

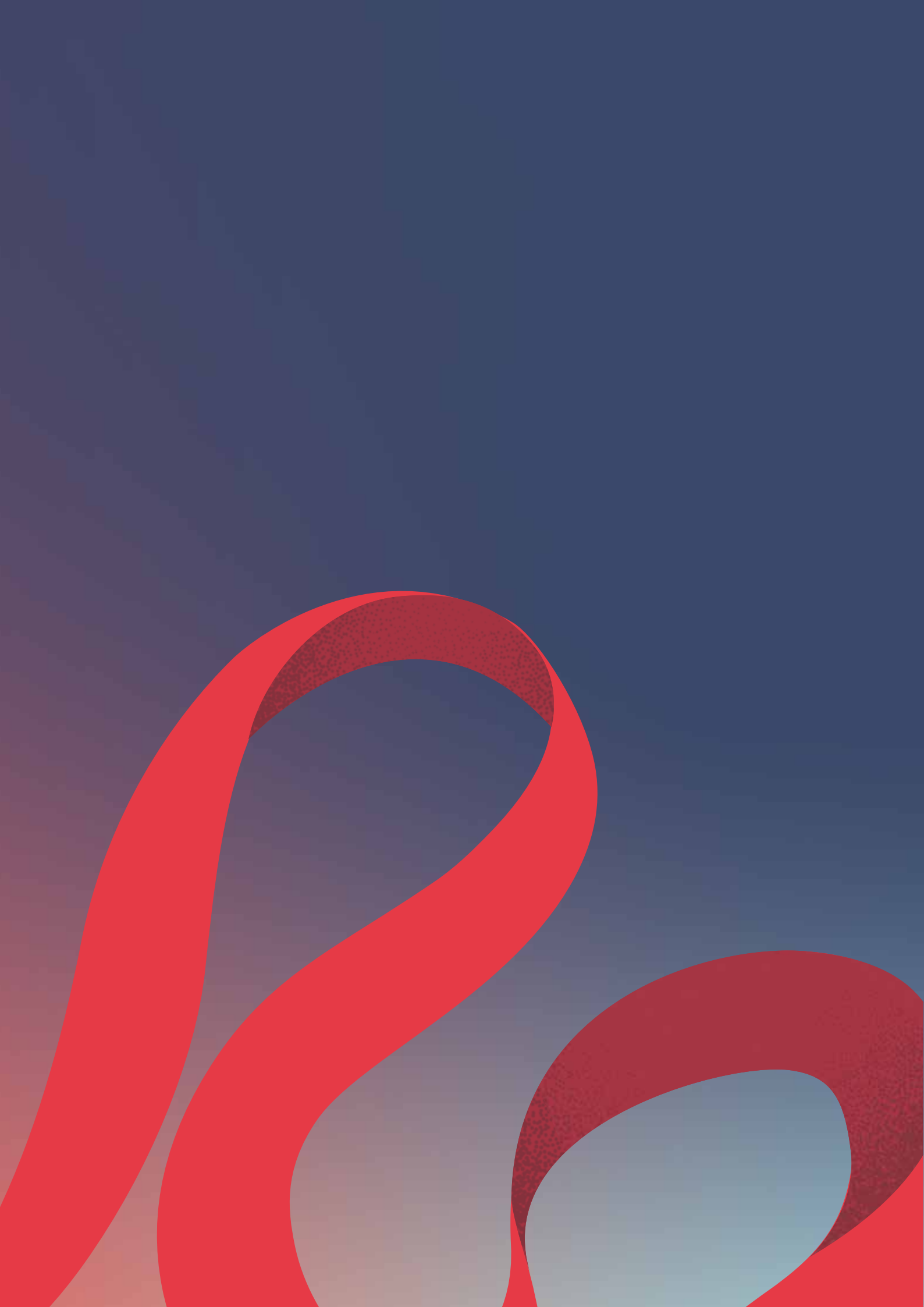


SECTION

2

**Fourteen good
regulatory practices
to facilitate trade
in services**

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① Processing of authorization applications



KEY INSIGHTS

- Clear procedural guarantees for authorization processes underpin transparency and predictability for service suppliers – representing a core area of GRP.
- GATS Article VI:3 provides the baseline of GRPs for authorization procedures: it requires processing of applications within a reasonable period of time, notification of decisions and, upon request, information on an application's status.
- The SDR Disciplines, like many modern PTAs, fill the gaps by providing a comprehensive set of GRPs that cover all of the steps for application: from publishing time frames for processing and providing an opportunity to correct minor application deficiencies, to giving written reasons for rejection, and ensuring timely entry into effect of authorizations.
- Many economies already have GRPs in place to improve the quality of procedures and strengthen authorities' accountability – these include acknowledging receipt of applications and establishing “silent consent” mechanisms. Over 70 per cent of economies covered in the WTO-World Bank STPD require licensing decisions to be made within an established time frame, and more than 76 per cent require competent authorities to explain reasons for rejection of applications.

Key features

A fundamental pillar of GRP is the processing of applications submitted by service suppliers to obtain authorization to offer their services. In this context, GRPs address the various guarantees provided at each step of the procedure: from defining time frames within which competent authorities decide on applications and establishing “silent consent” mechanisms for approvals, to providing applicants the possibility of enquiring about the status of their applications.

Furthermore, GRPs also ensure timely communication of decisions by competent authorities to applicants, as well as guaranteeing opportunities for submission of new applications in case of rejection. Additional GRP aspects relate to this area, such as the possibility to submit applications electronically, including through single entry point mechanisms, the determination of fees associated with the procedure, as well as the right to request the review of decisions taken by competent authorities. As the latter extend beyond the processing of applications *per se*, they will be addressed in subsequent subsections of this Handbook.

For service suppliers seeking authorization, the transparency and predictability of the application process are of paramount importance; business surveys consistently highlight the lack of accessible information regarding the application procedure as the most significant cost factor identified by service suppliers in their efforts to access domestic markets and conduct operations.¹ Uncertainty may discourage trade or re-direct it to other territories.² Moreover, service suppliers regularly call for government efforts to reduce multiple layers of bureaucracy and streamline administrative procedures, emphasizing that effective and efficient procedures in line with GRP principles are essential to enable a business-friendly environment.³

GATS, SDR Disciplines and other relevant trade agreements

The recognition that application procedures may hinder trade was already evident to the drafters of the GATS in the early 1990s. Under the heading “Domestic Regulation”, Article VI:3 of the GATS provides for three key obligations that apply whenever authorization is required for the supply of a service:⁴ (i) competent authorities must process

applications within a reasonable period of time after the submission of an application that is considered complete; (ii) applicants must be informed of the decision concerning the application;⁵ and (iii) at the request of applicants, competent authorities must provide without undue delay information regarding the status of the application.

In addition, Article VI:4 also contains a mandate to negotiate any necessary disciplines to ensure that key regulatory measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards, do not constitute unnecessary barriers to trade in services.

Inspired by the extensive body of work undertaken at the WTO under the GATS Article VI:4 mandate on domestic regulation,⁶ the SDR Disciplines include an entire section on “Processing of Applications”.⁷ The GRP principles that are embedded in the obligations related to application procedures are comprehensive and aim to address the entire sequence of the application procedure; they aim to fill those gaps left by GATS Article VI:3 with a view to consolidating GRPs to be followed by competent authorities when dealing with authorization applications, from the setting of time frames for processing to the entry into effect of authorization.

Without prescribing a “one-size-fits-all” approach for implementation and using mainly “best endeavour language”, the SDR Disciplines cover the following procedural steps and guarantees (see Figure 1):⁸

- Establishing indicative time frames for processing an application;
- At the request of the applicant, providing information concerning the status of an application, without undue delay;
- Ascertaining, without undue delay, the completeness of an application;
- Ensuring the applicant is informed of the decision concerning the application within a reasonable period of time after its submission (in writing, to the extent possible);
- If an application is incomplete, and at the request of the applicant, identifying the additional information required to complete the application; and providing the applicant with the opportunity to provide the additional information that is needed;

- If an application is rejected, informing the applicant of the reasons thereof and, if applicable, the procedures for resubmission of the application;
- Ensuring that an applicant is not prevented from submitting another application solely on the basis of a previously rejected application;
- Allowing authorization, once granted, to enter into effect without undue delay.

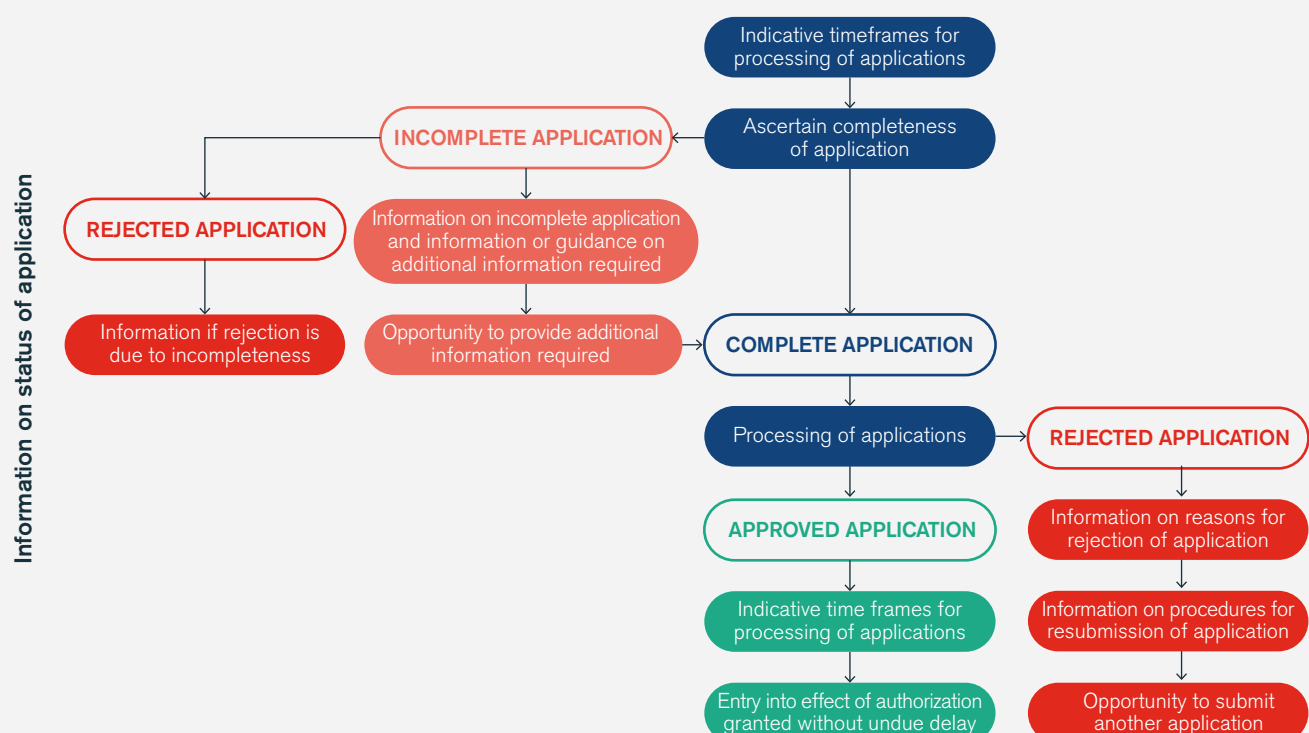
It is worth noting that some of the terms used in the SDR Disciplines have already been elaborated upon in various WTO disputes, since they also appear in other provisions of WTO agreements. With respect to the phrase “without undue delay”, WTO panels found that a “delay” is “(a period of) time lost by inaction or inability to proceed on the substance of the application”.⁹ The term “undue” refers to something “inappropriate, unsuitable, improper, unrightful”, or “going beyond what is warranted or natural”.¹⁰ In summary, whether applicants shall be informed of the status of their applications, or authorities shall establish the completeness of applications, or authorizations shall enter into effect “without undue delay”, these obligations

are to be carried out without unjustifiable, excessive, or disproportionate loss of time.

