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**The Trade Policy Review Mechanism:
Shedding Light on Non-compliance?**

Diplomová práce

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Abstrakt

Tato práce se zabývá tématem monitorovacích mechanismů a jejich schopností identifikovat porušení závazků. Specifickým případem, kterým se práce zabývá, je pak mechanismus pro prověrku obchodní politiky (TPRM) ve Světové obchodní organizaci. Cílem práce je rozšířit dosavadní empirické poznatky o fungování zmíněného mechanismu, a dále pak rozbor toho, do jaké míry je mechanismus schopný odhalovat porušení pravidel před tím, než dojde adjudikaci, a které faktory ovlivňují tuto schopnost.

Z teoretického hlediska vychází práce především z racionálního institucionalismu a dalších přístupů spojených s výzkumem transparentnosti a dodržování závazků. Specificky se pak práce zaměřuje na koncept tzv. informačních systémů v mezinárodních režimech. Po metodologické stránce práce spoléhá na metodu obsahové analýzy, jejímž cílem je získání empirických poznatků o výskytu záležitostí souvisejících s porušením pravidel v prověrkách obchodní politiky. Tyto empirické poznatky jsou následně podrobeny statistické analýze s využitím logistické regrese.

Práce dochází k závěru, že TPRM zachycuje překvapivě vysoké množství záležitostí, které se posléze stávají předmětem soudně potvrzených porušení pravidel ve WTO. Až 72% záležitostí, které se posléze dostanou k soudu, je zmíněno v prověrkách obchodní politiky. Dalším zjištěním práce je, že největší pravděpodobnost výskytu výše zmíněného souvisí s tlakem ze strany ostatních států, tedy jejich účastí na prověrkách obchodní politiky toho státu, který porušil závazky. Výsledky práce jsou v závěru diskutovány vzhledem k současným poznatkům o fungování monitorovacích mechanismů.

Abstract

This thesis examines the notion of monitoring mechanisms and their ability to identify non-compliance. The Trade Policy Review Mechanism (TPRM) of the World

Trade Organization constitutes the main focus of analysis. The purpose of the thesis is to improve the current empirical account of the functioning of the mechanism, and to examine the extent to which the mechanism is able to detect rule violations before they are taken up to the court, as well as factors affecting this ability.

From theoretical standpoint, the thesis draws mainly upon rational institutionalism and other approaches related to notions of transparency and compliance. In particular, the thesis focuses on the concept of the so called information systems in international regimes. As regards methodology, the thesis relies on the method of content analysis the purpose of which is to procure empirical evidence of occurrence of matters related to non-compliance in trade policy reviews. Thus procured empirical evidence is then subjected to statistical analysis, including logistic regression.

The thesis finds that TPRM covers surprisingly large number of matters that later become subjects of judicially confirmed rule-violations at the WTO. As much as 72% of the matters that are eventually taken up to court are mentioned in trade policy reviews. Furthermore, the thesis finds that the likelihood of occurrence of the above mentioned is associated with peer pressure from other states, i.e., their participation in trade policy reviews of the state in non-compliance. Results of the analysis are then discussed in conclusions with regard to the current understanding of monitoring mechanisms.

Klíčová slova

Světová obchodní organizace, WTO, mechanismus pro prověrku obchodní politiky, TPRM, transparentnost, dodržování závazků, monitoring, informační systémy

Keywords

World Trade Organization, WTO, Trade Policy Review Mechanism, TPRM, transparency, compliance, monitoring, information systems

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Prohlášení

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V Praze dne

Ondřej Rosendorf

Poděkování

Na tomto místě bych rád poděkoval vedoucímu práce Michalovi Parízkovi, Ph.D.

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**The Trade Policy Review Mechanism:
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1 Introduction

One of the most important functions of the World Trade Organization (WTO) is to collect, assess, and disseminate information about Members' trade policies/measures, thereby securing transparency and compliance with rules and norms of the multilateral trade regime. To achieve this goal, the WTO engages in various monitoring activities, including: notifications, trade monitoring reports and trade policy reviews (TPRs) conducted by the Trade Policy Review Body (TPRB) of the Trade Policy Review Mechanism (TPRM) (Van Grassek 2013: 271).

Based on the Annex III of the Agreement Establishing the WTO, the TPRM can be regarded as a complex monitoring platform, the purpose of which is to: “[...] contribute to improved adherence by all Members to rules, disciplines and commitments made under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in and understanding of, the trade policies and practices of Members” (WTO 1994).

Whether the mechanism has been able to accomplish these goals has been largely a matter of academic debate. Even though, most authors do agree there is a room for improvement¹. This thesis challenges, in particular, the supposed ability of the TPRM to identify instances of non-compliance. According to the rational institutionalism, this is one of the crucial functions of a monitoring mechanism because it reassures actors they are not being taken advantage of and deters actors contemplating non-compliance.

Is TPRM truly able to spot cheaters? If so, does this lead to a deterring effect towards Members contemplating non-compliance? Is TPRM's ability to detect non-compliance in any way constrained? And what affects the likelihood that an instance of non-compliance will be identified by the mechanism? These are just some of the questions that come to mind. However, for the purpose of this thesis the two following questions will suffice.

Q1: To what extent have been matters that become legal cases in the Dispute Settlement Mechanism previously discussed in the Trade Policy Review Mechanism?

¹ See, e.g.: Kessing (1998); Hoekman, Mavroidis (2000); Chaisse, Chakraborty (2007); Chaisse, Matsushita (2013); Mavroidis, Wolfe (2015)

Q2: What factors influence the likelihood that deviant behavior is detected by the Trade Policy Review Mechanism before a complaint is raised in the Dispute Settlement Mechanism?

By answering these questions the thesis aims to, first, establish a comprehensive descriptive account of TPRM's ability to identify issues prior to adjudication and, second, to analyze factors that inhibit this ability at different levels. By doing so, the thesis seeks to contribute to the debate on TPRM's effectiveness and, generally, the role of the mechanism in the context of transparency and compliance within the WTO.

2 Theoretical Framework

The TPRM and its role in "reassuring" WTO Members is analyzed with respect to contributions of scholars such as A. Stein, A. Chayes and A. H. Chayes, D. Snidal, R. Keohane and others, placing an emphasis on the notion of institutional design, the role of monitoring and enforcement, and the interplay between transparency and compliance.

The thesis draws primarily from rational institutionalism and compliance theory. The basic assumptions are, as following: (1) states are "[...] unitary, rational, self-interested actors that calculate the costs and benefits of alternative actions in an anarchic international world order" (Zaelke 2005: 55); (2) international institutions are "[...] persistent and connected sets of rules (formal or informal) that prescribe behavioral roles, constrain activity, and shape expectations" (Keohane 1988: 383).

Major international institutions differ in terms of membership rules, scope of issues covered, centralization of tasks, rules for controlling the institution and flexibility of arrangements. According to the institutionalist school, these different designs can be explained by "[...] rational, purposive interactions among states and other international actors [that seek] to solve specific problems" (Koremenos, Lipson, Snidal 2001: 762). In a broader sense, the institutionalist school regards international institutions as "solutions" to collective action problems (Stein 2008: 213). One such problem can be characterized as a collaboration problem.

In situations where collaboration problems arise, from trade to arms races, actors face dilemmas of common interests (Stein 1982: 311–312; Stein 2008: 208). From the game-theoretical perspective, "[t]he dilemma of common interests occurs when there is only one equilibrium outcome that is deficient for the involved actors. In order to solve such dilemmas and assure the Pareto-optimal outcome, the parties must collaborate, and all regimes intended to

deal with dilemmas of common interests must specify strict patterns of behavior and insure that no one cheats” (Stein 1982: 312). In turn, collaboration requires a degree of formalization, specifying what constitutes cooperation and cheating, and assuring actors of their ability to spot shirkers (Stein 1982: 312).

Dilemmas of common interest, often illustrated on the model of Prisoner’s Dilemma, are well known in the context of international trade. Hoekman and Kostecki provide a thorough picture of the issue in their analysis of the world trading system, elaborating on the notion of individual rationality that leads states to impose restrictions and protectionist measures despite the fact that results of such individually rational policies are ultimately inefficient (Hoekman, Kostecki 2009: 148). Moreover, following this pattern of behavior, states may eventually find themselves in a spiral of retaliatory trade wars (Narlikar 2005: 4).

Similarly to the solution of collaboration problems suggested by Stein, Narlikar notes that “[when] countries have some mechanism of binding themselves and each other to commitments on tariff reductions, the risk of a retaliatory trade war is reduced” (Narlikar 2005: 4). Consequently, international trade organizations need to ensure monitoring and enforcement of prescribed rules in order to guard against cheating and defection, thereby securing the process of multilateral trade liberalization (Narlikar 2005: 4–5). At the same time, it is important to protect potential victims, giving them an *early warning* of cheating to avoid serious injury, and supplying them with the means to punish cheaters (Mearsheimer 1994: 17).

Generally, in situations where states experience collaboration problems, institutional design tends towards increased centralization due to concerns over defection and cheating. Therefore, institutions designed to deal with collaboration problems place greater emphasis on monitoring and enforcement (Stein 2008: 213). The WTO can be identified as one of the international organizations that exhibit relatively high degree of centralization, especially with respect to activities such as judging of trade disputes and dissemination of information (Koremenos, Lipson, Snidal 2001: 771–772). With regard to the latter, the TPRM constitutes one of the mechanisms that ought to fulfill this role (Van Grassek 2013: 271). The key function of the TPRM – to provide transparency² by reviewing and assessing members’ trade policies – is associated with the notion of promoting compliance with the rules of the organization (Francois 2001: 4–10).

In general, “[c]ompliance can be said to occur when the accrual behavior of a given subject conforms to prescribed behavior, and non-compliance or violation occurs when actual behavior departs significantly from prescribed behavior” (Zürn 2005: 8). The institutionalist approach suggests that “[a]ctors are more likely to comply if non-compliance is detected and

² “the availability of and access to information” (Chayes, Chayes 1995: 195)

norm violations are threatened with credible sanctions that alter the cost-benefit calculations of states as rational actors” (Thomann 2012: 66).

There are two important ways in which transparency operates to promote compliance. First, “[i]t *reassures* [emphasis added] actors that they are not being taken advantage of [...]“ (Chayes, Chayes 1995: 135). In situations where incentives to cheat are high, such as those occurring in international trade, information about the actual behavior of other actors is crucial in achieving compliance (Chayes, Chayes 1995: 144). The institutionalist school presumes that monitoring actor’s activities reassures them by determining instances of non-compliance (Thomann 2012: 81). Second, “[i]t exercises *deterrence* [emphasis added] against actors contemplating noncompliance” (Chayes, Chayes 1995: 135). In turn, actors choose cooperation over defection due to the likelihood of being exposed, costs of potential consequences, e.g. sanctions or reputational costs, etc. (Thomann 2012: 67).

Koremenos, Lipson and Snidal suggest that “[i]nformational capacities of international organizations to expose states’ behavior can influence the activities of even the most powerful states by imposing international reputational costs [...]” (Koremenos, Lipson, Snidal 2001: 790). In fact, the potential reputational costs can deter shirkers even if the likelihood that their violations will be met with sanctions is relatively low (Young 1992: 177). The assumption is that reputation matters because it influences state’s ability to participate in the international system and this depends to some degree on state’s demonstrated willingness to accept and engage in compliance procedures (Chayes, Chayes 1995: 230). In relation to the TPRM, the reviews function in a similar way as they “[...] apply *peer group pressure* [emphasis added] to help overcome the natural tendency of countries to want to be free-riders, encouraging them to co-operate for enhanced international welfare” (Laird 2002: 743).

However, several facts point to a conclusion that reassurance and deterrence is not achieved by the TPRM in absolute terms. First and foremost, trade-restrictive measures are still being imposed by Members regardless of the many monitoring activities in which WTO engages. This can be illustrated on approximately 500 trade-related complaints that were lodged by Members against each other under the Dispute Settlement Mechanism (DSM) of the WTO during the period of TPRM’s existence. With approximately 200 cases of judicially confirmed violations of WTO obligations by some 20 Members, the TPRM as a monitoring mechanism can be said to have failed to deter those states from imposing individually rational restrictions and protectionist measures.

While most of the authors agree that TPRM does contribute to increased transparency and adherence, several authors have suggested that the mechanism could be, in fact, more effective. In the assessment of the TPRM, D. Kessing has pointed out several weaknesses of the

mechanism, suggesting that “[...] reviews remain silent on some aspects of trade policy, or at least do not cover them consistently in all reviews” (Kessing 1998: 33). The author also mentions institutional issues as a concern, noting that “[...] the division’s resources are already under strain, and an increasing annual workload makes it likely that an expansion of those resources would be needed just to maintain production of TPRs in their present form [...]” (Kessing 1998: 41). Thus, it can be expected that certain factors will inhibit TPRM’s ability to continuously produce and disseminate high-quality information about Members’ commitment to the multilateral trade liberalization.

There is no comprehensive empirical evidence of the reassurance function, or the ability to identify cheaters, provided by the mechanism. The thesis therefore advances a null hypothesis designed to generate such empirical evidence, thereby answering the first research question. Author of this thesis assumes that achieving total reassurance, though unarguably impossible, requires availability and access to complete and perfect information about the actual behavior of actors, thus capturing all instances of non-compliance resulting from actors’ actions. However, before proceeding to the hypothesis it is important to explain how the concept of reassurance is operationalized.

3 Operationalization

In order to examine the *reassurance* provided by the TPRM, the thesis develops a dependent variable *tpr-occurrence*, or occurrence of a matter of a dispute in a TPR. A variable that captures information about the contents of the TPR, including government and secretariat reports, as well as minutes of the meeting and questions and replies. Specifically, the variable serves as a numerical indicator of the extent to which an instance of non-compliance has been covered, ranging from 0 to 4 depending on the number of documents by type, including the aforementioned four types. These documents are the means through which TPRM disseminates information about trade policies of individual Members, shedding the light on Members’ performance and commitment to the multilateral trade liberalization.

As noted by Thomann, “[r]ational institutionalist approaches assume that monitoring actors’ activities *reassures them* [emphasis added] by determining instances of non-compliance” (Thomann 2012: 67). In turn, it can be expected that effective *reassurance* will depend on the extent to which monitoring mechanism is able to identify instances of non-compliance. The very purpose of *tpr-occurrence* is to test this assumption by procuring empirical evidence of the said ability to detect cheaters. At the same time, the measurement allows to conclude, whether an *early warning* was given by the mechanism.

The dependent variable in this thesis has several important characteristics that need to be discussed before moving on. The variable actually concerns instances of non-compliance covered in the reviews of Members for which there exists judicially confirmed evidence of rule-violation, specifically, a Panel ruling in a dispute case lodged under the DSM. Therefore, observations made pertain to these respondent countries. This rather narrow case selection allows focusing on relatively unambiguous instances of non-compliance, determining whether the TPRM has been able to detect a violation a priori, thereby giving an *early warning* to other Members. To learn about the procedure by which data on *tpr-occurrence* are collected, please refer to the section Research Design and Methodology.

4 Hypotheses

As noted earlier, the specific aim of the null hypothesis is to generate empirical evidence of TPRM's ability to identify instances of non-compliance, thereby answering the first research question. The hypothesis is formulated so that expected outcome is negative, leading to the second research question to which the rest of hypotheses relates.

H0: Every matter that is dealt with by the Dispute Settlement Mechanism has been previously discussed in the Trade Policy Review Mechanism.

In many ways, it could be argued that the obverse of the above mentioned should be expected. For example, Van Grassek notes that “[w]hen members are required to report their own measures, and are also subject to periodic reviews and regular monitoring, both they and the larger community in which they form a part may be more likely to catch potential violations of commitment either before they take place or, if they have been enacted, before some trading partner feels compelled to raise the matter in the Dispute Settlement Body” (Van Grassek 2013: 271). Conversely, when a Member raises the matter in the Dispute Settlement Body, it may well be the case that the matter has not been discussed in the TPRM.

As regards the second research question, first, it can be expected that *tpr-occurrence* will correlate negatively with the number of WTO Members at the time of the review. This hypothesis is based on the institutionalist assumption about number of actors involved. Axelrod and Keohane argue that cooperation requires effective reciprocity which depends on three conditions: “1) players can identify defectors; 2) they are able to focus retaliation on defectors; 3) they have sufficient long-run incentives to punish defectors. When there are many actors,

these conditions are often more difficult to satisfy” (Axelrod, Keohance 1985: 235). Chaisse and Matsushita make a similar observation in relation to the TPRM, noting that “[...] as the Membership of the WTO increases, the pressure on the TPRB to review more Members grows. As warned by the TPRB in 2009, the heavy work load and the limited resources available to the Secretariat to prepare the reviews make it even more important for the TPRM to keep functioning as effectively as possible within these constraints” (Chaisse, Matsushita 2013: 23). Therefore, the hypothesis assumes that monitoring compliance becomes more difficult over time, inhibiting TPRM’s ability to identify instances of non-compliance, as the WTO membership grows.

H1: *Tpr-occurrence* will correlate negatively with the *number of WTO Members* at the time of the review.

Second, it can be expected that *tpr-occurrence* will correlate positively with respondent’s share of world trade. Members with higher share of world trade are being reviewed more often therefore the likelihood of identifying an instance of non-compliance can be expected to be higher. This is also because most of TPRM’s resources are centered on those large traders while relatively fewer resources remain for the rest (Hoekman, Mavroidis 2000). Furthermore, “[...] emerging countries that have not yet gained a large share in world trade but have impacts on multilateral trade systems, in particular, are not monitored effectively. For example, Brazil, India, the Republic of Korea, Indonesia, etc. are major players in international trade and their trade policies are frequently being formulated/revised. Thus conducting reviews once every four year cannot impose timely and effective monitoring sufficient for their policy developments” (Industrial Structure Council 2014: 701).

H2: The higher the respondent’s *share of world trade*, the higher the *tpr-occurrence*.

Third, respondent’s level of democracy can be expected to affect *tpr-occurrence*. This is because democracies are more transparent than autocratic regimes, therefore more willing to disclose policy-relevant information. Hollyer, Rosendorff and Vreeland demonstrate that “the availability (or absence) of policy-relevant data is correlated with regime type, even after controlling for level of development, participation in IMF programs, country-specific effects, and the effects of times” (Hollyer, Rosendorff, Vreeland 2011: 1). The authors conclude that the ruling elite will be more willing to disclose policy-related information in electoral systems

where the survival of the government depends more strongly on voter welfare (Hollyer, Rosendorff, Vreeland 2011: 3). The thesis expects a similar effect in regards to disclosure of trade-related information.

H3: The higher the respondent's level of *democracy*, the higher the *tpr-occurrence*.

Fourth, respondent's GDP/cap will likely have an effect on *tpr-occurrence*. Chayes and Chayes note that the level of reporting will depend to some extent on the capacity and resources of the reporting state. This is particularly the case in developing countries where inadequacy of available resources accounts for a large part of the reporting deficit (Chayes, Chayes 1995: 159, 172–173). Similarly, Mavroidis and Wolfe argue that the deficit can be explained in part by bureaucratic incapacity, which is often the case for developing countries (Mavroidis, Wolfe 2000: 123). Hollyer, Rosendorff and Vreeland note that GDP/cap is likely to relate to the ability of governments to collect and disseminate information (Hollyer, Rosendorff, Vreeland 2011: 20). The thesis therefore employs GDP/cap as a measurement of respondent's bureaucratic capacity to report fully and to report on time, thereby disclosing relevant trade policy information.

H4: The higher the respondent's *GDP/cap*, the higher the *tpr-occurrence*.

5 Research Design and Methodology

In order to address the first research question, the thesis employs methodology of content analysis. The basic principles of methodology are derived from *The Content Analysis Guidebook* by Kimberly A. Neuendorf (Neuendorf 2002). In this thesis, the purpose of the content analysis is to collect data from TPRs. This includes several types of documents, namely: secretariat reports, government reports, minutes of the meeting and questions and replies addressed to a country under review. In so-doing, the thesis seeks to establish a descriptive account of the TPRM's ability to identify instances of non-compliance.

The research design reflects several issues related to the notion of transparency and compliance as well as issues embedded in the institutional design of the WTO that affect the process of case selection and both scope and depth of the content analysis. It should be noted

that “[...] compliance is difficult to monitor because it cannot be inferred from a single figure, such as tariff line, but results from a broad range of practices whose conformity with the general WTO disciplines is hard to assess” (Zahrnt 2009: 9). Essentially, it would be nearly impossible to identify every instance of non-compliance captured by the reviews (Zahrnt 2009: 9). Therefore, the thesis looks instead at the rulings of Panels established under the DSM to identify those instances³. A random sample of 50-60 cases will be used for the purpose of the thesis.

One advantage of such approach is that instances of non-compliance selected for the purpose of this analysis are relatively unambiguous – they are inferred directly from Panel rulings. After all, “[t]he TPRM [as such] is not charged with passing judgement on the compliance of members with WTO obligations” (Francois 2001: 4). Although the reviews ultimately do involve some degree of judgement, they are not intended to serve as a basis for the enforcement of specific obligations (Van Grassek 2013: 271; Laird 2002: 742). Therefore, studying the reviews a priori would present a task that is both tedious due to the substantive length of TPR-related documents and ambiguous in terms of the results, that is identifying instances of non-compliance without a particular idea what to look for beforehand.

The main disadvantage of the chosen research design lies precisely with its limited ability to capture instances of non-compliance. Obviously, dispute cases of the DSM capture only a fraction of the violations and there are other methods of dispute settlement aside from judicial settlement some of which may involve other fora than the WTO. First, countries do not pursue all suspected violations at the WTO (Johns, Pelc 2013: 12). Second, within the WTO itself, other platforms such as Councils and Committees fulfil certain tasks of the TPRM. Hence the issues of non-compliance may be brought up in the WTO, yet not in the TPRM in particular (Industrial Structure Council 2014: 698). These are the main reasons for the narrow criteria of case selection which apply directly to the procedure of content analysis.

To find individual *tpr-occurrences*, sets of *key words* relating specifically to each dispute case are going to be established. These sets of *key words* will be drawn from documents of the DSM, including requests for consultation and panel reports that describe the nature of the rule-violation. *Key words* will be selected based on descriptions of the inconsistent policies/measures provided by the aforementioned documents. Subsequently, the search for *key words* will be conducted on relevant TPR documents. Each case will be assigned a value of 0, 1, 2, 3, or 4, depending on the number of documents by type in which search results turn positive,

³ Most of the cases are selected based on the *WTO Dispute Settlement Database* by Horn and Mavroidis. The database contains all decisions made by Panels of the DSM regarding individual claims made by complainants in each of the cases between 1995 and 2010. In order to identify the cases which constitute rule-violations, only those disputes in which Panel has accepted at least one of the complainant’s claims are selected. The rest of the cases were selected by author of this thesis based on Panels’ reports.

granted the context in which they emerge is not misleading. The content analysis will rely on human coding.

Aside from the content analysis, the thesis employs quantitative methodology, subjecting the data obtained through the above mentioned procedure to a statistical analysis. This includes both descriptive and inferential statistics. For the purpose of testing hypotheses 2 through 4, the data will come in aggregated form, allowing for cross-national analysis.

6 Structure

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- 2 Theoretical Framework
- 3 Operationalization
- 4 Hypotheses
- 5 Research Design and Methodology
- 6 Variables and Data
- 7 Analysis
- 8 Conclusions
- 9 Sources
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1 INTRODUCTION

One of the most important functions of the World Trade Organization (WTO) is to collect, assess, and disseminate information about Members' trade policies, and thereby securing transparency and compliance with rules and norms of the multilateral trade regime. To achieve this, the organization implements various monitoring instruments, including: notifications, trade monitoring reports and trade policy reviews (TPRs) conducted by the Trade Policy Review Body (TPRB) of the Trade Policy Review Mechanism (TPRM) (Van Grassek, 2013: 271). Among these, the TPRM constitutes the most institutionalized form of monitoring in the WTO (Ghosh, 2010: 420). Despite the importance attributed to the mechanism in the context of increased transparency and members' adherence to rules of the trade regime, the empirical account of its practical functioning today remains relatively limited (Karlás and Parížek, 2016: 31). The purpose of this thesis is to contribute to a better understanding of the functioning of the TPRM in particular and generally to a better understanding of sources of transparency in international regimes with the focus on availability of compliance-related information.

According to the Annex 3 of the Marrakesh Agreement, “[t]he purpose of the Trade Policy Review Mechanism (“TPRM”) is to contribute to improved adherence by all Members to rules, disciplines and commitments made under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of Members” (WTO, 1994: 379). This thesis seeks to examine whether, and to what extent, has the mechanism been able to provide greater transparency with regard to compliance-related information. By so-doing, the thesis also seeks to examine *reassurance* and *deterrence* aspects of transparency (see, e.g., Thomann, 2012: 81; Mitchell, 1998: 111; Chayes and Chayes, 1995: 135; Abbott, 1993: 4; Sachariew, 1991: 32–33; Young, 1991: 176–177; Stein, 1982: 312). The availability of compliance-related information is operationalized as a dependent variable *TPR-occurrence* which indicates whether the matter of a judicially confirmed violation has been discussed in a TPR of the respective member prior to adjudication. The thesis focuses squarely on judicially confirmed rule violations, i.e., those confirmed by Panels of the Dispute Settlement Body (DSB), since

these cases provide for the most readily observable and relatively unbiased empirical evidence of non-compliance. In addition, the thesis provides potential explanations for variance in the above described dependent variable in order to establish what factors can influence the likelihood of identifying actors contemplating non-compliance in the TPR process. The following two questions guide the research design of this thesis.

Research question 1: To what extent have been matters that become legal cases under the DSM previously discussed in TPRs?

Research question 2: What factors influence the likelihood that deviant behavior will be detected by the TPRM before a complaint is lodged under the DSM?

The theoretical argument presented in this thesis draws primarily from contributions of the institutionalist school in international relations. First, a wider theoretical basis is presented in order to establish the significance of monitoring procedures in regard to dilemmas of common interest, and collaboration problems, in particular. Second, a link between transparency and compliance is drawn, including sources thereof. Finally, more nuanced conceptualization of monitoring arrangements is discussed with regard to the design of *information systems* in international institutions. In addition, the theory draws from various empirical-analytical studies of the TPRM with respect to the aforementioned. Critical perspective is drawn primarily from contributions of the managerial school of thought⁴.

This thesis uses empirical-analytical approach and both qualitative and quantitative methods of analysis in order to answer the above stated research questions. In particular, the thesis employs the method of content analysis in order to procure empirical evidence of the TPRM's ability to detect instances of non-compliance that later become legal cases under the DSM, thus providing for a measure of the dependent variable. The content in question concerns the earlier mentioned TPRs, namely secretariat reports, government reports, questions and replies, and minutes of the meeting. Then, statistical methods of analysis, including logistic regression and diagnostics, are employed in order to analyze variance in the above described dependent

⁴ Managerial school of thought, associated primarily with Abram Chayes and Antonia Handler Chayes, provides for a critical perspective on rational approaches to compliance (see, e.g., Chayes and Chayes, 1995; Chayes and Chayes, 1993).

variable. Independent variables are derived from factors identified by the author in the process of literature review.

