

TRANSPARENCY – WHY IT MATTERS AT TIMES OF CRISIS

INFORMATION NOTE¹

KEY POINTS

- In the context of the COVID-19 pandemic, transparent, efficient information-sharing is crucial.
- The WTO system ensures transparency through various mechanisms and is helping to pool information within a multilateral platform.
- The WTO Trade Policy Review Body has a mandate from the G20 and WTO members to regularly monitor and report on the implementation of trade and trade-related measures.
- The WTO Agreements promote international transparency in trade measures via formal, publicly available notifications of all laws and regulations affecting trade.
- Transparency notifications submitted by WTO members are included in WTO searchable databases covering a vast array of trade-policy measures.
- WTO members are required to establish or maintain Enquiry Points in many areas of trade, to answer enquiries from governments, traders and other interested parties – information which can be crucial in emergency situations.
- Transparency is one of the most important principles of the WTO Agreement. For example, the WTO Trade Facilitation Agreement, which contains provisions for expediting the movement, release and clearance of goods and sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues, encourages members to publish trade-related information, and in certain instances even requires members to publish this information, including on the internet.
- Transparency obligations in WTO agreements are discussed in relevant WTO committees, which often include question-and-answer sessions.

INTRODUCTION

For trade in goods and services to flow, traders and governments need to know the rules. At no time is this more critical than at moments of crisis such as the [COVID-19 pandemic](#).

New trade measures are being taken by governments every day in response to COVID-19. If the different actors engaged in supply chains are not aware of these new requirements, they can struggle to adapt to the new conditions, thereby risking unnecessary disruptions. For example, exporters and importers need to know about new procedures and regulations affecting exports and imports, newly introduced export restrictions, tariffs, taxes and regulations, and new customs rules and transportation regulations. Without this information, essential equipment like COVID-19-relevant medical goods can be blocked at the border, and critical inputs can be stopped in transit.

Transparency is precisely about allowing access to this information and more. It enables governments and traders to keep up to date in a rapidly evolving trade landscape and provides much-needed clarity. Transparency is in the mutual interest of all WTO members, and it is a fundamental feature of the multilateral trading system as embodied in the WTO Agreements.

¹ This information note recalls the purpose of transparency and offers guidance to WTO members, but not legal interpretation. It has been prepared under the WTO Secretariat's own responsibility and is without prejudice to the positions of members or to their specific rights and obligations under the WTO.

In the context of the COVID-19 pandemic, it is crucial to pool information within a multilateral platform to avoid duplication of efforts and to increase efficient collaboration. The WTO has the legal and practical tools, as well as the resources, to contribute to this goal. The WTO system ensures transparency through various mechanisms, including regular trade monitoring reports, disciplines that promote information flow at the international and national levels, and through the rules contained in the WTO Agreements and the practices developed in related WTO committees.

In response to the pandemic, the WTO has also put in place a new dedicated page on the WTO website (https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm), to provide up-to-the minute trade-related information.

This information note is intended to offer guidance to members with regard to the tools and resources which the WTO provides in order to increase transparency.

WTO TRANSPARENCY MEASURES

Trade monitoring

The Trade Policy Review Body has a mandate from the G20 and WTO members to conduct regular [Trade Monitoring Reports](#). The first WTO Trade Monitoring Reports were circulated to WTO members in the wake of the 2008 financial crisis. The WTO Secretariat prepares four Reports every year, two for the full WTO membership and two for the G20 economies.

In a [message](#) on 24 March 2020, WTO Director-General Azevêdo encouraged members to provide the Secretariat with information on any measure or support programme which has been taken in the context of the current COVID-19 crisis, recalling that a similar approach had been taken in response to the measures taken to control the H1N1 health emergency in 2009-10. The purpose was to increase transparency surrounding these measures.

In response to the pandemic, the WTO has also put in place a new dedicated page on the WTO website (https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm) to provide up-to-the minute trade-related information including relevant notifications by WTO members, the impact the virus has had on exports and imports and how WTO activities have been affected by the pandemic.

Notified laws and regulations are also analysed in the context of the WTO Trade Policy Review Mechanism and the periodic [Trade Policy Reports](#).

WTO Agreements and international transparency

The WTO Agreements promote international transparency in trade measures, as they require that members formally notify the WTO Secretariat (in one of the three official languages – English, French and Spanish) of all laws and regulations affecting trade. This information is publicly available, including to all members and other stakeholders.