WTO panels also reflected on the types of circumstances that might or might not justify a delay; for example, it was noted that delays attributable to action or inaction of an applicant cannot be held against the authority carrying out the procedure.

In a similar vein, WTO panels considered that what constitutes “a reasonable period of time” must be established on a case-by-case basis, depending on the particular facts and circumstances of each case.¹¹ Panels noted that “reasonableness can be understood to mean as quickly as legally possible while accepting legitimate reasons for delay”.¹² In other words, a period of time would be considered “reasonable” if it is in accordance with generally accepted standards of rationality and sound judgement.¹³ In numerous disputes, the term “reasonable” has been interpreted as “in accordance with reason”, “not irrational or absurd”, “proportionate”, “sensible”, and “within the limits of reason, not greatly less or more than might be thought likely or appropriate”.¹⁴

Figure 1: GRPs on processing of applications in the SDR Disciplines



Thus, where authorities face delays in informing applicants of the incompleteness or rejection of their applications, these may generally be acceptable, as long as they are based on substantial reasons, such as the amount and complexity of documentation to be reviewed or the resources at the disposal of the authority in charge of the decision.

PTA practice

It is also important to mention that procedural guarantees similar to those set out in the SDR Disciplines can also be found in the text of PTAs, and especially in the most recent “new generation” agreements that have been most recently adopted.¹⁵ More generally, as it has become clear that market access and national treatment¹⁶ commitments alone may not be sufficient to ensure service suppliers can operate effectively in foreign services markets, trade agreements have increasingly been used not only to remove quantitative and discriminatory restrictions, but also to address regulatory obstacles and promote good governance in services markets.

PTAs have evolved considerably with regard to providing procedural guarantees to applicants. Early agreements typically only reproduced the text of GATS Article VI:3 and a commitment to review the results of WTO negotiations under GATS Article VI:4 with a view to bringing any agreed rules into effect between the parties to the agreements.¹⁷ More recently, many of the same economies have agreed to more comprehensive obligations on authorization procedures. For example, the 2015 ASEAN-India Trade in Services Agreement, commits the parties to ensure that applicants are (i) provided with an opportunity to remedy any deficiencies in the applications; and, in case of rejection are (ii) informed in writing of the reasons for such action, as well as (iii) granted a possibility of resubmitting a new application.¹⁸

It is also worth noting that two of the largest PTAs that have been concluded recently, namely the 2018 CPTPP and the 2022 RCEP, are ambitious when it comes to promoting GRPs to improve the quality of the business environment, including with regard to application procedures. They encompass all elements that are covered in the SDR Disciplines, except the Discipline on ensuring that authorizations enter into effect without undue delay.

It should also be highlighted that certain trade agreements go beyond the level of ambition of the SDR Disciplines, where flexibility has been employed to take account of the significant differences in WTO members’ regulatory approaches and capacities. However, some

agreements, such as the 2014 Switzerland-China FTA¹⁹ or the 2017 EU–Canada CETA,²⁰ go beyond this approach: they provide mandatory obligations for competent authorities responsible for processing applications.²¹ This may be attributed to the fact that agreements among a limited number of more developed economies which recognize and wish to leverage the benefits of aligning with GRPs make it possible to establish a higher standard of mandatory obligations.

Implementation at the domestic level

Indeed, it appears that an increasing number of economies have already implemented GRPs related to the processing of applications or are actively pursuing regulatory reforms with that objective. Data from the WTO-World Bank STPD shows that around 70 per cent of the economies studied, across different sectors, require licensing decisions to be made within an established time frame, and more than 76 per cent tasked competent authorities with explaining reasons for the rejection of authorization applications.

One interesting example is the EU Services Directive adopted in 2006. This Directive aimed to simplify and modernize administrative procedures and requirements for services suppliers.²² In 2001–2002, the European Commission conducted an extensive consultation with various European and national business associations and more than 6,000 companies. The results showed that, as EU member states continue to maintain different approaches to services regulation, the key barriers affecting services activities included administrative burdens and the complexity, length and uncertainty of procedures and requirements, which proved especially burdensome for small businesses.²³ To address these issues and build on various community or national level initiatives, the Services Directive was introduced with the primary goal of establishing a framework for the removal of unjustified regulatory and administrative barriers and, thereby, fostering the freedom of establishment and the free movement of services in the internal market.

Articles 9 to 13 of the EU Services Directive establish a set of GRPs for “authorization schemes”. These are defined as “any procedure under which a provider or recipient is in effect required to take steps in order to obtain from a competent authority a formal decision, or an implied decision concerning access to a services activity or the exercise thereof” (Article 4). The Directive is designed to be applied horizontally across a wide range of services sectors, encompassing business-related services and most of the regulated professional services, distribution, education and tourism services.

It is worth noting that the principles contained in the SDR Disciplines are in line with those included in the EU Services Directive, although the latter formulates them as mandatory obligations, not foreseeing the typical flexibilities for implementation contained in the SDR Disciplines (e.g. “to the extent practicable”, “in a manner consistent with the legal system”). Furthermore, while the SDR Disciplines only require the setting of “indicative time frames” for the processing of applications, Article 13 of the EU Services Directive requires that applications are acknowledged and processed “as quickly as possible” and that the time period for decisions that is fixed and made public may only be extended once, for a limited duration, with a motivated notification by competent authorities.

The EU Services Directive also provides for a silent authorization mechanism, which means that member states must ensure that, if an application has not received any response within the established time frame, the authorization is deemed to have been granted to the applicant concerned. Finally, the Directive establishes that member states ensure that all authorization procedures “may be easily completed, at a distance and by electronic means, through the relevant point of single contact and with the relevant competent authorities”.²⁴

Following the adoption of the Services Directive, all EU member states were required to review their national regulatory systems with a view to aligning them with the Directive.²⁵ Several EU member states introduced ambitious reform projects.²⁶ The European Commission monitored the Directive’s implementation with a view to identifying further improvements to the EU single market. An analysis was conducted to assess the impact of measures introduced by EU member states between 2006 and 2017.²⁷ While progress on the removal of regulatory barriers was found to be slow, the analysis showed that, in line with one of its key objectives, many electronic procedures systems had been introduced across services sectors.²⁸

Looking at the broader implementation of the GRPs contained in the EU Services Directive, analysis showed that the removal of barriers in services between 2006 and 2017 would result in discounted cumulative gains of 2.1 per cent of GDP by 2027.²⁹ Additional reforms that are needed to achieve the overall goals of the Directive are expected to generate an additional growth potential of up to 2.5 per cent of GDP by 2027, resulting in significant total gains in GDP of up to 4.65 per cent by the same year.³⁰

Another insightful example is the case of Morocco, which enacted a new law in 2020, aimed at simplifying administrative procedures and formalities (Loi n° 55-19).³¹ As part of a broader administrative reform programme,

the law sets out the general aspects of administrative procedures and formalities, including those relating to the authorizations required by service suppliers to provide their services in the Moroccan market.

Importantly, the law provides for a set of guiding principles to improve the relationship between the authorities and the users of administrative systems. Among these principles it is worth noting, (i) the transparency and the facilitation of access to information, notably through electronic means; (ii) the simplification and the suppression of unjustified procedures and requirements, including the establishment of maximum time frames and the reduction of fees required for administrative decisions; (iii) the obligation of administrative authorities to require from applicants exclusively those documents foreseen by relevant laws or regulations; and (iv) the progressive digitization of all procedures and formalities within five years from the entry into force of the law.

The Moroccan law goes beyond what is demanded by the SDR Disciplines in several aspects. For example, with respect to the processing of applications, the law instructs administrative authorities to provide applicants with a receipt as soon as applications are received. With this receipt, the authorities are required to specify any additional documents that the applicant must present within a maximum period of 30 days under penalty of rejection of the application. The receipt also activates the time frame for decisions by the authorities, of a maximum of 60 days, with the possibility of a single extension if the application requires specific technical expertise.

Additionally, for certain administrative actions determined by regulation, the law considers administrative silence as an acceptance of the application. This means that, upon the user’s request, the administration must approve the action within seven days from the date of submission. Interestingly, the law also introduces the principle of information exchange among different government bodies to gradually eliminate the need for users to provide the same documents to multiple authorities. Moreover, the law provides for the establishment of a national online portal (www.idarati.ma) for all administrative procedures and formalities: launched in 2021, the portal serves as a single access point for users to access all information necessary to obtain administrative approvals.

The Moroccan law sets out an ambitious pathway for the implementation of GRPs. It tasks a national commission with the following responsibilities: (i) developing the national strategy for the simplification of administrative procedures and formalities and ensuring its implementation and

evaluation; (ii) monitoring the progress of the digitalization of procedures and administrative formalities; and (iii) supervising the undertaking of research and studies to measure users' satisfaction with the new law.

Further to its establishment, the commission analysed 3,491 administrative acts to verify their compliance with the obligations and requirements included in the new law and to discontinue those that were unnecessary. The commission is also in charge of communicating with the authorities concerned. This involves organizing thematic workshops and seminars to assist them in making the necessary adjustments to their procedures. To date, more than 2,537 administrative procedures and formalities relevant to service providers, in strict accordance with the law's GRP principles, have been made available on Morocco's national portal. Figure 2 provides a snapshot comparison of the SDR Disciplines on processing of applications with the EU Services Directive and Morocco's Law.

When it comes to application procedures in individual services sectors, it is interesting to consider, for example, Canada's framework for the granting of approvals in the financial sector.³² In Canada, regulatory approvals of investments in financial institutions are administered by the Office of the Superintendent of Financial Institutions (OSFI) – an independent federal government agency in charge of preserving the soundness of the financial system. One key element of the OSFI system is continuous communication with applicants: from an acknowledgement of receipt of applications, to regular updates and discussions on progress and timely exchanges in case of clarifications needed, as well as prompt notice of final decisions of approval or denial.

The Canadian approach is somehow different from the examples of national practices discussed above; given the prudential and complex nature of the information to be reviewed, the regulations for each specific financial services subsector (e.g. banking, insurance, etc.) do not explicitly establish the timelines envisaged for the processing of applications. Rather, it is the ongoing communication that provides the applicants with the transparency and predictability they need as they move throughout all stages of the process. With over 140 new federally regulated financial institution transactions and business undertakings approved between 2021 and 2022, it appears that the continuous interaction facilitates the resolution of any issues as the review progresses, which results in very few applications being formally rejected.³³

In conclusion, when it comes to authorizations, procedural steps and guarantees are an essential element of GRPs. On the one hand, they provide service suppliers with the transparency and predictability necessary to obtain authorizations required for their business activities. On the other hand, they represent benchmarks against which competent authorities can be held accountable for their decisions. While in terms of implementation domestic practices vary, and the principles enshrined in the SDR Disciplines, as well as in modern PTAs, represent a widespread reference point for national regulatory systems – especially when it comes to cross-cutting administrative laws and regulations. Beyond the SDR Disciplines, the experience across a large sample of economies shows that governments have put in place regulatory practices which closely resonate with the objective of simplifying and facilitating procedures, notably with respect to the acknowledgment of submission of applications and silent approval mechanisms.