As regards the structure, the thesis comprises of six major sections, including: introduction, literature review, theory, research design, analysis, and conclusions. The literature review provides an overview of theoretical, descriptive, and empirical causal research that informs the theoretical framework presented in the following section. Along with the theory and its assumptions, theoretical section elaborates on the dependent variable and independent variables, developing several hypotheses. The research design section explains how individual hypotheses are tested, describing the methods of analysis and data used for this purpose in detail. Findings of the thesis are then presented in the analysis section of the paper, addressing each of the hypotheses. Furthermore, results of the analysis are summarized in the conclusions section of the thesis along with suggestions for future research.

2 LITERATURE REVIEW

Before advancing the theoretical argument, it is important to review literature on monitoring and *information systems* in international regimes. This entails, in particular, contributions of the institutionalist school in international relations and some insights from the managerial school of thought. In addition, studies dealing with the TPRM specifically are examined in this section. The purpose of the literature review is to provide an overview of the previous research on related topics. However, the section also intends to clarify in what ways this thesis departs from other studies. Following is a description of each sub-section of the literature review and reasoning behind it.

First sub-section draws upon contributions of rational institutionalists who find that collaboration among actors under anarchy requires some degree of formalization, specifying what constitutes cooperation and cheating, and reassuring actors that they are not being taken advantage of (see, e.g., Thomann, 2012: 81; Mitchell, 1998: 111; Chayes and Chayes, 1995: 135; Abbott, 1993: 4; Sachariew, 1991: 32–33, Stein, 1982: 312). In this regard, many authors identify monitoring and enforcement as crucial components of international regimes that can facilitate such collaboration (see, e.g., Ghosh, 2010: 402; Young, 1992: 176–177). The purpose of this sub-section is to explain the underlying logic in which the notion of monitoring is founded.

Second sub-section explains the interplay between transparency and compliance, and sources thereof. Essentially, this sub-section examines how transparency—in this particular case, the availability of compliance-related information—operates to induce compliance among regime members (see, e.g., Raustiala, 2000: 402; Mitchell, 1994: 429; Sands, 1993: 372; Chayes and Chayes, 1993: 204; Young, 1991: 176–177). By examining sources of transparency, the thesis thus seeks to establish what factors influence the availability of compliance-related information in international regimes.

How compliance-related information is obtained is then discussed in the third sub-section which deals specifically with *information systems*, i.e. monitoring arrangements, in international regimes. The above mentioned can be regarded as “[...] the sets of institutions, actors, and procedure involved in collecting, analyzing, and disseminating information about members’ actions and the regime’s effectiveness”

(Ghosh, 2010: 423)⁵. Central to the work of scholars such as Xinyuan Dai and Ronald B. Mitchell is the observation of a variety of different organizational forms of such systems (Dai, 2002: 405; Mitchell, 1998: 112). The purpose of this sub-section is to explore particular features of information systems that influence the availability of compliance-related information.

Fourth sub-section summarizes some of the key findings of studies focusing on TPRM's institutional design. In particular, the assessment of the TPRM is provided with regard to the theoretical background presented in previous sub-sections. The sub-section draws mainly upon studies by Arunabha Ghosh, Thomas Conzelmann, and Xinyuan Dai (Ghosh, 2010; Conzelmann, 2004; Dai, 2002). Central to this sub-section is the analysis of different functions performed by the TPRM as well as various flaws in its institutional design. As with the previous section, the purpose of this sub-section is to explore factors influencing the availability of compliance-related information.

Fifth sub-section elaborates on TPRM's relation to enforcement mechanisms in the WTO, in particular to the DSM. According to the Annex 3 of the Marrakesh Agreement, the TPRM "[...] is not, however, intended to serve as a basis for the enforcement of specific obligations under the Agreements or for dispute settlement procedures, or to impose new policy commitments on Members" (WTO, 1994: 379). There has been a debate concerning this de-linking of monitoring from enforcement. While authors such as Asif H. Qureshi have maintained that this is in fact not entirely possible (see, e.g., Qureshi, 1995: 493–495; Qureshi, 1990: 153), others seem to imply that the de-linking is not only possible but necessary for effective functioning of the TPRM (see, e.g., Conzelmann, 2004: 16; Laird, 1999: 743; Abbott, 1993: 117–119)⁶. The purpose of this sub-section is to clarify what is the relation between the TPRM and the DSM not least because of the case selection which is based on findings of Panels of the DSB. By so-doing, the thesis also seeks to avoid possible misinterpretation of results presented in the analysis section. To be sure, this thesis does not seek to prove whether the TPRM can serve as a pre-stage to enforcement as this would be beyond the scope of the research, it nevertheless touches upon the topic briefly.

⁵ See, also, Mitchell, 1994: 430.

⁶ Nonetheless, findings of rational institutionalists suggest that this relation is in fact crucial for regimes characterized by collaboration problems in order to sustain, let alone initiate, cooperation between actors (see, e.g., Young 1991: 176–177; Axelrod and Keohane 1985: 235; Stein 1982: 312).

Finally, sixth sub-section focuses on the process by which trade policy reviews are conducted, including reporting and reviewing procedures, as well as an overview of the types of documents produced by the TPRM. These are, namely, the secretariat reports, government reports, questions and replies, and minutes of the meeting. The sub-section sets some bottom line expectations for the extent to which the reviews are able to identify all deviant behavior. In this regard, various authors note that reviews have not been very critical toward members' conduct, neither have they been very in-depth, consistent, or frequent enough to be able to detect all deviant behavior (see, e.g., Ghosh, 2010: 420; Conzelmann, 2004: 15; Hoekman and Mavroidis, 2000: 533; Kessing, 1998: 11; Qureshi, 1992: 119; Qureshi, 1990: 153). Nevertheless, the extent of empirical analysis of the above mentioned studies has been rather limited. This thesis aims to provide a more thorough empirical account of TPRM's ability to detect non-compliant behavior.

2.1 International Regimes and Monitoring

Monitoring arrangements constitute an important part of international organizations and regimes, particularly with regard to regime transparency and treaty compliance that can facilitate cooperation between actors under conditions of international anarchy. To better understand why monitoring bodies are being established and why they differ in design across various international organizations, it is important to first understand how the underlying logic in which the notion of monitoring is founded operates. The thesis therefore turns to findings of rational institutionalists in order to explain the above mentioned. The basic assumption is that states are the principal actors in world politics, and that they act through international organizations in order to pursue shared goals, thereby producing collective goods, and solving problems of coordination and collaboration (Abbott and Snidal, 1998: 6)⁷.

⁷ Rational institutionalist approach assumes that states can be regarded as “[...] unitary, self-interested actors that calculate the costs and benefits of alternative actions in an anarchic world order” (Zaelke, 2005: 55). Furthermore, distinction should be made between the terms international organizations, international institutions and regimes. For simplicity, this thesis distinguishes between formal international organizations such as the WTO, International Monetary Fund, or World Bank, on one hand, and international institutions and regimes in a broader sense as sets of rules and norms, on other hand (see, e.g., Simmons and Martin, 2002). To be sure, regimes can be defined as “[...] principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area”

Achieving cooperation in world politics is difficult not least due to the absence of a leviathan or countervailing norms that would induce actors to refrain from individually rational yet collectively deficient behavior. Because cheating and deception are endemic under conditions of international anarchy, defection and free riding become dominant strategies (Hooghe and Marks, 2003: 239; Axelrod and Keohane, 1985: 226). Therefore, individually rational behavior may prevent actors from realizing their mutual interest regardless of potential collective benefits from cooperation⁸. The situation is the more challenging when actors face great uncertainty and have different access to information. Consequently, institutions that reduce uncertainty and limit asymmetries in information need to be established in order to prevent defection and free riding, and to facilitate cooperation in the long run (Keohane, 1984: 12–13).

In many situations, from trade to arms races, states experience problems of collaboration that stem from dilemmas of common interest (Stein, 2008: 208; Stein, 1982: 311–312). From the game-theoretical perspective, “[t]he dilemma of common interests occurs when there is only one equilibrium outcome that is deficient for the involved actors. In order to solve such dilemmas and assure the Pareto-optimal outcome, the parties must collaborate, and all regimes intended to deal with dilemmas of common interests must specify strict patterns of behavior and insure that no one cheats” (Stein, 1982: 312). In turn, successful collaboration requires a degree of formalization, specifying what constitutes cooperation and cheating, and reassuring actors that they are not being cheated (Stein, 1982: 312). This is ensured by mechanisms of monitoring and enforcement that induce the fear of deviant behavior being found out and punished, for example, by imposing sanctions on defectors and free riders (see, e.g., Ghosh, 2010: 423; Young, 1992: 176–177).

The aforementioned dilemma of common interest can be regarded as a textbook prisoner’s dilemma situation (Stein, 1982: 312)⁹. For illustration, game-theoretical model of prisoner’s dilemma—i.e., a situation in which “[...] the actors’ dominant

(Krasner, 1982: 185). Again, for simplicity, the terms international institutions and regimes are used interchangeably in this thesis.

⁸ Other factors besides mutuality of interest, such as the shadow of the future and the number of actors, also influence the success or failure of cooperation (Axelrod and Keohane, 1985: 227).

⁹ It is argued that in the reiterated version of prisoner’s dilemma, concern about the future payoff helps incentivize cooperation. The higher the future payoffs are valued over the current ones, the lesser the incentive to defect. Shadow of the future thus promotes cooperation. This effect can be prolonged by specific factors, including, for example, long time horizons and access to information on changes in others’ behavior (Axelrod and Keohane 1985: 232).

strategies lead them to an equilibrium outcome that is Pareto-deficient” (Stein, 1982: 304–305)—is often used to illustrate obstacles to cooperation in international trade. Bernard M. Hoekman and Michel M. Kostecki provide a thorough picture of the issue in their analysis of the world trading system by elaborating on the notion of individual rationality that leads states to impose restrictions and protectionist measures in spite of potential collective benefits from trade liberalization (Hoekman and Kostecki, 2005: 148). In practice, states may eventually find themselves in a spiral of retaliatory trade wars (Narlikar, 2005: 4).

Luckily, the risk is reduced when there is a mechanism by which states can bind themselves and others to commit to tariff reductions. Therefore, international organizations concerned with trade, such as the WTO, need to ensure monitoring and enforcement of prescribed rules in order to guard against cheating and defection, and thereby securing the process of multilateral trade liberalization (Narlikar, 2005: 4–5). The same underlying logic operates, for example, in the issue-area of arms control. However, here the severity of unreciprocated defection and inherent military secrecy demand greater institutionalization, particularly with regard to information provision (Axelrod and Keohane, 1985: 234–235; Stein, 1982: 312–313).

Rational institutionalism thus assumes that dilemmas of common interest, and particularly problems of collaboration, can be solved by international institutions. In fact, this is believed to be one of the key reasons why states create international institutions in the first place (Stein, 2008: 208; Keohane, 1984: 12–13; Stein, 1982: 307). Various forms of international institutions, differences between them related to centralization of tasks, rules for controlling the institution, flexibility of arrangements, and so on, therefore correspond to a specific problem for which they were designed (Koremenos et al., 2001: 762).

In situations where states experience collaboration problems, as illustrated in the case of international trade, institutional design tends towards increased centralization due to concerns over defection and cheating (Stein, 2008: 213). Since monitoring of others’ behavior may be too costly for each collaborating actor individually, it is usually more efficient to establish a central monitoring agency to detect attempts at defection and free riding (König and Mäder, 2013: 247)¹⁰. Moreover, as a neutral information

¹⁰ To be sure, establishing a central monitoring agency, a solution that is known as monitoring from above, constitutes only one of the options how to monitor actors’ behavior. Other options include, for

provider, monitoring agency can provide information that is objectively more reliable and free of national biases. Independently produced information can thus deter cheating and assure states of their own compliance (Abbott and Snidal, 1998: 20).

From the institutionalist perspective, monitoring is perceived as a process of collecting and evaluating information on how the actors fulfil their agreed goals under different treaties in various institutions, or whether they comply with general goals of these institutions (Karlas and Parížek, 2016: 32)¹¹. Rational institutionalists associate monitoring primarily with information on treaty-compliance. Detecting noncompliance is particularly important with regard to enforcement, since the former can be regarded as a prerequisite for the latter (Dai, 2002: 406). Nevertheless, it should be noted that monitoring is not necessarily limited to compliance-related information. For example, regimes can seek to procure effectiveness-related information to evaluate the collective effort of all actors, rather than individual deviations (Mitchell, 1998: 109).

Furthermore, as long as the actors monitor each other's behavior, concerns over reputation may incentivize cooperation in addition to concerns over punishment (see, e.g., Koremenos, et al., 2001: 790; Raustalia, 2000: 402; Chayes and Chayes, 1995: 230; Keohane, 1984: 105)¹². Good reputation is valuable even for self-interested rational actors such as states because “[u]nder conditions of uncertainty and decentralization, governments will decide whom to make agreements with, and on what terms, largely on the basis of their expectations about their partners' willingness and ability to keep their commitments” (Keohane, 1984: 105). According to rational institutionalism, even the most powerful states can be deterred from cheating, provided that international organizations are able to detect and expose their deviant conduct (Koremenos, et al., 2001: 790).

Ultimately, it is the likelihood of deviant behavior being found out that influences states' decision to cooperate or defect, to comply or not to comply, regardless of the above mentioned. Threats of punishment and loss of reputation bear no value

example, horizontal interstate monitoring and monitoring from below by interest groups and citizens (König and Mäder, 2013: 247).

¹¹ Monitoring as a broader term encompasses certain activities such as reporting, reviewing and verification. Reporting usually refers to submitting of information on actors' compliance with their treaty obligations to a given institution. Reviewing usually refers to evaluating actors' behavior based on reported information and treaty obligations in a given institution. Information may then be subjected to verification, establishing its accuracy and validity (Karlas and Parížek, 2016: 32).

¹² In fact, the potential reputational costs can deter shirkers even if the likelihood that their violations will be met with sanctions is relatively low (Young, 1992: 177).

unless actors tempted to cheat believe that their behavior can be exposed (see, e.g., Ghosh, 2010: 422; Young, 1992: 176–177). As Arunabha Ghosh puts it, “[t]he decision to cooperate or defect is solely determined by the fear of being caught and having to face retaliatory measures or lose reputation” (Ghosh, 2010: 422). However, some behaviors may be less transparent than others, and thereby more difficult to monitor (Raustiala, 2000: 402). In addition, violations may occur even in the absence of the intent to renege on treaty obligations (Chayes and Chayes, 1993: 188). Not least due to these reasons, the next sub-section elaborates on sources of transparency and compliance, and the interplay between the two.

2.2 Transparency and Compliance

Although transparency seems to play a crucial role in facilitating collaboration under assumptions of rational institutionalism, the relevant literature rarely focuses on this particular subject. In turn, many authors have noted surprising lack of institutionalist work on sources of transparency (see, e.g., Ghosh, 2010: 423; Dai, 2002: 405; Mitchell, 1998: 110)¹³. Furthermore, rational institutionalists assume that actors’ compliance with treaty obligations results from conscious deliberation, yet in practice, non-compliance may also result from unintentional negligence due to ambiguity of treaty rules, limited capacities of states to carry out their obligations, etc. (Chayes and Chayes, 1993: 188)¹⁴. For these reasons, the section draws additionally upon findings of the managerial school of thought in order to provide a more thorough explanation of the relation between transparency and compliance, and sources thereof (see, e.g., Chayes and Chayes, 1995; Chayes and Chayes, 1993).

First and foremost, “[c]ompliance can be said to occur when the accrual behavior of a given subject conforms to prescribed behavior, and non-compliance or violation occurs when actual behavior departs significantly from prescribed behavior”

¹³ Transparency is linked to various rationalist explanations of compliance, including, for example, the reputational concerns discussed in the previous sub-section (see, e.g., Koremenos, et al., 2001: 790; Raustiala, 2000: 402; Young, 1991: 176–177).

¹⁴ Some institutionalists acknowledged this. For example Kenneth Abbott and Duncan Snidal are careful to mention that incentives to defect on day-to-day basis may be relatively small and managerial approach to compliance may therefore be sufficient when dealing with minor violations (Abbott and Snidal, 1998: 26).

(Zürn, 2005: 8)¹⁵. Rational institutionalism views compliance precisely in these instrumental terms, linking actor behavior to the nature of the problem (Raustalia, 2000: 405). Thus, conceptually, compliance has much in common with the structure of the cooperation problem (Chayes and Chayes, 1995: 135). However, compliance as defined in these terms does not imply a causal relationship between the rule and behavior, it simply indicates correlation between the two (Raustalia, 2000: 398).

Second, transparency can be defined as “[...] the generation and dissemination of information about the requirements of the regime and the parties’ performance under it” (Chayes and Chayes, 1995: 22). Similarly to compliance and cooperation, the conceptual line is often blurring between the terms transparency and monitoring. Arguably, transparency can be regarded, to some extent, as a result of monitoring (Karlas and Parizek, 2016: 32–33)¹⁶. Thus, transparency defined as the availability of information may be conceptually more accurate (see, e.g., Mitchell, 1998: 110; Chayes and Chayes, 1995: 135).

Drawing upon findings of the institutionalist school, Abraham Chayes and Antonia Handler Chayes provide a thorough explanation of how transparency operates to promote compliance. First, the authors argue that transparency “[...] *reassures* [emphasis added] actors that they are not being taken advantage of when their compliance with the norms is contingent on similar action by other (or enough other) participants in the regime” (Chayes and Chayes, 1995: 135). In other words, in situations where actors face collaboration problems, transparency is needed for actors to make safe and credible commitments to follow the rules. Transparency thus reassures actors by tracking the record of others’ commitment to the rules (Chayes and Chayes, 1995: 150).

Second, transparency “[...] exercises *deterrence* [emphasis added] against actors contemplating noncompliance” (Chayes and Chayes, 1995: 135). While actors’ predisposed to compliance need reassurance, those contemplating non-compliance need to be deterred. Transparency operates in both ways (Chayes and Chayes, 1995: 151). If the behavior is transparent, attempts to violate the rules are exposed and actors contemplating non-compliance are deterred by possible sanctions and reputational costs

¹⁵ See, also, Raustalia, 2000: 388.

¹⁶ For sake of clarity, monitoring can be regarded as a process of collecting and evaluating information while transparency can be regarded as a norm or a result of the aforementioned (Karlas and Parizek, 2016: 32–33).

(Thomann, 2012: 67). However, several considerations about actors' incentives to comply need to be taken into account.

According to Oran Young, compliance depends on the ease with which violations can be detected, the probability that transgressors will be subjected to sanctions, and the magnitude of the sanctions imposed (Young, 1992: 176). In other words: “[a]ctors are more likely to comply if non-compliance is detected and norm violations are threatened with credible sanctions that alter the cost-benefit calculations of states as rational actors” (Thomann, 2012: 66). However, as emphasized in the previous sub-section, it is ultimately the likelihood of deviant behavior being found out—be it a small chance or a high chance—that propels compliance (see, e.g., Ghosh, 2010: 422; Young, 1992: 176–177). Capabilities of international organizations and regimes to detect and expose transgressors by means of monitoring thus increase transparency and facilitate collaboration and compliance.

Thus far, the assumptions about compliance with the rules and norms of the regime have been contingent upon the structure of actors' incentives. However, violations may occur even when mechanisms of monitoring and enforcement are in place. While rational institutionalists tend to presume that occurrence of such violations ultimately rests upon actor's deliberate decision as a result of cost-benefit calculation, the managerial school of thought highlights other possible causes of non-compliance. In addition, the authors explain why most international treaties have been marked by generally high levels of compliance despite somewhat skeptical predictions of rational institutionalists (Chayes and Chayes, 1995: 3–17; Chayes and Chayes, 1993: 176).

First, the authors assume that states are generally predisposed to comply with treaties they make because they need not enter into agreements that do not reflect their interest in the first place. Conversely, if a treaty reflects state's interest that state is already likely to comply with its rules. Second, in the absence of convincing evidence that circumstances of the original bargain have changed, there is no reason for continuous recalculation of costs and benefits. Lastly, the process of treaty-making is preconditioned by mutual understanding that resulting agreement will be legally

binding. This is evidenced by the care that states take in negotiating agreements (Chayes and Chayes, 1995: 3–9; Chayes and Chayes, 1993: 178–186)¹⁷.

Furthermore, according to the managerial school, other factors account for rule violations apart from a willful misconduct. These are, namely, the ambiguity of treaty language, inadequate capacities of states to fulfill their obligations, or the temporal dimension of the social and economic changes¹⁸. To address the above mentioned, the authors suggest improving dispute resolution procedures, introducing technical and financial assistance, and improving of transparency (Chayes and Chayes, 1995: 9–17; Chayes and Chayes, 1993: 188, 204). Moreover, they argue that some treaties may be able to withstand more non-compliance than others. For example, economic and environmental regimes, can tolerate a good deal of non-compliance, perhaps, due to the above mentioned causes that can be considered legitimate justifications of non-compliance in certain situations (Chayes and Chayes, 1993: 200)¹⁹.

However, the belief of the managerial school that non-compliance should be managed rather than punished has been criticized heavily by rational institutionalists. For example, Downs et al. argue that high levels of compliance and marginality of enforcement result from the fact that “[...] most treaties require states to make only modest departures from what they would have done in the absence of an agreement” (Downs, et al., 1996: 380). In turn, states are often presented with negligible benefits from renegeing on their treaty obligations. Therefore, high levels of compliance and marginality of enforcement result from shallowness of cooperation rather than general propensity of actors to comply (Downs, et al., 1996: 381–382). Similarly, other institutionalists suggest that international treaties are oversampled on the shallow end of the cooperation spectrum. Even if the level of compliance is high, a non-demanding treaty may induce little to no changes in behavior (Mitchell and Hensel, 2007: 722; Mitchell, 2003: 37; Raustalia, 200: 388). Although some authors perceive enforcement

¹⁷ Due to the general propensity of states to comply, the authors argue that the problem of free riding often discussed by rational institutionalists, has been overestimated (Chayes and Chayes, 1993: 201).

¹⁸ With regard to the ambiguity of treaty language, the authors assume that wording of a treaty may lead to possible misinterpretations and thus violations. Inadequate capacities of a state, especially the bureaucratic capacity and financial resources, may hamper its ability to abide by the agreement due to the heightened costs at the domestic level. In addition, conditions under which the original agreement was concluded may change significantly over time, making the compliance more difficult (Chayes and Chayes, 1995: 10–15).

¹⁹ In addition, according to Michael Zürn, non-compliance can occur in situations when the norm in question is considered to be “wrong” in principle. Lack of legitimacy may thus account for non-compliance next to rationalist explanations of cheating and managerial ambiguity and capacity constraints (Zürn, 2005: 18–19).

and management as competing ways how to achieve compliance, others have suggested that combining the two approaches may sometimes bring more fruitful results (see, e.g., Conzelmann, 2004: 2; Abbott and Snidal, 1998: 26).

According to Ronald B. Mitchell, “[a] regime’s transparency depends on the purposes for which the regime seeks information, that is, the demand for information; the incentives and capacity of relevant actors to provide that information, that is, the supply of information; and the strategies the regime adopts to increase transparency” (Mitchell, 1998: 110). Transparency thus depends on features of an issue area and features of the regime as such. The author notes that “[...] the type of states involved in a regime may influence the ability of the regime to create transparency” (Mitchell, 1998: 113). Presumably, regimes with a large share of democratic states are likely to be more transparent compared to regimes composed of autocratic states. This is because of the free flow of information and openness of democratic societies. In addition, while transparency of a regime may be increased, e.g., by setting up a central monitoring agency, too much transparency may actually hamper cooperation since negotiations often require certain degree of diplomatic secrecy. Regimes can seek either compliance-oriented or effectiveness-oriented transparency. The former seeks to assess whether particular actors are individually fulfilling regime commitments, the latter seeks to assess whether regime members are achieving their collective goals (Mitchell, 1998: 109–113)²⁰. The next sub-section elaborates on information systems in international regimes through which the above mentioned transparency can be manipulated.

2.3 Information Systems in International Regimes

As noted in the previous sub-section, although availability of compliance-related information seems to play an important role in facilitating collaboration and compliance, there has been a surprising lack of institutionalist work on how international organizations and regimes provide such information. The thesis turns to

²⁰ Usually, in regimes with prevalingly effectiveness-oriented transparency, the collected information is used to assess the progress to date in managing the issue at hand, or identifying directions for revision of the treaty regime. In contrast, in regimes with prevalently compliance-oriented transparency, the collected information is intended to induce some kind of response, usually sanctioning deviant behavior. In addition, due to political obstacles, it is usually more challenging to establish a compliance-oriented model as opposed to effectiveness-oriented model (Mitchell, 1998: 113).

findings of Arunabha Ghosh, Xinyuan Dai and Ronald B. Mitchell who elaborate on the concept of *information systems*, i.e., monitoring arrangements, in international regimes. The authors seek to explain what accounts for the diverse organizational forms of *information systems* across various international organizations and regimes (see, e.g., Ghosh, 2010; Dai, 2002; Mitchell, 1998; Mitchell, 1994).

First and foremost, *information systems* can be defined as “[...] the sets of institutions, actors, and procedure involved in collecting, analyzing, and disseminating information about members’ actions and the regime’s effectiveness” (Ghosh, 2010: 423)²¹. Furthermore, “[t]he information consists of ‘inputs’ related to reporting on, monitoring, and verifying behavior and the state of the environment as well as ‘outputs’ related to aggregating, processing, evaluating, publicizing, and responding to this information” (Mitchell, 1998: 110). It is assumed that *information systems* can make information accessible and available, thus compensating for information asymmetries, and improving transparency of the regime (Mitchell, 1998: 110). These systems constitute a part of the regime’s compliance system, including both monitoring and enforcement mechanisms (Mitchell, 1994: 425)²².

According to Ronald B. Mitchell, the design of information systems in international regimes depends primarily on capacities and incentives of relevant actors, including the governments as well as non-governmental organizations. Consequently, *information systems* can take form of self-reporting, other-reporting, or problem-reporting. Actors under these systems can report either on their own actions, on actions of other actors, or on the state of a problem. The author argues that actors’ incentives and capabilities to provide information vary with each system (Mitchell, 1998: 109, 126). Factors influencing the ability of *information systems* to provide information, and thereby achieving transparency, include: “[...] the commitment actors have to regime norms, the degree to which their behavior conforms to those norms, and the degree to which they are harmed by the behavioral nonconformance of others” (Mitchell, 1998: 126). While the incentives of actors to provide information depend, to some extent, on all of these factors regardless of the system’s design, the last mentioned plays a

²¹ See, also, Mitchell, 1994: 430.

²² From a broader perspective, compliance systems comprise of several components, including: a primary rule system, a compliance information system, and a non-compliance response system (Mitchell, 1994: 430).

particularly important role in relation to other-reporting-oriented information systems (Mitchell, 1998: 126).

According to Xinuyan Dai, there are two key factors that influence the design of information systems in international regimes. These are, namely, “[...] the common or divergent interests of non-compliance victims and their states and the presence or absence of non-compliance victims as low-cost monitors” (Dai, 2002: 406). Based on these factors, four different forms of *information systems* can emerge, including: monitoring by victims and states, monitoring by treaty organizations, monitoring by victims and NGOs, and monitoring by NGOs (Dai, 2002: 412). The author notes that non-compliance is easier to detect when its effects are apparent as opposed to latent. In a similar vein, it is easier to detect non-compliance when its source is discernable. Low-cost monitors are said to be available when non-compliance victims, for example, export firms suffering from import constraints, can detect both the effect and the source of non-compliance, thus allowing for cost-effective monitoring (Dai, 2002: 414).

