

REVIEW ON THE IMPORTANCE OF TRANSPARENCY IN INTERNATIONAL TRADE BASED ON THE RULES OF THE WORLD TRADE ORGANIZATION

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ABSTRACT

This study aims to obtain information and analyze the rules of the World Trade Organization (WTO) regarding the importance of transparency in international trade between WTO member countries, where supporting information and data are needed in the sustainability of trade transactions. In international trade between WTO member countries, there are various economic, political and social backgrounds from developed countries (developed countries), developing countries (developing countries), and less developed (least-developed countries). This background encourages the strengthening of transparency in trade in goods and services through a mechanism that is agreed upon and implemented jointly, so that it is expected that each WTO member country can provide and obtain reliable and up-to-date information and supporting data. The transparency mechanism has the main objective of providing smooth trade in goods and services and reducing obstacles related to obtaining the required information and data. However, in implementing transparency, WTO member countries are also often faced with challenges, such as in the case of the global crisis of the COVID-19 pandemic whose impact has been felt by all WTO member countries. All stakeholders, starting from the government, employers, workers, and so on, need to work together in carrying out compliance with the transparency mechanism as stipulated in the WTO rules to realize smooth international trade.

Keywords: Transparency Mechanism, International Trade, WTO

INTRODUCTION

Indonesia is a developing country that has been a member of the WTO since January 1, 1995 (based on data from the WTO), and Indonesia has also adopted WTO regulations through Law Number 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization. . As a WTO member country, Indonesia needs to comply with

all WTO regulations and play an active role in positioning itself in international trade between other WTO member countries. In addition, Indonesia can also obtain WTO facilities for developing countries, such as training and capacity building (Karundeng, 2022).

In international trade, it is very important for every stakeholder, especially entrepreneurs, to obtain information regarding trade situations and conditions, so that transparency in regulations and policies becomes a fundamental issue. According to the WTO Glossary, the notion of transparency is "the degree to which trade policies and practices, and the process by which they are established, are open and predictable." (WTO Glossary)

Transparency is encouraged through the principle of general transparency contained in the General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Transparency in the WTO can be achieved by 2 (two) main mechanisms, namely through:

- 1) Notifications or "notifications" submitted by the government of a country to other WTO member countries related to all actions, policies and trade regulations that will be carried out; and
- 2) Periodic reviews or "reviews" conducted by the WTO to review the trade policies of its member countries, or what are known as "Trade Policy Reviews".

In the first mechanism related to notifications or "notifications", the notification obligation complements the principle of transparency by requiring WTO member countries to share information about trade steps with their trading partners through the WTO. (Rabbani, 2021). Notification obligations are also found in all WTO agreements, which have at least 3 (three) types of notification obligations:

- 1) Ad hoc notifications, required when a member performs certain actions;
- 2) Obligation of one-time notification, most of which are required to provide information about the situation that existed at the time of member countries' entry into the WTO;
- 3) Periodic notification, which can be done on an annual, semi-annual, bi-annual or tri-annual basis.

While the second mechanism related to Trade Policy Review has specific objectives to:

- 1) increasing transparency and understanding of country trade policies and practices through regular monitoring;
- 2) improve the quality of public and intergovernmental debate on related issues;
- 3) enable multilateral assessment of the impact of policies on the world trading system.

The Trade Policy Review focuses on the trade policies and practices of the WTO member countries themselves. In addition, the Trade Policy Review takes into account the broader economic and development needs of countries, their policies and objectives, and the external economic environment they face. There is also a “peer review” by other WTO member countries which encourages governments to follow WTO rules and increase discipline in fulfilling their commitments. In practice, the Trade Policy Review has 2 (two) broad results, namely first, it allows other WTO member countries to understand the policies and conditions of the country, and second, provides feedback to the country being reviewed about its performance in the system.

Over a period of time, all WTO member countries must be reviewed and monitored. The frequency of reviews depends on the size of the country, which can be divided into:

- 1) The four largest traders (European Union, United States, Japan and China) are inspected approximately every two years;
- 2) The next 16 countries (in terms of their market share in world trade) are reviewed every four years;
- 3) Outside countries are reviewed every six years, with possibly a longer provisional period for less developed countries; and
- 4) As a result of the amendments to Appendix 3 in July 2017, these review cycles will be three, five and seven years respectively, commencing on 1 January 2019.

Broadly speaking, an effective transparency mechanism can encourage WTO member countries to design policies that are consistent with WTO rules. Through the obligation to make notifications related to trade and submit them to the WTO, WTO member countries can also carry out the function of monitoring against violations that may occur.(Poae, 2019)

In addition, if information on trade policies is not transparent, enforcement of WTO agreements will be much more difficult. The failure of a WTO member country to provide trade-related notifications will make it difficult for other WTO member countries to identify steps that are inconsistent with WTO rules, thereby forcing them to use a dispute settlement mechanism to resolve the inconsistency. Non-compliance with transparency obligations will have a direct impact on the efficiency of the WTO's dispute resolution function.