Figure 2: Comparison of GRPs on processing of applications between the SDR Disciplines, the EU Services Directive and Morocco's Law on the Simplification of Administrative Procedures and Formalities

SDR Disciplines	EU Services Directive	Morocco's Law on the simplification of administrative procedures and formalities
- Indicative time frames for processing application - Information on status of application - Ascertaining without undue delay completeness of application - Information on decision on application within reasonable period of time - Incomplete application: information on additional information required - Rejected application: information on reasons for rejection - Ensuring that applicant is not prevented from submitting another application solely on the basis of previously rejected application - Entry into effect of authorization without undue delay	- Guarantee that applications will be dealt with as quickly as possible and, in any event, within a reasonable period - Applications acknowledged as quickly as possible with relevant information - Period for processing of application is fixed and may be extended once for a limited time, when motivated by the complexity of the issue (with notification to applicant) - Silent approval mechanism - Incomplete application: information on additional information required - Rejected application: information on reasons for rejection	- Receipt provided upon submission of application, with identification of any additional documents that applicant must present within 30 days under penalty of rejection of application - Time frame for decision on application fixed at 60 days, with possibility of single extension if application requires specific technical expertise - Silent approval mechanism

ENDNOTES

- 1 See, for example, PECC (2016), pp. 51-52.
- 2 van der Marel and Shepherd (2020), p. 4.
- 3 IDB, ITC and DIE (2022), p. 11.
- 4 Note that the obligations contained in GATS Article VI:3 only apply to services sectors for which commitments have been undertaken by the WTO member in their schedule of specific commitments.
- 5 Article VI:3 of the GATS does not refer explicitly to the processing of applications. However, the paragraph requires the competent authority to “inform the applicant of the decision concerning the application”. This obligation presupposes that a decision has been taken, which in turn requires that the application has been assessed or processed.
- 6 For further information on the Working Party on Domestic Regulation, please refer to https://www.wto.org/english/tratop_e/serv_e/dom_reg_negs_e.htm.
- 7 SDR Disciplines (WTO, 2021a), paras. 7 and 8.
- 8 SDR Disciplines (WTO, 2021a), paras. 7 and 8.
- 9 WTO (2017a), paras. 5.81 to 5.84; WTO (2017b), para. 7.530.
- 10 WTO (2017a), paras. 5.81 to 5.84; WTO (2017b), para. 7.530.
- 11 DSU, Article 21.3. See also, WTO (1999), para. 93.
- 12 WTO (2017b), fn 1008.
- 13 WTO (2005), para. 7.385.
- 14 WTO (2012), para. 7.850.
- 15 The term “new generation agreements” is frequently used for agreements that do not only cover trade in goods, but also services, investment and potentially other aspects such as procurement and intellectual property rights. Such agreements often contain deeper provisions on regulatory issues and GRPs.
- 16 National treatment refers to the principle of giving others the same treatment as one’s own nationals.
- 17 See, for example, India–Singapore CECA (2005); Pakistan–Malaysia CEPA (2008); Iceland–China FTA (2014).
- 18 ASEAN–India Trade in Services Agreement (2015), Agreement on Trade in Services, Article 5: Domestic Regulation.
- 19 China–Switzerland FTA (2014), Annex VI, Article 2.
- 20 EU–Canada CETA (2017), Chapter 12: Domestic Regulation.
- 21 For more information on the use of soft and mandatory language in bilateral and regional trade agreements, please see Baiker, Bertola and Jelitto (2021), pp. 24-26.
- 22 EU, Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (EU Services Directive), OJ L 376, 27 December 2006, pp. 36–68.
- 23 European Commission (2002).
- 24 European Commission, “Implementation of the Services Directive”, https://single-market-economy.ec.europa.eu/single-market/services/directive/implementation_en.
- 25 European Commission, “Implementation of the Services Directive”, https://single-market-economy.ec.europa.eu/single-market/services/directive/implementation_en.
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- 28 European Commission (2021).
- 29 European Commission, “Implementation of the Services Directive”, https://single-market-economy.ec.europa.eu/single-market/services/directive/implementation_en.
- 30 European Commission, “Implementation of the Services Directive”, https://single-market-economy.ec.europa.eu/single-market/services/directive/implementation_en.
- 31 Government of Morocco, Ministry of Digital Transition and Administrative Reform, “Simplification et digitalisation des parcours usagers”, <https://www.mmmp.gov.ma/fr/nos-metiers/simplification-et-digitalisation-des-parcours-usagers>.
- 32 Government of Canada, Office of the Superintendent of Financial Institutions (OSFI), “Transaction Instructions”, <https://www.osfi-bsif.gc.ca/en/data-forms/applications-approvals/transaction-instructions>.
- 33 OSFI (2022); WTO (2021b).



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② Electronic submission of applications



KEY INSIGHTS

- Electronic submission systems are a core GRP lever to cut transaction costs, speed up decisions, streamline redundant requirements, improve communication between authorities and applicants, and support systems' interoperability.
- While the GATS does not require the use of information technology for authorization procedures, the SDR Disciplines – like several modern PTAs – contain a best-endeavour commitment to accept applications in electronic format, mindful of competing priorities and resource constraints.
- Consistent with a clear domestic trend towards electronification, WTO–World Bank STPD data indicate that about 60 per cent of surveyed economies allow submission of applications electronically.

Key features

Technological advances have revolutionized, among many other things, the submission and processing of authorization applications. Historically, authorization procedures relied on the use of physical infrastructure and documents. The latter implied high costs for both regulators and service suppliers, delays in the processing time for applications, reduced access to information required by different regulatory authorities, as well as a significant environmental impact.¹ Since the 1990s, most governments have started leveraging digital technologies, including for various administrative procedures and government services. Comprehensive digitalization has progressively become more common since the 2010s, and increasingly more so since the COVID-19 pandemic.²

A system for the electronic submission of applications (ESA) for authorization presents a multitude of advantages, most notably reduced transactional costs and increased operational efficiency. Despite the clear and multi-faceted benefits, introducing an ESA may, however, entail high implementation costs and technical challenges, including with respect to the availability of internet connectivity and digital technologies, level of digital literacy, and the interoperability of various regulatory systems and databases.³

An ESA allows submission of applications for authorization on specially designed application portals or websites. Applicants can typically also upload any necessary documents for competent authorities to review. To sign off on applications, certain systems integrate the use of digital signatures. This requires the ESA to prescribe authentication protocols to verify users and documents.

Moreover, the use of ESAs entails the availability of secure databases to store and retrieve submitted applications, while safeguarding privacy and security of sensitive data. The ESA can also integrate the possibility of paying any associated fees. The ESA allows communication between regulatory authorities and applicants, including with respect to developments during the application process, information about decisions on the applications, and notice on deficiencies in the application or reasons for its rejection. Setting up an ESA would typically require a mapping of existing authorization requirements and procedures. This serves to identify and streamline duplicative elements, ensure interoperability, address data needs and privacy risks, and estimate cost and resource planning for implementation.

GATS, SDR Disciplines and other relevant trade agreements

In the area of trade in services, the GATS does not specifically prescribe the use of information technology for the processing of authorization applications.

Given their more recent adoption, the SDR Disciplines, instead, contain a provision on the submission of applications for authorization through electronic means. As a departure from traditional physical means for the submission of applications, the SDR Disciplines seek to ensure the possibility of allowing electronic applications as an area of GRP.⁴ It is noted that this obligation is expressed in best endeavour language, with “competing priorities and resource constraints” recognized as relevant factors that may affect its implementation. It is also worth noting that the acceptance of electronic submissions is also emphasized in the context of assessing qualifications for authorization.⁵

Reflecting the trend towards electronification, the TFA also favours the use of electronic means for procedures related to trade in goods. In particular, it requires that WTO members, as appropriate, lodge documents in electronic format in advance, for pre-arrival processing.⁶ Additionally, the TFA mandates that WTO members shall, where appropriate, endeavour to accept paper or electronic copies of supporting documents required for import, export or transit formalities.⁷

PTA practice

Additionally, in recent years, various PTAs have emphasized the significance of using electronic systems for authorization procedures. Two examples are the 2022 RCEP and the 2021 ATISA. These agreements closely mirror the SDR Disciplines, and prescribe that where authorization is required for the supply of services, in accordance with their domestic laws and regulations, the parties “shall endeavour to accept applications in electronic format”.⁸ However, these agreements go further than the SDR Disciplines to explicitly recognize that such electronic applications are to be accepted “under the equivalent conditions of authenticity as paper submissions”⁹ – therefore, suggesting that electronic documents cannot be subject to more onerous requirements relating to authenticity than physical documents.

In the African context, the 2009 COMESA Regulations on Trade in Services are another notable example. Article 33 of the Regulations stipulates that COMESA member states “shall endeavor to ensure that all procedures and formalities relating to access to a service activity and to the exercise thereof may be easily completed, at a distance and by electronic means, through the relevant enquiry point and with the relevant competent authorities”.¹⁰ The COMESA Regulations however recognize that the use of electronic means requires significant resources and may not be available in certain areas. In that case, procedures and formalities can be completed by other appropriate means.¹¹

Implementation at the domestic level

In recent years, various countries have progressively shifted towards the use of electronic tools for authorization procedures, even in the absence of a legal requirement. Governments across the world have focused their digital transformation activities on service delivery.¹² The WTO-World Bank STPD shows that around 60 per cent of the economies studied allow for the submission of applications electronically – with the highest level of implementation found in computer services (87.5 per cent) and legal services (around 80 per cent), and the lowest level in financial services (around 30 to 40 per cent). Box 1 contains an overview of other databases providing information on electronic portals.

Box 1: Available databases providing information on electronic portals

The United Nations’ E-Government Development Index (EGDI)

The [UN E-Government Development Index \(EGDI\)](#) is a combined measure of jurisdictions’ readiness for and use of digital government, calculated as the average of three component indices: Online Services Index (OSI), Telecommunications Infrastructure Index (TII), and Human Capital Index (HCI).

The OSI evaluates the scope and sophistication of domestic online public services, organized into five sub-indices: services provision, institutional framework, content provision, technology and e-participation. In 2024, the [e-government survey](#) checked the availability of 25 online services and, for 19 of them, whether they are fully digitalized end-to-end. Among the 25 services assessed, several align directly with GRPs for services – e.g. register a business, apply for a business licence, file company/business tax, submit income tax, submit VAT, apply for an environmental permit, apply for a building permit, apply for land-title registration. In 2024, out of 193 jurisdictions analysed, the most prevalent services digitally available were business registration (in 177 jurisdictions) and applying for a business licence (in 173 jurisdictions).

The overall 2024 EGDI results show that e-government development has improved at the global level, with the average EGDI value reaching 0.6382 (on a scale of 0 to 1), up from 0.6102 in 2022. The number of jurisdictions with very high EGDI values has more than tripled over the past 10 years, rising from 25 in 2014 to 76 in 2024 – underscoring governments’ efforts in leveraging technology for improved governance and public services delivery. While the TII is the highest component index, the average OSI has also increased by 3.6 per cent in 2024 (since 2022). The most significant regional OSI increase is observed in Africa (5.2 per cent), followed by Asia (4.3 per cent), Oceania (4.2 per cent), the Americas (3.8 per cent), and Europe (1.8 per cent). This suggests that economies are making steady progress in enhancing their online service offerings, albeit at a different pace.

The World Bank GovTech Maturity Index (GTMI)¹³

The [GTMI](#) benchmarks public-sector digital transformation across 198 economies using 48 indicators (accompanied by 153 sub-indicators) grouped into four areas: core government systems, public service delivery, digital citizen engagement, and GovTech enablers. It is designed as a baseline, not a performance ranking, and is used to identify gaps and guide reform.

Box 1: Available databases providing information on electronic portals (cont.)

While certain GTMI indicators conceptually overlap with GRPs addressed in this Handbook, the two operate at different levels: GTMI tracks high-level features of a jurisdiction's digital government, such as one-stop portals, e-signature, interoperability, that indicate overall readiness, while the Handbook sets out practices that facilitate authorization in services. GTMI results are indicative rather than conclusive – they suggest whether the enabling environment exists, but do not verify that GRP practices are implemented as described. Where policymakers aim to align their regulatory systems with GRPs, the GTMI is a valuable complementary source for diagnosing system-wide enablers and gaps (e.g. one-stop portals, e-signature, interoperability) and for prioritizing and sequencing reforms.