Furthermore, Xinyuan Dai emphasizes the fact that bringing the information to light usually requires a degree of centralization and some involvement by states or NGOs (Dai, 2002: 416). As noted by the author, “[e]ven when potential victims may easily detect noncompliance, they in turn face collective action problems in bringing that information to light, because frequently the cost of bringing noncompliance to light is concentrated while the benefit is diffused” (Dai, 2002: 418). In the context of international trade, companies may not have incentives to bring a particular violation to the attention of the government if the effect, e.g., pursuing the case at the WTO, benefits the entire industry, competitors included (Dai, 2002: 418).

Thomas Conzelmann, suggests that the extent to which state reporting is useful for compliance depends on evaluation of reports²³. The author notes that “[...] evaluation stage of reports is of central importance, since it allows a calculation of member state performance in relation to other regime members and in the light of regime norms” (Conzelmann, 2004: 8). When violations are brought to light, this invariably triggers a dialogue between members of the regime. In turn, this may encourage responses such as provision of technical assistance, clarification of interpretation of the rules, or formal identification of violations coupled with corrective

²³ In the WTO, the reports are subjected to evaluation from both the states and the secretariat (Conzelmann, 2004: 8).

measures. At the same time, however, the compliance dialogue plays an important role with regard to socialization of actors contemplating non-compliance into the regime, thus aligning their interests with those of other actors. Compliance dialogues may serve to clarify acceptable and unacceptable behavior, exposing states to regime norms and eventually reshaping their identities and preferences (Conzelmann, 2004: 8–9).

Although both Mitchell's and Dai's work present considerable progress in study of *information systems*, Arunabha Ghosh points to several shortcomings. In particular, the author notes that both studies have not paid adequate attention to the role of regime secretariats, the different functions of *information systems*, etc. Aside from self-reporting and other-reporting, the author identifies three other types of *information system* designs, including: no reporting, non-state actors reporting, and institutional reporting. The last mentioned highlights the role of secretariats in information collection, particularly with regard to regime members' actions and the functioning of the regime as a whole. Such *information systems* are usually being established where regime membership is large, the scope of issues covered is wide, and the proportion of resource-constrained states is high (Ghosh, 2010: 424–427).

In addition, according to Arunabha Ghosh, three functions of *information systems* can be distinguished, including: information dissemination, compliance promotion, and regime evaluation. By means of information dissemination, *information systems* in international regimes can address resource constraints of actors facing information asymmetries, clarify inaccurate information, and reduce the risk of national biases. Compliance promotion is facilitated where *information systems* detect non-compliance and recommend corrective measures. Lastly, *information systems* allow for regime evaluation by evaluating the impact of the regime on individual members, and thereby reducing general uncertainty about the impact of the regime (Ghosh, 2010: 436–437). Arguably, all of the above mentioned features of information systems have some influence on the availability of compliance-related information. The next sub-section seeks to summarize findings of previous studies on the institutional design of the TPRM as an *information system*.

2.4 Institutional Design of the TPRM

As was mentioned in the introduction, one of the most important functions of the WTO is to collect, assess, and disseminate information about Members' trade policies, and thereby securing transparency and compliance with rules and norms of the multilateral trade regime (Van Grassek, 2013: 271). In this context, the TPRM plays a particularly important role as the most institutionalized form of monitoring in the WTO. Yet, the mechanism itself can be hardly described as the ideal *information system*. Instead, the case of TPRM highlights the fact that, in practice, *information systems* often combine different features of institutional designs, such as those described earlier (Ghosh, 2010: 420, 427). Before examining the design of the TPRM in detail, however, it is worth mentioning how the mechanism came into being.

The TPRM was established in 1988 as part of a mid-term review of the Uruguay Round of negotiations. It was later placed under Annex 3 of the Marrakesh Agreement establishing the WTO (Chaisse and Matsushita, 2013: 13)²⁴. The mechanism emerged partially as a response to growing protectionist pressures, increase in safeguards, anti-dumping, etc., to which many countries have resorted in the second half of the 1980s. Concerns over prospects of the multilateral trade regime have led to a belief that more proactive surveillance of members' policies was needed to keep trading partners informed, and to exert pressure against protectionist initiatives by appealing directly to citizens of member states (Van Grassek, 2013: 280).

Calls for greater transparency of the policy-making process were reflected in negotiations on the Functioning of the GATT System (FOGS) during the Uruguay Round of negotiations (see, e.g., Van Grassek, 2013: 280; Ghosh, 2010: 432). Initially, developed countries suggested that “[...] surveillance should not serve only as an ‘early warning system’ but should also be ‘used to ensure compliance with contractual obligations’ [...]” (Ghosh, 2013: 432). The latter part of the suggestion did not necessarily resonate with developing countries. Although all countries agreed a multilateral surveillance system was needed, developing countries feared such system would ultimately favor developed countries by putting less liberalized economies under disproportionate pressure to revise their trade policies. Ultimately, an overwhelming

²⁴ Until the mid-1980s, there was essentially no mechanism that would monitor the trade regime as a whole, neither was there a mechanism that would subject members to period reviews (Ghosh, 2010: 431).

focus in negotiations was to fix the asymmetry in surveillance, and introduce regular monitoring of members' trade policies (Ghosh, 2010: 432–433).

The decision to set up the TPRM was made in 1988, and confirmed later in 1989. Nevertheless, the resulting arrangement proved to be much less ambitious than some of the earlier proposals. The reviews introduced with the TPRM were expected to provide members with a chance to defend their trade policies and attract investment at a time of increasing liberalization pressures (Ghosh, 2013: 433–434). However, neither an explicit judgement on members' compliance, nor detailed prescriptions for members' policies were involved in this procedure. Ever since, secretariat reports—i.e., the main output of the mechanism—have remained rather descriptive, abandoning the initial suggestion that the new surveillance system should also ensure compliance with members' obligations in the strict sense²⁵. Furthermore, since the focus of this thesis is on TPRM's functioning in the WTO-era, it should be noted that one of the changes between the GATT- and WTO-era TPRM has been the gradual degradation of the so called government report in favor of the above mentioned secretariat report (Van Grastek, 2013: 279–280)²⁶.

Objectives of the TPRM are defined in Annex 3 of the Marrakesh Agreement. Here, the stated purpose of the mechanism is: “[...] to contribute to improved adherence by all Members to rules, disciplines and commitments made under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, and hence to the smoother functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of Members. Accordingly, the review mechanism enables the regular collective appreciation and evaluation of the full range of individual Members' trade policies and practices and their impact on the functioning of the multilateral trading system. It is not, however, intended to serve as a basis for the enforcement of specific obligations under the Agreements or for dispute settlement procedures, or to impose new policy commitments on Members” (WTO, 1994: 379).

²⁵ Among other things, the TPRM was supposed to demonstrate the beneficial impact of trade liberalization, and pressure protectionist initiatives by making the information available to NGOs, businesses and academics (Ghosh, 2010: 434).

²⁶ During the late GATT period, the TPRB was not yet fully operational. For a brief period since the TPRM was established, the GATT Council of Representatives took its responsibilities instead (Van Grastek, 2013: 287).

The same legal document establishes the TPRB to carry out trade policy reviews, thereby ensuring the aforementioned objectives of the TPRM. Frequency of the reviews of individual members is determined in terms of their share of world trade. The first four members with the highest share of world trade are reviewed once every two years, the following sixteen members once every four years, and the rest once every six years²⁷. The reviews take place at the backdrop of two reports one provided by the member under review, the other provided by the secretariat—hence the term “government report” and “secretariat report”. Both documents are then scrutinized at the meetings of the TPRB where collective appreciation and evaluation of members’ trade policies takes place with respect to the aforementioned objectives of the mechanism (WTO, 1994: 379–380). Therefore, two stages of TPRM activity can be discerned, one associated with preparation and dissemination of reports, another associated with evaluation of the reports (Karlas and Parížek, 2016: 32).

Essentially, the TPRM as an *information system* is very restricted in terms of its mandate to identify non-compliance, or issue corrective measures. In practice, the TPRM focuses on the issue of non-compliance only marginally. As mentioned earlier the TPRB cannot pass legally binding judgements on individual members’ compliance, it can merely identify areas for improvement of members’ policies (see, e.g., Chaisse and Matsushita, 2013: 14; Dai, 2002: 424). The TPRM is also restricted in its ability to perform the three functions of *information systems* described in the previous sub-section. This seems to be problematic particularly with regard to compliance promotion that depends, to an extent, on the ability of the system to detect non-compliance and recommend corrective measures (Ghosh, 2010: 437–438). The next sub-section elaborates on this corrective function of the mechanism in greater detail.

Together with other monitoring activities of the WTO, e.g., the notifications and trade monitoring reports, the TPRM can be regarded as “[...] a relatively low-pressure form of enforcement that relies on moral suasion rather than the threat of retaliation” (Van Grastek, 2013: 271). The establishment of the TPRM, in particular, constituted the first attempt to institutionalize such moral suasion. Subjecting each member to trade policy reviews was intended to instill a sense of peer pressure among regime

²⁷ As a result of the sixth appraisal of the operation of the TPRM, members agreed to change the current review cycles from 2, 4, or 6 years to 3, 5, or 7 years. The shift towards new review cycles should take place in 2019 (WTO, 2016: 2). Arguably, this can be seen as a step to further de-emphasize TPRM’s relation to enforcement procedures, since the trade policy reviews are already too infrequent to be very useful to enforcement as noted by some analysts (Hoekman and Mavroidis, 2000: 553).

participants, and thereby increasing their incentives to comply (Ghosh, 2010: 439, 450; Conzelmann, 2004: 19–20). Due to this de-emphasis on enforcement in favor of moral suasion, the TPRM has been sometimes regarded as a “soft compliance instrument” (Conzelmann, 2004: 12)²⁸.

Despite the fact that the reviews are not intended to serve as a pre-stage to enforcement, however, it is very unlikely that dispute settlement procedures of the DSB would be unmindful of previous discussions at the meetings of the TPRB related to the subject of a dispute (see, e.g., Chaisse and Matsushita, 2013: 23; Chaisse and Chakraborty, 2007: 178–179; Conzelmann, 2004: 17; Mavroidis, 1992: 410). On a similar note, authors have observed that when a particular violation is brought to light at the meetings of the TPRB, members recognize the severity of possible consequences, including sanctions or reputational costs, and, possibly, initiation of a dispute settlement procedure by another member, as a result (see, e.g., Chaisse and Matsushita, 2013: 23; Mavroidis, 1992: 410; Qureshi, 1992: 119–120). The compliance logic of the TPRM thus seems to operate under rationalist assumptions. Moreover, the dominance of rationalist paradigm can be partially evidenced by the fact that the style of debates at the TPRB often has adversarial tone. Conversely, members rarely engage in open dialogues that could be characterized in terms of mutual learning or socialization, both of which would seem to be crucial for managerial approach (Conzelmann, 2004: 19–20).

Ultimately, the TPRM, and the WTO at large, can be characterized as a relatively decentralized form of *information system* (Dai, 2002: 423–424). Xinyuan Dai notes that “[m]onitoring in the GATT/WTO is largely performed jointly by non-compliance victims and their states, rather than by the treaty organization” (Dai, 2002: 424). In turn, the author identifies two main reasons why the WTO *information system* takes this particular form. First, there is a significant convergence of interests between non-compliance victims, e.g., domestic producers, and their states. And second, non-compliance victims, e.g., export-oriented and import-competing firms, can usually identify the effect and source of non-compliance relatively easily. Therefore, whether a particular violation is brought to light in the WTO depends to a large extent on the availability of non-compliance victims as cost-effective monitors. The role of the

²⁸ Soft compliance instruments seek to elicit compliance by means of moral suasion rather than material sanctions. Furthermore, this de-emphasis on enforcement is also associated with the managerial approach to compliance. Here, the absence of fear from being named and shamed or being otherwise sanctioned works in favor of a dialogue to identify and manage the sources of non-compliance. Conversely, such dialogue would not be possible were members to fear possible repercussions (Conzelmann, 2004: 7).

central monitoring agency, in this case the TPRB, is downplayed due to the fact that only states can initiate dispute settlement procedures at the WTO (Dai, 2002: 426). The next sub-section seeks to explore the relation between the TPRM and the DSM in order to clarify whether and how this relation affects the availability of compliance-related information.

2.5 Relation to the DSM

As mentioned in the previous sub-section, according to Annex 3 of the Marrakesh Agreement, the TPRM “[...] is not, however, intended to serve as a basis for the enforcement of specific obligations under the Agreements or for dispute settlement procedures, or to impose new policy commitments on Members” (WTO, 1994: 379). Nevertheless, some authors have questioned feasibility of this de-linking of monitoring from enforcement procedures. On one hand, authors such as Asif H. Qureshi have maintained that such de-linking is not entirely possible (see, e.g., Qureshi, 1995: 493–495; Qureshi, 1990: 153), on other hand, others have implied that this de-linking is not only possible but necessary for effective functioning of the TPRM (see, e.g., Conzelmann, 2004: 16; Laird, 1999: 743; Abbott, 1993: 117–119). These two opinions at the same time highlight some aspects of the debate on compliance between rational institutionalist and managerial approaches. The difference between these approaches is quite important because each emphasizes a different set of solutions for non-compliance.

According to Asif H. Qureshi, the TPRM is an instrument of enforcement in as much as transparency constitutes a pre-condition, an aspect, and a facet of enforcement. Put differently, if transparency can be regarded as a component of enforcement in its wider sense, then the TPRM and the DSM are naturally interconnected (Qureshi, 1995: 493; Qureshi, 1990: 158). The author suggests that, similarly to other enforcement mechanisms, the TPRM can function as a corrective mechanism irrespective of the intentional de-linking of the mechanism from enforcement procedures (Qureshi, 1995: 493). Specifically, the TPRM can be corrective by virtue of the evaluation that takes place at the meetings of the TPRB (Qureshi, 1990: 153). According to the author, “[c]onceptually, evaluation has the consequence of approbation/disapprobation, in the

context of inculcating corrective behavior, within the framework of a particular normative standard” (Qureshi, 1990: 153). Therefore, some degree of judgement is always involved, although such judgement is not legally binding. Furthermore, “[t]he TPRM cannot have been intended to function as a process whereby upon revelation of a ‘misdemeanor’ the Contracting Party becomes ‘immune’ from enforcement in respect of it” (Qureshi, 1995: 495). In practice, nothing can stop members from using information revealed in the reviews for litigation purposes, and directly as evidence before Panels of the DSB, or as “ammunition” in later negotiations (Benzing, 2006: 626; Kessing, 1998: 6; Qureshi, 1995: 495)²⁹.

Some authors have criticized the above delineated perspective, rejecting the notion that TPRs could lead to or facilitate a legal judgement. One of the articles responding to Qureshi’s earlier analysis explicitly notes: “[...] this is precisely not what the reviews are intended to be about [...]” (Abbott, 1993: 117). Instead, these authors have emphasized the fact that collective appreciation and evaluation of members’ trade policies can only take place in the absence of fear from punishment. They argue that the process of evaluation as an opportunity for members to justify their conduct, to learn and socialize, would lose in value if the reviews were used as a pre-stage to enforcement (Conzelmann, 2004: 16–17; Abbott, 1993: 117)³⁰³¹. Conversely, allowing the members to engage in discussions in the absence of such fears has a major positive impact on transparency of the regime, and general public welfare. Furthermore, when trade policies are subjected to greater public scrutiny, citizens of individual states can put pressure on elected officials to withdraw protectionist measures, and in particular those in which the officials might have vested interests (Laird, 1999: 743).

There is certainly some value in de-linking of the TPRM and the DSM, possibly in terms of greater transparency. Nevertheless, it is important to acknowledge that this

²⁹ For clarity, the secretariat does not have the power to lodge a complaint, and thereby initiate a dispute settlement procedure. This right is reserved strictly to member states (see, e.g., Narlikar, 2005: 90; Dai, 2002: 424).

³⁰ The fear of potential repercussions, and increase of disputes, is partially evidenced by members’ reluctance to adopt any follow-up procedures that would complement the TPRM. This would be particularly the case of developing countries that have opposed such idea from the beginning of the FOGS negotiations (Ghosh, 2010: 451). To be sure, there have been some efforts on part of members and the TPRB to establish a follow-up to the reviews. Nevertheless, such procedures have been limited, for example, to workshops and seminar for least developed countries that are intended for purposes of education, technical assistance, etc. (see, e.g., WTO, 2016: 6; WTO, 2013: 6).

³¹ In addition to fear from punishment, some members, e.g., developing countries, may be discouraged from bringing particular violations to light due to their reliance on the violator for special privileges, or when they themselves seek to avoid criticism (Kessing, 1998: 11).

de-linking is not absolute. As previously mentioned, it is very unlikely that the DSB would be unaware of information revealed in TPRs (see, e.g., Chaisse and Matsushita, 2013: 23; Chaisse and Chakraborty, 2007: 178–179; Conzelmann, 2004: 17; Mavroidis, 1992: 410). At the same time, members seem to be very aware of the risks associated with revealing information on their trade policies (see, e.g., Chaisse and Matsushita, 2013: 23; Mavroidis, 1992: 410; Qureshi, 1992: 119–120). As noted by Chaisse and Matsushita, “[...] even if the TPR issues will not bring about condemnation from the WTO, diplomatic pressure is sometimes so severe that a country will have to conform to the report to avoid a potential litigation” (Chaisse and Matsushita, 2013: 23). Therefore, the TPRM can be regarded as an extended wing of the DSM, whereby TPRs function as an attempt to avoid litigation, or dispute settlement proceedings altogether (Chaisse and Chakraborty, 2007: 179).

Ultimately, it can be argued that the TPRM and the DSM complement each other in one way or another. In dealing with non-compliance, the DSM provides for a case-specific, confrontational instrument, while the TPRM is more general in its scope, and cooperative rather than confrontational. The role of the TPRM as a complementary mechanism is underscored by the fact that cases lodged under the DSM constitute but a fraction of all potential violations (Benzing, 2006: 626). For intentions and purposes of this thesis, however, the cases lodged at the DSB present the most readily observable and relatively unbiased empirical evidence of member state non-compliance. It must be noted that the thesis does not intend to prove whether the TPRM can serve as a pre-stage to enforcement. This would be out of the scope of the thesis. The aim is only to examine whether, and to what extent, has the mechanism been able to detect non-compliance. In addition, it should be acknowledge that measuring the above mentioned extent will ultimately depend on a relatively small number of cases that are somewhat specific³².

³² For example, developed countries are overrepresented in disputes due in part to their having a wider range of sectors and issues at stake, and a superior capacity to pursue disputes. Furthermore, some countries are more prone to litigation due to their legal traditions. Political and cultural factors thus also play a role (Van Grassek, 2013: 230).

2.6 Trade Policy Reviews

Since TPRs present the main analytical focus of this thesis, it is crucial to examine how the reviews are conducted, and what features of the reviews can affect whether a particular issue is brought to light. TPRs, as exercises in transparency, are of great importance because they apply peer pressure to overcome members' tendencies to free-ride (see, e.g., Chaisse and Matsushita, 2013: 23; Laird, 1999: 743). However, the extent to which this can be achieved is somewhat questionable. As mentioned earlier, there are essentially two stages to each TPR. During the first stage, secretariat and the government under review prepare their reports. During the second stage, the reports are subjected to evaluation at the meetings of the TPRB (Karlas and Parížek, 2016: 32). This thesis seeks to examine both stages of the review.

As previously explained, the reviews are conducted on a regular basis and their frequency is determined by members' share of world trade. Accordingly, the four members with the highest share of world trade are reviewed once every two years, the next sixteen members once every four years, and the rest once every six years (WTO, 1994: 379). The reasoning behind these different cycles was, *inter alia*, to compensate for information asymmetries between developed and developing countries (Heokman and Mavroidis, 2000: 533). Initially, the TPRB was supposed to conduct TPRs of two members from the top tier, four members from the middle tier, and a number of members from the bottom tier, every year. However, over the time it has become apparent that the TPRB would not be able to conduct TPRs in such volume in a timely manner. Therefore, a variable number of TPRs is conducted each year, although the trend has been steadily increasing (Van Grassek, 2013: 290–291)³³.

The secretariat report is based on member's replies to a questionnaire, discussions and information from other sources such as the IMF or WB, and academic publications. Preparation of the report takes about ten months on average (see, e.g., Laird, 2002: 750; Francois, 2001: 304). Contents of the report usually include individual sections examining specific trade policies and practices of the member under review, as well as description of the functioning of the relevant policy-making institutions, and a

³³ For illustration, in 1999, the TPRB conducted only 12 out of 16 scheduled reviews in a timely manner (Van Grassek, 2013: 290–291).

broader, macroeconomic, picture (Chaisse and Matsushita, 2013: 21)³⁴. In comparison, the government report is much shorter. It usually includes short policy statements, delineating objectives of the member's trade policies, and summarizing some of the recent trends (Laird, 2002: 753).

The evaluation process takes place at the backdrop of the above described reports. The meetings of the TPRB, whereby the evaluation takes place, always involve delegation from the member state under review, together with delegations from other member states that wish to participate, and secretariat staff, including the Chairperson. Discussion usually starts with introductory statement by the member under review, and end with concluding remarks by the Chairperson (Laird, 2002: 749). Other members can participate in the meetings in several different ways. They can either pose advanced questions directed towards the member under review before the meeting, or raise a specific issue during the meetings of the TPRB. In addition, members can take part in the meetings by mere presence (Ghosh, 2010: 442). All materials, including the minutes of the meeting, secretariat report, government report, and advanced questions and replies, are published after the meeting (Laird, 2002: 749).

As regard the potential of TPRs to detect violations, or identify issues that later become legal cases under the DSM, there are several studies which indicate the extent to which this can be achieved by the mechanism. For example, in their study of the relation between the TPRM and the DSM, Julien Chaisse and Debashis Chakraborty observe that many issues brought to the DSB have been previously challenged in the reviews. These authors imply that the mechanism is able to identify violations prior to their developing into legal disputes. Nevertheless, the generalizability of these observations is somewhat questionable since the authors focus only on five large traders (Chaisse and Chakraborty, 2007: 155, 178).

A wider analysis of TPRs is provided by Arunabha Ghosh. The author observes that “[i]n some cases, the Secretariat reports did mention policies that would eventually be taken up by complainants as formal disputes. This occurred only 53% of the time for TPRs of respondents preceding the initiation of disputes, by no means a signal of extensive coverage. Further, only 15% of the reports had any detailed policy analysis or

³⁴ The structure of the secretariat report has evolved over time, although most reports today consist of four chapters that deal with major features of the member state's economy, institutional aspects of trade policy-making, specific trade policies and practices, and specific measures by sector, respectively (Laird, 2002: 751).

criticism of the contentious policies” (Ghosh, 2010: 441). For clarity, the author uses the term “contentious policies” for the policies that eventually became a subject of a dispute lodged under the DSM (Ghosh, 2010: 441)³⁵. Furthermore, these findings seem to suggest that the ability of TPRs to detect violations is quite low.

Recently, in their analysis of members’ activity at the meetings of the TPRB, Jan Karlas and Michal Parížek conclude that most members tend to refrain from criticizing others’ trade policies³⁶. The authors also find that large part of TPRs is relatively shallow in scrutinizing specific trade policies. Most debates thus involve diplomatic statements or general discussion. With the exception of the United States, European Union, Canada, and China, the authors conclude that activity of members at the meetings of the TPRB tends to be quite underwhelming (Karlas and Parížek, 2016: 44–46)³⁷. Similarly, the aforementioned study by Arunabha Ghosh shows that majority of members have not participated in even half of the meetings of the TPRB. This seems to be particularly the case of developing countries (Ghosh, 2010: 443–444).

Various different studies have pointed to other problematic aspects of TPRs. For example, Asif H. Qureshi argues that the reviews have been general rather than in-depth (Qureshi, 1992: 119; Qureshi, 1990: 153). Similarly, Donald B. Kessing observes that the content of the reviews tends to be quite inconsistent, while certain aspects of trade policy are omitted altogether (Kessing, 1998: 33). Further points of concern examined by other authors include the ambivalence of secretariat’s remarks, low frequency of the reviews, insufficient staffing of the TPRB, or insufficient financial resources (see, e.g., Chaisse and Matsushita, 2013: 23; Ghosh, 2010: 442; Conzelmann, 2004: 15; Hoekman and Mavroidis, 2000: 553; Kessing, 1998: 41). These observations are echoed, to an extent, in periodic appraisals of the TPRM, all of which highlight resource constraints in particular, while emphasizing the need for the mechanism to function with maximum efficiency (see, e.g., WTO, 2016: 1–2; WTO, 2013: 4; WTO, 2011: 3; WTO, 1999: 3)³⁸.

With regard to the above mentioned findings, it is reasonable to expect that the ability of the TPRM to detect non-compliance is rather limited. Nevertheless, this

³⁵ To be sure, the aforementioned 15% refer to number of cases in which a complainant has asked respondent about policies that later became a subject of a dispute (Ghosh, 2010: 444).

³⁶ The United States constitute one notable exception to this (Karlas and Parížek, 2016: 44).

³⁷ Arunabha Ghosh observes that most members have not participated in even half of the meetings during the period between 1995 and 2007 (Ghosh, 2010: 444).

³⁸ During the third appraisal of the operation of the TPRB, changes related to coverage and critical level of the reports was considered. Although no conclusion was reached, it was recognized that possible change in this direction might come in the future (WTO, 2008: 3).

literature review allows identifying what factors may influence the availability of compliance-related information. To be sure, some of the factors may be relevant only for the reporting stage, while others only for the evaluation stage of the reviews. The next section will elaborate in greater detail on each of these factors individually. Before that, however, theory needs to be formulated based on logical assumptions. For this reason, the next section will draw upon rationalist and managerial approaches, certain narrower concepts related to transparency and compliance, and the theory of *information systems*, discussed in the previous sub-sections.

3 THEORY

This section provides for potential answers to the two research questions outlined in the introduction. Most importantly, the thesis assumes that the TPRM is able to detect non-compliance, albeit to a limited extent. Furthermore, it is assumed that the ability of the mechanism to detect non-compliance depends on various different factors, including those related to interests and capacities of actors within a broader *information system*, as well as to the structure of the underlying collaboration problem. For all intentions and purposes, the thesis draws upon rational institutionalist and managerial approaches, both of which recognize the importance of transparency, defined in terms of the availability of information. At the same time, however, each of the approaches attaches a different role to the above mentioned, and recognizes different sources thereof (see, e.g., Raustiala, 2000: 402; Chayes and Chayes, 1995: 150; Young, 1991: 176–177)³⁹.