Transparency disciplines are designed to ensure that traders can quickly and easily obtain useful information about importation and other requirements for goods. Allowing members and stakeholders to have quick access to product requirements and certification procedures is crucial in emergency situations: this can avoid delays/rejections and help essential medical goods to reach those who need them when they need them. Such notifications are included in WTO searchable databases covering a vast array of trade-policy measures, such as the [TFA Database](#) or [ePing](#).

In many areas of trade, WTO members are required to establish or maintain one or more “Enquiry Points” to answer reasonable enquiries of governments, traders, and other interested parties and provide relevant documents and information. In emergency situations, such as the COVID-19 pandemic, access to information on product requirements and certification procedures can be crucial, as it can minimize or avoid delays or rejections at customs points, thereby helping medical goods and other essential items to transit in time for use. Enquiry Points can be especially helpful in emergency situations because they provide an open channel of communication and allow up-to-date information to flow to traders.

WTO Agreements and transparency at home

The WTO Agreements also improve transparency in trade measures by requiring that WTO members publish domestically and in their own language(s) all new or modified laws, regulations and guidelines on any matter affecting trade, and make that information publicly available in such a way as to allow both domestic stakeholders and other members to become acquainted with those rules.

This information is usually published in official gazettes and bulletins, traditionally in print although increasingly also online. The Trade Facilitation Agreement requires some information to be made available online, but also encourages members to publish all trade-related information in official gazettes and bulletins. In practice, publishing this information online is probably the best way to ensure that it can be accessed easily, widely and for free, allowing all commercial national and foreign operators to access this information at any time and place.

In other trade areas, WTO members also establish Enquiry Points (for other WTO members) or, if they are developed-country members, Contact Points (for developing-country service suppliers) to provide swift responses to requests for information by traders, importers and exporters, or by other WTO members.

Transparency obligations and WTO committees

Transparency obligations in the WTO Agreements link to relevant practices in related WTO committees. For example, notifications may be discussed by WTO members in question-and-answer sessions during meetings of specialized committees, including to try to resolve specific trade concerns. Once a question has been raised or a request has been made in a WTO committee, the member which has made the notification under discussion is expected to engage in a *bona fide* process of exchanging information, with the aim of further increasing the transparency of the measure.

OVERVIEW OF TRANSPARENCY REQUIREMENTS UNDER THE DIFFERENT WTO AGREEMENTS

This summary overview briefly mentions what needs to be notified under which WTO agreement, and includes links for additional guidance.

General additional guidance may be found in the [WTO Technical Cooperation Handbook on Notification Requirements](#).

The [members' transparency toolkit in the area of sanitary and phytosanitary measures](#) also includes explanations and references to information that are relevant for the COVID-19 pandemic.

GATT 1994 (https://www.wto.org/english/tratop_e/gatt_e/gatt_e.htm)	
Notification requirement	Any prohibition or restriction on the importation or exportation of goods, as well as their applied most-favoured-nation import tariffs. This includes information on various measures including bans, conditional prohibitions and non-automatic licences on imports or exports (i.e. sources where information about licensing procedures may be found).
More information	WTO Technical Cooperation Handbook on Notification Requirements Prohibitions and restrictions Import licensing procedures National websites
Trade Facilitation Agreement (TFA) (https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm) (and extension of the GATT)	
Notification requirement	Websites where national legislation related to import, export and transit procedures can be accessed. Ninety WTO members have so far implemented submitted this information, including on Enquiry Points where traders can clarify the conditions of importation of goods and any changes in these conditions currently in force.
More information	See the Trade Facilitation Database , including the specific section for trade operators