Three key indicators correspond particularly to the GRPs discussed in the Handbook:

- **Online publication:** The GTMI tracks open government portals (I-28) and open data portals (I-29), plus whether governments publish engagement statistics (I-32). The [2022 GTMI update](#) shows that 119 economies (around 60 per cent) had an open government portal; 152 (77 per cent) had an open data portal, with update frequency improving (84 updated at least quarterly). Only 60 economies (30 per cent) regularly published citizen-engagement performance. This points to widespread publication channels but uneven depth and upkeep.
- **Public engagement:** The GTMI looks at public participation platforms (I-30) as well as users' feedback/grievance redress mechanisms (I-31). Overall, 97 economies (49 per cent) reported the existence of public consultation platforms; 68 allowed online questions, but only 40 published government responses. 109 economies (55 per cent) had users' feedback/grievance redress mechanisms; 73 offered universal access and 39 used advanced technological tools (e.g. chatbots). In 2022, the publication of engagement statistics remained low (60 economies). This shows that many jurisdictions have channels akin to enquiry points, yet consistent responsiveness and transparency are still limited.
- **Single-window access:** The GTMI checks if a national online public service portal (i.e. one-stop shop) exists (informational or transactional) (I-19). Such a portal provides a single entry point for many services, but is not identical to an authorization single window that channels all authorization applications across domestic regulators through one integrated workflow. By 2022, 162 of 198 economies (around 82 per cent) had a national online public service portal; 113 of these supported transactional services, while 49 were for information only. The 2022 GTMI flags that many portals are not yet end-to-end transactional, and interoperability across back-office systems remains uneven.

As mentioned in subsection 2.1, the EU Services Directive and Morocco's Law on the Simplification of Administrative Procedures and Formalities provide the possibility of completing authorization procedures by electronic means. A further example is that of the UK, which has established an [Electronic Assistance Facility](#) to consolidate information and enable the submission of various approval applications to provide services within the UK.¹⁴

In the Electronic Assistance Facility, applicants have the options of navigating to pages [“setting up a business”](#) or [“Licences and licence applications”](#). These two options connect to pages with details on authorization procedures and requirements. The “setting up a business page” provides information on business operations, including self-employment, establishment

of corporations, business registration and applicable taxes. The “Licences and licence applications” page lists different types of licences and, where relevant, the regions they apply to. The Electronic Assistance Facility also guides applicants in following up on the authorizations sought, either directly through the webpage itself or through the websites of the relevant regulatory authorities. Thus, applications can be completed online, including with the possibility of paying any associated fees electronically. Through the platform, applicants can also receive electronic notice on the decision on their applications and are supported in any ensuing relevant actions.

Another useful example is Kenya's eCitizen platform.¹⁵ In response to the Kenyan government's decision to start investing in information and communications

technology (ICT) infrastructure, the Kenya E-Government Secretariat was created in 2004, to galvanize all ICT projects within the government.¹⁶ The eCitizen system was created in 2014 with the goal of streamlining and automating access to government services, and thereby reducing overall operational costs.¹⁷ Through the eCitizen platform, users can navigate requirements and procedures, register business names, and apply for different permits and authorizations without the need to physically visit public offices.¹⁸ The services are provided in collaboration with various ministries and departments (including the Registrar of companies, National Transport and Safety Authority, Department of Immigration) and useful links to their websites are included in the portal to aid users.¹⁹

Furthermore, the portal offers the possibility to pay electronically for the services requested via mobile money or debit card.²⁰ Once authorizations are granted, users can download their certificates and access other related services (such as tax registration). From a survey conducted on a sample of users of the eCitizen portal, some limitations of the system were identified. For instance, in its current configuration, the information requires manual updating, entailing high maintenance costs.²¹ Nevertheless, its impact on the Kenyan business landscape has already been substantial.

By 2018, the platform had over 4 million registered citizens.²² Among its most significant achievements, the platform allowed a clear reduction in processing times for applications; for example, business name registrations can now be completed within a few hours, instead of days, with notifications sent directly to applicants once their applications are approved.²³

In conclusion, in today's digital world, the use of information technology represents an important aspect of GRP. Electronic applications can significantly lower costs and reduce delays for the benefit of businesses. At the same time, the establishment of an ESA gives governments the opportunity to review and streamline existing authorization requirements and procedures for service suppliers, as well as to promote coordination among involved government agencies. While the creation of such systems entails substantive resources and evidently relies on the availability of internet connectivity and digital literacy, this is an area where various economies are today increasingly receiving support for technical assistance and capacity building. A progressive implementation of electronic platforms for applications – which integrates additional, more sophisticated, features over time – can help foster the efficiency of the regulatory framework, while helping users get acquainted with a new way of doing business.

ENDNOTES

- 1 Wirjo, Bayhaqi and Oh (2024); Grava and Wille (2020).
- 2 World Bank (2022).
- 3 Ejiaku (2014); Opp (2023).
- 4 SDR Disciplines (WTO, 2021), para. 6(a).
- 5 SDR Disciplines (WTO, 2021), para. 10. For more information, please see subsection 2.11 on “Assessment of Qualifications”.
- 6 TFA, Article 7.
- 7 TFA, Article 10.2.
- 8 RCEP (2022), Article 8.15.7(h); ATISA (2019), Article 18.9.
- 9 RCEP (2022), Article 8.15.7(h); ATISA (2019), Article 18.9.
- 10 COMESA, Regulations on Trade in Services (2009), Article 33.
- 11 COMESA, Regulations on Trade in Services (2009), Article 33, sentence 2.
- 12 World Bank (2022).
- 13 The Index was updated last in 2022. The third edition of the GTMI is currently under preparation.

- 14 UK Government, “Business and self-employed”, <https://www.gov.uk/browse/business>.
- 15 Government of Kenya, “eCitizen”: <https://accounts.ecitizen.go.ke/en>.
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- 18 Government of Kenya, eCitizen, “About eCitizen”, <https://ag.ecitizen.go.ke/index.php?id=4>.
- 19 Gitau (2016), pp. 19-20.
- 20 Gitau (2016), p. 6. See also, Government of Kenya, eCitizen, “Help & Support”, <https://accounts.ecitizen.go.ke/en/help-and-support>.
- 21 Gitau (2016), p. 21.
- 22 Wasunna (2018).
- 23 PayHeroKenya, “How to register a business name on e-citizen” (9 July 2024), <https://payherokenya.com/2024/07/09/how-to-register-a-business-name-on-e-citizen/>.



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③ Online publication of information



KEY INSIGHTS

- Transparency and the publication of measures (including laws, regulations, requirements, procedures, and beyond) represent a critical area of GRP – notably in trade in services, given its regulatory intensive nature.
- Building on the core objectives of the GATS, Article III requires the prompt publication of all generally applicable, relevant measures affecting trade in services – at the latest by their entry into force – as well as international agreements on services.
- For services authorizations, the SDR Disciplines require that all information needed by service suppliers, or persons seeking to supply a service, be made publicly available. This includes requirements and procedures (including time frames for decisions, fees, review procedures) – where possible consolidated through a single portal. Various services PTAs go further, for example, by requiring online publication, in English, as well as in plain language to support understanding and compliance.
- At the domestic level, the publication of laws and regulations is widespread across all income groups: 96.5 per cent of economies in the WTO–World Bank STPD make authorization requirements and procedures publicly available, and 77.5 per cent consolidate this information in a dedicated portal.

Key features

Access to clear, timely and reliable information on the regulatory environment is an essential aspect of GRP: it assists service suppliers in assessing market opportunities, navigating relevant rules and procedures for obtaining authorizations, and ensuring continuous compliance with applicable laws and regulations during business operations.

Transparency plays a critical role in trade facilitation. It fosters legal certainty and predictability, and it promotes the legitimacy and accountability of policy-making. Considering the highly regulated nature of services sectors, a lack of transparency can increase the complexity of trading services, especially across borders. The publication of regulatory measures is a key aspect of transparency: it reduces the costs of doing business and fosters equal access to market opportunities, especially for small businesses. Transparency is also beneficial for regulatory authorities as it can help reduce the volume of enquiries, prevent misunderstandings about requirements and procedures, and minimize errors in applications for authorizations.

Effective publication means providing businesses with all the information they need to secure authorization and operate within a given market. This typically includes various types of government measures, such as laws, implementing rules and regulations, guidelines, judicial decisions and other administrative acts. Information that should be available includes, for example, existing requirements and procedures, timelines for processing applications, applicable fees, redress mechanisms, contact details of competent authorities for enquiries, as well as any stakeholder engagement mechanisms.

Historically, publication took place via physical platforms, such as in an official journal or gazette. With technological advances, online publication (i.e. through official websites) has become the most common means of dissemination. Moreover, in recent years, a new GRP principle has emerged, which is the consolidation of information in one single location, notably online. A unified and centralized portal to access essential information significantly reduces the burden faced by market actors in searching for, navigating and understanding all the existing requirements and procedures, facilitating compliance. The accessibility of information through multiple channels, both physical locations and online portals, can help minimize information asymmetries and enhance market efficiency.

In this context, various additional GRP principles can play a pivotal role. Firstly, the information published requires regular updates (and ideally timestamps) to ensure maximum accuracy. Obsolete or expired information needs to be identified as such or removed. Effective transparency includes access to past versions of laws and regulations, including the amendment history, to determine which rules were in force at a given time and assess whether a supplier complied with the applicable rules at that moment. This is also necessary to identify liability or rights retroactively, for instance in the context of court disputes, audits, or appeals.

Archiving supports legal certainty, accountability and informed decision-making by ensuring that regulatory changes are publicly traceable over time. Various regulatory portals include version tracking¹, which aids compliance and reinforces trust in the regulatory system.² In digital environments, version control³ further enables integration with automated compliance tools and provides users with reliable alerts and notifications. At the same time, online interfaces sometimes include features to request email alerts for new or amended measures, as well as feeds for consultation openings or closings – a low-cost and high-impact GRP principle that also encourages stakeholder involvement.

In order to facilitate understanding and compliance, information should be provided in clear, plain language, avoiding technical jargon, to the extent possible.⁴ With this objective, some portals also contain “plain language” summaries or other documents to facilitate the understanding of legal texts. Additionally, information needs to be made available without cost, whilst the availability of information in accessible languages, notably in English, is a catalyst for attracting foreign service suppliers and foreign direct investment.

Finally, many modern regulatory portals increasingly use machine-readable formats (XML, JSON) to support third-party reuse (e.g. compliance tools that help businesses stay aligned with regulatory requirements by automating tasks like rule-change alerts, or deadline reminders) and enable searchability and accessibility for artificial intelligence (AI) applications.

GATS, SDR Disciplines and other relevant trade agreements

Across the WTO covered agreements, transparency is a key pillar. GATT Article X establishes a foundational

transparency obligation – requiring prompt publication of laws, regulations, judicial decisions and administrative rulings of general application – which other WTO agreements also specify for their respective areas. For services trade, the GATS Preamble recognizes that the objective of establishing a multilateral framework is to support the expansion of trade in services under conditions of transparency.⁵ Furthermore, GATS Article III:1 requires WTO members to “publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Agreement”.⁶ The publication of international agreements covering trade in services also falls within the scope of this provision.⁷

Article III:1 suggests a broadly applicable publication requirement, covering measures that directly or indirectly impact the functioning or implementation of the GATS. The term “pertain to” suggests a relevance of the measures to the operation of the Agreement. WTO panels found that the use of the term “affecting” reflects the drafters’ intent to give the GATS a broad scope of application. It refers to measures which have “an effect on” trade in services and the operation of the Agreement, not only those that directly “regulate” or “govern” services.⁸

In other words, in accordance with GATS Article III:1, different types of measures, including those that may not be addressing a particular service, would be subject to the publication requirement. With respect to the term “measures of general application”, this has been interpreted in WTO dispute settlement to cover measures that “apply to a range of situations”⁹ and affect “an unidentified number of economic operators”.¹⁰ Hence, measures that address specific situations would not fall within the scope of GATS Article III:1.

