve transparency, including to conduct in a transparent manner;
- viii. Prepare documents;
- ix. Report;

Article X:1 Publication and Administration of Trade Regulations

- Paragraph 1: Laws, regulations, judicial decisions and administrative rulings of general application;
- Paragraph 2: published promptly in such a manner as to enable governments and **traders to become acquainted with them;**

Public Consultation

- Public consultation permits government to **explain** and **justify** its decisions to the public and to **persuade** those who are opposed to change or modify their views.

Reasons for public consultation

- Issues in trade negotiations have gone from **tariffs** to **non-tariff barriers** to trade and to a trade agenda that has a direct **impact** on a **wide range** of domestic policies and **interest groups**.

- The wider agenda has attracted the **attention of more stakeholders** and NGOs claiming to represent civil society.
- Governments and those groups favouring trade liberalization have responded to their opponents and now provide a **continuing flow of information** in support of their views.

5 stages public policymaking

- 1. Agenda building or problem identification;*
- 2. Policy formulation;*
- 3. Policy adoption or decision making;*
- 4. Policy implementation;*
- 5. Policy evaluation;*

Government-Citizen engagement

1. *Transparency and Public Information* – provide **timely notification** and **access** to relevant, accurate trade documentation;
2. *Communications and Consultations* – encourage national and multilateral trade policy development processes that reach out to parliamentary and **public participation on a regular basis**;

3. *Representation* – provide multiple structures to ensure that **citizens' interests are articulated** in all relevant forums and at all stages from pre-negotiation through implementation of agreements;
4. *Deliberation* – create policy development approaches that facilitate **public education, shared learning** and **real dialogue** among all participants;

- *Legitimation* – establish constitutional procedures to ensure **public-interest examination, informed public consent** and *due process* prior to the acceptance of legally binding international trade obligations;
- *Oversight* – create **independent review** and **feedback mechanisms** to support ongoing monitoring by parliamentary bodies and citizen organizations on the overall operations of the trade regime;

Sources:

- **International Trade Centre (ITC)**, *Market Access, Transparency and Fairness in Global Trade: Export Impact For Good 2010*, Geneva: ITC (2010).
- **Laura Ritchie Dawson** and **Christopher Maule**, Centre for Trade Policy and Law, *Background Paper on Public Consultation and Trade Policy* (2005).



THANK YOU

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