RESEARCH METHODS

This study uses a normative juridical approach which is carried out by basing law as a norm consisting of legal theory, legal concepts, legal principles, laws and regulations, as well as agreements and doctrines related to research (Bambang Sunggono, 2016). This approach is also known as the library approach, namely by studying books, laws and regulations and other related supporting documents. Through this normative juridical research method, it is hoped that this research can provide legal information regarding the importance of transparency in international trade based on the rules of the World Trade Organization.

RESULTS AND DISCUSSION

Transparency Mechanisms in Regional Trade Agreements

WTO member countries can also establish cooperation with other WTO member countries through separate agreements, such as regional trade agreements, free trade agreements (Free Trade Agreements or FTAs), Comprehensive Economic Partnership Agreements (CEPAs), and other forms of agreements. .

In line with the increasing demand for trade agreements between certain WTO member countries, and given the importance of establishing these trade agreements to support trade policies and trade development for these countries, the WTO regulates a special transparency mechanism. For regional trade agreements (Regional Trade Agreements or RTA), the transparency mechanism is regulated in a separate rule called the Transparency Mechanism for Regional Trade Agreements in accordance with the WTO decision on December 14, 2006.

In this case, if a WTO member country wishes to participate in the RTA, then the WTO member country needs to pay attention to the following matters:

- 1) WTO member countries wishing to participate in RTA negotiations must notify the WTO of this;
- 2) Newly signed RTA member parties must submit to the WTO, to the extent and when publicly available, information about the RTA, including its official name, scope and date of signature, any schedules of commitments that are expected to come into effect or provisionally apply, applications, relevant contact points and/or website addresses, and other relevant information that is not limited.

In relation to notifications, WTO member countries that are parties to an RTA must make notifications as early as possible, which is not later than directly after the ratification of the parties to the RTA or the decision of any party regarding the implementation of the relevant parts of an RTA. , and prior to the application of preferential treatment among RTA parties. In the notification, the RTA parties must also specify which provisions of the WTO agreement need to be notified. RTA parties must submit the full text of the RTA (or portions of the text of the RTA which they have decided to adopt) and any associated schedules, annexes and protocols, in one of the official WTO languages, accompanied by a reference to an official Internet link.

In order to increase transparency, there are procedures that must be obeyed and implemented by WTO member countries that are parties to the RTA. Considerations by the notified RTA are usually completed within a period of not more than 1 (one) year after the notification date. The exact schedule for consideration of the RTA will be prepared by the WTO Secretariat in consultation with the parties at a time of notification. To assist the RTA in considering the notified RTA, then:

- 1) the RTA parties must provide data to the WTO Secretariat (according to the annex), where the data submission time may not exceed 10 (ten) weeks or 20 (twenty) weeks for RTA involving only developing countries, after the date of RTA notification; and
- 2) The WTO Secretariat, on its own responsibility and in full consultation with the RTA parties, shall prepare a factual presentation of the RTA based on the information provided by the RTA parties. To the extent deemed necessary, the WTO Secretariat may also use data available from other sources, taking into account the views of the RTA parties to enhance factual accuracy. Factual presentations of the WTO Secretariat

may not be used as the basis for dispute resolution procedures or to create new rights and obligations for WTO member countries.

As a general rule, one formal meeting will be devoted to considering each notified RTA, and any exchange of additional information must take place in writing. Factual presentations from the WTO Secretariat, as well as any additional information submitted by RTA parties, must be circulated in all official WTO languages at least eight (8) weeks prior to the meeting intended for consideration of the RTA. While questions or written comments from WTO member countries regarding the RTA under consideration must be submitted to the parties through the WTO Secretariat at least 4 (four) weeks before the relevant meeting, and then distributed, together with the answers, to all WTO member countries at least 3 (three) working day before the meeting is held. All written materials submitted, as well as the minutes of meetings devoted to the consideration of the agreement will be circulated in all official WTO languages and available on the official WTO website.

Required notification of changes affecting the implementation of an RTA, or the operation of an RTA that has already been implemented, must be made as soon as practicable after the changes occur. Changes that will be notified include, among other things, modifications to preferential treatment between RTA parties and RTA discipline. RTA parties must also provide a summary of the changes made, as well as any associated texts, schedules, annexes and protocols, in one of the official WTO languages and, where available, in electronic format.

At the end of the RTA implementation period, the RTA parties must submit to the WTO a brief written report on the realization of the liberalization commitments in the RTA as previously notified. Upon request, the relevant WTO Body shall provide adequate opportunity for the exchange of views regarding the submitted communications, which will be made available immediately on the official WTO website and a synopsis of which will be circulated periodically by the WTO Secretariat to WTO member countries. The Committee on Regional Trade Agreements (CRTA) and the Committee on Trade and Development (CTD) are tasked with overseeing and implementing this transparency mechanism of the RTA.

If there is a specific request, in implementing this transparency mechanism in connection with the preparation of RTA data and information to be submitted to the WTO Secretariat, the WTO Secretariat will also provide technical support to WTO member countries with the status of developing countries and less developed countries. The WTO Secretariat shall establish and maintain an up-to-date electronic database on the RTA.