While the term “promptly” is not defined, Article III:1 requires that publication occurs under normal circumstances prior to the application or enforcement of the relevant measures. Exceptionally, in case of emergency, publication may occur even after entry into force. An emergency that justifies *ex post* publication would be an unexpected and unforeseeable event which impedes, in practical terms, the WTO member from publishing a measure (e.g. measures linked with a sudden financial crisis).¹¹

It should be noted that GATS Article III:2 acknowledges that, in contexts where “publication is not practicable”,

information shall be “made otherwise publicly available”. Typically, publication would include both publication in an official journal or gazette as well as on a government website. Publication has been interpreted as not being practicable in cases of administrative burden, lack of human resources, or the costs involved. However, given the relative ease with which information can be made available online, few situations may justify recourse to GATS Article III:2, which in any case requires the public availability of information. When publication proves impracticable, public access can be provided through enquiry points or by making information available upon specific request.

The SDR Disciplines build on the transparency obligations in GATS Article III and provide that:

If a Member requires authorization for the supply of a service, further to Article III of the Agreement, the Member shall promptly publish,^{FN} or otherwise make publicly available in writing, the information necessary for service suppliers or persons seeking to supply a service to comply with the requirements and procedures for obtaining, maintaining, amending and renewing such authorization. Such information shall include, *inter alia*, where it exists:

- a. the requirements and procedures;
- b. contact information of relevant competent authorities;
- c. fees;
- d. technical standards;
- e. procedures for appeal or review of decisions concerning applications;
- f. procedures for monitoring or enforcing compliance with the terms and conditions of licenses or qualifications;
- g. opportunities for public involvement, such as through hearings or comments; and
- h. indicative timeframes for processing of an application.¹²

^{FN}: For purposes of these disciplines, “publish” means to include in an official publication, such as an official journal, or on an official website. Members are encouraged to consolidate electronic publications into a single portal.

The SDR Disciplines have a more limited scope than GATS Article III:1, as they only cover information with respect to “authorization”, not with respect to compliance with any type of measures. However, they are overall broader in scope, as rather than addressing “measures”, they address “the public availability of information necessary for service suppliers, or persons seeking to supply a service to comply with the requirements and procedures for obtaining, maintaining, amending and renewing the required authorization”. Taking this into account, the SDR Disciplines include an illustrative list of information to be made available, where it exists.

The SDR Disciplines combine the terms “publish” and “making publicly available” and clarify that “publish” means, for example, in an official publication, such as an official journal, or on an official website”.¹³ In the case of electronic means, the SDR Disciplines contain a best endeavor commitment to encourage the consolidation of relevant information for service suppliers into a “single online portal”.¹⁴

Like GATS Article III, the SDR Disciplines require “prompt” publication of information. They further contain a flexible obligation to allow reasonable time between publication of the text of a law or regulation (related to authorization) and the date on which service suppliers must comply with it.¹⁵ Figure 1 provides a comparison

of publication-related GRPs covered by the GATS and the SDR Disciplines.

It is worth highlighting that, like the GATS, the SDR Disciplines do not contain an obligation with respect to the language of publication. In this light, it is worth noting that the TFA specifies that “whenever practicable” the information “shall be made available in one of the official languages of the WTO”.¹⁶ In addition, the increasingly important GRP related to the use of plain language, to ensure that the information made available is clear and easy to understand for the public, is not reflected in the SDR Disciplines (nor in the TFA).

PTA practice

Requirements related to transparency and publication are a standard feature of PTAs. Typically, these provisions mirror GATS Article III:1 and 2 (e.g. 2005 Singapore–Jordan FTA¹⁷). More recent agreements add best endeavor commitments to require the publication of such measures on the internet, and in the English language (e.g. 2022 RCEP¹⁸; 2021 ATISA¹⁹; 2022 India–Australia ECTA²⁰).

Only a few agreements contain more detailed provisions corresponding to the SDR Disciplines. For example, paragraph 8.6 of Chapter 15 of the 2020 USMCA²¹ reflects them, albeit without requiring consolidation

Figure 1: Publication-related GRPs in the GATS and the SDR Disciplines

GRPs	GATS	SDR disciplines
SCOPE OF THE PUBLICATION REQUIREMENT		
Publication of measures of general application pertaining to or affecting the operation of the GATS		
Publication of information necessary for service suppliers or persons seeking to supply a service to comply with the requirements and procedures for obtaining, maintaining, amending and renewing the required authorization		
TIME FRAME FOR PUBLICATION		
Prompt publication of measures at the latest by the time of entry into force		
Publication prior to the application or enforcement of measures (except in emergency situations)		
Provision of reasonable time between publication and the date on which compliance by service suppliers is required		
MEANS OF PUBLICATION		
Publication through physical means		
Publication through online means		
Consolidation of information in a single online portal		

Covered

Source: WTO/World Bank.

of the information in a single online portal. The 2011 Hong Kong, China–New Zealand CEPA²² contains a detailed Annex on domestic regulation disciplines. Similar to the SDR Disciplines, this agreement requires (albeit as a mandatory obligation) the publication of relevant measures of general application through printed or electronic means. It contains an illustrative list of information that covers the elements of SDR Disciplines. It goes further insofar as it requires that the relevant information in the illustrative list must be produced, whereas the SDR Disciplines only require that such information be made available where it exists.

Furthermore, the illustrative list in the 2011 Hong Kong, China–New Zealand CEPA appears to be even more comprehensive, requiring also that information on criteria, terms and conditions of licences is made available, and criteria and procedures for verification and assessment of qualifications, as well as information on exceptions and derogations changes to relevant measures.²³ Another notable example is the 2021 United States–Ecuador Protocol on Trade Rules and Transparency which contains a commitment on the use of plain language to ensure that regulations are clear, concise and easy for the public to understand.²⁴ Figure 2 provides an overview of emerging GRPs aspects in the area of publication of information.

Implementation at the domestic level

At the domestic level, it appears that the publication of laws and regulations is a common practice across the world and all income groups.²⁵ The WTO–World Bank STPD shows that, among the economies studied, 96.5 per cent make requirements and procedures related to authorization publicly available; 82.7 per cent provide information about fees; 73.7 per cent publicly set out time frames for decisions on authorization; 92.5 per cent publish appeal procedures; 88.1 per cent provide information about procedures for monitoring and enforcing compliance; and 86.9 per cent make contact information of enquiry points publicly available.

Overall, 77.5 per cent of the economies studied consolidate all information related to licensing and authorizations in a single online portal. Some jurisdictions formally mandate competent authorities to do so.²⁶ But even in the absence of a legal requirement, the publication of measures is nowadays an established practice – including through the internet – which reflects the importance attached to transparency of regulatory frameworks as a key GRP pillar.²⁷

Figure 2: Emerging GRPs aspects in the area of publication

Consolidation of information in one single online portal	Regular updating of information, with identification or removal of obsolete or expired information	Accessibility of past versions of information, including amendment history and version tracking
Option for alerts and notifications based on users' interests	Publication of information prior to publication or enforcement	Use of plain language to facilitate understanding
Availability of summaries or other documents to facilitate understanding of information	Availability of information in multiple languages, notably in English	Availability of information at no cost

Source: WTO/World Bank.

Typically, public notice includes a wide range of information on the measure. One notable example is the EU Services Directive which addresses the issue of publication and accessibility of information. Article 7 of the Directive requires that EU member states make information available through a single contact point, including with respect to (i) requirements concerning the procedures and formalities to be completed in order to access and exercise service activities; (ii) contact details of the competent authorities; (iii) the means of, and conditions for, accessing public registers and databases on providers and services; (iv) the means of redress which are generally available in the event of dispute between the competent authorities and the provider or the recipient, or between a provider and a recipient or between providers; (v) as well as the contact details of the associations or organizations, from which providers or recipients may obtain practical assistance.²⁸

At the EU member state level, Estonia, for example, provides a short summary of the proposed regulation, information on why the regulation is needed and what it intends to change, as well as when it is expected to enter into force.²⁹ In Lithuania, the information also includes an explanation of the expected positive and negative effects of the regulatory change.³⁰ In addition to all of these details, Moldova also provides the contact details of civil servants responsible for the measure.³¹

It is also interesting to observe that many jurisdictions have been introducing requirements to ensure that laws

and regulations are drafted in clear language.³² One case in point is Norway which has introduced two main instruments addressing the need for plain language, namely (i) the 2022 Language Act which contains a requirement for all public bodies to communicate in a clear and correct manner adapted to the target group, as well as (ii) a government's communication policy which sets out objectives for people to receive correct and clear information about their rights, duties, opportunities and the state's activities.³³

In conclusion, transparency is broadly recognized as a key GRP feature of well-functioning regulatory frameworks – leading to productivity growth and higher income levels. For this reason, transparency obligations find an anchor already in the GATS. More recent international trade instruments, such as the SDR Disciplines and services PTAs, contain more advanced commitments in this area. For example, they specify what type of information (e.g. authorization requirements and procedures) must be made publicly available, through what means (e.g. online), and in what format (e.g. using plain language and with supporting documents to facilitate understanding). At the domestic level, the importance of transparency is not underestimated; even when a legal requirement does not exist to publish laws and regulations (including in advanced draft forms), governments tend to do so voluntarily. This is key not just to promote the legitimacy of the institutional framework, but also to enable public engagement in the policy-making process and thereby achieving better regulatory outcomes.

ENDNOTES

1 Version tracking refers to a visible history of changes (with dates, who and which authority changed what, and redlines or change logs) so users can easily understand how a text evolved.

2 See, for example, EUR-Lex, the regulatory portal of the European Union (EU), <https://eur-lex.europa.eu>; Justice Laws Website (Canada), <https://laws-lois.justice.gc.ca>; Singapore Statutes Online, <https://sso.agc.gov.sg>.

3 Version control means that each iteration of a document receives a unique, time-stamped ID and is stored immutably, allowing users and automated tools to compare versions and roll back if needed.

4 OECD (2025).

5 GATS, Preamble.

6 GATS, Article III:1.

7 GATS, Article III:1.

8 WTO (2009), para. 7.971.

9 WTO (2006), para. 7.116.

10 See WTO (1997a), para 7.65; WTO (1997b), p. 21.

11 Delimatsis (2008), p. 99.

12 SDR Disciplines (WTO, 2021), para. 13.

13 SDR Disciplines (WTO, 2021), fn 12 to para. 13.

14 SDR Disciplines (WTO, 2021), fn 12 to para. 13.

15 SDR Disciplines (WTO, 2021), para. 19. For more information, please see also subsection 2.7 on “Stakeholder Engagement”.

16 TFA, Article 1.2.2.

17 Singapore–Jordan FTA (2005), Article 4.14.

18 RCEP (2022), Article 8.14.3.

19 ATISA (2021), Article 14.3.

20 India–Australia ECTA (2022), Article 8.13.3.

21 USMCA (2020).

22 Hong Kong, China–New Zealand CEPA (2011).

23 Hong Kong, China–New Zealand CEPA (2011), Chapter 13: Trade in Services, Article 9: Domestic Regulation; Annex III to Chapter 13: Disciplines on Domestic Regulation, paras. 9(c), (d), and (i).

24 United States–Ecuador Protocol on Trade Rules and Transparency (2021), Annex II: Good Regulatory Practices, Article 8: Use of Plain Language.