3.1 Theoretical Assumptions

First and foremost, the most direct answer to the first research question comes from previous studies analyzing the TPRM. In this regard, Julien Chaisse and Debashis Chakraborty find that vast majority of issues related to legal disputes lodged under the DSM have been highlighted previously in TPRs. This observation would seem to imply

³⁹ In certain sense, managerial and rationalist approaches can be viewed as complementary (Conzelmann, 2004: 2).

that the ability of the TPRM to detect non-compliance—e.g., issues pertaining to protectionist policies and other WTO-incompatible laws that constitute a subject matter of legal disputes at the DSB—is quite high (Chaisse and Chakraborty, 2007: 178)⁴⁰. In contrast, Arunabha Ghosh observes that policies dealt with at the DSB have been mentioned in 53% of TPRs of respondents to a dispute—i.e., actors in non-compliance—where only 15% of TPRs involved any detailed policy analysis or criticism (Ghosh, 2010: 441)⁴¹. Based on these findings, it is possible to assume that, as a matter of fact, the TPRM is able to detect non-compliance, albeit to a limited extent. It should be noted, however, that none of the above mentioned studies attempt to explain what factors affect the likelihood of deviant behavior being detected by the TPRM.

Second, the answer to the two research questions is founded in the institutionalist literature. The very problem of identifying non-compliance emanates from the underlying logic of dilemmas of common interest. Specifically, it is assumed that in certain situations, e.g., in international trade, actors face problems of collaboration that prevent them from realizing their mutual interest, and thereby achieving Pareto-optimal outcomes (Stein, 2008: 208; Keohane, 1984: 12–13). Accordingly, successful collaboration requires a degree of formalization, specifying what constitutes cooperation and cheating, and reassuring actors that they are not being taken advantage of (Stein, 1982: 307–312). Under conditions of international anarchy, international institutions provide states with solutions to ensure the above mentioned by monitoring and enforcement mechanisms (Hooghe and Marks, 2003: 239; Koremenos et al., 2001: 762). These two mechanisms promote cooperation, and thus compliance with the rules and goals of the regime. More precisely, this is achieved by imposing reputational costs and material sanctions on transgressors. However, ultimately, it is the likelihood of deviant behavior being found—effectively a pre-condition for enforcement—that influences actors' choice to cooperate or defect/free-ride, and to comply or not to comply (Thomann, 2012: 66–67; Ghosh, 2010: 422; Young, 1992: 176–177).

Third, the thesis assumes that the extent to which monitoring mechanisms are able to detect non-compliance can be measured by drawing a connection between

⁴⁰ It should be noted that the authors focus only on the five largest traders, and trade policies, i.e., anti-dumping provisions, rather than specific measures (Chaisse and Chakraborty, 2007: 178).

⁴¹ In addition, the author observes that prior to a dispute, in only 24% of TPRs have the complainants posed a question related to the issue in question. At the same time, in 61% of cases, other states did raise a question related to the issue in question, prior to a dispute (Ghosh, 2010: 442).

transparency, defined in terms of the availability of information (Mitchell, 1998: 110; Chayes and Chayes, 1995: 135), and compliance, defined in terms of conformity between the rule and behavior (Zürn, 2005: 8; Raustalia, 2000: 388)⁴². Crucially, transparency can also be regarded as a result of monitoring in a broader sense (Karas and Parízek, 2016: 32–33). It can thus be argued that the extent to which the TPRM has been able to identify non-compliance constitutes a measure of transparency. In the rationalist view, the relationship between transparency and compliance is significant because the availability of compliance-related information constitutes the above mentioned pre-condition for enforcement (Dai, 2002: 406). In a similar vein, it is assumed that lodging of a dispute at the DSB is preceded by bringing of a violation to light. The thesis assumes that the extent to which the TPRM has contributed to this can be measured by looking at the subject matter of judicially confirmed violations dealt with at the DSB and then seeking a TPR of the respondent to the dispute prior to the lodging of the case, to look for occurrence of that matter in the relevant TPR where the respondent acts as a member under review⁴³.

Fourth, it is assumed that the TPRM as a central monitoring agency constitutes a component of a broader *information system* founded in the multilateral trade regime (Ghosh, 2010: 436; Dai 2002: 424). *Information systems* are regarded as “[...] the sets of institutions, actor, and procedure involved in collecting, analyzing, and disseminating information about members’ action and the regime’s effectiveness” (Ghosh, 2010: 423)⁴⁴. Therefore, it is assumed that the ability of the mechanism to detect non-compliance is affected by factors associated with various actors, including the TPRB, members under review, other members of the WTO, domestic producers, etc. It is assumed that certain factors also emanate from the structure of the underlying problem, as suggested earlier in this sub-section. As an *information system*, the TPRM’s institutional design constitutes a combination of several designs. Among the different types of *information systems*, the TPRM can be said to include features of self-reporting, institutional reporting and other-reporting which are practiced through preparation of government reports and secretariat reports, and by means of evaluation at

⁴² By the same token, it is assumed that non-compliance occurs when behavior departs significantly from prescribed rules (Zürn, 2005: 8).

⁴³ It can be further assumed that resulting transparency operates to *reassure* regime supporters while *detering* actors contemplating non-compliance (see, e.g., Thomann, 2012: 67; Koremenos, et al., 2001: 790; Abbott and Snidal, 1998: 20; Mitchell, 1998: 111; Chayes and Chayes, 1995: 135; Abbott, 1993: 4; Young, 1992: 176–177; Sachariew, 1991: 32–33; Stein, 1982: 312).

⁴⁴ See, also, Mitchell, 1994: 430.

the meetings of the TPRB respectively (see, e.g., Ghosh, 2010: 424; Mitchell, 1998: 109). It is assumed that transparency of a regime depends, among other things, on the incentives and capacity of relevant actors to provide information (Mitchell, 1998: 110). Further on the note of *information systems*, it is assumed that the ability of these systems to produce information depends on “[...] the commitment actors have to regime norms, the degree to which their behavior conforms to those norms, and the degree to which they are harmed by the behavioral nonconformance of others” (Mitchell, 1998: 126). The following sub-section elaborates on individual variables, including the process of conceptualization, examined in this thesis.

3.2 Variables

3.2.1 TPR-Occurrence

The thesis advances a dependent variable TPR-occurrence, which serves to capture the occurrence of a matter of a dispute in a TPR. Conceptually, the variable derives from rationalist understanding of transparency, hereby defined in terms of the availability of compliance-related information (Dai, 2002: 406)⁴⁵. Crucially, the variable serves as an approximation of the ability of the TPRM to detect non-compliance. More precisely, it is treated as a result that is pre-conditioned by the said ability. Furthermore, it serves to capture the likelihood of deviant behavior being found out, and, specifically, the extent to which violations were brought to light in respective TPRs. Here, the examined outputs include the secretariat report, government report, minutes of the meetings, and advanced questions. From the conceptual standpoint, it can be also argued that TPR-occurrence captures some extent of *reassurance* and *deterrence* provided by the TPRM. The conceptual link is more tangible in respect to *reassurance*, where “[r]ational institutionalist approaches assume that monitoring actors’ activities *reassures them* [emphasis added] by determining instances of non-compliance” (Thomann, 2012: 67)⁴⁶. Arguably, it can be assumed that, to the extent that *reassurance* depends on the likelihood that violations will be detected, the ability of the TPRM to

⁴⁵ The thesis recognizes that transparency is not necessarily limited to compliance-related information only (Mitchell, 1998: 109). However, for the purpose of this thesis, the narrow interpretation is more suiting.

⁴⁶ See, also, Mitchell, 1998: 111; Chayes and Chayes, 1995: 135; Abbott, 1993: 4; Sachariew, 1991: 32–33; Stein, 1982: 312.

detect non-compliance also *reassures* members they are not being taken advantage of⁴⁷. Ultimately, however, the variable must be understood in instrumental terms, as a result, rather than a process.

3.2.2 *WTO Members*

According to Robert Axelrod and Robert O. Keohane, cooperation requires effective reciprocity which depends, among other things, on actors' ability to identify and punish defectors and free-riders. However, when there are many actors, it becomes increasingly more difficult to satisfy this condition (Axelrod and Keohane, 1985: 235). Similarly, when the number of members in an international organization grows, certain aspects of cooperation become more difficult. Issues arise as negotiations slow down while the membership becomes more heterogeneous as a result of which interests start to diverge, and the enforcement problem worsens (Koremenos, et al., 2001: 782–785). Consequently, where cooperation involves a large number of actors, this exacerbates the problem of collective action, and free-riding becomes the dominant strategy (see, e.g., König and Mäder, 2013: 246; Hooghe and Marks, 2003: 239; Axelrod and Keohane, 1985: 235). Within *information systems*, actors too face problems of collective action when information can benefit the whole group (Dai, 2002: 417–418). In relation to the TPRM, it is thus assumed that the growing number of members affects the ability of the mechanism to catch all potential violations by exacerbating the underlying problem. The problem of large numbers is hereby conceptualized as the number of WTO members.

3.2.3 *Peer Pressure*

To the extent that other members participate in the TPRM, they exert peer pressure against actors contemplating non-compliance. It is assumed that the TPRM, as an exercise of transparency, creates peer pressure among participants by means of moral

⁴⁷ The conceptual link to *deterrence* is less tangible, not least due to the procedure of case selection, which relies on judicially confirmed cases of violations. Thus, it could be argued that none of the reviews examined here have been able to *deter* actors from non-complying (author's note).

suasion, thereby suppressing members' tendencies to free-ride (see, e.g., Van Grastek, 2013: 271; Chaisse and Matsushita, 2013: 23; Ghosh, 2010: 439; Conzelmann, 2004: 19–20; Laird, 1999: 743). It is assumed that members' confidence in effectiveness of the TPRM as an instrument for peer pressure can be expressed in their participation in the reviews (Ghosh, 2010: 420). On the contrary, it can be assumed that when members are confident in their ability to exert peer pressure on the member under review, they participate. Peer pressure can therefore be conceptualized in terms of other members' participation in the review⁴⁸. The assumption here is that the higher the number of peers, the greater the public scrutiny, and thus peer pressure. Furthermore, it is assumed that peer pressure puts pressure on members under review to disclose relevant information, and thereby affects the ability of the TPRM to detect non-compliance. Lastly, it is assumed that the aforementioned applies to the second stage of the review.

3.2.4 Secretariat Resources

The constraints on resources of the TPRB are likely to affect its ability to collect and disseminate information. This assumption is echoed in various studies and appraisals that often note constraints on the above mentioned ability due to pressures on the TPRB to increase frequency of reports on the backdrop of growing WTO membership, and widening scope of policies covered, while emphasizing the need for maximum cost-efficiency (see, e.g., WTO, 2016: 1–2; Chaisse and Matsushita, 2013: 23; Van Grastek, 2013: 290–291; WTO, 2013: 4; WTO, 2011: 3; Ghosh, 2010: 445; WTO, 1999: 3; Qureshi, 1992: 118). These capacity constraints are evidenced by the fact that “[...] the TPRM has never been able to match the number necessary to maintain the cycle of review” (Ghosh, 2010: 446). It is assumed that capacity constraints are caused by, and thence conceptualized as, insufficient staffing and financing devoted to the TPRM. By the same token, it is assumed that insufficient staffing and financing affects the ability of the mechanism to detect non-compliance.

⁴⁸ For alternative approach to conceptualizing peer pressure, see, Ghosh, 2010: 441.

3.2.5 Member Resources

Reporting can be affected by capacities and resources of the reporting state. It is assumed that, particularly in case of developing countries, inadequacy of available resources accounts for a large part of the reporting deficit. Such deficit may result either from failure to report, or report fully and on time, or from the accuracy of reported data (Chayes and Chayes, 1995: 155, 172–173). Based on evidence from most of the appraisals, the thesis assumes that developing countries fare relatively poorly in regard to self-reporting under the TPRM. For illustration, the 2011 appraisal notes that “[...] TPR is a relatively resource-intensive exercise for these Members, both in terms of the time and effort of government officials involved in its preparation and the costs of bringing a delegation to Geneva for the TPRB meeting” (WTO 2011: 4)⁴⁹. In addition, it is assumed that members’ ability to collect and disseminate information can be measured in terms of GDP per capita (Hollyer, et al., 2011: 20). Therefore, capacities and resources of the member under review, hereby conceptualized in terms of GDP per capita, can affect the ability of the TPRM to detect non-compliance.

3.2.6 Share of World Trade

The ability of the mechanism to detect non-compliance is likely to be affected by share of world trade of the member under review. As a matter of fact, members with higher share of world trade are being reviewed more often by virtue of the review cycles set by Annex 3 of the Marrakesh Agreement (WTO, 1994: 379). Moreover, most resources of the TPRM are centered on those large traders while relatively fewer resources remain for the rest. It is assumed that changes in policies and practices of members with the highest share of world trade will be subjected to greater scrutiny since they have a major impact on the multilateral trade regime. Conversely, there might not be incentives to bring a particular violation to light, where member in question has a relatively low share of world trade, since the amount of trade at stake is too small to make it worth even bringing up (Hoekman and Mavroidis, 2000: 533). In other words, it is assumed that both frequency of reviewing of a member and its impact on the trade

⁴⁹ See, also, WTO, 2016: 1–2; WTO, 2013: 4; WTO, 2005: 2; WTO, 1999: 2.

regime affect the likelihood of deviant behavior being found out. These two are conceptualized as the share of world trade of the member under review.

3.2.7 Democracy

The extent to which the TPRM can detect non-compliance is further conditioned by the level of democracy of the member under review. It is assumed that the ability of the regime to create transparency depends on the type of states involved. By and large, it is assumed that regimes composed mostly of liberal democracies achieve higher levels of transparency, e.g., due to the openness of information flows. In a similar vein, it can be expected that information flows are more restricted in authoritarian countries, which, in turn, presents obstacles to transparency of the regime (Mitchell, 1998: 113). Furthermore, democratic governments, in comparison to non-democratic governments, are more willing to disclose policy-related information (Hollyer, et al., 2013: 3). Crucially, it is also assumed that “[...] democratic leaders face potential audience costs for not following through on their international obligations or for renegeing on these commitments” (Pevehouse, 2002: 530). In relation to the peer pressure, it can be argued that democracies face greater reputational costs, were they trying to conceal their violations. The ability of the TPRM to detect non-compliance is therefore likely to be affected by regime type of the member under review, hereby conceptualized as the level of democracy.

3.2.8 Membership Years

Finally, structured international organizations, such as the WTO, allow members to socialize through repeated interaction, and thus making their interests similar over time (Bearce and Bondanella, 2007: 703). From the managerial perspective, the TPRM can be seen as one such venue where the process of socialization takes place. When a violation is brought to light, this invariably triggers a dialogue which allows for socialization. Through this process, transgressors can be turned into regime supporters by means of exposure to regime norms, clarifying what constitutes acceptable and

unacceptable behavior, and, eventually, reshaping their identities and preference (Conzelmann, 2004: 8–9). It can be assumed that norms of the regime will be more deeply entrenched in countries that participated in this process for the longest time. Transparency, in this case understood as a norm, constitutes one of the most important principles of the WTO, and multilateral trade regime at large (see, e.g., Wolfe, 2013: 1; Hoekman, 2011: 357; Laird, 1999: 743). Arguably, members who have interacted in the GATT and the WTO for the longest are likely to be more transparent due in part to the socialization process which affects their support to regime norms such as the transparency principle⁵⁰. In other words, the thesis assumes that the ability of the TPRM to identify non-compliance depends on the extent of socialization of the member under review into the regime, hereby conceptualized as the length of membership of the member under review.

3.3 Hypotheses

Based on the assumptions delineated in the previous sub-section, the thesis proposes the following hypotheses. In addition, it should be noted that the aim of the null hypothesis is to procure empirical evidence on the ability of the TPRM to detect non-compliance, thus answering the first research question. For sake of convenience, the author has constructed graphical representation of the null hypothesis (see, Figure 1). The purpose of Figure 1 is to introduce the reader to the idea behind the research design discussed in the following section. Several hypotheses refer to respondents, i.e., members whose non-compliance has been judicially confirmed at the DSB. These are, at the same time, members under review of a given TPR. All the hypotheses with the exception of the null hypothesis serve the purpose of the second research question. Furthermore, hypotheses are worded in a way consistent with the choice of statistical methods of analysis, specifically, logistic regression.

⁵⁰ Further on this note, Ronald B. Mitchell argues that the ability of information systems to provide information is affected, among other things, by the commitment of actors to regime norms (Mitchell, 1998: 126).

H0: All matters that later become subjects of legal disputes lodged under the DSM have been previously brought up in TPRs of respondents.

H1: TPR-occurrence is associated negatively with the number of WTO members at the time of the review.

H2: TPR-occurrence is associated positively with the number of WTO members present at the meeting of the TPRB of the relevant TPR.

H3: TPR-occurrence is associated positively with the size of TPRB staff at the time of the review.

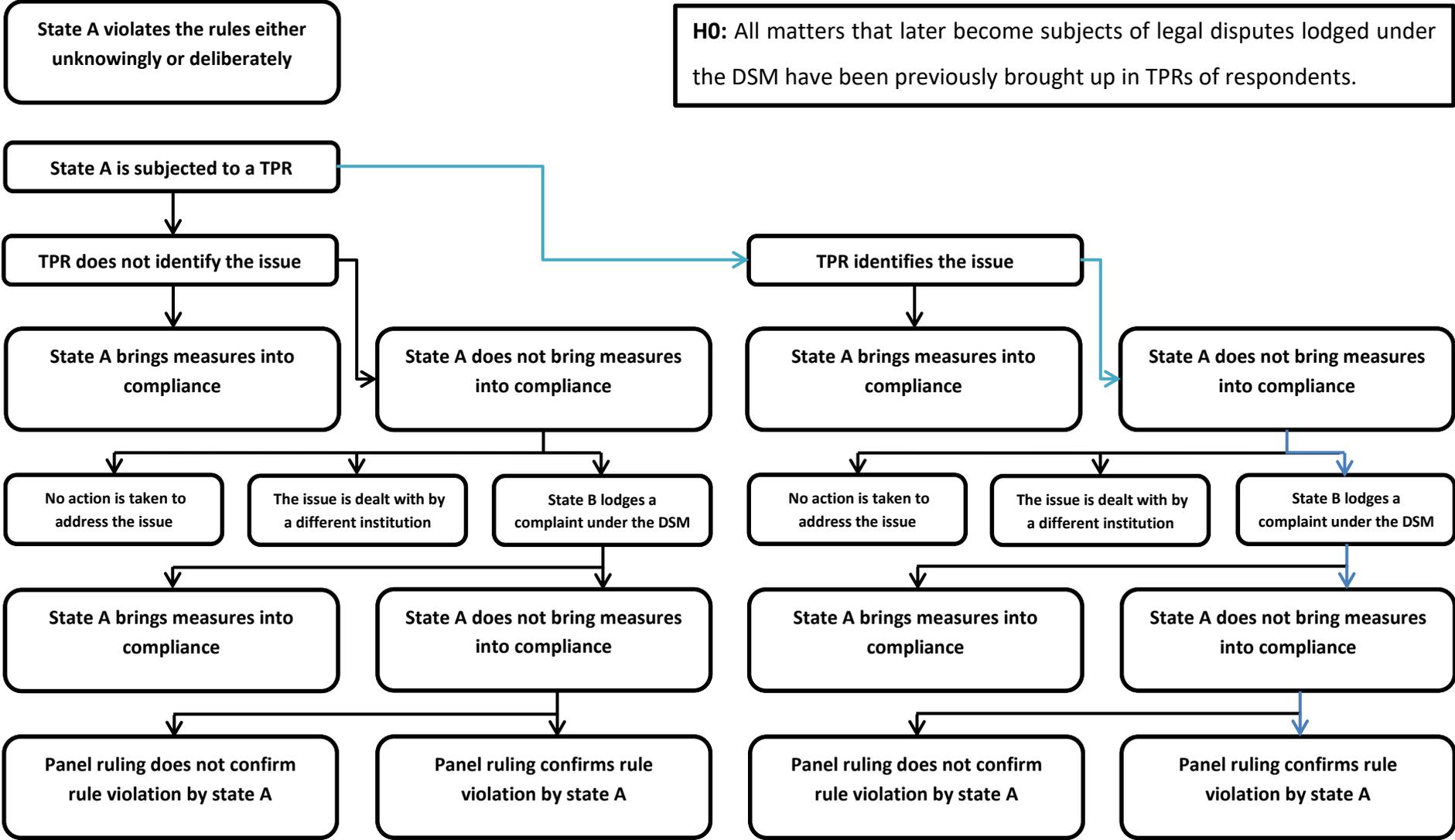
H4: TPR-occurrence is associated positively with respondent's GDP per capita.

H5: TPR-occurrence is associated positively with respondent's share of world trade.

H6: TPR-occurrence is associated positively with respondent's democracy score.

H7: TPR-occurrence is associated positively with respondent's length of membership in the WTO.

Figure 1. Research Design of the Null Hypothesis



4 RESEARCH DESIGN

This section provides an overview of the methods and data used for analysis and hypotheses testing. First sub-section explains the procedure of case selection, including the reasoning behind certain necessary adjustments. Second sub-section describes methods of analysis, including content analysis used for the purpose of procuring data on dependent variable, and statistical analysis, including logistic regression. Third sub-section provides an overview of data used for analysis, including description of data collection procedure, essential descriptive statistics, and the process of operationalization of individual variables. The last sub-section elaborates on some of the strengths and weaknesses of this research design.

4.1 Case Selection

The research design reflects several issues related to concepts of transparency and compliance as well as issues embedded in the institutional design of the TPRM. These issues affect both the breadth and depth of analysis presented here. It should be noted that “[...] compliance is difficult to monitor because it cannot be inferred from a single figure, such as tariff line, but results from a broad range of practices whose conformity with the general WTO disciplines is hard to assess” (Zahrnt, 2009: 9). Not least due to this, identifying all instances of non-compliance that may have been captured by TPRs would prove nearly impossible. To minimize possible inaccuracies and ambiguity, the thesis looks instead at the cases lodged under the DSM. In addition, only judicially confirmed instances of non-compliance have been selected based on the rulings of Panels at the DSB. This sub-section intends to explain and clarify the reasoning behind these adjustments.

Complainants who bring issues of non-compliance to the DSB do so on the basis of legal claims. Henrik Horn and Petros C. Mavroidis explain: “[...] a legal claim comprises a factual matter and the legal provision that it allegedly violates” (Horn and Mavroidis, 2008: 21). In most cases, there is more than one such claim. Panels can find either for or against complainant’s claims, and, in exceptional cases, the outcome of the ruling may be unclear, for example, due to the exercise of judicial economy (Horn and

Mavroidis, 2008: 21–23). Accordingly, there are several cases in which Panels have not agreed with a single claim⁵¹. Therefore, even if a complaint is lodged at the DSB, this does not warrant that the issue at hand, i.e., a policy or measure, is indeed in non-compliance. Thus, by narrowing down the focus to judicially confirmed instances of non-compliance, the thesis seeks to avoid ambiguity.

As a starting point, the thesis identifies cases in which at least one claim was upheld by a complainant. In so-doing, this thesis utilizes *The WTO Dispute Settlement Data Set* by Henrik Horn and Petros C. Mavroidis. The dataset covers legal cases lodged in a period between 1995 and 2010, including a total of 426 legal disputes, and a sub-total of 165 disputes for which there exists a Panel ruling⁵². There are 10 cases in which a complainant did not succeed with a single claim before Panels (Horn and Mavroidis, 2010). As noted previously, the thesis focuses only on cases in which at least one claim was upheld by a complainant. The number of cases is thereby reduced to 155.

Each case is treated as a judicially confirmed rule-violation, or an instance of non-compliance, the main unit of analysis in this thesis, for which there exists a corresponding TPR. These are selected on the basis of two criteria. First, the TPR must take place before a complainant requests for consultations under the DSM⁵³, and second, the TPR must be of a respondent in a given dispute. When linking the disputes to TPRs, the number of cases further decreases. This is due to the fact that, first, certain respondents were not yet reviewed before a complaint was lodged against them⁵⁴. Second, certain documents, i.e., outputs of the TPRM, were not available⁵⁵. Third, the author did not consider pre-WTO TPRs conducted between 1989 and 1994 since the focus here is on WTO-era TPRM. The above mentioned adjustments further reduce the number of cases by 30, leaving a total of 125.

Finally, by compounding duplicated cases, i.e., cases where multiple complainants lodge separate complaints against the same country over the same

⁵¹ These are, namely: DS22, DS44, DS152, DS163, DS194, DS221, DS243, DS244, DS360, and DS399 (Horn and Mavroidis, 2010).

⁵² Initially, the author thought of expanding the dataset to the most recent dispute cases from 2017. However, such procedure would be likely both tedious and difficult to validate due to the adjustments described in this sub-section (author's note).

⁵³ In some cases, TPR and lodging of a dispute took place during the same year. The author of this thesis was cautious to check the exact month of the review and dispute, in order to avoid pairing of TPRs with disputes that were already underway (author's note).

⁵⁴ For example, China had not yet been reviewed before a complaint was lodged against it in cases DS339 and DS342, soon after its accession (author's note).

⁵⁵ This is particularly the case of the 1995 review of Japan (author's note).

violation, the number decreases to 97 cases⁵⁶. This procedure was done by referring to the book *WTP Dispute Settlement: One-Page Case Summaries* (WTO, 2015). Complete list of judicially confirmed violations associated with previous TPRs is to be found in the appendix (see Appendix 1). The list also indicates which TPRs are missing. In addition, for sake of convenience, the author constructed a second list with inverse associations, linking the reviews to disputes instead, to make a more comprehensively summary of TPRs analyzed in this thesis (see Appendix 2). Associations were made based on chronological lists of disputes and TPRs available at the WTO website (WTO, 2016a, WTO 2016b).

4.2 Content Analysis

In order to address the first research question, the thesis employs methodology of content analysis⁵⁷. The most essential principles of this methodology are derived from *The Content Analysis Guidebook* by Kimberly A. Neuendorf. Thus, several principles need to be discussed before moving forward. These are, in particular, a priori design, reliability, generalizability, replicability, and hypothesis testing (Neuendorf, 2002: 10–14). The purpose of content analysis is to collect data from TPRs, thereby procuring data for the dependent variable, *TPR-occurrence*. This includes several types of documents, namely: secretariat reports, government reports, minutes of the meeting and questions and replies associated with respondents of selected disputes. Furthermore, the thesis relies on human coding. All related materials, i.e., the *codebook* and *coding form*, are to be found in the appendix (see Appendix 3, Appendix 4).

With respect to the aforementioned principles of content analysis, the author has created a priori design, including definition of the examined variable, its measurement, and coding rules, as well as the corresponding *codebook* and *coding form* in advance of the analysis (see Appendix 3; Appendix 4). With the intention of increasing the reliability, the author has randomly selected 10% of cases (10) to be coded by another

⁵⁶ This adjustment is necessary because disputes here serve to capture instances of non-compliance (author's note).

⁵⁷ Content analysis can be defined as “[...] a summarizing, quantitative analysis of messages that relies on the scientific method (including attention to objectivity-intersubjectivity, a priori design, reliability, validity, generalizability, replicability, and hypothesis testing) and is not limited as to the types of variables that may be measured or the context in which the messages are created or presented” (Neuendorf, 2008: 10).

person⁵⁸. Subsequently, a comparison is drawn between the first and second coding to measure level of agreement between the two. For sake of clarity, the author does code 100% (97) of cases regardless of the second coding. The second coding is conducted solely with the purpose of increasing reliability.