This database should contain relevant tariff and trade information, and provide access to all written material related to announced or notified RTAs available at the WTO. The RTA database should be structured so that it is easily accessible to the public.

Furthermore, each WTO member country can at any time give attention to the relevant WTO Body regarding RTA information that it considers must be submitted in order to comply with the RTA transparency mechanism. WTO member countries will also review, and if necessary modify the Transparency Mechanism for Regional Trade Agreements based on experience gained from interim implementation, and replace it with a permanent mechanism adopted as part of the overall outcome of the Round, in accordance with Paragraph 47 of the Doha Declaration. WTO member countries can also review the legal relationship between the Transparency Mechanism for Regional Trade Agreements and other WTO provisions related to RTAs.

Transparency Mechanisms in the COVID-19 Pandemic Crisis

The WTO has clearly provided a transparency mechanism that can be seen from various WTO rules, such as the GATT, GATS, TRIPS, and other rules. However, the world did not expect that there would be a crisis as big as the COVID-19 pandemic which attacked almost all countries and had a negative effect on international trade. It is very important for trade in goods and services to continue to be carried out by all WTO member countries, especially at a critical time during the COVID-19 pandemic in order to move the wheels of the world economy.

Facing the COVID-19 pandemic is not easy, even for developed countries. Many new trade policies and rules must be taken by the government every day to respond to the COVID-19 pandemic. If there are stakeholders in the business world who are involved in the global supply chain and are not aware of the new trade policy, of course they will be faced with risks that can hinder and even harm their business. For example, exporters and importers need to know about new procedures and regulations affecting exports and imports, new export restrictions introduced by a country, tariffs, taxes, new customs and transport regulations, and other matters. Without this information,

The transparency mechanism in dealing with the COVID-19 pandemic crisis provides access to the information needed to carry out trade in goods and services, as well as opening up space for the government and business stakeholders to continue to actively participate in international trade. Transparency is a common interest of all WTO member countries,

and transparency is a fundamental feature of the multilateral trading system as contained in the WTO Agreements.

In the context of the COVID-19 pandemic, it is very important for each WTO member country to collect information in a multilateral platform to avoid duplication of efforts and to promote efficient collaboration. The WTO has practical legal tools, as well as resources, to contribute to achieving this goal. The WTO system ensures transparency through various mechanisms, including regular trade monitoring reports, discipline in promoting the flow of information at international and national levels, and through the various rules contained in the WTO Agreements as well as the practices developed in the relevant WTO committees.

To make it easier for WTO member countries to obtain information about trade in goods and services during the COVID-19 pandemic, the WTO has placed a new special page on the official WTO website, namely: https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm. This information is intended to provide guidance to WTO member countries regarding the facilities and resources provided by the WTO to increase transparency during the crisis of the COVID-19 pandemic.

Under the Trade Policy Review mechanism, WTO member countries are asked to increase transparency through country-specific trade policy reviews and regular monitoring and reporting of trade policy measures. The WTO first circulated the Trade Policy Review to WTO member countries after the financial crisis in 2008. The WTO Secretariat prepares 4 (four) reports annually, 2 (two) for full WTO membership and 2 (two) for the G20 economy.

In a message on 24 March 2020, WTO Director General Azevêdo encouraged WTO member countries to provide information to the WTO Secretariat about any actions or support programs that have been taken in the context of the COVID-19 pandemic crisis. In many areas of trade, WTO members are required to establish or exercise one or more “Inquiry Points” to answer reasonable inquiries from governments, traders and other interested parties and provide relevant documents and information.

In emergency situations, such as the COVID-19 pandemic, access to information about product requirements and certification procedures is very important because it can minimize or avoid delays or rejection of goods at customs points, thus helping medical goods and other important goods to transit on time. Inquiry Points can be especially helpful in emergency situations during the COVID-19 pandemic as they provide open channels of communication and allow the latest information to flow to traders and other stakeholders.

CONCLUSION

Transparency mechanisms play a very important role in international trade, especially in exchanging information about the latest trade policies and regulations. The WTO has a transparency mechanism set out in the WTO Agreement and must be obeyed by every WTO member country. This certainly encourages trade in goods and services in a better direction and avoids obstacles in obtaining information. The transparency mechanism is in the form of notifications and preparation of regular monitoring reports through the Trade Policy Review. In addition, information can also be obtained on the official WTO website. The transparency mechanism has become an important basis in the WTO Agreement, and the WTO also regulates transparency mechanisms for its member countries wishing to enter into regional trade agreements. In addition, it can also be seen that the WTO was able to take swift action in dealing with the COVID-19 pandemic crisis and continue to strive for a transparency mechanism that works well for all WTO member countries.

Transparency mechanisms are very important in international trade between WTO member countries, so it is recommended for business stakeholders to be able to make the most of access to the information presented. Apart from using information, it is also important for stakeholders to play an active role in providing supporting data and information which is important to know in their business sector. In order to provide comprehensive support for the micro, small and medium enterprise (MSMEs) sector, the government and business actors can also carry out outreach and capacity building for business actors who need more guidance. With the transparency mechanism that has been clearly regulated at the WTO and the support and active role of stakeholders.

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