25 Johns and Saltane (2016).

26 See, for instance, Government of Ukraine, Law of Ukraine on Principles of State Regulatory Policy in the Sphere of Economic Activity, No. 1160-IV, adopted 11 September 2003, as amended, Articles 4, 5; European Union, Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (EU Services Directive), OJ L 376, 27 December 2006, Articles 7, 13; US Government, Administrative Procedure Act (APA), 5 U.S.C. §§ 552, 553; Government of New Zealand, Official Information Act 1982, as at 5 April 2025, Sections 4(a), 5; Government of Canada, Access to Information Act, R.S.C. 1985, c. A-1, current to 1 September 2025, last amended 1 June 2025, Section 2(1).

27 Johns and Saltane (2016).

28 European Union, Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (EU Services Directive), OJ L 376, 27 December 2006.

29 European Union, Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (EU Services Directive), OJ L 376, 27 December 2006.

30 European Union, Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (EU Services Directive), OJ L 376, 27 December 2006.

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32 European Union, Directive 2006/123/EC of the European Parliament and of the Council on Services in the Internal Market (EU Services Directive), OJ L 376, 27 December 2006.

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④ Single window



KEY INSIGHTS

- Single window mechanisms constitute a core area of GRP that typically serve two functions: (i) as information gateways to facilitate access to and dissemination of information; and/or (ii) as entry points enabling users to submit applications and request different services from the government.
- While the GATS does not contain an obligation for WTO members to establish single windows, the SDR Disciplines, similar to a number of recent PTAs, include commitments aimed at ensuring that applicants are not required to engage with more than one competent authority for each authorization. Similarly, they ensure that applications are consolidated in a single online portal – reflecting recent evolutions in digital technologies.
- The highly flexible nature of international commitments in this area reflects the intention of governments to maintain autonomy in implementing single window mechanisms, ensuring they align with their regulatory systems and resources.
- There is a clear trend towards the establishment of single windows in domestic practice, but scope, functions and features vary significantly – from sector-specific portals to comprehensive entry points for all government services (including services-related authorizations) and from information-only databases to portals supporting status-tracking, secure payments, e-signatures and multilingual interfaces.
- Various available indicators (e.g. UN E-Government Development Index (EGDI), World Bank GovTech Maturity Index (GTMI)) show broad portal availability but variable ability to manage and oversee the transaction process from initiation to completion – end-to-end transaction capability – and interoperability.

Key features

Factors that increase the costs for service suppliers include the accessibility of information related to authorization and the abundance of regulatory authorities involved in the procedures required. For instance, establishing a hospital may require licensing by the health ministry, approvals from the local authority for fire and operational safety, general business licences, compliance with taxation legislation and, where applicable, investment screening authorizations.

To reduce the resulting transaction costs for business, many governments have introduced so-called “single windows” or “one-stop shops”.¹ Today, these represent an important GRP area, offering an opportunity to streamline and integrate the delivery of public services, while improving coordination across and within government levels. By facilitating easier access to requirements and procedures, single windows contribute to enhancing competitiveness and promoting overall economic welfare.²

A single window is a portal which can generally serve two key purposes: (i) as an information gateway to facilitate access to and dissemination of information, including existing requirements and procedures; and/or (ii) as an entry point enabling users to submit applications and request different services from the government.³

Single windows can be either physical or online (Figure 1). A physical single window consists of a network of offices where citizens and businesses can receive guidance and complete various transactions with the administration.⁴ In a physical single window, different government agencies can be co-located to provide their respective services or, alternatively, a single office or official may be entrusted to handle all transactions with users comprehensively.⁵ In contrast, online single windows can take diverse forms and be adapted to the existing technological infrastructure as well as the specific regulatory and administrative characteristics of a jurisdiction.⁶ Compared to physical single windows, online systems include various other features, such as the use of electronic signatures, secure data exchange and coordination of responsibilities among agencies.⁷

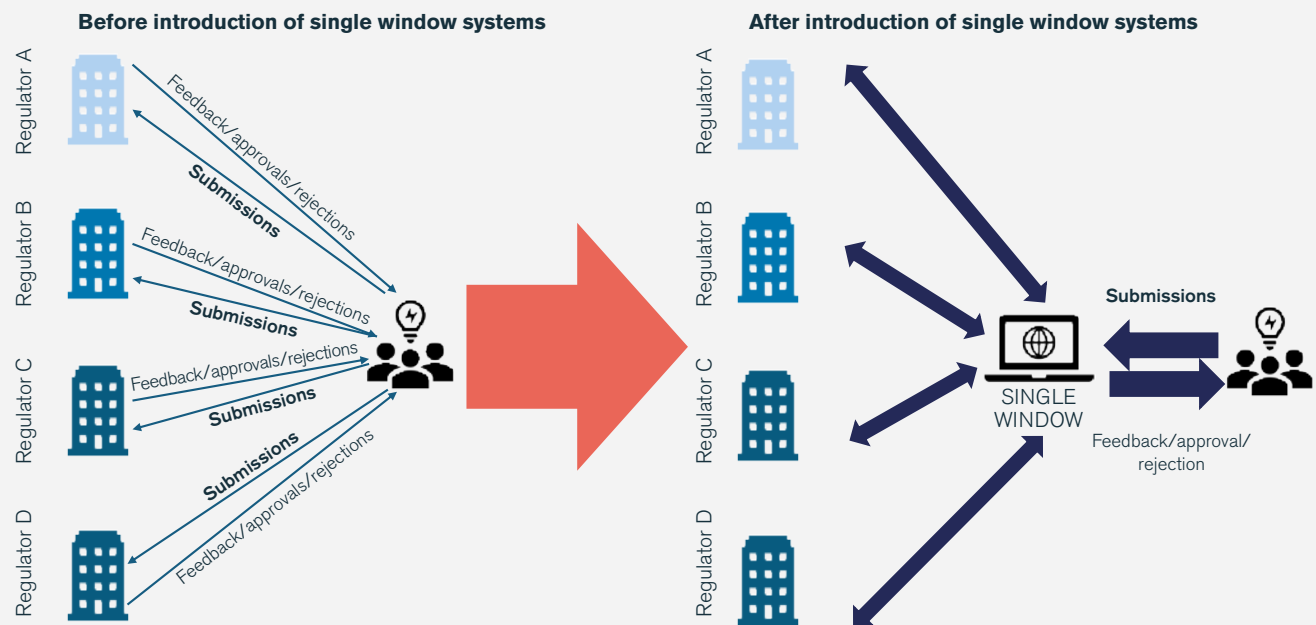
In terms of their scope, single window mechanisms can vary from general to specialized.⁸ A single window may operate economy wide and consolidate all business procedures into a unified portal. Alternatively, it may focus on a particular sector or set of procedures, such as a business start-up, financial services, or investment.

The design of single windows requires that governments undertake a comprehensive diagnostic mapping of existing requirements and procedures in relevant areas. Two overarching principles have been identified for the creation of single windows:

- i. **Single windows should form part of broader administrative simplification strategies:** While single windows constitute an important tool to improve service delivery, reduce transaction costs and enhance societal welfare, they are only one component of broader efforts to reduce administrative burdens and improve the regulatory landscape more broadly.⁹
- ii. **Single windows should be user-centered:** To ensure their effectiveness, single windows should be designed based on concrete “life events” in the business life cycle such as starting a business, obtaining permits, or expanding operations.¹⁰ In this light, gathering users’ inputs, including users’ feedback on the desirable features of the system’s functions, is critical.

There are several GRP principles which are relevant for the implementation of single windows, notably online. The OECD has developed guidance on best practices for single windows (Box 1). A single window may, for example, be leveraged to communicate to applicants information concerning their applications, including tracking the status, final decisions, missing documentation, or reasons for rejection. The single window can also be used to store documentation submitted by applicants to avoid requesting the same information from different agencies or again at a later stage. Additionally, the single window can also be used to contact the agencies responsible for the applications directly in case of questions or need for assistance. Other relevant aspects pertain to the possibility of paying applicable fees as well as the availability of the interface in multiple languages (including in English).

Figure 1: Traditional systems for submission of application v single windows



Source: WTO/World Bank.

Box 1: The 2020 OECD Best Practice Principles for One-Stop Shops for Citizens and Business

In 2020, the OECD *Best Practice Principles for Regulatory Policy: One-Stop Shops for Citizens and Business* was adopted; it sets out practical guidance in the following 10 areas:¹¹

- **Political commitment:** One-stop shops require continued support from the broader government as well as continuous communication between political and administrative levels.
- **Leadership:** Governments need to foster a culture of learning by doing.
- **Legal framework:** Establishing one-stop shops requires adjustments to the legal framework to ensure smooth collaboration among agencies and maximize benefits to users.
- **Cooperation and coordination:** One-stop shops rely on solid communication between entities involved in planning and those responsible for implementation.
- **Role clarity:** Designing one-stop shops with clearly defined goals is crucial for managing expectations (both of users and governments) and for assessing results.
- **Governance:** One-stop shops require governance structures in which all government agencies participate at executive level, with operative decisions made by a single leading entity.
- **Public consultation:** Engaging users (i.e. citizens and businesses) is essential to understanding concrete needs and concerns with respect to service delivery from government agencies and to designing adequate and practicable solutions.
- **Communication and technological considerations:** One-stop shops require communication methods that best serve users while also addressing potential accessibility and interoperability issues.
- **Human capital:** Continuous investment and training of the staff responsible for the day-to-day operations of one-stop shops is crucial.
- **Monitoring and evaluation:** Continued assessment of the efficacy of one-stop shops (including through quantitative and qualitative indicators as well as users' feedback) is instrumental in identifying areas for improvement and ensuring ongoing relevance.

GATS, SDR Disciplines and other relevant trade agreements

The obligation to establish a “single window”, notably online, does not appear in the GATS. However, over the past 10 to 20 years, and concurrently with the development of digital technologies and the internet, this practice has been developed substantially, and governments have started undertaking commitments in this area at the international level.

While not using the term “single window”, the SDR Disciplines contain a commitment as follows¹²:

Each Member shall, to the extent practicable, avoid requiring an applicant to approach more than one competent authority for each application for authorization. If a service is within the jurisdiction of multiple competent authorities, multiple applications for authorization may be required.¹³

The objective of this paragraph is to minimize the number of competent authorities that applicants need to approach when seeking authorization. However, it does not require authorities that are jointly responsible for granting authorizations under their shared jurisdiction, to collaborate for the purpose of submission of applications and to establish a single entry point. Furthermore, it should be noted that the SDR Disciplines allow WTO members to decide, based on resources and capacity, whether the single window should encompass the entire economy, a particular sector, or a regulatory area.

It is also worth noting that the scope of this commitment is limited to the submission of applications and does not refer specifically to the accessibility of information. With respect to the latter, the SDR Disciplines also contain an encouragement for WTO members to consolidate electronic publications into a single portal.¹⁴

The only other WTO covered agreement containing an obligation for a single window is the TFA, which has adopted a similar facilitation objective to the SDR Disciplines, but for goods trade. Recognizing the practical value of a single window, Article 10.4.1 of the TFA requires WTO members to establish or maintain a single window with a view to facilitating the expeditious movement of goods across borders.¹⁵ Similarly to the SDR Disciplines, the scope of the single window obligation under the TFA is limited to the submission of applications and does not address the publication of

information which is covered in Article 1.2 (Information available through the internet). Furthermore, the TFA requires that the single window is used to communicate final decisions on applications to applicants in a timely manner.¹⁶

It should also be noted that Article 10.4.2 of the TFA reflects an additional GRP principle, which may also be relevant for the establishment of single windows in the services context, although not reflected in the SDR Disciplines. This paragraph states that “where documentation and/or data requirements have already been received through the single window, the same documentation and/or data requirements shall not be requested” by regulatory authorities except in limited circumstances.