Furthermore, replicability of the analysis is ensured by including the *codebook* and *coding form* (see Appendix 3; Appendix 4). With regard to hypothesis testing, the null hypothesis is tested simply by calculating the share of cases with TPR-occurrence score of higher than 1. This measurement, at the same time, gives an answer to the first research question by indicating the extent to which have been matters that constitute subjects of legal cases under the DSM previously discussed in TPRs. In addition, it is assumed that this extent should be generalizable to the rest of judicially confirmed violations, e.g., some of the more recent legal cases at the WTO, which were not included due to earlier mentioned adjustments.

Several steps precede the actual process of content analysis. First, the author has created the list associating each dispute with respective TPR, as described in the previous sub-section (see Appendix 1; Appendix 2). Second, the author has collected all documents related to TPRs in question from the WTO website (WTO, 2016b). Again, these include the secretariat report, government report, minutes of the meeting and questions and replies. Third, in order to find out what to look for in individual TPRs, the author utilizes publication *WTO Dispute Settlement: One-Page Case Summaries* (WTO, 2015). Summaries in this publication always include a short section on measure, product, service, or industry at issue, describing the matter of a dispute. On the basis of these short sections, the author developed sets of keywords to be found in respective TPRs. These are listed in the *coding form* together with two columns citing the measure, product, service, or industry at issue according to the aforementioned publication (see Appendix 4).

Keywords are used to search for occurrence of a matter of a dispute in a given TPR, and procuring data on *TPR-occurrence*. Therefore, the dependent variable, as defined in the previous sub-section, is operationalized as a binary, where 1 indicates occurrence of the matter of a dispute, and 0 indicates absence of the matter of a dispute

⁵⁸ See, Neuendorf, 2002: 51.

in a given TPR⁵⁹. Nevertheless, because instances of non-compliance constitute the main unit of analysis in this thesis, observations are made with regard to disputes and not TPRs. Furthermore, as mentioned earlier, 10% of random cases will be coded again by a second coder to establish the extent of agreement between measurements, and thereby increase reliability of coding. This agreement can be calculated simply as a percentage, representing the number of agreements divided by total number of measures (Neuendorf, 2002: 149).

$$PA_O = \frac{A}{n}$$

In the formula above, PA_O stands for “proportion agreement, observed,” A stands for the number of agreements, and n is the total number of observations. This simple statistic indicates the extent of agreement between the two measurements, ranging from 0.00 to 1.00, corresponding to no agreement or perfect agreement respectively (Neuendorf, 2002: 149). Finally, the results of content analysis will be reported in tables and graphs, followed by elaboration on borderline cases, *TPR-occurrence* across different types of documents, and countries represented in the dataset. The following sub-section provides a short overview of statistical methods, including logistic regression and diagnostics.

4.3 Statistical Analysis

Since the thesis seeks to examine what affects the likelihood that non-compliance will be detected by the TPRM, logistic regression constitutes perhaps the most suiting method of statistical analysis. This is because logistic regression allows testing hypotheses about relationships between categorical outcome variables, such as the dependent binary variable *TPR-occurrence*, and one or more categorical or continuous predictors such as the independent variables elaborated in the previous

⁵⁹ This coding procedure, including procedure for dealing with borderline cases, is described in detail in *codebook* in the appendix (see Appendix 3).

section (see, e.g., Peng, et al., 2010: 4, Field, et al., 2012: 349). A simple model of logistic regression with multiple predictors can be expressed in the following mathematical formula.

$$\begin{aligned}\text{logit}(Y) &= \text{naturallog(odds)} = \ln\left(\frac{\pi}{1 - \pi}\right) \\ &= \alpha + \beta_1 X_1 + \beta_2 X_2\end{aligned}$$

Here, the logit stands for natural logarithm (ln) of odds of Y , and odds stand for ratios or probabilities (π) of Y happening—in the context of this thesis, the matter of a dispute occurring in a TPR—to probabilities ($1 - \pi$) of Y not happening—i.e., the matter of a dispute not occurring in a TPR (Peng, et al., 2010: 4). To execute the formula above, the thesis relies on computer software, namely R-studio. In interpreting the results, the author will focus on p-values associated with independent variables which indicate the significance of each factor. Significant factors are those with the p-value smaller than 0.05. Moreover, the value of coefficient β will be crucial to determine the direction of relationship between the dependent variable and predictors, thereby allowing confirming or rejecting earlier discussed hypotheses (see, e.g., Peng, et al., 2010: 4, 8).

In addition, several methods of evaluating the logistic regression will be applied. The thesis calculates VIF scores to test for multicollinearity, and to provide better understanding of the relations among independent variables. Here, variables with VIF scores higher than 4 are considered to be problematic. Subsequently, Hosmer-Lemeshow test is conducted in order to assess the goodness of the fit. Here, the results with p-value smaller than 0.05 indicate that the model does not fit the data well. Performance of the regression is then analyzed by plotting the Receiver Operating Characteristic (ROC) which summarizes the predictive ability of the model. Finally, the area under the curve is calculated. Here, the greater the area under the curve is, the better the ability of the model to predict *TPR-occurrence* (see, e.g., Analytics Vidhya 2015; Field, et al, 2012: 357; Peng, et al., 2010: 4). The following sub-section describes data used for the purpose of statistical analysis.

4.4 Data

First and foremost, data on dependent variable are procured through the process of content analysis described earlier. Accordingly, descriptive statistics for *TPR-occurrence* will be provided in the analysis section of this thesis. This sub-section provides a short overview of data collection procedures, including essential descriptive statistics, and the process of operationalization for all independent variables. It should be noted that all data pertain to the year in which the review was conducted, and not to the year in which a dispute was lodged. Data cover the period between 1995 and 2009.

First, the variable *WTO members* is operationalized simply in terms of size of WTO membership at the time of the review. Data come from the WTO website (WTO, 2016c). The author has counted the number of members between 1995 and 2009 from information available at the website. Resulting number ranges from 112 to 153 members. This is a relatively significant increase over the period of 15 years. The same source is used for data collection for the variable *membership years*. Similarly, the variable is operationalized simply in terms of the years a country has been a member of the WTO. The length of the membership is calculated as a numerical difference between the year of accession and the year in which a relevant TPR took place. Crucially, years of accession to the GATT were used where possible (WTO, 2016d). In addition, the value of *membership years* is calculated also for EU-15, EU-25, and EU-27. These are calculated as averages of values of respective members in a given year.

Second the variable *peer pressure* is operationalized by participation of members in the reviews. In particular, it is operationalized as a sum of members at the meetings and members that have sent written questions in advance. Data on *peer pressure* were obtained by the author from documents of the TPRM. These are, specifically, minutes of the meetings (see Appendix 6). In the introduction, each document contains a list of members that have sent advanced written questions to the member under review. The author has counted the number of members that have done so in each review. Furthermore, each document includes a section with statements by members at the meeting followed by replies from the member under review and additional comments. The author has counted the number of members that posed a question, or raised an issue during the meetings. Countries speaking on behalf of other

countries were counted as one. The same was applied to the EU. Both numbers were then combined to obtain a measure of *peer pressure*.

Third, the variable *secretariat resources* is operationalized in terms of *TPRM staff* at the time of the review. Data on *secretariat resources* come from several sources, including two types of documents. Because there is no comprehensive data on WTO staff, the author utilized annual reports and budget proposals to compile available information (see Appendix 5). Annual reports cover the years 2000-2003, and 2004-2009, while the budget proposals cover the years 1996-2000, and 2003. Unfortunately, annual reports list number of employees per division only from 2000 onwards, and the section is completely missing in the 2003 report. Therefore, budget proposals were used to substitute missing observations. It should be noted, however, that budget proposals list approved number of positions for the upcoming year, while annual reports do the same for the current year. The 2009 report constitutes an exception, where data are provided for the year 2008. Fortunately, the 2010 report includes figures for the year 2009. For a comprehensive overview of sources, please see the appendix.

Fourth, the variable *member resources* is operationalized by GDP per capita. That is, GDP per capita of the member under review. This variable indicates individual members' bureaucratic, legal, and other capacities. Data come from the WB *World Development Indicators, 1960-2016* dataset (WB, 2016). US dollars at current prices constitute the unit of measurement. Furthermore, the dataset already includes values for the EU. As with the previous variables, *member resources* cover the period of 1995-2009. The same source is used for data on *share of world trade*. Data on exports of goods and services, and imports of goods and services in US dollars at current prices were used. The variable *share of world trade* is operationalized as a sum of exports and imports in percentages of world totals. Because the dataset uses aggregate of EU trade, including intra-EU trade, the author made an educated guess that extra-EU trade accounts for approximately 50% of the aggregate⁶⁰.

Fifth, the variable *democracy* is operationalized by Polity IV index. This index indicates whether and to what extent is given country democratic or autocratic, and thus allows measuring the level of democracy. Data on level of *democracy* come from *Polity IV Project Annual Time-Series, 1800-2015* dataset (CSP, 2016). The polity score ranges

⁶⁰ The resulting figures for the EU roughly correspond to estimates in other studies (see, e.g., Fase-Cannito, et al., 2012: 1; Witowska, 2016: 53).

from -10 to 10, indicating either a strongly autocratic or strongly democratic regimes. Polity scores for EU-15, EU-25, and EU-27 have been calculated by the author as averages of values of respective countries for a given year. Again, it must be noted that *democracy* scores pertain to the member under review. Also, the variable covers the years 1995-2009. Following is a table with descriptive statistics.

Table 1. *Descriptive Statistics*

Statistic	N	Mean	St. Dev.	Min	Max
Share of world trade	97	10.851	7.180	0.120	20.460
WTO members	97	138.753	10.046	112	153
TPRM staff	92	31.811	3.634	28.500	43.900
Democracy	97	8.611	3.549	-7.000	10.000
GDP per capita	97	24,671	14,103	422	48,401
Peer pressure	91	43.967	14.289	15	73
Membership years	97	44.048	13.702	5.000	60.000

Source: Author

4.5 Strengths and Weaknesses

Before executing the research design, several points should be highlighted in regard to strengths and weaknesses of the chosen approach. Perhaps the most problematic issues related to the research design come from the process of case selection. On one hand, it can be argued that selected instances of non-compliance are unambiguous. In fact, they are inferred directly from Panel rulings which have the highest authority as regards passing of legal judgements. Furthermore, as was mentioned earlier, it is impossible to identify all violations that may have been captured in the reviews. This would be difficult technically, e.g., determining non-compliance from tariff lines (Zahrnt, 2009: 9), but, crucially, the TPRB does not have a mandate to pass legally binding judgements on members' compliance (see, e.g., Van Grastek, 2013: 271; Francois, 2001: 4; Laird, 1999: 742). For this reason, studying TPRs without previous knowledge of what to look for would present a task that is both tedious due to the substantive length of TPR-related documents, and ambiguous in terms of the results.

Legal cases lodged under the DSM, on the other hand, present the most readily observable and, in addition, accurate empirical evidence of members' non-compliance.

However, there are several drawbacks emerging from the above mentioned. First and foremost, the number of selected instances of non-compliance is very limited⁶¹. Obviously, the DSM captures only a fraction of all potential violations, and there are other methods of dispute settlement aside from judicial settlement at the DSB, some of which may involve other fora than the WTO. Members do not pursue all suspected violations, and other platforms such as Councils and Committees fulfil certain tasks of the TPRM. This means that some instances of non-compliance may be brought to light outside the TPRM (Johns and Pelc, 2013: 12; Industrial Structure Council, 2014: 698). Moreover, although developing countries tend to be over-represented as respondents in legal cases, proceedings in these cases rarely reach the point of Panel rulings. This may be partially explained by the lack of economic and legal resources, and the fact that developing countries succeed in relatively smaller proportion of claims they advance before Panels compared to developed countries (see, e.g., Hoekman, et al., 2008: 1; Horn and Mavroidis, 2008: 23–24). As a result, instances of non-compliance linked to developed countries are over-represented.

An important strength of this research design is that, when compared to studies by Julien Chaisse, Debashis Chakraborty, and Arunabha Ghosh, the author here provides full account of methods used for analysis. In contrast, Arunabha Ghosh merely states “[...] I construct a database [...]” (Ghosh, 2010: 440), without any detailed description of how data were collected. Importantly, this thesis provides possibly the most detailed analysis of the issue at hand, that is, coverage of instances of non-compliance in TPRs, relying on a priori coding scheme that is replicable. The following section describes the results obtained through content and statistical analysis.

⁶¹ This is also due to the fact that the author utilizes the aforementioned dataset by Henrik Horn and Petros C. Mavroidis. The dataset was last updated in 2011 which means that some of the more recent rulings are not included (author's note).

5 ANALYSIS

This section contains the main findings of this thesis. First, the results of content analysis are presented, thereby establishing the empirical account of the TPRM's ability to identify instances of non-compliance. The extent to which TPRs have been able to identify issues that later develop into disputes, i.e., *TPR-occurrence*, is discussed with respect to individual types of documents and countries represented in the dataset. Furthermore, the author provides observations with regard to the tone of debates at the TPRB, ways in which issues of non-compliance are brought to light, and some apparent limits of the mechanism in identifying non-compliance observed in the process of content analysis. Lastly, the sub-section discusses some examples of borderline cases. Reliability of the results is tested by calculating crude agreement between the two measurements. Second sub-section focuses on statistical analysis, including logistic regression and its evaluation. The aim of this sub-section is to predict the likelihood of that issue of non-compliance will be detected by the TPRM, thus employing *TPR-occurrence* as the dependent variable. Effects of independent variables are discussed with respect to relevant hypotheses, and, finally, with respect to theoretical assumptions.

5.1 Content Analysis

Upon searching for the keywords related to 97 judicially confirmed violations in 35 TPRs, including some 300 documents, the author has obtained the measure of the dependent variable, *TPR-occurrence*, thus establishing the extent to which the reviews were able to identify issues of non-compliance. At the same time, the results lead the author to reject the null hypothesis. Perhaps obviously, not all matters that later become subjects of legal disputes lodged under the DSM have been previously discussed in relevant TPRs. The table below shows the results of content analysis for *TPR-Occurrence*, including individual types of documents and borderline cases⁶².

⁶² Borderline cases are those in which at least one of the measures or products and services at issue has occurred in the TPR but they do not appear in the same context (see Appendix 3).

Table 2. *Results of the Content Analysis: TPR-Occurrence*

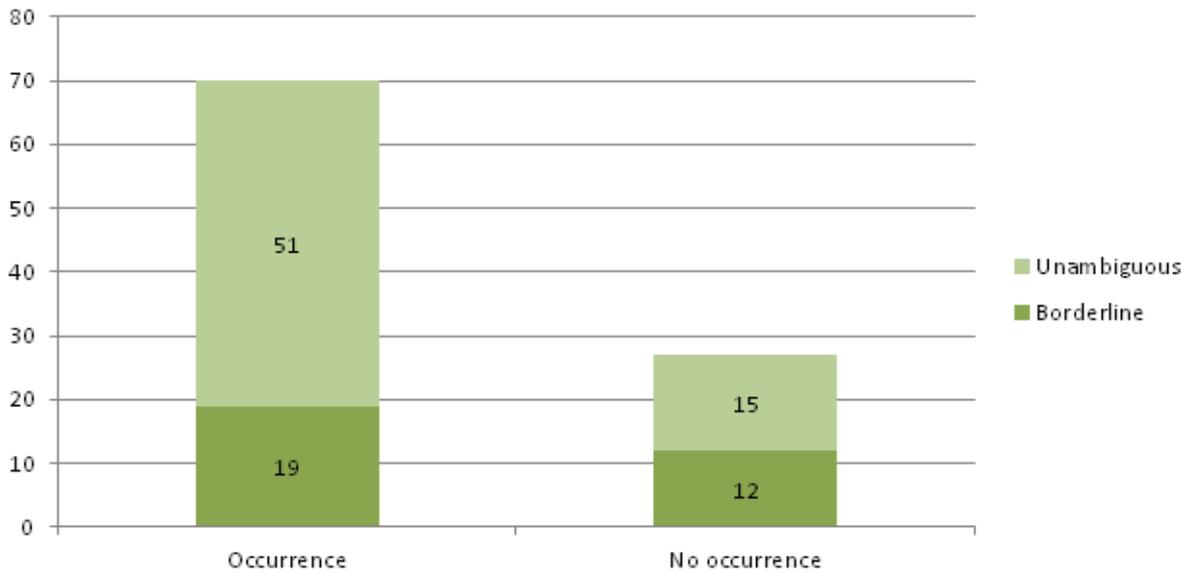
Statistic	Occurrence	No occurrence	Borderline cases
TPR-occurrence	70	27	27
Secretariat reports	57	40	21
Government reports	4	93	3
Minutes of the meeting	53	44	12
Questions and replies	53	44	5

Source: Author

As illustrated by the table above, in 70 out of 97 cases (72.16%), the matter of a dispute has occurred in a given TPR at least in one document. When looking at individual types of documents, secretariat reports score highest with 57 out of 97 cases (58.76%), followed by minutes of the meeting and questions and replies, in which the matter of a dispute has occurred 53 out 97 times (54.64%)⁶³, and government reports, with merely 4 out of 97 cases (4.12%). These results more or less correspond to empirical analysis by Arunabha Ghosh who observes that some 53% of secretariat reports do mention policies which are later taken up to the DSB. He suggests that this is by no means an extensive coverage (Ghosh, 2010: 441). However, the results presented here seem to suggest the opposite. The overall coverage of issues of non-compliance seems to be quite extensive. The following graph shows the proportion of cases which were identified as unambiguous, in lighter color, to those that were identified as borderline, in darker color (see Figure 2).

⁶³ It is worth mentioning that in 47% of cases, the matter of a dispute has occurred in both the minutes of the meeting and questions and replies. In other words, there is a significant overlap between the two types of documents as regards the coverage of issues of non-compliance (author's note).

Figure 2. Occurrence of the Matter of a Dispute in TPRs



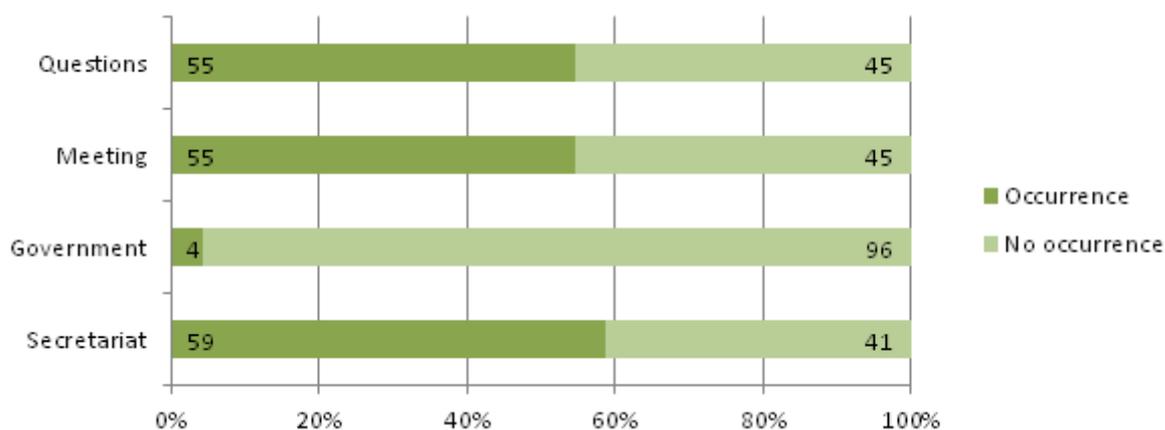
Source: Author

As shown by the graph above, there is relatively large number of borderline cases. This is because most TPRs do mention at least the problematic measure, but the context does not necessarily connect with particular member, product, service, or industry at issue of the legal dispute. For illustration, in a dispute over anti-dumping measures imposed by the United States on polyethylene bags from Thailand, the previous TPR notes certain anti-dumping measures, including those related to chemical products, as a point of concern. However, there is no mention of the product, polyethylene bags, or the affected country, Thailand, in the review (WTO, 2015: 156; WT/TPR/S/200: 23; WT/TPR/M/200: 9). In another case, the United States complained about Mexico’s definitive anti-dumping duties, and certain provisions of Mexico’s *Foreign Trade Act* (WTO, 2015: 132). While the previous TPR questioned WTO-consistency of the said Act, there was no mention of affected products, or duties specifically targeting the United States (WT/TPR/M/97/Add.1: 15–16; WT/TPR/S/97: 41).

As another example, Mexico lodged a complaint regarding the so called “sunset” reviews of the anti-dumping duties on Oil Country Tubular Goods (OCTG) imports but the previous TPR only mentioned anti-dumping investigations, and sunset reviews focusing on steel products, none of which were targeting directly Mexico, or OCTG

(WTO, 2015: 115; WT/TPR/M/88: 27). By the same token, a complaint was lodged by Argentina over the issue of OCTG imports and anti-dumping investigations but preceding TPR did not mention the subject of the dispute in greater detail (WTO, 2015: 108; WT/TPR/S/88: 32, 37). As the last example, India complained about United States’ anti-dumping duties on imports from the *Steel Authority of India* (WTO, 2015: 80). Although the previous review did cover many problematic anti-dumping measures, there was no mention of the *Steel Authority of India*, or India in particular (WT/TPR/S/56: 72; WT/TPR/M/56/Add.1: 19; WT/TPR/M/56: 19, 22). These cases exemplify borderline *TPR-occurrence*. The following graph indicates the extent to which problematic matters have occurred in individual documents.

Figure 3. Occurrence of the Matter of a Dispute in TPR Documents (%)



Source: Author

Perhaps surprisingly, secretariat reports have captured most of the issues. Most of the WTO-inconsistent measures have been mentioned in the reports, however, as noted in earlier studies, there is little to no criticism or judgement involved. For example, the 2008 report on the United States noted anti-dumping as a key policy instrument of the United States, including information about some of the measures being imposed on certain steel products from China—i.e., a matter which was later taken up to the DSB (WTO, 2015: 153; WT/TPR/S/200: 23). However, there is no indication as to the actual conformity of these measures with the rules of the WTO. Another example, concerns the 1995 report on the European Union which highlights

EU's regime for bananas imports as the single most contentious trade issue. Indeed, this measure has later been challenged by several Latin American countries at the DSB. However, the report discusses the measure in the context of internal EU trade, again, without making any critical remarks (WTO, 2015: 14; WT/TPR/S/3: 91). It would be ultimately very difficult to discern between compliant and non-compliant measures without prior knowledge of their effect. Nonetheless, by highlighting certain measures, the secretariat can attract the attention of other members who may then decide to challenge the measure. Therefore, the secretariat reporting aspect of the TPRM as an *information system* should not be underestimated.

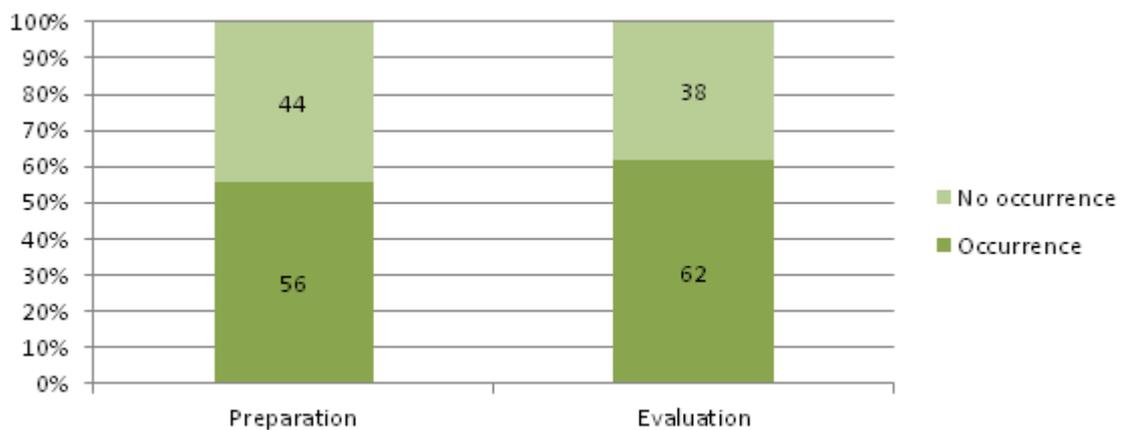
Several matters of a dispute have occurred in government reports. However, this result should be interpreted with caution. It should be noted that occurrences in reports of governments result more or less from the coding criteria rather than anything else. For example, in the 1995 TPR, the European Union highlighted that “[t]he US has indicated concern with regard to the EC’s banana policy” (WT/TPR/G3: 14). Here, both the measure at issue and future complainant are mentioned, thus sufficing coding criteria (WTO, 2015: 14). As another example, in the 2000 TPR, Korea notes that “[it] has been addressing some of the trade concerns raised by the European Union. Currently, the shipbuilding issue is one of the main ones to be dealt with” (WT/TPR/G/73: 15). Again, here the problematic issue is highlighted, including the country which has later lodged a complaint against the member under review (WTO, 2015: 111). Perhaps obviously, none of the members under review criticizes its own measures. Government reports are merely statements on general state of affairs, and they do not include any meaningful information on compliance. The self-reporting aspect of the TPRM as an *information system* can thus be regarded as the least effective in revealing instances of non-compliance.

In contrast, minutes of the meeting and questions and replies fare much better. During the meetings, members often highlight certain measures imposed by the member under review as WTO-inconsistent. For example, in the 2007 review of the European Union, Japan noted that EU’s taxation of IT products was not consistent with the rules of the WTO, and urged the member under review to take steps to remedy the situation (WT/TPR/M/177: 11). The issue was later taken up to the DSB (WTO, 2015: 152). As another example, Australia expressed concerns with consistency of measures imposed by the European Union in area of geographical indications, and overly burdensome

technical standards, such as wine regulations, both of which constituted the matter of a dispute that was later challenged by Australia (WTO, 2015: 70; WT/TPR/M102: 21).

As regards the questions and replies, members often indicate whether the measure is in non-compliance by asking the member under review what steps will be taken to bring the measure into conformity. For example, China asked the United States, while referring to a WTO-inconsistent measure imposed on poultry, whether the United States plans to bring the measure in conformity with the rules (WTO, 2015: 158; WT/TPR/M/200: 66). In addition, other members often make statements on rule-conformity rather than asking actual questions. For example, in the 1999 review of the United States, Australia expressed reservations in regards to measures imposed by the United States on lamb meat, calling upon the United States to consider that safeguards action in this area would be unjustifiable (WT/TPR/M/56/Add.1: 21). Again, the matter was later dealt with at the DSB (WTO, 2015: 72).