Agreement on Technical Barriers to Trade (TBT) (https://www.wto.org/english/tratop_e/tbt_e/tbt_e.htm)	
Notification requirement	Technical regulations, conformity assessment procedures and standards, in particular product requirements and certification procedures. Notification of draft TBT measures allows to take into consideration comments before measures are adopted and enter into effect. Emergency TBT measures do not need to be notified as drafts but must be notified as soon as they are adopted so that information on them is available promptly.
More information	TBT Gateway ePing alert system
Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) (https://www.wto.org/english/tratop_e/sps_e/sps_e.htm)	
Notification requirement	Measures taken for food safety, to protect animal and plant health from diseases and pest risks, or to protect humans from diseases carried by animals. Normally SPS regulations must be notified when they are at a draft stage and comments from trading partners can still be taken into account. Urgent measures adopted in emergency situations must be notified as soon as possible after their adoption.
More information²	SPS Gateway TBT/SPS Notification Submission Systems (TBT/SPS NSS) (password required) ePing
Agreement on Agriculture (https://www.wto.org/english/tratop_e/agric_e/agric_e.htm)	
Notification requirement	Measures in five different policy areas: <ul style="list-style-type: none"> • new temporary export prohibitions and restrictions • actions taken under the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries • measures affecting market access (changes in tariff rate quota (TRQ) administration, imports under TRQs, introduction of special agricultural safeguards, whether they are price- or volume-based, and annual summary of safeguard actions) • domestic support commitments, introduction of new domestic support measures that are exempt from reduction commitments • export subsidy commitments.
More information	WTO Agriculture Information Management System
Subsidies – Agreement on Subsidies and Countervailing Duties (SCM) (https://www.wto.org/english/tratop_e/scm_e/scm_e.htm)	
Notification requirement	All (specific) subsidies (with the form they take, their duration, amount, and statistics) as well as any subsidies (whether or not specific) that directly or indirectly causes trade effects. In accordance with the Committee decision dated May 2001, Members shall make their subsidy notifications every two years. The next notification cycle is due by 30 June 2021.
More information	WTO Notification Handbook: SCM Agreement
Trade remedies (SCM Agreement) (https://www.wto.org/english/tratop_e/scm_e/scm_e.htm) and Anti-dumping Agreement (https://www.wto.org/english/tratop_e/adp_e/adp_e.htm)	
Notification requirement	All preliminary or final anti-dumping or countervailing actions; all actions related to safeguards (notified immediately). There are only a handful of existing safeguard measures on medical products.
More information	WTO Notification Handbook: SCM Agreement WTO Notification Handbook: Anti-dumping Agreement

² None of the international organizations referenced by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) ([Codex Alimentarius Commission](#), [International Plant Protection Convention](#) or the [World Organisation for Animal Health](#)) recommend trade restrictions on international trade in food, livestock or plant material for health protection reasons in relation to COVID-19.

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (https://www.wto.org/english/tratop_e/trips_e/trips_e.htm)	
Notification requirement	<p>Any new laws or regulations, and amendments to existing laws or regulations, normally within 30 days of their entry into force.</p> <p>As a complement, the TRIPS Council has asked WTO members to complete, and update as needed, a Checklist of Issues on Enforcement (WTO Official Documents IP/C/2 and IP/C/5, available via https://docs.wto.org/).</p> <p>Where TRIPS flexibilities are used at domestic level by means other than legislation, e.g. the grant of a Compulsory Licenses (CL), those are not to be notified, except where the CL is issued pursuant to the Special CL System under Article 31<i>bis</i> of the TRIPS Agreement.</p> <p>WTO members have also agreed to establish and notify Contact Points and to respond to requests for information about legislative measures by other members.</p>
More information	<p>Notifications are available via a designated TRIPS submissions page (password required).</p> <p>Submitted materials may be retrieved through the publicly accessible e-TRIPS Gateway.</p>
General Agreement on Trade in Services (GATS) (https://www.wto.org/english/tratop_e/serv_e/serv_e.htm)	
Notification requirement	<p>New measures or changes to existing measures that significantly affect trade in services covered by specific commitments.</p> <p>Any WTO member may also counter-notify any measure taken by another WTO member which it considers to affect the operation of the General Agreement on Trade in Services (GATS). WTO members also must respond promptly to all requests for information by other WTO members and establish Enquiry Points (for other WTO members) and, if they are developed-country members, Contact Points (for developing-country service suppliers).</p> <p>The GATS Annex on Telecommunications and the Reference Paper on Basic Telecommunications contains further provisions on transparency.</p>
More information	WTO Notification Handbook: GATS
Plurilateral Government Procurement Agreement (GPA) (https://www.wto.org/english/tratop_e/gproc_e/gproc_e.htm)	
Notification requirement	<p>Applicable laws and regulations and individual procurements (pre-award and post-award) (and there is also an obligation to publish this information).</p> <p>The GPA also contains statistical reporting obligations.</p> <p>While the obligations with regard to individual procurement may be suspended or may not apply in emergency situations, general obligations remain effective.</p>
More information	e-GPA