Finally, in the context of the TFA, WTO members are required to use information technology to support the single window.¹⁷ While the obligation is set out as “to the extent possible and practicable”, a preference is suggested for fully digitized single windows, rather than physical systems.

PTA practice

The obligation to establish single windows is still relatively rare in PTAs compared to obligations relating to transparency or legal certainty, and predictability of authorization procedures. In line with the SDR Disciplines, obligations relating to the establishment of single windows in services PTAs are mostly drafted in flexible language, which suggests a general hesitance to be fully bound in this area *vis-à-vis* other trading partners. Overall, it appears that governments have a preference to maintain significant discretion for the implementation of single windows at the domestic level.

Nevertheless, flexible obligations can still provide important guidance regarding the main GRP principles and the direction to follow to improve the effectiveness and efficiency of domestic authorization processes. For instance, the EU–Mexico Modernized Global Agreement¹⁸ and the 2020 USMCA¹⁹ mirror the SDR Disciplines by requiring adoption of single windows “to the extent practicable”. The 2020 Hong Kong, China–Australia FTA, however, merely requires the parties to endeavour to avoid requiring an applicant to approach more than one competent authority for each application for authorization.²⁰ One exception is the 2020 Peru–Australia FTA, which omits the flexibility language (“to the extent practicable”) and thus contains a mandatory obligation.²¹

Implementation at the domestic level

While single windows are certainly an important GRP dimension across the economy, their establishment entails significant investment of financial, human, institutional and infrastructure resources, at least in the initial establishment phase (for more information on technical assistance projects on the establishment of single windows, see Box 2). Nevertheless, various indicators point to the fact that, today, single windows systems have become increasingly more widespread at the domestic level.

One example of an online single window is India's National Single Window System (NSWS) – a digital platform that guides the identification and application for approvals according to different requirements applicable across India, including at the sub-national level. Introduced in September 2021, the NSWS serves as a one-stop shop for businesses, integrating services provided by various ministries, departments and state governments.²² The project was part of a broader effort to streamline compliance processes in India, under which the Department for Promotion of Industry and Internal Trade eliminated more than 22,000 compliances at both federal and state levels.²³

The NSWS goes well beyond the area of services and offers several key functionalities that benefit business operators more broadly. It provides a centralized "Know Your Approvals" feature, which helps users, through a questionnaire, to identify necessary authorizations. The system also includes a dashboard for managing approvals, allowing users to track their application status, and upload and store documents. These features significantly enhance transparency and reduce the time and effort required to obtain approvals by eliminating the need for multiple applications across various portals or physical visits to government offices.²⁴ Additionally, the NSWS integrates the possibility of asking direct questions to a technical team by connecting through video conferencing tools.

The implementation of the NSWS has been phased over the years. At its launch in 2021, it covered 18 central government departments and nine states. The platform has since expanded significantly and now hosts applications for approvals from 32 central departments and 29 state governments.²⁵ While detailed data on the number of applications received and approvals granted are limited, the NSWS website reports some significant statistics, with over 67,000 approvals being granted through the system.²⁶ The system's continued expansion and adoption across

states and union territories is expected to further enhance its effectiveness in facilitating business operations and attracting investment.

Another interesting case is Singapore.²⁷ In the late 1990s, Singapore recognized the need to streamline its business registration and licensing processes. Responding to feedback from the business community, the government initiated the Online Business Licensing Service (OBLS) project to create a one-stop solution for business registration and licensing, simplifying what was previously a complex, multi-agency process. The project was executed in three stages: conceptualization, policy review and business process re-engineering, and automation. Initially, the agency task force bundled licences based on sectors, prioritizing industries where licensing was more complex. The second step involved reviewing policies and processes for each licence. Among the 156 licences undergoing the initial comprehensive review, several opportunities for streamlining were identified. Some licences were deemed redundant and eliminated, while others were combined where overlap or duplication was found. In certain cases, licences were converted into less onerous instruments (e.g. notification instead of approval).

The OBLS was a fully-fledged one-stop shop online portal which allowed end-users to customize their searches based on their specific business activities. When the end user completed the application, the system would automatically route the request to the relevant government agencies for processing. Apart from consolidating all the information in one portal, the OBLS application also enabled businesses to track the status of their applications and receive automatic messages or email notifications as soon as their applications were processed. The OBLS also enabled successful applicants to pay fees for all required licences in a single consolidated online payment.

The success of the OBLS was evident early on, with notable improvements for both the private sector and the government. The average approval processing time was reduced by 65 per cent, with some cases showing even more dramatic improvements. A cost-benefit analysis conducted after 18 months of operation revealed that businesses benefited from an estimated cost savings of US\$ 27 million due to the OBLS project. Following this success, Singapore further modernized its business licensing system by introducing the GoBusiness portal, which offered additional features and integrated even more approvals for starting, running and growing a business.²⁸

Box 2: UNCTAD digital government programme

United Nations Trade and Development (UNCTAD) has established a programme to support governments in leveraging technology to deliver public services quickly and successfully, without requiring IT assistance (i.e. through a no-code platform that allows civil servants to configure without the need for advanced programming skills). Among others, UNCTAD supports the establishment of digital single windows which are based on its eRegistrations system²⁹ – a user-centric solution that digitizes administrative procedures.

The system can be adapted to various processes, such as company registration, construction permits, licences and authorizations. It can handle operations involving only one government agency (such as registering at the business registry) as well as simultaneous multi-agency operations based on a single form (such as registering a company at the tax office, with the municipal council, with social security, at the labour department and also at the business registry). The eRegistrations system ensures interoperability between agencies and offers access to its centralized database where agencies can automatically extract the required information. Additionally, users' data are stored on secure servers, with protected connections and support for electronic signatures, to guarantee data integrity and confidentiality.

The programme also includes digital information and trade portals, digital fiscal and social security services, digital residency and digital documents, plus advisory and training to advance implementation.

For an example of an UNCTAD project to establish a digital single window for starting a business in Benin, see the information sheet below:

CASE STUDY Starting a business in Benin	
BEFORE Before the Benin digital single window was installed	TODAY Since the instalment of Benin's digital single window (monentreprise.bj)
Queue at the APIEx development agency, fill in 5 paper forms and hand in up to 12 documents, including prior notarized copies.	✓ Use any mobile phone to fill in an online form and scan 3 to 5 documents.
Pay fee in cash after queuing at the bank.	✓ Use the same mobile to pay the fee with mobile money or credit card.
Collect certificates 5 days later from APIEx.	✓ Receive certificates 2 hours later by email (fastest in the world).
28,800 companies registered in 2019.	✓ Company registration doubled in the two years following installation, one third by women, half by under 30s, half from outside the capital city. Project costs covered by additional fees.

Source: UNCTAD website.

For more information: [Digital Government World - Digital Single Windows](#)

Notably, the GoBusiness portal also offers personalized help and recommendations for business with “e-advisers” to find information about the licences required.

Mexico is an example of a jurisdiction that has introduced multiple single windows for different purposes. As part of the 2007-2012 National Development Plan, the *Ventanilla Única de Comercio Exterior Mexicana* (Mexican Foreign Trade Single Window) (VUCEM) was established in 2011 with a specific focus on foreign trade. In partnership with a number of ministries and agencies, the VUCEM digitizes customs and non-tariff measures to simplify imports and exports of goods and services and allows users to electronically submit information to comply with applicable regulations.³⁰ Subsequently, in 2016, Mexico also introduced the *Ventanilla Única Nacional* (National Single Window) (VUN) which serves as a platform for communication between government agencies and enterprises, allowing citizens to find and request government services in one place.³¹

Most recently, in 2023, Mexico created the *Ventanilla Única para Inversionistas* (One-Stop Shop for Investors) (VUI) to attract foreign and national investment by providing a simplified and centralized system.³² The VUI provides interested businesses with access to relevant information, such as contacts of competent authorities, requirements and costs, response times, and other relevant information, to invest in Mexico.

In conclusion, single windows have become a core GRP to improve the ease of doing business and reduce

compliance costs for service suppliers. However, single windows are an enabler, not a panacea. When the GATS was concluded in the 1990s, it did not include a requirement to establish single window mechanisms, as business activities mainly took place on paper and through physical interactions. In contrast, the more recent SDR Disciplines (and several services PTAs) encourage minimizing the number of competent authorities involved in authorization processes and consolidating information within a single online portal. The widespread use of flexible language reflects the intention of governments to preserve autonomy for implementation in accordance with legal systems and available resources. Domestic practice indeed varies by scope, function and depth – from sector-specific portals to economy-wide entry points that combine information and electronic submission. Various international benchmarks (e.g. UN EGDI and World Bank GTMI) suggest widespread portal availability but uneven end-to-end digital processing and interoperability. Accordingly, effective single windows are user-centred and integrated within broader administrative simplification strategies: they map procedures, eliminate duplications, enable secure identity/e-signatures and payments, avoid repeat requests for data already provided, and offer status-tracking, clear reasons for rejection and channels for assistance. Framed this way, single windows work *in tandem* with related GRPs – publication, electronic submission, enquiry points and review of decisions – to produce measurable improvements in authorization performance.

ENDNOTES

- 1 The terms are considered interchangeable. In this chapter, we will refer to the term single window for consistency purposes. OECD (2020), p. 10.
- 2 OECD (2020), p. 12.
- 3 OECD (2020), p. 12.
- 4 OECD (2020), p. 12.
- 5 OECD (2020), p. 12.
- 6 OECD (2020), p. 13.
- 7 OECD (2020), p. 27.
- 8 OECD (2020), p. 13.
- 9 OECD (2020), pp. 16-17.
- 10 OECD (2020), pp. 16-17.
- 11 OECD (2020), pp. 18-19.
- 12 SDR Disciplines (WTO, 2021), para. 4.
- 13 SDR Disciplines (WTO, 2021), para. 4.
- 14 SDR Disciplines (WTO, 2021), fn 12 to para. 13. See also subsection 2.3 on “Online publication of information”.
- 15 TFA, Article 10.4.1: “Members shall endeavor to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies.” For further information, see ITC (2020).
- 16 TFA, Article 10.4.1.
- 17 TFA, Article 10.4.4.
- 18 EU–Mexico Modernized Global Agreement, Title on Investment and Trade in Services, Chapter V: Regulatory Framework, Section A: Domestic Regulation (as published on its political conclusion in April 2018 and updated in April 2020 and January 2025), Article 5.2, https://policy.trade.ec.europa.eu/eu/eu-trade-relationships-country-and-region/countries-and-regions/mexico/eu-mexico-agreement/text-agreement_en.
- 19 USMCA (2020), Chapter 15: Cross-border Trade in Services, Article 15.8: Development and Administration of Measures.
- 20 Hong Kong, China–Australia FTA (2020), Chapter 7: Cross-border Trade in Services, Article 7.8: Domestic Regulation.
- 21 Peru–Australia FTA (2020), Article 9.8.4. It should be noted that this obligation does not apply to sectors or measures listed as non-conforming measures or reserved sectors, similar to the SDR Disciplines, which only apply to sectors included in members’ GATS schedule.
- 22 Government of India, National Single Window System, “About NSWS”, <https://www.nsws.gov.in/about-us>.
- 23 Bhardwaj (2021).
- 24 Government of India, “National Single Window System”, <https://www.nsws.gov.in>.
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- 26 Government of India, “National Single Window System”, <https://www.nsws.gov.in>.
- 27 Molfetas (2019).
- 28 Government of Singapore, GoBusiness portal, “Government e-services for your business”, <https://www.gobusiness.gov.sg/>.
- 29 UNCTAD, “UNCTAD digital government platform”, <https://www.eregistrations.org/>.
- 30 Government of Mexico, “Ventanilla Única de Comercio Exterior Mexicana (VUCEM)”, <https://www.ventanillaunica.gob.mx/vucem/index.html>.
- 31 Government of Mexico, “Ventanilla Única Nacional (VUN)”, <https://www.gob.mx/gobiernoslocales?tab=VUN>.
- 32 Government of Mexico, “Ventanilla Única para Inversionistas (VUI)”, <https://www.inversiones.gob.mx/ventanilla>.