Figure 4. Comparison of Occurrence in Preparation and Evaluation Stages (%)

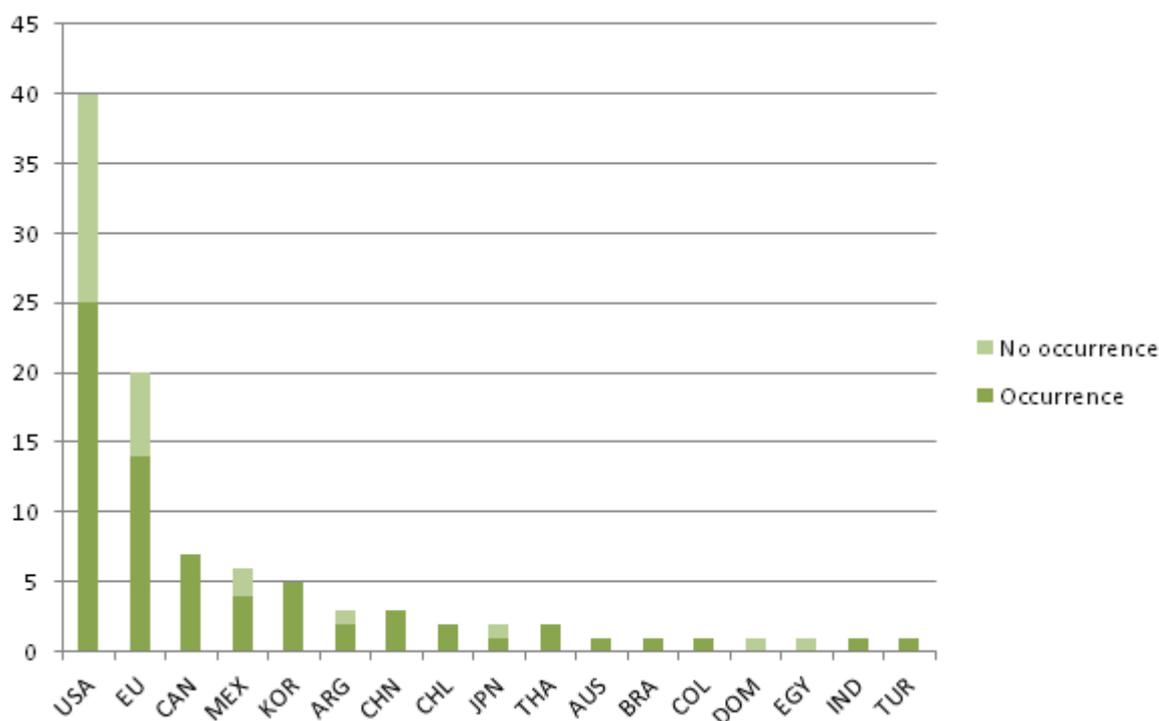


Source: Author

Ultimately, it can be argued that minutes of the meeting and questions and replies present the least ambiguous sources of compliance-related information produced by the TPRM. It is apparent that secretariat reporting and other-reporting aspects of the TPRM as an *information system* affect the ability of the mechanism to identify instances of non-compliance the most. When combined, the evaluation stage, i.e., both the minutes of the meeting and questions and replies, covers more problematic issues than

the preparation stage, i.e., secretariat and government reports combined (see Figure 4). At the same time, however, members often refer to the secretariat report when raising a problematic issue at the meeting or in one of their questions. Therefore, both stages are crucial in identifying non-compliance. The following graph shows the distribution of TPR-occurrences across different countries.

Figure 5. Occurrence of the Matter of a Dispute Across TPRs of Member States



Source: Author

Apparently, there is a discrepancy between G2 and other countries represented in the dataset. The United States dominate with 40 issues of non-compliance, followed by the European Union with 20, while the remaining 37 issues pertain to the rest of countries. In addition, the proportion of matters that have occurred to those that have not, shown by dark and lighter color respectively, suggests that *TPR-occurrence* in case of G2 is actually lower than the overall average⁶⁴. This can be explained in following ways. First, the number of TPRs for other countries is too low to capture greater

⁶⁴ TPR-occurrence scores 62.5% in case of the US and 70% in case of the EU compared to the overall 72.16% (author's note).

variance, and thus more instances of “no occurrence”. Second, TPRs tend to be less thorough and critical towards developing members than they are towards major traders. And third, most instances of no occurrence pertain to some of the most complex policies and practices, or “quality” non-tariff barriers, such as product standards, labeling and packaging requirements, certification, and the like, which are difficult to encompass in a rather broad review of members trade policies (Kono, 2006: 369).

There are several interesting observations in regards to the character of different reviews. When members bring issues of non-compliance to light, they usually do so by questioning consistency of other members’ trade policies with WTO Agreements. At the same time, however, most members refrain from openly accusing others of violating the rules. This is consistent with what some authors dubbed the “glasshouse effect”. In other words, it seems that countries, and especially those aside from the largest traders, are reluctant to bring certain issues to light in fear of possible retaliation (see, e.g., Kessing, 1998: 11). On other hand, when there is an issue among some of the largest traders, the character of discussions at the meetings often becomes adversarial⁶⁵.

Arguably, in certain instances, members that brought issues of non-compliance to light might have done so with the intention to bargain with the violator. As an example, in the 2000 TPR of Canada, Brazil highlighted certain WTO-inconsistent subsidies to aircraft industry that later became a subject matter of a dispute lodged by Brazil against Canada (WTO, 2015: 90; WT/TPR/M/78: 5). At the meeting, Brazilian representative expressed hopes that “[...] the dynamism of the bilateral trade and investment relationship would not be hampered by recent initiatives on the part of Canada (to take countermeasures against Brazil regarding export subsidies on aircraft) which had already been adequately commented upon by Brazil in the appropriate forum in the WTO. As always, Brazil would have preferred a trade creating solution which would have been more in keeping with the trade liberalizing stance of the WTO” (WT/TPR/M/78: 5). In a similar vein, when New Zealand pointed out non-compliant measures imposed by Australia on imported apples, the representative of New Zealand

⁶⁵ For example, in one of the replies to a question posed by the EU in the 2004 TPR of the US, the US states: “Unlike the EC which began its record of not implementing DSB recommendations and rulings from the beginning of the WTO, in the disputes in which U.S. measures have been found inconsistent with U.S. WTO obligations, the United States has implemented the vast majority of DSB recommendations [...]” (WT/TPR/M/126/Add.3: 56). This account of discussion at the TPRB corresponds to observations made by Thomas Conzelmann about the adversarial character of debates (Conzelmann, 2004: 19–20).

stated that “[t]he Australian measures were not justified, and New Zealand was still considering all its options” (WT/TPR/M/178: 14–15).

Interestingly, states of non-compliance victims, e.g., domestic producers suffering from import restrictions, have sometimes refrained from bringing particular issues of non-compliance to light even if they were directly affected by it. For example, Thailand’s tax measures on cigarettes imported from the Philippines that were WTO-inconsistent were brought to light by Japan and Switzerland, while the Philippines refrained from making any comments (WTO, 2015: 151; WT/TPR/M/191: 20; WT/TPR/M/191/Add.1: 5). Furthermore, the limits of the reviews can be demonstrated, also, by the fact that certain measures at issue come into force only after the review took place. As an example, when multiple countries have lodged a complaint against the United States over the *US Continued Dumping and Subsidy Act of 2000*, the most recent TPR was from the year 1999, and by September 2001 when the next TPR was conducted, dispute settlement proceedings were already underway (USCBP, 2016; WTO, 2015: 87). Finally, to evaluate the reliability of this analysis, the author has calculated crude agreement between the two measurements.

Table 3. *Content Analysis: Agreement*

Case	Coder A	Coder B	Agree or Disagree
DS84	1 (0, 0, 1, 1)	1 (0, 0, 1, 1)	A (A, A, A, A)
DS179	1 (1, 0, 1, 1)	1 (1, 0, 1, 1)	A (A, A, A, A)
DS189	0 (0, 0, 0, 0)	0 (0, 0, 0, 0)	A (A, A, A, A)
DS273	1 (1, 1, 1, 1)	1 (1, 1, 1, 1)	A (A, A, A, A)
DS290	1 (1, 0, 1, 1)	1 (1, 1*, 1, 1)	A (A, D, A, A)
DS291, DS292	1 (0, 0, 1, 1)	1 (0, 0, 1, 1)	A (A, A, A, A)
DS308	1 (0, 0, 1, 1)	1 (1*, 0, 1, 1)	A (D, A, A, A)
DS322	1 (1, 0*, 1, 1)	1 (1, 1, 1, 1)	A (A, D, A, A)
DS363	1 (0, 0, 0, 1*)	1 (0, 0, 0, 1*)	A (A, A, A, A)
DS375	1 (0, 0, 1, 1)	1 (1*, 0, 1, 1)	A (D, A, A, A)
*Borderline cases			

Source: Author

As illustrated by the table above, there is 100% agreement between the two measurements of the variable *TPR-occurrence*. Numbers in columns indicate whether the matter has occurred in the secretariat report, government report, minutes of the meeting, or questions and replies, respectively. Again, there is 100% agreement between the latter two. However, there are also some disagreements related to secretariat and government reports. Both have scored 80% agreement. Crucially, both coders have noted these to be borderline cases. Based on the results presented here, the author concludes that coding scheme is reliable. Next, the obtained results will be subjected to statistical analysis.

5.2 Statistical Analysis

Based on the results of statistical analysis, the author has to reject hypotheses H1 and H3 to H7 (see Table 4). *Peer pressure* proved to be the only statistically significant variable at the 0.0428 level with correctly presumed effect on *TPR-occurrence*. Crucially, *share of world trade* proved to be statistically significant at the 0.0299 level, however, in contrast to the initial assumption, the effect of the variable is associated with *TPR-occurrence* negatively instead of positively, suggesting that members under review with a larger share of trade are actually less transparent as regards the availability of compliance-related information. The author will provide potential explanations at the end of this sub-section. Furthermore, the author has devised two additional models, including one with adjusted *TPR-occurrence*, and one to insulate the effect of peer pressure with help of control variables.

The second model with adjusted *TPR-occurrence* was devised to remove ambiguity resulting from including certain borderline cases identified in content analysis. The author adjusted the variable *TPR-occurrence* by recoding all borderline cases where the matter of a dispute has occurred in only one of the documents as 0 rather than 1. This adjustment was made as an attempt to remove ambiguous observations in the dependent variable while retaining the size of the dataset. Marginal improvement was achieved with respect to certain coefficients, including a change in the effect of *TPRM staff* from negative to a positive one. However, statistical significance of predictors remained largely unchanged with peer pressure at the 0.0388 and share of world trade at the 0.0277 levels of statistical significance (see Table 4). Therefore, second model leads the author to the same conclusion in regard to tested hypotheses as with the original model.

The third model was devised in attempt to insulate the effect of most significant predictors, i.e., *peer pressure* and *share of world trade* together with certain control variables (see Table 4). The results have shown that *peer pressure* is most significant at the 0.000960 level when controlling for the *4 largest traders*, i.e., the United States, European Union, China, and Japan, on one hand, and *developing countries* on other hand. These two newly added control variables scored at the 0.000313 and 0.00414 levels of statistical significance respectively. Moreover, the author had to exclude the

variable *share of world trade* due to substantial multicollinearity. At the same time, significance of other variables has increased. The results of logistic regression are summarized in the table below.

Table 4. Logistic Regression Results

	<i>Dependent variable:</i>		
	TPR-Occurrence (1)	TPR-Occurrence (2)	TPR-Occurrence (adjusted) (3)
Peer Pressure	0.115** (0.057)	0.114** (0.055)	0.098*** (0.030)
TPRM staff	-0.007 (0.125)	0.089 (0.126)	
Share of trade	-0.153** (0.071)	-0.156** (0.071)	
GDP per capita (log)	-0.233 (0.595)	-0.170 (0.565)	
Membership years	0.022 (0.036)	0.047 (0.033)	
WTO Members	-0.077 (0.081)	-0.107 (0.079)	
Polity	0.003 (0.124)	0.015 (0.104)	
4 largest traders			-3.669*** (1.018)
Developing countries			-2.571*** (0.897)
Constant	9.911 (10.767)	9.069 (10.243)	-0.306 (1.094)
Observations	90	90	90
Log Likelihood	-46.893	-49.678	-44.476
Akaike Inf. Crit.	109.786	115.355	96.952

Note:

* p<0.1; ** p<0.05; *** p<0.01

Source: Author

Although membership years, WTO members, and polity do not exhibit meaningful statistical significance, the effects of coefficients have been assumed correctly. However, the effect of TPRM staff and GDP per capita goes in the opposite direction. Furthermore, it should be noted that the author has attempted to improve the results in several ways, e.g., by applying different control variables, including the aforementioned *4 largest traders* and *developing countries*⁶⁶. Other control variables were: OECD, BRICS, G2, G3, G8, and non-democratic regime. However, none of the control variables yielded any meaningful results without exacerbating the issue of multicollinearity. This was particularly the case of *GDP per capita* and *share of world trade*. The results of VIF scores are reported in the table below (see Table 5).

Table 5. Logistic Regression: VIF Scores

	Model 1	Model 2	Model 3
Peer pressure	7.762	7.627	1.655
TPRM staff	2.6	2.693	..
Share of world trade	3.612	4.168	..
GDP per capita (log)	3.592	4.121	..
Membership years	3.164	3.554	..
WTO members	6.024	6.029	..
Democracy	2.744	2.984	..
Largest traders	3.17
Developing members	2.234

Source: Author

As shown in the table above, several variables exceed the threshold of 4 by a large margin. In particular, there seems to be multicollinearity among variables *peer pressure* and *WTO members*. This makes perfect sense since *peer pressure* operationalized in terms of members' participation directly depends on the number of members available, thus *WTO members*, at the time of the review. Other issues of multicollinearity pertain to GDP per capita and share of world trade. As regards the

⁶⁶ The rationale in including 4 largest traders in particular was to control for outliers in the dataset, such as China with high share of world trade, yet below average TPR-occurrence, low level of democracy, etc. At the same time, the control variable captures frequency of reviewing since the 4 largest traders are reviewed the most frequently. By the same token, the variable developing countries should control for outliers (author's note).

third model, VIF scores are within the desired range. Following is a summary of the results of Hosmer-Lemeshow test (see Table 6).

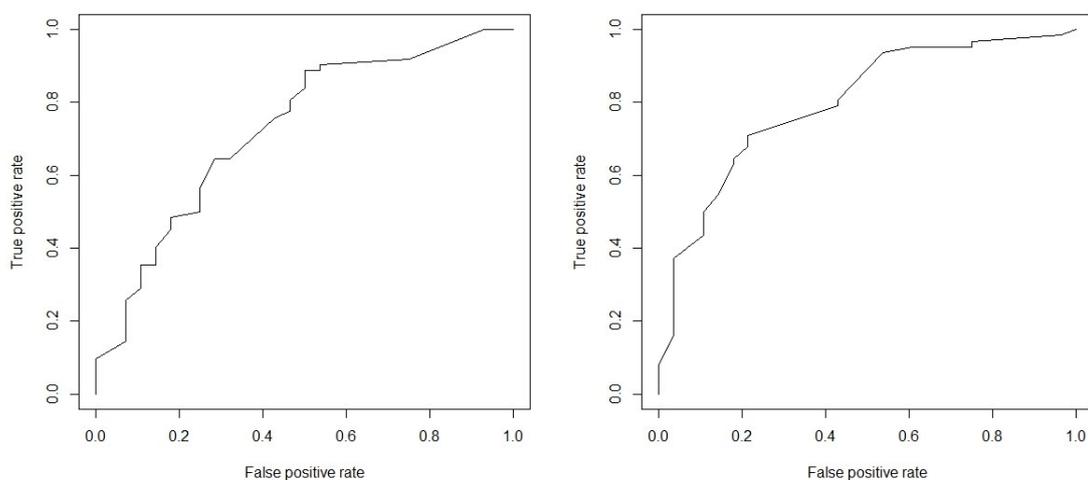
Table 6. Hosmer and Lemeshow Goodness of Fit (GOF) Test

	X-squared	Df	p-value
Model 1	8.5062	8	0.3856
Model 2	8.4858	8	0.3875
Model 3	2.3774	8	0.9672

Source: Author

For the goodness of the fit, the results of Hosmer-Lemeshow test above all have the p-value above 0.05, and therefore the null hypothesis which assumes that models do not fit the data can be rejected. The results for the third model should be interpreted with caution since the very high p-value combined with a small dataset can suggest that there is simply not enough evidence to reject the null hypothesis. In addition, the thesis provides the ROC plots in order to illustrate the predictive ability of the models (see Figure 6).

Figure 6. Logistic Regression: ROC Curve⁶⁷



Source: Author

⁶⁷ The author has omitted the original model since the results were nearly identical with those of the second one (author's note).

As illustrated by Figure 6, the performance of both models is reasonably high. In this case, the predictive ability of the third model appears to be slightly better compared to the second model. In particular, the second model covers 72.78% of the area under the curve, while the third one covers 79.84% of the area under the curve. Ultimately, while all models are somewhat imperfect, they demonstrate significance of certain predictors.

First, with regard to *peer pressure*, it is apparent that when more members participate in the reviews, there is a higher chance that issues of non-compliance will be brought to light. Although, it is questionable to what extent can this be regarded as an effect of moral suasion, threat of reputational costs, or material sanctions. The author of this thesis leans towards the opinion that the mechanism operates under rationalist assumptions (Conzelmann, 2004: 19–20). By demonstrating that the effect of *peer pressure* is significant, the analysis has shown that the evaluation stage of the TPRM is of a crucial importance in the context of its ability to detect non-compliance. This is because peer pressure can only be applied in the latter stage of the TPR. Therefore, other-reporting aspects of the TPRM can be said to play a crucial role in the likelihood of deviant behavior being found out. Resulting availability of compliance-related information is thus a product of joint efforts of the secretariat as well as individual members.

Second, in regard to *share of world trade*, it is intuitive to assume that members that are reviewed more often, and have bigger impact on world trade have a higher chance of being found identified when contemplating non-compliance. However, there is some merit in claiming the opposite to be true. Previously, it was mentioned that the so called “glasshouse effect” prevents less developed members from bringing violations by developed members to light due to their reliance on those members, e.g., for development aid, or due to fear of potential repercussions (see, e.g., Kessing, 1998: 11). Moreover, high-income members with higher share of trade also have asymmetrical access to trade-related information compared to developing members (Hoekman and Mavroidi, 2000: 533). Thus, it is reasonable to assume that when the member under review has a smaller share of world trade, others may have incentives and capacities to bring violation to light without the fear of having to face potential retaliation. Conversely, it may not be in the interest of other members to challenge members with the highest share of world trade.

At the same time, it can be argued that what really matters is the share of world trade on part of other members participating in TPRs, or trade at stake between members under review and states harmed by non-compliance. In this case, it can be assumed that developed countries harmed by non-compliance have both capacities and incentives to bring violations to light. In addition, members with higher share of world trade often employ more complex trade policies such as “quality” non-tariff barriers which are more difficult to detect (Kono, 2006: 369). Thus variables controlling for issue-specific effects and attributes of other actors, i.e., other than the member under review, need to be included in future research. In addition, larger dataset needs to be compiled in future to increase the number of countries represented in the dataset.

6 CONCLUSIONS

Is the TPRM shedding light on non-compliance? Results of analysis support the optimistic answer to the question in the title of this thesis. TPRs cover a large number of issues that later become legal disputes under the DSM. More precisely, 72% of judicially confirmed rule-violations have been discussed in relevant TPRs before a complaint was lodged. Thus, when a member contemplates non-compliance, there is a significant chance this will be discussed at the TPRB. Accordingly, the author concludes that the TPRM is, in fact, able to detect non-compliance to a large extent. This conclusion stands in contrast to that of other authors, including Arunabha Ghosh, who concludes that the coverage of reports is not very extensive. Furthermore, the thesis shows that certain factors affect the likelihood of deviant behavior being found out. In particular, the role of peer pressure operationalized in terms of members' participation in TPRs and share of world trade have been highlighted. Interestingly, the latter mentioned exhibits the opposite effect than originally assumed.

With regard to the aforementioned, the aim of this thesis was thus achieved. The null hypothesis—i.e., all matters that later become subjects of legal disputes lodged under the DSM have been previously brought up in TPRs of respondents—was rejected as was expected. Obviously, there are some limits to the ability of the mechanism. To test the null hypothesis the author relied on methodology of content analysis, with a priori design, including a codebook and coding scheme. Data subjected to analysis were derived from TPRs and the test of agreement confirmed that the method was reliable. Thus procured dependent variable, TPR-occurrence, proved that the extent of coverage regarding issues of non-compliance is surprisingly large. Furthermore, as regards hypotheses 1 to 7 that related to factors influencing the likelihood that non-compliance will be detected, the author relied on statistical methods, namely logistic regression.

Although the overall result was somewhat underwhelming mainly due to the low level of statistical significance of certain predictors, it allowed the author to confirm hypothesis 2 that peer pressure, operationalized in terms of members' participation in TPRs, is associated positively with TPR-occurrence. Other hypotheses stated that the likelihood of deviant behavior being found out by the TPRM depends on share of world trade, GPD per capita, level of democracy, and length of the membership of the member

under review, and on the number of WTO members and size of TPRB staff at the time of the review—independent variables identified in the process of literature review. Unfortunately, the results of logistic regression did not allow the author to confirm these hypotheses.

Nevertheless, from the theoretical standpoint, there is little to no evidence to claim that above mentioned independent variables should have an opposite effect. In this regard, share of world trade which was negatively associated with TPR-occurrence at a relatively high level of significance, could perhaps constitute an exception due to being related to members with substantial retaliatory capabilities, informational advantage, and policy complexity. As a result, when the member under review has a significant share of world trade, this may discourage non-compliance victims and their states from bringing a violation to light.

There are several ways in which the future research could improve upon these findings. First, a larger dataset should be compiled, extending the period, countries, and issues covered. Second, research should also control for policy complexity, issue-areas, or trade at stake, in order to capture other dimensions of transparency and compliance. Third, dyadic data should be employed, e.g., to capture trade flows between members that bring violations to light and those members under review. Fourth, analysis of both stages of the TPRM, including preparation and evaluation stage, should be made separately, in order to insulate and determine the effects of each. Ultimately, however, the most important improvement would be to extend the research to analysis of *deterrence* function exercised by the TPRM. This could be done in the following way.

In order to examine *deterrence*, the research design would have to examine all disputes lodged at the DSB, including those judicially confirmed violations as well as other outcomes of proceedings such as mutual settlement, withdrawal, retaliation, etc. Then, content analysis would be conducted in a similar way as in this thesis, looking for occurrence of the matter of a dispute in relevant TPRs. The main purpose of the research would be to examine, whether *TPR-occurrence* had an effect on the outcome of the dispute. In other words, the research would seek to explain whether bringing violations to light through the mechanism has an effect on behavioral change in respect to actors contemplating non-compliance. Although, both *reassurance* and *deterrence*

aspects of transparency can be difficult to measure, they are crucial for effective and efficient functioning of *information systems*. Arguably, the large extent of matters being discussed in previous TPRs would seem to suggest that the mechanism is, in fact, reassuring the members by demonstrating the ability to discern between compliant and non-compliant behavior. However, due to the case selection, the same cannot be said of the deterrence function.

Without a doubt, the TPRM is a unique mechanism. It is a hybrid of various designs, both to its advantage and disadvantage. Nevertheless, it is important to acknowledge that the mechanism constitutes a part of a broader information system and its performance depends on exogenous as well as endogenous factors. It is particularly important to highlight the evaluation stage of the monitoring exercise which exemplifies the dependence of the mechanism on members' participation. Therefore, the likelihood of deviant behavior being found out by the TPRM depends to a large extent on incentives and capacities of actors involved, as well as their support of regime norms. Still, however, the role of the TPRB must not be underestimated. This thesis illustrated that secretariat reporting and other-reporting aspects of the mechanism are mutually beneficial and complementary. While the TPRM is not intended to serve as a pre-stage of enforcement, the de-linking from the DSM is questionable. With regard to the extensive coverage of matters that later become subjects of legal disputes, it can be argued that there is a potential for the mechanism to function in this way, if it does not already. It is for future studies to examine this issue.

Shrnutí

Monitorovací mechanismy představují doposud jednu z nejméně probádaných oblastí v institucionální literatuře. Tato práce přispívá k současným empirickým poznatkům o praktickém fungování těchto mechanismů, specificky pak fungování mechanismu pro přezkoumávání obchodní politiky ve Světové obchodní organizaci. Práce vychází z předpokladů racionálního institucionalismu, podle kterých představuje podávání zpráv o dodržování závazků jednu z nejdůležitějších funkcí mezinárodních organizací a režimů. Práce následně testuje tento předpoklad prostřednictvím obsahové analýzy, které jsou podrobeny informační výstupy mechanismu pro přezkoumávání obchodní politiky. Specificky se jedná o přezkumy obchodní politiky mezi lety 1995 až 2009. Výsledky práce ukazují, že mechanismus je schopen detekovat až 72% případů, kdy dojde k vážnému porušení pravidel. S využitím kvantitativní analýzy práce také spekuluje, že schopnost daného mechanismu tyto záležitosti odhalovat závisí na mnoha faktorech. Nátlak ze strany ostatních členů v dané organizaci pak představuje jeden z nejzásadnějších faktorů. V kontextu současného výzkumu je třeba rozšířit teoretický záběr v oblasti porozumění informačním systémům v mezinárodních režimech. Co se týče praktického fungování monitorovacích mechanismů, je důležité, aby byla účast členů na zhodnocující části monitorování vysoká, je-li cílem podporovat dodržování závazků.

Summary

Monitoring mechanisms present one of the least researched areas in the institutionalist literature so far. This thesis contributes to the current empirical account of practical functioning of these mechanisms, in particular functioning of the Trade Policy Review Mechanism of the World Trade Organization. From the theoretical standpoint, this thesis draws upon assumptions of rational institutionalism, according to which reporting on compliance presents one of the most important functions of international organizations and regimes. The thesis tests this assumption by the means of content analysis, examining information outputs of the Trade Policy Review

Mechanism. These are, in particular, Trade Policy Reviews between the years 1995 and 2009. Results of the analysis show that the mechanism is able to detect up to 72% instances of serious rule-violations. By using quantitative analysis, the thesis argues that the ability of the mechanism to detect these matters depends on various different factors. Accordingly, peer pressure on part of other members in a given organization constitutes one of the crucial factors. In the context of the current research, it is important to extend the theoretical background in the area of understanding information systems in international regimes. As regards the practical functioning of monitoring mechanisms, participation on the evaluation stage of monitoring seems to be important, if the ultimate goal is to promote compliance.

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8 APPENDICES

Appendix 1: Case Selection: Disputes Associated with Previous TPRs (table)

Table 7. *Case Selection: Disputes Associated with Previous TPRs*

Dispute	Previous TPR	Dispute	Previous TPR
DS404 (2010)	USA 2008	DS335 (2005)	USA 2004
DS402 (2009)	USA 2008	DS334 (2005)	TUR 2003
DS398 (2009)	CHN 2008	DS332 (2005)	BRA 2004
DS397 (2009)	EU 2009	DS331 (2005)	MEX 2002
DS395 (2009)	CHN 2008	DS322 (2004)	USA 2004
DS394 (2009)	CHN 2008	DS320 (2004)	USA 2004
DS392 (2009)	USA 2008	DS316 (2004)	EU 2004
DS383 (2008)	USA 2008	DS315 (2004)	EU 2004
DS379 (2008)	USA 2008	DS312 (2004)	KOR 2000
DS377 (2008)	EU 2007	DS308 (2004)	MEX 2002
DS376 (2008)	EU 2007	DS302 (2003)	DOM 2002
DS375 (2008)	EU 2007	DS301 (2003)	EU 2002
DS371 (2008)	THA 2007	DS299 (2003)	EU 2002
DS367 (2007)	AUS 2007	DS296 (2003)	USA 2001
DS366 (2007)	COL 2006	DS295 (2003)	MEX 2002
DS363 (2007)	CHN 2006	DS294 (2003)	USA 2001
DS362 (2007)	CHN 2006	DS293 (2003)	EU 2002
DS353 (2005)	USA 2004	DS292 (2003)	EU 2002
DS350 (2006)	USA 2006	DS291 (2003)	EU 2002
DS345 (2006)	USA 2006	DS290 (2003)	EU 2002
DS344 (2006)	USA 2006	DS286 (2003)	EU 2002
DS343 (2006)	USA 2006	DS285 (2003)	USA 2001
DS342 (2006)	NA	DS283 (2003)	EU 2002
DS341 (2006)	MEX 2002	DS282 (2003)	USA 2001
DS339 (2006)	NA	DS277 (2002)	USA 2001

Table 7. Case Selection: Disputes Associated with Previous TPRs (cont.)

Dispute	Previous TPR	Dispute	Previous TPR
DS337 (2006)	EU 2004	DS276 (2002)	CAN 2000
DS336 (2006)	JPN 2005	DS273 (2002)	KOR 2000
DS269 (2002)	EU 2002	DS211 (2000)	EGY 1999
DS268 (2002)	USA 2001	DS207 (2000)	CHL 1997
DS267 (2002)	USA 2001	DS206 (2000)	USA 1999
DS266 (2002)	EU 2002	DS204 (2000)	MEX 1997
DS265 (2002)	EU 2002	DS202 (2000)	USA 1999
DS264 (2002)	USA 2001	DS192 (2000)	USA 1999
DS259 (2002)	USA 2001	DS189 (2000)	ARG 1999
DS258 (2002)	USA 2001	DS184 (1999)	USA 1999
DS257 (2002)	USA 2001	DS179 (1999)	USA 1999
DS254 (2002)	USA 2001	DS178 (1999)	USA 1999
DS253 (2002)	USA 2001	DS177 (1999)	USA 1999
DS252 (2002)	USA 2001	DS176 (1999)	USA 1999
DS251 (2002)	USA 2001	DS175 (1999)	IND 1998
DS249 (2002)	USA 2001	DS170 (1999)	CAN 1998
DS248 (2002)	USA 2001	DS169 (1999)	KOR 1996
DS246 (2002)	EU 2000	DS166 (1999)	USA 1996
DS245 (2002)	JPN 2000	DS165 (1999)	USA 1996
DS241 (2001)	ARG 1999	DS162 (1999)	USA 1996
DS238 (2001)	ARG 1999	DS161 (1999)	KOR 19996
DS236 (2001)	USA 1999	DS160 (1999)	USA 1996
DS234 (2001)	USA 1999	DS156 (1999)	NA
DS231 (2001)	EU 2000	DS155 (1998)	NA
DS222 (2001)	CAN 2000	DS146 (1998)	IND 1998
DS219 (2000)	EU 2000	DS142 (1998)	CAN 1996
DS217 (2000)	USA 1999	DS141 (1998)	EU 1997
DS213 (2000)	USA 1999	DS139 (1998)	CAN 1996

Table 7. Case Selection: Disputes Associated with Previous TPRs (cont. 2)

Dispute	Previous TPR	Dispute	Previous TPR
DS212 (2000)	USA 1999	DS138 (1998)	USA 1996
DS136 (1998)	USA 1996	DS62 (1996)	EU 1995
DS135 (1998)	EU 1997	DS60 (1996)	NA
DS132 (1998)	MEX 1997	DS59 (1996)	NA
DS126 (1998)	NA	DS58 (1996)	NA
DS122 (1998)	THA 1995	DS56 (1996)	NA
DS121 (1998)	NA	DS55 (1996)	NA
DS114 (1997)	CAN 1996	DS54 (1996)	NA
DS113 (1997)	CAN 1996	DS50 (1996)	NA
DS110 (1997)	CHL 1997	DS48 (1996)	EU 1995
DS108 (1997)	USA 1996	DS46 (1996)	NA
DS103 (1997)	CAN 1996	DS44 (1996)	NA
DS99 (1997)	USA 1996	DS34 (1996)	NA
DS98 (1997)	KOR 1996	DS33 (1996)	NA
DS90 (1997)	NA	DS31 (1996)	NA
DS87 (1997)	NA	DS27 (1996)	EU 1995
DS84 (1997)	KOR 1996	DS26 (1996)	EU 1995
DS79 (1997)	NA	DS24 (1995)	NA
DS76 (1997)	NA	DS18 (1995)	NA
DS75 (1997)	KOR 1996	DS11 (1995)	NA
DS70 (1997)	CAN 1996	DS10 (1995)	NA
DS69 (1997)	EU 1995	DS8 (1995)	NA
DS68 (1997)	EU 1995	DS4 (1995)	NA
DS67 (1997)	EU 1995	DS2 (1995)	NA
DS64 (1996)	NA		

Source: Author

Appendix 2: Case Selection: Previous TPRs Associated with Disputes (table)

Table 8. *Case Selection: Previous TPRs Associated with Disputes*

TPR	Disputes	TPR	Disputes
EU 2009	DS397	CAN 2000	DS276, DS222
USA 2008	DS404, DS402, DS392, DS383, DS379	EU 2000	DS246, DS231, DS219
CHN 2008	DS398, DS395, DS394	KOR 2000	DS312, DS273
EU 2007	DS377, DS376, DS375	JPN 2000	DS245
THA 2007	DS371	ARG 1999	DS241, DS238, DS189
AUS 2007	DS367	EGY 1999	DS211
COL 2006	DS366	USA 1999	DS236, DS234, DS217, DS213, DS212, DS206, DS202, DS192, DS184, DS179, DS178, DS177, DS176
CHN 2006	DS363, DS362	CAN 1998	DS170
USA 2006	DS350, DS345, DS344, DS343	IND 1998	DS175, DS146
JPN 2005	DS336	CHL 1997	DS207, DS110
EU 2004	DS337, DS316, DS315	EU 1997	DS141, DS135
BRA 2004	DS332	MEX 1997	DS204, DS132
USA 2004	DS353, DS335, DS322, DS320	CAN 1996	DS142, DS139, DS114, DS113, DS103, DS70
TUR 2003	DS334	KOR 1996	DS169, DS161, DS98, DS84, DS75
DOM 2002	DS302	USA 1996	DS166, DS165, DS162, DS160, DS138, DS136, DS108, DS99
EU 2002	DS301, DS299, DS293, DS292, DS291, DS290, DS286, DS283, DS269, DS266, DS265	EU 1995	DS69, DS68, DS67, DS62, DS48, DS27, DS26
MEX 2002	DS341, DS331, DS308, DS295	THA 1995	DS122
USA 2001	DS296, DS294, DS285, DS282, DS277, DS268, DS267, DS264, DS259, DS258, DS257, DS254, DS253, DS252, DS251, DS249, DS248		

Source: Author

Appendix 3 : Content Analysis Codebook

Content Analysis: Codebook

Descriptive Variables⁶⁸

Case ID: Indicates the ID of a judicial case lodged under the DSM.

TPR: Indicates the TPR associated with the dispute. This includes the year and the country under review for which there exist secretariat and government reports, and questions and replies as well as minutes of the meeting.

Case subject: Describes the title of the dispute⁶⁹.

Measure at issue: Describes what measure at issue constitutes the matter of a dispute, as stated in the *WTO Dispute Settlement: One-Page Case Summaries*. This is a direct citation of a short paragraph in each of the one-page summaries from the book (see, WTO, 2015).

Product / service / industry at issue: Describes what product, service, or industry at issue constitutes the matter of a dispute, as stated in the *WTO Dispute Settlement: One-Page Case Summaries*. This is a direct citation of a short paragraph in each of the one-page summaries from the book (see, WTO, 2015).

Keywords: Lists keywords derived from the two above mentioned sections. Coders should use keywords to search for the matter of a dispute in a given TPR, and check whether the context in which individual occurrences are found makes sense in respect of the above mentioned descriptions. Individual occurrences should include both the measure at issue, e.g., taxes, quantitative restrictions, import prohibitions, etc., and the product, service, or industry at issue, e.g., alcoholic beverages, shipbuilding, meat, etc.

Coded Variables

TPR-occurrence: Indicate whether the matter of a dispute has occurred in the TPR (1 = the matter of a dispute has occurred in the TPR, 0 = the matter of a dispute has not occurred in the TPR).

⁶⁸ The author has included sections describing the matter of a dispute against which TPR-occurrence should be coded. Although this means that coding form will include a large amount of details pertaining to each case, the author believes this is a necessary step to increase the reliability of coding (author's note).

⁶⁹ See, https://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm

S: Indicate whether the matter of a dispute has occurred in the *secretariat report* (1= the matter of a dispute has occurred in the *secretariat report*, 0 = the matter of a dispute has not occurred in the *secretariat report*).

G: Indicate whether the matter of a dispute has occurred in the *government report* (1= the matter of a dispute has occurred in the *government report*, 0 = the matter of a dispute has not occurred in the *government report*).

M: Indicate whether the matter of a dispute has occurred in the *minutes of the meeting* (1 = the matter of a dispute has occurred in the *minutes of the meeting*, 0 = the matter of a dispute has not occurred in the *minutes of the meeting*).

Q: Indicate whether the matter of a dispute has occurred in the *questions and replies* (1 = the matter of a dispute has occurred in the *questions and replies*, 0 = the matter of a dispute has not occurred in the *questions and replies*).

Borderline Cases

Coders should keep track of borderline cases which will be revisited after the first coding. Where necessary, the author will examine the problematic cases with help of the rulings of Panels available on case-specific pages at the WTO website. Borderline cases are those in which at least one of the measures or products and services at issue has occurred in a TPR but there is a missing link between the two. For example, when a dispute concerns certain products affected by anti-dumping measures imposed by the member under review but the review only mentions general use of those measures, or use with respect to other related products, services, or industries. Marking a case as borderline should serve to distinguish between ambiguous and unambiguous cases. To be sure, this procedure applies to both 1 and 0.

Appendix 4: Content Analysis Coding Form (table)

Table 9. Content Analysis: Coding Form⁷⁰

Case ID	TPR	Case subject	Measure at issue	Product / service / industry at issue	Keywords	TPR-occurrence	S	G	M	Q
DS26, DS48	EU 1995	Measures Concerning Meat and Meat Products (Hormones)	EC prohibition on the placing on the market and the importation of meat and meat products treated with certain hormones (WTO, 2015: 13).	Meat and meat products treated with hormones for growth purposes (WTO, 2015: 13).	Meat, meat products, hormones	1	1	0	0	0
DS27	EU 1995	Regime for the Importation, Sale and Distribution of Bananas	The European Communities' regime for the importation, distribution and sale of bananas, introduced on 1 July 1993 and established by EEC Council Regulation 404/93 (WTO, 2015: 14).	Bananas imported from third countries (WTO, 2015: 14).	Bananas, 404/93	1	1	1	1	0
DS62, DS67, DS68	EU 1995	Customs Classification of Certain Computer Equipment	The European Communities' application of tariffs on local area networks: ("LAN") equipment and multimedia personal computers ("PCs") in excess of those provided for in the EC Schedules through changes in customs classification (WTO, 2015: 30).	Computer equipment associated with LAN namely, (i) LAN equipment such as network or adaptor cards and (ii) multimedia PCs (WTO, 2015: 30).	Computer equipment, LAN, PCs, network cards, adaptor cards	0*	0*	0	0	0
DS69	EU 1995	Measures Affecting Importation of Certain Poultry Products	European Communities' tariff rate quota ("TRQ") system incorporated into EC Schedule LXXX with respect to frozen poultry and the European Communities' licensing requirements for importers of the product at issue (WTO, 2015: 31).	Frozen poultry imported from Brazil (WTO, 2015: 31).	Poultry, poultry products, tariff rate quota	0	0	0	0	0
DS70	CAN 1996	Measures Affecting the Export of Civilian Aircraft	Canadian measures providing various forms of financial support to the domestic civil aircraft industry (WTO, 2015: 32).	Civil aircraft industry (WTO, 2015: 32).	Civilian aircraft, civil aircraft	1	1	0	0	0
DS75, DS84	KOR 1996	Taxes on Alcoholic Beverages	Korea's tax regime for alcoholic beverages, which imposed different tax rates for various categories of distilled spirits (WTO, 2015: 34).	Imported distilled liquors and Soju (traditional Korean alcoholic beverage) (WTO, 2015: 34).	Alcoholic beverages, liquors, spirits, Soju	1	0	0	1	1

⁷⁰ Cases marked with asterisk are borderline cases (author's note).

DS98	KOR 1996	Definitive Safeguard Measure on Imports of Certain Dairy Products	Definitive safeguard measure (WTO, 2015: 39).	Imports of certain dairy products (skimmed milk powder preparations) (WTO, 2015: 39).	Dairy, dairy products, milk powder	1	1	0	1	1
DS99	USA 1996	Anti-Dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMS) of One Megabit or Above from Korea	United States Department of Commerce (“USDOC”) regulation (namely, the “three zeroes” rules), both as applied in the DRAMS third administrative review at issue and as such, and other aspects of the third administrative review conducted by the USDOC on DRAMS (WTO, 2015: 40).	DRAMS from Korea (Hyundai and LG Semicon) (WTO, 2015: 40).	DRAMS, Semiconductor, three zeroes	1	1	0	0	0
DS103, DS113	CAN 1996	Measures Affecting the Importation of Milk and the Exportation of Dairy Products	Canadian government's support system (Special Milk Classes Scheme) for domestic milk production and export, as well as Canada's tariff rate quota (“TRQ”) regime for imports of fluid milk (WTO, 2015: 41).	Milk and dairy product industry (WTO, 2015: 41).	Dairy, dairy products, milk, Special Milk Classes Scheme	1	1	0	1	0
DS108	USA 1996	Tax Treatment for “Foreign Sales Corporations”	US tax exemptions for Foreign Sales Corporations (“FSC”) in respect of their export-related foreign-source trade income (WTO, 2015: 44).	All foreign goods, including agricultural products, affected by the US measure (WTO, 2015: 44).	Foreign Sales Corporations, FSC, tax exemption	0	0	0	0	0
DS110	CHL 1997	Taxes on Alcoholic Beverages	Chile's tax measures that imposed an excise tax at different rates – depending on the type of product (pisco, whisky, etc.) under the “Transitional System” and according to the degree of alcohol content (35°, 36°, ... 39°) under the “New Chilean System” (WTO, 2015: 37).	All distilled spirits falling within HS heading 2208, including pisco (Chile's domestic product) and imported distilled spirits such as whisky, vodka, rum, gin, etc. (WTO, 2015: 37).	Alcoholic beverages, spirits, liquors, pisco, Transitional System, New Chilean System	1	1	0	1	1
DS114	CAN 1996	Patent Protection of Pharmaceutical Products	Certain provisions under Canada's Patent Act: (i)“regulatory review provision (Sec. 55.2(1))”2; and (ii)“stockpiling provision (Sec. 55.2(2))” that allowed general drug manufacturers to override, in certain situations, the rights conferred on a patent owner (WTO, 2015: 47).	Patented pharmaceuticals from the European Communities (WTO, 2015: 47).	Patent Act, stockpiling provision, pharmaceuticals, drug manufacturers	1*	1*	0	1	0
DS122	THA 1995	Anti-Dumping Duties on Angles, Shapes and Sections of Iron or Non-Alloy Steel and H Beams from Poland	Thailand's definitive anti-dumping determination (WTO, 2015: 49).	H-beams from Poland (WTO, 2015: 49).	H-beams, steel, iron, anti-dumping	1*	1*	0	0	0

DS132	MEX 1995	Anti-Dumping Investigation of High-Fructose Corn Syrup (HFCS) from the United States	Mexico's definitive anti-dumping duty measure (WTO, 2015: 53).	High-fructose corn syrup ("HFCS") from the United States (WTO, 2015: 53).	High-fructose corn syrup, HFCS	1*	1	0	0*	0
DS135	EU 1997	Measures Affecting Asbestos and Product Containing Asbestos	France's ban on asbestos (Decree No. 96-1133) (WTO, 2015: 54).	Imported asbestos (and products containing asbestos) vs certain domestic substitutes such as PVA, cellulose and glass ("PCG") fibres (and products containing such substitutes) (WTO, 2015: 54).	Asbestos, PVA, PCG	0	0	0	0	0
DS136, DS162	USA 1996	Anti-Dumping Act of 1916	United States' Anti-Dumping Act of 1916, which provided for, <i>inter alia</i> , a private right of action, the remedy of treble damages for private complaints and the possibility of criminal penalties in respect of anti-dumping practices (WTO, 2015: 55).	NA	Anti-Dumping Act of 1996	0*	0	0	0*	0
DS138	USA 1996	Imposition of Countervailing Duties on Certain Hot-Rolled Lead and Bismuth Carbon Steel Products Originating in the United Kingdom	United States Department of Commerce's ("USDOC") reliance on "change-in-ownership methodology" in calculating the amount of subsidies to determine a countervailing duty rate in an administrative review (WTO, 2015: 56).	Certain hot-rolled lead and bismuth carbon steel products from the United Kingdom (WTO, 2015: 56).	Hot-rolled lead, bismuth carbon steel products, change-in-ownership	0*	0	0	0	0
DS139, DS142	CAN 1996	Certain Measures Affecting the Automotive Industry	Canada's import duty exemption for imports by certain manufacturers, in conjunction with the Canadian Value Added ("CVA") requirements and the production to sales ratio requirements (WTO, 2015: 57).	Motor vehicle imports and imported motor vehicle parts and materials (WTO, 2015: 57).	Motor vehicle parts, Canadian Value Added, CVA	1*	1*	0	1*	0
DS141	EU 1997	Anti-dumping Duties on Imports of Cotton-type Bed Linen from India	Definitive anti-dumping duties imposed by the European Communities, including the European Communities' zeroing method used in calculating the dumping margin (WTO, 2015: 58).	Cotton-type bed linen imports from India (WTO, 2015: 58).	Bed linen, cotton-type, zeroing	1	1	0	1	0
DS146, DS175	IND 1998	Measures Affecting the Automotive Sector	India's (i) indigenization (local content) requirement; and (ii) trade balancing requirement (exports value = imports value) imposed on its automotive sector (WTO, 2015: 60).	Cars and their components (WTO, 2015: 60).	Automotive sector, indigenization, trade balancing, car components	1	1	0	1	1

DS160	USA 1996	Section 110(5) of US Copyright Act	Section 110 of the US Copyright Act that provides for limitations on exclusive rights granted to copyright holders for their copyrighted work, in the form of exemptions for broadcast by non-right holders of certain performances and displays, namely, “homestyle exemption” (for “dramatic” musical works) and “business exemption” (works other than “dramatic” musical works) (WTO, 2015: 64).	NA	Section 110, US Copyright Act, homestyle exemption, business exemption, broadcast	0*	0*	0	0	0
DS161, DS169	KOR 1996	Measures Affecting Import of Fresh, Chilled and Frozen Beef	(i) Korea's measures affecting the importation, distribution and sale of beef, (ii) Korea's “dual retail system” for sale of domestic imported beef, and (iii) Korea's agricultural domestic support programmes (WTO, 2015: 65).	Beef imports from Australia and the United States (WTO, 2015: 65).	Beef, beef products, dual retail system	1	1	0	1	1
DS165	USA 1996	Import Measures on Certain Products from the European Communities	Increased bonding requirements imposed on 3 March 1999 before the issuance of the Art. 22.6 Arbitrator decision on the level of concessions to be suspended (6 April 1999), which was related to the alleged European Communities' failure to implement <i>EC – Bananas</i> (WTO, 2015: 67).	Certain imports from the European Communities (WTO, 2015: 67).	Bonding requirements, Article 22.6, concessions	0*	0	0	0	0
DS166	USA 1996	Definitive Safeguard Measures on Imports of Wheat Gluten from the European Communities	Definitive safeguard measure imposed by the United States (WTO, 2015: 68).	Wheat gluten from the European Communities (WTO, 2015: 68).	Wheat gluten	0*	0*	0	0	0
DS170	CAN 1998	Term of Patent Protection	Canada's Patent Act, Section 45, which provided the length of the patent protection for patents filed before 1 October 1989 (“Old Act”) (WTO, 2015: 69).	“Old Act” patents, i.e. patents filed before 1 October 1989, which existed at the time when the TRIPS Agreement entered into force for Canada, for which the patent term may potentially be less than the required 20-year term (WTO, 2015: 69).	Patent Act, Section 45, patent protection, Old Act	1*	1*	0	1*	1*
DS290	EU 2002	Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs	EC Regulation related to the protection of geographical indications and designations of origin (“GIs”) (WTO, 2015: 70).	Agricultural products and foodstuffs affected by the EC Regulation (WTO, 2015: 70).	Geographical indicators, designations of origin, GIs	1	1	0	1	1

DS176	USA 1996	Section 211 Omnibus Appropriations Act of 1998	Section 211 of the US Omnibus Appropriations Act of 1998, prohibiting those having an interest in trademarks/trade names related to certain businesses or assets confiscated by the Cuban government from registering/renewing such trademarks/names without the original owner's consent (WTO, 2015: 71).	Trademarks or trade names related to such confiscated goods (WTO, 2015: 71).	Section 211, Omnibus Appropriations Act, trademarks, confiscated goods	1	1	0	1	1
DS177, DS178	USA 1999	Safeguard Measure on Imports of Fresh, Chilled or Frozen Lamb from New Zealand	A definitive safeguard measure imposed by the United States (WTO, 2015: 72).	Fresh, chilled and frozen lamb meat from Australia and New Zealand (WTO, 2015: 72).	Lamb, chilled lamb, frozen lamb	1	0	0	1	1
DS179	USA 1999	Anti-Dumping Measures on Stainless Steel Plate in Coils and Stainless Steel Sheet and Strip from Korea	Definitive anti-dumping duties imposed by the United States on certain steel imports (WTO, 2015: 73).	Stainless steel plate in coils and stainless steel sheet and strip from Korea (WTO, 2015: 73).	Stainless steel plate, stainless steel sheet, steel imports	1	1	0	1	1
DS184	USA 1999	Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan	US definitive anti-dumping duties on certain imports (WTO, 2015: 74).	Imports of certain hot-rolled steel products from Japan (WTO, 2015: 74).	Hot-rolled steel, steel products	1	1	0	1	1
DS189	ARG 1999	Definitive Anti-Dumping Measures on Carton-Board Imports from Germany and Definitive Anti-Dumping Measures on Imports of Ceramic Tiles from Italy	Argentina's definitive anti-dumping duties on certain imports (WTO, 2015: 75).	Imports of ceramic floors tiles from Italy (WTO, 2015: 75).	Ceramic floor, floor tiles, carton-board imports	0	0	0	0	0
DS192	USA 1999	Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan	Transitional safeguard remedy imposed by the United States under the ATC on certain imports (WTO, 2015: 76).	Imports of combed cotton yarn from Pakistan (WTO, 2015: 76).	Combed cotton, cotton yarn, ATC	0*	0*	0	0	0
DS202	USA 1999	Definitive Safeguard Measures on Imports of Circular Welded Carbon Quality Line Pipe from Korea	US safeguard measure on certain imports (WTO, 2015: 78).	Circular-welded carbon quality line pipe imported from Korea (WTO, 2015: 78).	Circular welded carbon, line pipe	0	0	0	0	0

DS204	MEX 1997	Measures Affecting Telecommunications Services	Mexico's domestic laws and regulations that govern the supply of telecommunication services and federal competition laws (WTO, 2015: 79).	Certain basic public telecommunication services, including voice telephony, circuit switched data transmission and facsimile services, supplied by US suppliers across the border into Mexico (WTO, 2015: 79).	Voice telephony, circuit switched data, facsimile services, telecommunications services	0	0	0	0	0
DS206	USA 1999	Anti-Dumping and Countervailing Measures on Steel Plate from India	US imposition of anti-dumping duties on certain imports manufactured by Steel Authority of India, Ltd. (SAIL) (WTO, 2015: 80).	Certain cut-to-length carbon steel plates imported from India (WTO, 2015: 80).	Steel Plate, Steel Authority of India, SAIL, cut-to-length	1*	1*	0	1	1
DS207	CHL 1997	Price Band System and Safeguard Measures Relating to Certain Agricultural Products	Chile's Price Band System, governed by Rules on the Importation of Goods, through which the tariff rate for products at issue could be adjusted to international price developments if the price fell below a lower price band or rose beyond an upper price band (WTO, 2015: 81).	Wheat, wheat flour, sugar and edible vegetable oils from Argentina (WTO, 2015: 81).	Price Band System, Rules on the Importation of Goods, wheat flour, vegetable oil	1*	1*	0	1*	1*
DS211	EGY 1999	Definitive Anti-Dumping Measures on Steel Rebar from Turkey	Egypt's definitive anti-dumping measures (WTO, 2015: 83).	Steel rebar imported from Turkey (WTO, 2015: 83).	Steel rebar	0*	0*	0	0	0
DS212	USA 1999	Countervailing Measures Concerning Certain Products from the European Communities	US countervailing duty law governing the treatment of subsidies provided to state-owned companies later privatized, including certain subsidy calculation methodologies developed by the United States Department of Commerce ("USDOC") (WTO, 2015: 84).	Products, in particular grain-oriented electrical steel from Italy, exported to the United States from the European Communities by privatized companies that were previously state-owned and that had received government subsidies before their privatization (WTO, 2015: 84).	Electrical steel, subsidy calculation, state-owned companies, privatized	1*	1*	0	0*	1*
DS213	USA 1999	Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany	US laws, regulations, administrative procedures and policy bulletin governing "sunset" reviews of countervailing duties ("CVDs"), and their application in a sunset review of a CVD order on imports from Germany (the US authorities' decision not to revoke the CVD order) (WTO, 2015: 86).	Corrosion-resistant carbon steel flat products imported from Germany (WTO, 2015: 86).	Corrosion-resistant, carbon steel, sunset review	1*	1*	0	0*	1*

DS217, DS234	USA 1999	Continued Dumping and Subsidy Offset Act of 2000	US Continued Dumping and Subsidy Act of 2000 under which anti-dumping and countervailing duties assessed on or after 1 October 2000 were to be distributed to the affected domestic producers for qualifying expenditures (WTO, 2015: 87).	NA	Continued Dumping and Subsidy Offset Act	0	0	0	0	0
DS219	EU 2000	Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil	EC Regulation imposing anti-dumping duties on certain imports (WTO, 2015: 86).	Malleable cast iron tube or pipe fittings imported from Brazil (WTO, 2015: 86).	Malleable cast iron, pipe fittings	1*	1*	0*	1*	1
DS222	CAN 2000	Export Credits and Loan Guarantees for Regional Aircraft	Financing, loan guarantees or interest rate support provided by the Canadian Export Development Corporation (“EDC”) and other export credits, guarantees including equity guarantees etc. provided by the <i>Investissement Québec</i> (“IQ”) to the Canadian civil aircraft industry (WTO, 2015: 90).	Civil aircraft industry (WTO, 2015: 90).	Civil aircraft, regional aircraft, Canadian Export Development Corporation, EDC, Investissement Québec	1*	1*	0	1	1
DS231	EU 2000	Trade Description of Sardines	EC Regulation establishing common marketing standards for preserved sardines, including a specification that only products prepared from <i>Sardina pichardus</i> could be marketed/labelled as preserved sardines (WTO, 2015: 91).	Two species of sardines found in different waters – <i>Sardina pilchardus Walbaum</i> (mainly in Eastern North Atlantic, in the Mediterranean Sea and the Black Sea) and <i>Sardinops sagax sagax</i> (mainly in the Eastern Pacific along coasts of Peru and Chile) (WTO, 2015: 91).	Preserved sardines, <i>Sardina pichardus</i>	0	0	0	0	0
DS236	USA 1999	Preliminary Determinations with Respect to Certain Softwood Lumber from Canada	Preliminary countervailing duty determination and preliminary critical circumstances determination made by the US authorities in respect of lumber imports and US laws on expedited reviews and “administrative reviews” in the context of countervailing measures (WTO, 2015: 92).	US softwood lumber imports from Canada (WTO, 2015: 92).	Softwood lumber, administrative reviews, lumber imports	0	0	0	0	0
DS238	ARG 1999	Definitive Safeguard Measure on Imports of Preserved Peaches	Argentina’s safeguard measures imposed, in the form of specific duties, on preserved peaches from all countries other than MERCOSUR States and South Africa (WTO, 2015: 93).	Preserved peaches imported into Argentina (WTO, 2015: 93).	Peaches, preserved peaches	1	1	0	1	1

DS241	ARG 1999	Definitive Anti-Dumping Duties on Poultry from Brazil	Definitive anti-dumping measures, in the form of specific anti-dumping duties, imposed by Argentina on imports from Brazil for a period of three years (WTO, 2015: 94).	Poultry from Brazil imported into Argentina (WTO, 2015: 94).	Poultry, anti-dumping duties	1*	1*	0	0	0
DS245	JPN 2000	Measures Affecting the Importation of Apples	Certain Japanese measures restricting imports of apples on the basis of concerns about the risk of transmission of fire blight bacterium (WTO, 2015: 97).	Apples from the United States (WTO, 2015: 97).	Apples, fire blight, bacteria	0	0	0	0	0
DS246	EU 2000	Conditions for the Granting of Tariff Preferences to Developing Countries	European Communities' generalized tariff preferences ("GSP") scheme for developing countries and economies in transition. In particular, special arrangement under the scheme to combat drug production and trafficking (the "Drug Arrangements"), the benefits of which apply only to the listed 12 countries experiencing a certain gravity of drug problems (WTO, 2015: 99).	Products imported from India vs products imported from the 12 countries benefiting from the Drug Arrangements under the EC GSP scheme (WTO, 2015: 99).	Tariff preferences, GSP, Drug Arrangements	1*	1	0*	1	1
DS248, DS249, DS251, DS252, DS253, DS254, DS258, DS259	USA 2001	Definitive Safeguard Measures on Imports of Certain Steel Products	US definitive safeguard measures on a wide range of steel products (WTO, 2015: 100).	Certain steel product imports, except for those from Canada, Mexico, Israel and Jordan (WTO, 2015: 100).	Steel products, steel imports, safeguard measures	1	1	0	1	1
DS257	USA 2001	Final Countervailing Duty Determination with respect to certain Softwood Lumber from Canada	US final countervailing duty determination (WTO, 2015: 101).	Certain softwood lumber imports from Canada (WTO, 2015: 101).	Softwood lumber, lumber imports	1	1	0	1	1
DS264	USA 2001	Final Dumping Determination on Softwood Lumber from Canada	US final anti-dumping duties (WTO, 2015: 103).	Certain softwood lumber products from Canada (WTO, 2015: 103).	Softwood lumber, lumber products	1	1	0	1	1

DS265, DS266, DS283	EU 2002	Export Subsidies on Sugar	EC measures relating to subsidization of the sugar industry, namely, a Common Organization for Sugar (“CMO”) (set out in Council Regulation (EC) No. 1260/2001): two categories of production quotas – “A sugar” and “B sugar” – were established under the Regulation. Further, sugar produced in excess of A and B quota levels – C sugar – which was not eligible for domestic price support or direct export subsidies and must be exported (WTO, 2015: 105).	Sugar industry (WTO, 2015: 105).	Sugar industry, Common Organization for Sugar, CMO, 1260/2001	1	1	0	1	1
DS267	USA 2001	Subsidies on Upland Cotton	US agricultural “domestic support” measures, export credit guarantees and other measures alleged to be export and domestic content subsidies (WTO, 2015: 106).	Upland cotton and other products covered by export credit guarantees (WTO, 2015: 106).	Upland cotton, export credit guarantees	1*	0*	0	1*	1
DS268	USA 2001	Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina	US anti-dumping duties as well as laws, regulations and practice governing sunset reviews under the Sunset Policy Bulletin (“SPB”) (WTO, 2015: 108).	Oil country tubular goods (“OCTG”) from Argentina (WTO, 2015: 108).	Oil country tubular goods, OCTG, sunset reviews	1*	1*	0	0	0
DS269, DS286	EU 2002	Customs Classification of Frozen Boneless Chicken Cuts	EC measures pertaining to the tariff reclassification from heading 02.10 (relating to, <i>inter alia</i> , salted chicken) to heading 02.07 (relating to, <i>inter alia</i> , frozen chicken) of certain frozen boneless chicken cuts impregnated with salt (WTO, 2015: 110).	Frozen boneless chicken cuts impregnated with salt, with a salt content of 1.2-3 per cent (WTO, 2015: 110).	Chicken cuts, salt content, heading 02.10, heading 02.07	1	0	0	0	1
DS273	KOR 2000	Measures Affecting Trade in Commercial Vessels	Korea’s various measures relating to alleged subsidies to its shipbuilding industry (WTO, 2015: 111).	Korean shipyard industry (WTO, 2015: 111).	Shipyard industry, commercial vessels	1	1	1	1	1
DS276	CAN 2000	Measures Relating to Exports of Wheat and Treatment of Imported Grain	Canadian Wheat Board (“CWB”) Export Regime and requirements related to the import of grain into Canada (WTO, 2015: 112).	Wheat and grains from the United States (WTO, 2015: 112).	Canadian Wheat Board, CWB, import of grain	1	1	0	1	1
DS277	USA 2001	Investigation of the International Trade Commission in Softwood Lumber from Canada	Definitive anti-dumping and countervailing duties imposed by the United States (WTO, 2015: 113).	Softwood lumber from Canada (WTO, 2015: 113).	Softwood lumber, lumber products	1	1	0	1	1

DS282	USA 2001	Anti-Dumping Measures on Oil Country Tubular Goods (OCTG) from Mexico	Determinations by the United States Department of Commerce (“USDOC”) and the International Trade Commission (“ITC”) in the sunset review of the anti-dumping duties on Oil Country Tubular Goods (“OCTG”) imports as well as laws and regulations governing sunset reviews (WTO, 2015: 115).	OCTG imports from Mexico (WTO, 2015: 115).	Oil Country Tubular Goods, OCTG, sunset reviews	0*	0*	0	0*	0
DS285	USA 2001	Measures Affecting the Cross-Border Supply of Gambling and Betting Services	Various US measures relating to gambling and betting services, including federal laws such as the “Wire Act”, the “Travel Act” and the “Illegal Gambling Business Act” (“IGBA”) (WTO, 2015: 116).	Cross-border supply of gambling and betting services (WTO, 2015: 116).	Gambling services, betting services, Wire Act, Travel Act, Illegal Gambling Business Act, IGBA	0	0	0	0	0
DS291, DS292, DS293	EU 2002	Measures Affecting the Approval and Marketing of Biotech Products	(i) Alleged general EC moratorium on approvals of biotech products; (ii) EC measures allegedly affecting the approval of specific biotech products; and (iii) EC member State safeguard measures prohibiting the import/marketing of specific biotech products within the territories of these member States (WTO, 2015: 118).	Agricultural biotech products from the United States, Canada and Argentina (WTO, 2015: 118).	Biotech products	1	0	0	1	1
DS294	USA 2001	Laws, Regulations and Methodology for Calculating Dumping Margins (Zeroing)	US application of the so-called “zeroing methodology” in determining dumping margins in antidumping proceedings as well as the zeroing methodology as such (WTO, 2015: 119).	NA	Zeroing, zeroing methodology, dumping margins	0*	0	0	0*	0
DS295	MEX 2002	Definitive Anti-Dumping Measures on Beef and Rice	Mexico’s definitive anti-dumping duties; several provisions of Mexico’s Foreign Trade Act; and the Federal Code of Civil Procedure (WTO, 2015: 121).	Long-grain white rice from the United States (WTO, 2015: 121).	Long-grain rice, white rice, Foreign Trade Act, Federal Code of Civil Procedure	1*	1*	0	1*	1*
DS296	USA 2001	Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMs) from Korea	US final countervailing duty order on imports from Korea (WTO, 2015: 122).	Dynamic Random Access Memory (“DRAMs”) and memory modules containing DRAMS from Hynix of Korea (WTO, 2015: 122).	DRAMs, semiconductors	0	0	0	0	0

DS299	EU 2002	Countervailing Measures on Dynamic Random Access Memory Chips from Korea	EC definitive countervailing duties (WTO, 2015: 123).	Dynamic Random Access Memory (“DRAM”) Chips from Hynix of Korea (WTO, 2015: 123).	Dynamic Random Access Memory Chips, DRAM	0	0	0	0	0
DS301	EU 2002	Measures Affecting Trade in Commercial Vessels	The European Communities’ Temporary Defensive Mechanism for Shipbuilding (the “TDM Regulation”) of 2002, under which contract-related operating aid provided by EC member States for the building of certain ships were considered compatible with the common market (WTO, 2015: 124).	Container ships, product and chemical tankers as well as LNG carriers (WTO, 2015: 124).	Temporary Defensive Mechanism for Shipbuilding, TDM Regulation, container ships, chemical tankers, LNG carriers	1	1	0	1	1
DS302	DOM 2002	Measures Affecting the Importation and Internal Sale of Cigarettes	Dominican Republic's general measures relating to import charges and fees and other measures specific to import and sale of cigarettes (WTO, 2015: 125).	Cigarettes imported from Honduras as well as all imported products in the case of transitional surcharge measure and the foreign exchange fee (WTO, 2015: 125).	Cigarettes, surcharge measure, exchange fee	0	0	0	0	0
DS308	MEX 2002	Tax Measures on Soft Drinks and Other Beverages	Mexico’s tax measures under which soft drinks using non-cane sugar sweeteners were subject to 20 per cent taxes on (i) their transfer and importation; and (ii) specific services provided for the purpose of transferring soft drinks and bookkeeping requirements (WTO, 2015: 126).	Non-cane sugar sweeteners such as High Fructose Corn Syrup (“HFCS”) and beet sugar and soft drinks sweetened with such sweeteners (WTO, 2015: 126).	Soft drinks, sugar sweeteners, High Fructose Corn Syrup, HFCS, beet sugar	1	0	0	1	1
DS312	KOR 2000	Anti-Dumping Duties on Import of Certain Paper from Indonesia	Anti-dumping duties imposed by Korea on certain imports (WTO, 2015: 127).	“Business information paper and wood-free printing paper” from Indonesia (WTO, 2015: 127).	Paper, business information paper, wood-free printing paper	1	1	0	1	0
DS315	EU 2004	Selected Customs Matters	The European Communities' administration of various customs laws and regulations, and the omission of the European Communities to provide for the prompt review and correction of administrative actions relating to customs matters (WTO, 2015: 129).	NA	Customs, customs matters, custom laws, custom regulations	1	1	1	1	1

DS316	EU 2004	Measures Affecting Trade in Large Civil Aircraft	Subsidies allegedly granted by the European Communities and certain EC member States to Airbus large civil aircraft, including (i) “Launch Aid”/“Member State Financing” (LA/MSF) contracts; (ii) European Investment Bank loans; (iii) infrastructure-related measures; (iv) corporate restructuring measures (debt forgiveness, equity infusions and grants); and (v) research and development funding (WTO, 2015: 130).	Large civil aircraft developed, produced and sold by Airbus (WTO, 2015: 130).	Civil aircraft, Airbus, Launch Aid, Member State Financing, European Investment Bank	0*	0	0	0	0
DS320	USA 2004	Continued Suspension of Obligations in the EC – Hormones Dispute	The continued suspension of WTO concessions by the United States and Canada resulting from the <i>EC – Hormones</i> disputes (WTO, 2015: 131).	A number of products affected by the suspension of concessions by the United States and Canada (WTO, 2015: 131).	Concessions, EC – Hormones	1	1	0	0	1
DS322	USA 2004	Measures Relating to Zeroing and Sunset Reviews	The United States’ “zeroing” procedures in the context of original investigations, periodic reviews, new shipper and changed circumstances reviews, and sunset reviews; and the application of “zeroing” in an original investigation, periodic reviews, and sunset review determinations (WTO, 2015: 132).	Various carbon steel and bearing products from Japan (WTO, 2015: 132).	Carbon steel, steel products, bearing products, zeroing, sunset reviews	1*	1*	0*	1	1
DS331	MEX 2002	Anti-Dumping Duties on Steel Pipes and Tubes from Guatemala	The definitive anti-dumping duties imposed by Mexico on imports of steel pipes and tubes from Guatemala and the investigation leading thereto (WTO, 2015: 134).	Various steel pipes and tubes (WTO, 2015: 134).	Steel pipes, steel tubes	1	0	0	1	1
DS332	BRA 2004	Measures Affecting Imports of Retreaded Tyres	(i) Brazil’s import prohibition on retreaded tyres (“Import Ban”); (ii) fines on importing, marketing, transportation, storage, keeping or warehousing of retreaded tyres; (iii) Brazilian state law restrictions on the marketing of imported retreaded tyres; (iv) exemptions of retreaded tyres imported from Mercosur countries from the Import Ban and fines (“MERCOSUR exemption”) (WTO, 2015: 135).	Retreaded tyres (WTO, 2015: 135).	Retreaded tyres	1	1	0	0	0

DS334	TUR 2003	Measures Affecting the Importation of Rice	Turkey's restrictions on the importation of rice, in particular: (i) the decision, during specific periods of time commencing September 2003 to deny or fail to grant Certificates of Control to import rice at the most-favoured-nation tariff rates; (ii) the domestic purchase requirement incorporated in Turkey's TRQ regime (until July 2006), in order to import rice at lower tariff rates; (iii) the discouragement of the full utilization of tariff rate quotas through their administration; (iv) the combined effect of measures (i) and (iii); and (v) Turkey's administration of its import regime for rice, more generally (WTO, 2015: 136).	Rice, including paddy, husked and white rice, imported by Turkey (WTO, 2015: 136).	Rice, paddy rice, husked rice, white rice, Certificates of Control	1	0	0	0	1
DS335	USA 2004	Anti-Dumping Measure on Shrimp from Ecuador	United States' final anti-dumping measures including margins of dumping calculated using "zeroing" under the weighted-average-to weighted-average methodology (WTO, 2015: 137).	Certain frozen warmwater shrimp from Ecuador (WTO, 2015: 137).	Shrimp, warmwater shrimp, zeroing, weighted-average	1	1	0	1	1
DS336	JPN 2005	Countervailing Duties on Dynamic Random Access Memories from Korea	Japanese investigation of and final countervailing duty order on imports from Korea (WTO, 2015: 138).	Dynamic random access memories ("DRAMs") manufactured Hynix of Korea (WTO, 2015: 138).	DRAMs	1	1	0	0	0
DS337	EU 2004	Anti-Dumping Measure on Farmed Salmon from Norway	EC definitive anti-dumping measures on imports of farmed salmon from Norway (WTO, 2015: 139).	Farmed salmon (WTO, 2015: 139).	Salmon, farmed salmon	1	1	0	0	0
DS341	MEX 2002	Definitive Countervailing Measures on Olive Oil from the European Communities	Countervailing duties on olive oil from the European Communities (WTO, 2015: 141).	Olive oil from the European Communities (WTO, 2015: 141).	Olive oil	0	0	0	0	0
DS343, DS345	USA 2006	Measures Relating to Shrimp from Thailand	The enhanced continuous bond requirement ("EBR") (WTO, 2015: 142).	Frozen warmwater shrimp from India and Thailand (WTO, 2015: 142).	Shrimp, warmwater shrimp, continuous bond requirement, EBR	1	1	0	1	1
DS344	USA 2006	Final Anti-Dumping Measures on Stainless Steel from Mexico	US application of the so-called "zeroing methodology" in anti-dumping proceedings as well as the zeroing methodology as such (WTO, 2015: 143).	Stainless steel sheet and strip in coils (WTO, 2015: 143).	Steel, stainless steel, zeroing, zeroing methodology	1	1	0	1	1

DS350	USA 2006	Continued Existence and Application of Zeroing Methodology	The European Communities challenged as a measure the ongoing application by the United States of anti-dumping duties resulting from anti-dumping orders in 18 specific cases, as calculated with the use of zeroing. The European Communities also challenged 52 separate determinations made by the United States Department of Commerce, including 37 determinations made in the context of periodic reviews, 11 made in the context of sunset reviews, and four in the context of original investigations (WTO, 2015: 144).	NA	Zeroing, zeroing methodology, sunset reviews	1	1	0	1	1
DS353	USA 2004	Measures Affecting Trade in Large Civil Aircraft – Second Complaint	Subsidies allegedly granted by US federal, state and local governments to Boeing large civil aircraft, including among others (i) payments, access to government facilities, equipment and employees, allocation of intellectual property rights, and reimbursement of independent research and development (“R&D”) costs under R&D contracts and agreements between Boeing and the National Aeronautics and Space Administration (“NASA”), the United States Department of Defence (“USDOD”) and the Department of Commerce; (ii) various federal, state and local tax measures; and (iii) infrastructure-related measures (WTO, 2015: 145).	Large civil aircraft developed, produced and sold by Boeing (WTO, 2015: 145).	Civil aircraft, NASA, Boeing	1	1	0	0	1
DS362	CHN 2006	Measures Affecting the Protection and Enforcement of Intellectual Property Rights	(i) China’s Criminal Law and related Supreme People’s Court Interpretations which establish thresholds for criminal procedures and penalties for infringements of intellectual property rights; (ii) China’s Regulations for Customs Protection of Intellectual Property Rights and related Implementing Measures that govern the disposal of infringing goods confiscated by customs authorities; and (iii) Art. 4 of China’s Copyright Law which denies protection and enforcement to works that have not been authorized for publication or distribution within China (WTO, 2015: 147).	Copyright and trademarks (WTO, 2015: 147).	Copyright, Customs Protection of Intellectual Property Rights, Copyright Law, Article 4	1*	0*	1	1	1

DS363	CHN 2006	Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products	A series of Chinese measures regulating activities relating to the importation and distribution of certain publications and audiovisual entertainment products (WTO, 2015: 148).	Trading and distribution of reading materials (e.g. books, newspapers, periodicals, electronic publications), audiovisual home entertainment (“AVHE”) products (e.g. videocassettes, video compact discs, digital video discs), sound recordings (e.g. recorded audio tapes), and films for theatrical release (WTO, 2015: 148).	Reading materials, AVHE, sound recordings, books	1*	0	0	0	1
DS366	COL 2006	Indicative Prices and Restrictions on Ports of Entry	Colombian customs regulations establishing the use of indicative prices and restrictions on ports of entry (WTO, 2015: 149).	Certain textiles, apparel and footwear classifiable under HS Chapters 50-64 of Colombia's Tariff Schedule, which were re-exported and re-exported from the Colon Free Zone (“CFZ”) and Panama to Colombia (WTO, 2015: 149).	Footwear, Tariff Schedule, Colon Free Zone, CFZ	1	1	0	1	1
DS367	AUS 2007	Measures Affecting the Importation of Apples from New Zealand	Certain Australian measures restricting the importation of New Zealand apples based on concerns about the risk of entry, establishment and spread of the fire blight bacterium (<i>Erwinia amylovora</i>), the fungus European canker (<i>Neonectria galligena</i>), and apple leafcurling midge (“ALCM”) (<i>Dasineura mali</i>) (WTO, 2015: 150).	Apples from New Zealand (WTO, 2015: 150).	Apples, risk of spread, fire blight bacteria, fungus	1	0	0	1	0
DS371	THA 2007	Customs and Fiscal Measures on Cigarettes from the Philippines	Thailand’s customs and tax measures (WTO, 2015: 151).	Cigarettes imported from the Philippines (WTO, 2015: 151).	Cigarettes	1	1	0	1	1
DS375, DS376, DS377	EU 2007	Tariff Treatment of Certain Information Technology Products	Various EC measures pertaining to the tariff classification, and consequent tariff treatment, of certain information technology products (“IT products”) (WTO, 2015: 152).	Flat panel display devices (“FDPs”), including those with digital DVI connectors that are capable of connecting to computers and other equipment; set-top boxes which have a communication function (“STBCs”), including those that access the Internet and have recording capabilities; and multifunctional digital machines (“MFMs”), capable of printing, scanning, copying and/or faxing (WTO, 2015: 152).	Display devices, FDPs, MFMs, DVI connectors, set-top boxes, STBCs, information technology	1	0	0	1	1

DS379	USA 2008	Definitive Anti-Dumping and Countervailing Duties on Certain Products from China	Countervailing and anti-dumping measures imposed concurrently by the United States against the same products from China, following parallel anti-dumping (“AD”) and countervailing duty (“CVD”) investigations by the United States Department of Commerce (“USDOC”) (WTO, 2015: 153).	Circular welded carbon quality steel pipe (“CWP”); light-walled rectangular pipe and tube (“LWR”); laminated woven sacks (“LWS”); certain new pneumatic off-the-road tyres (“OTR”) (WTO, 2015: 153).	steel pipe, CWP, LWR, woven sacks, LWS, off-the-road tyres, OTR	1	1	0	1	1
DS383	USA 2008	Anti-Dumping Measures on Polyethylene Retail Carrier Bags from Thailand	Anti-dumping order imposed by the United States on polyethylene retail carrier bags from Thailand, and Final Determination by the United States Department of Commerce (“USDOC”), as amended, leading to that order (WTO, 2015: 156).	Polyethylene retail carrier bags from Thailand (WTO, 2015: 156).	Polyethylene, carrier bags	0*	0	0	0	0
DS392	USA 2008	Certain Measures Affecting Imports of Poultry from China	Section 727 of the Agriculture Appropriations Act of 2009 which prohibited the use of funds to establish or implement a rule allowing poultry products from China to be imported into the United States (WTO, 2015: 158).	Poultry products from China (WTO, 2015: 158).	Poultry, poultry products, Section 727, Agriculture Appropriations Act	1	0	0	1	1
DS394, DS395, DS398	CHN 2008	Measures Related to the Exportation of Various Raw Materials	Export restraints imposed on the different raw materials: (i) export duties; (ii) export quotas; (iii) export quotas management (iv) minimum export price requirements; (v) export licensing requirements; and (vi) administration and publication of trade regulations. The complainants identified 40 specific Chinese measures in connection with their claims (WTO, 2015: 159).	Certain forms of bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorous, and zinc (WTO, 2015: 159).	Raw materials, export quotas, export duties	1	1	0	1	1
DS397	EU 2009	Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China	(i) Art. 9(5) of the European Union's basic anti-dumping regulation (“Basic AD Regulation”), concerning individual treatment of exporters from certain non-market economies (“NMEs”) in anti-dumping investigations; and (ii) the imposition by the European Union of definitive anti-dumping duties on certain iron or steel fasteners from China (WTO, 2015: 161).	Iron or steel fasteners (WTO, 2015: 161).	Iron fasteners, steel fasteners, anti-dumping, anti-dumping investigations	1	1	0	1	1

DS402	USA 2008	Use of Zeroing in Anti-Dumping Measures Involving Products from Korea	Certain United States final determinations and anti-dumping duty orders that included margins of dumping calculated using “zeroing” in the context of the “weighted-average to weighted-average” methodology in original investigations (WTO, 2015: 164).	Stainless steel plate in coils from Korea; stainless steel sheet and strip in coils from Korea; and diamond sawblades and parts thereof from Korea (WTO, 2015: 164).	Steel, stainless steel, diamond sawblades, zeroing, weighted-average	1	1	0	1	1
DS404	USA 2008	Anti-dumping Measures on Certain Shrimp from Viet Nam	Second and third administrative review determinations in anti-dumping proceedings against imports from Viet Nam; “continued use”, by the United States Department of Commerce (“USDOC”), of certain practices in the same anti-dumping proceedings (WTO, 2015: 165).	Certain frozen warmwater shrimp from, <i>inter alia</i> , Viet Nam (WTO, 2015: 165).	Shrimp, warmwater shrimp, anti-dumping	0	0	0	0	0

Source: Author

Appendix 5: Sources for TPRM Staff (table)

Table 10. *Sources for the Variable TPRM Staff*

Year	TPRM staff	Source
2009	43.9	Annual Report 2010, p. 141
2008	38.9	Annual Report 2008, p. 105
2007	37.6	Annual Report 2007, p. 104
2006	36.0	Annual Report 2006, p. 98
2005	35.0	Annual Report 2005, p. 105
2004	34.0	Annual Report 2004, p. 121
2003	33.5	WT/BFA/SPEC/82, p. 19
2002	34.5	Annual Report 2002, p. 154
2001	29.5	Annual Report 2001, p. 138
2000	29.5	Annual Report 2000, p. 104
1999	28.5	WT/BFA/W/27, p. 40
1998	28.5	WT/BFA/W/20, p. 36
1997	28.5	WT/BFA/27, p. 34
1996	29.5	WT/BFA/10, p. 31
1995	NA	NA

Source: Author

Appendix 6: Sources for Peer Pressure (table)

Table 11. *Sources for the Variable Peer Pressure*

Source	TPR	Source	TPR
WT/TPR/M/3	EU 1995	WT/TPR/M/97	MEX 2002
WT/TPR/M/9	THA 1996	WT/TPR/M/102	EU 2002
WT/TPR/M/16	USA 1997	WT/TPR/M/105	DOM 2003
WT/TPR/M/19	KOR 1997	WT/TPR/M/125	TUR 2004
WT/TPR/M/22	CAN 1997	WT/TPR/M/126	USA 2004
WT/TPR/M/28	CHL 1997	WT/TPR/M/136	EU 2005
WT/TPR/M/29	MEX 1997	WT/TPR/M/140	BRA 2005
WT/TPR/M/30	EU 1998	WT/TPR/M/142	JPN 2005
WT/TPR/M/33	IND 1998	WT/TPR/M/160	USA 2006
WT/TPR/M/47	ARG 1999	WT/TPR/M/161	CHN 2006
WT/TPR/M/55	EGY 1999	WT/TPR/M/172	COL 2007
WT/TPR/M/56	USA 1999	WT/TPR/M/177	EU 2007
WT/TPR/M/72	EU 2000	WT/TPR/M/178	AUS 2007
WT/TPR/M/73	KOR 2000	WT/TPR/M/191	THA 2008
WT/TPR/M/76	JPN 2000	WT/TPR/M/200	USA 2008
WT/TPR/M/78	CAN 2000	WT/TPR/M/214	EU 2009
WT/TPR/M/88	USA 2002		

Source: Author