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⑤ Authorization fees



KEY INSIGHTS

- Various GRP principles are relevant for the determination and levying of fees for services authorizations. The aim is to ensure that these fees do not present unnecessary obstacles to market entry, and contribute to a fair, predictable and accessible regulatory environment for obtaining permission to supply services.
- While the GATS does not address the issue, the SDR Disciplines – like many recent services PTAs – require that authorization fees be “reasonable, transparent, based on authority set out in a measure, and do not in themselves restrict the supply of the relevant service”.
- At the domestic level, fees vary significantly by sector and authorization type, and various common GRP aspects can be observed across sectors. These include the transparency of fees, referring to whether amounts are clearly published, including with an indication of their legal basis, their rationale and modifications over time (ideally online); their reasonableness; and ensuring that fees reflect actual regulatory costs rather than acting as *de facto* market barriers. The availability of electronic payment methods is also significant.

Key features

Fees and charges levied in connection with the supply of services impact the cost of doing business and may affect how easily new or smaller firms can enter, compete, and exit without facing undue barriers. While there is significant variation at the domestic level across sectors, a number of GRP principles guide the determination and levying of fees for services authorizations.¹

Firstly, it is a recognized element of GRP that authorization fees be transparent. Publication of fees, or their methods for calculation – alongside an explanation of their legal basis – provide service suppliers with greater predictability in their expenses, which is crucial for planning and cost forecasting of business operations. Particularly important for new suppliers or small enterprises, high fees and/or lack of clarity around their amount can constitute a barrier to entry, thereby reducing competition and limiting the diversity of the services on offer.

Another GRP principle relates to how reasonable authorization fees are, particularly in relation to the cost of processing applications or other regulatory activities. In this respect, the objective is to ensure that suppliers are paying for the actual administrative service rendered. This principle of proportionality helps prevent fees from being set at excessively high levels that could restrict market entry, while recognizing that administrations retain the right to levy taxes on service suppliers.

Furthermore, with the increasing reliance on electronic tools for authorization procedures, the possibility to pay applicable fees electronically is, nowadays, also progressively emerging as a GRP principle.

GATS, SDR Disciplines and other relevant trade agreements

The GATS does not specifically include an obligation on fees in relation to authorization for service suppliers. Nevertheless, Article VI:1 requires that, in sectors with commitments, “measures of general application are administered in a reasonable, objective, and impartial manner”. While this obligation influences how fees are administered, it is questionable whether the determination of fees also falls within its scope.

The SDR Disciplines, on the other hand, contain substantive obligations regarding authorization fees for service suppliers:²

Each Member shall ensure that the authorization fee^{FN} charged by its competent authorities are reasonable, transparent, based on authority set out in a measure, and do not in themselves restrict the supply of the relevant service.

^{FN}: Authorization fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.

It should be noted that the SDR Disciplines do not positively define the phrase “authorization fee”. Rather, the footnote to this paragraph excludes certain fees from the scope of application of this obligation, namely, fees linked to the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, as well as mandated contributions to universal service provision.

Moreover, the SDR Disciplines do not distinguish between an authorization fee and fees charged for processing of applications. Authorization fees, as they may include application fees, have a broader scope: application fees include fees for the costs of issuing and maintaining the authorization, as well as any ongoing monitoring or compliance activities required by the regulatory authority, such as supervision, inspections, or annual compliance reviews.

Thus, the scope of authorization fees does not exclude fees that are paid after an application for authorization has been processed and granted, when those fees serve the purpose of paying for costs incurred in the context of maintaining or renewing such authorization. Additionally, based on the broad definition of authorization in the SDR Disciplines, authorization fees would also include fees that are charged to fulfil certain preconditions to obtain authorization, e.g. fees charged by professional associations to which membership is a continuing requisite for maintaining a license to exercise a profession in the country.

One key obligation set out in the SDR Disciplines relates to the transparency of authorization fees. Transparent fees bring consistency and predictability, as service suppliers need to know in advance what they

will be charged, so that the fees can be factored into business plans without unexpected changes or hidden increases or charges.

In light of this, there are various transparency-related aspects that come into play, such as ensuring that the process for setting and applying fees is clear, accessible and understandable for all stakeholders, including service providers, the general public and other regulatory authorities; providing a detailed explanation of how authorization fees are calculated, including what specific costs they cover; disseminating to the public information about the rationale behind the fee structure; and communicating any changes to fee structures, including in advance, with a clear explanation for the changes.

With respect to transparency, the SDR Disciplines also generally require that information regarding fees is published promptly, or otherwise made publicly available in writing.³ In this context, it is interesting to note that, with respect to goods trade, Article 6.1 of the TFA goes further and specifies that: “this information shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made.” It also provides that “an adequate time period shall be accorded between the publication of new or amended fees and charges and their entry into force, except in urgent circumstances. Such fees and charges shall not be applied until information on them has been published.”⁴ Last but not least, Article 6.1 requires that there is a periodic review of fees and charges, with a view to reducing their number and diversity.⁵

Furthermore, the SDR Disciplines require authorization fees to be “reasonable”. However, it is noteworthy that the reasonability of fees is not benchmarked against costs. Indeed, the SDR Disciplines do not refer to fees being “limited in amount to the approximate cost of services rendered”, as in the corresponding provision of Article VIII:1(a) GATT and Article 3.2 of the TFA. In WTO dispute settlement, the term “reasonable” that appears in other provisions of the agreements has been understood to refer to notions such as “in accordance with reason”, “not irrational or absurd”, “proportionate”, “having sound judgement”, “sensible”, “not asking for too much”, “within the limits of reason, not greatly less or more than might be thought likely or appropriate”, “articulate”,⁶ and not ignoring obvious facts and standard practice.⁷

The use of the reasonability requirement in the SDR Disciplines might be read as allowing for more discretion in fee-setting and providing room for regulatory authorities to depart from a strict linkage to cost, as long as fees remain fair and not excessive. Reasonable fees could also provide coverage for broader cost considerations, such as indirect costs or costs related to future improvements in regulatory oversight.

Another requirement set out in the SDR Disciplines is that fees be “based on authority set out in a measure”⁸; this obligation aims to guarantee that fees have a clearly defined regulatory foundation. It requires a formal specification that the competent authority has the right to levy authorization fees and should ideally also set out the conditions or criteria under which such fees are imposed. The requirement ensures that authorization fees are established through a legitimate process, are consistent with the legal framework, and are therefore subject to review or oversight.

The SDR Disciplines also stipulate that the fees must not in themselves restrict the supply of the relevant service. In a similar vein, it should be highlighted that the SDR Disciplines require that authorization procedures “do not in themselves unjustifiably prevent the fulfilment of requirements”.⁹ The concept that procedures may “in themselves” restrict the supply of a service is already embedded in GATS Article VI:4 (c). The latter sets out that the disciplines on domestic regulation to be developed by WTO members shall ensure, *inter alia*, that “[...] licensing procedures, [be] not in themselves a restriction on the supply of the service”.

In the specific context of fees, such a requirement seeks to ensure that fees do not act as *de facto* market access barriers. This implies that fees should not be excessively high, or fee collection methods overly cumbersome, so that they discourage service suppliers from entering the market or make it financially burdensome for existing suppliers to continue providing their services. In practice, it can be argued that authorization fees that are “reasonable” typically also meet the requirement that they do not in themselves restrict the supply of the relevant service.

It is worth noting that, in the case of financial services, the SDR Disciplines address the matter of authorization fees differently. The provision contained in the Alternative SDR Disciplines differs from the horizontal obligation outlined above and provides that:

Each Member shall ensure that its competent authorities, with respect to authorization fees they charge, provide applicants with a schedule of fees or information on how fee amounts are determined.¹⁰

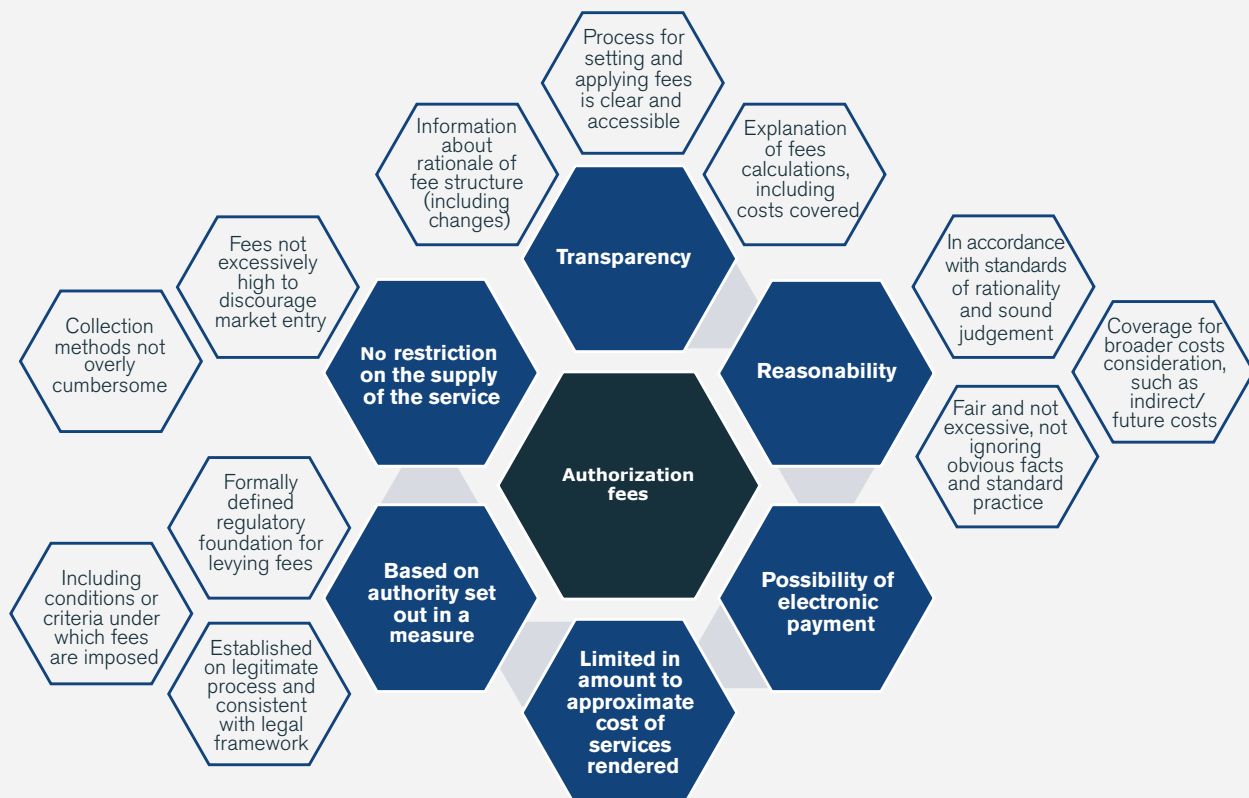
For financial services, therefore, the obligation is limited to a very specific transparency requirement, namely the provision of fee schedules or information of how fees are determined. This type of milder obligation aims to preserve even greater flexibility for financial regulators in the process of determining fees.

The SDR Disciplines do not require competent authorities to provide applicants with the possibility of paying authorization fees electronically. In contrast, such an obligation appears, albeit as a best endeavour commitment, in Article 7.2 of the TFA which says that “each Member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees, and charges collected by customs incurred upon importation and exportation.”¹¹ Figure 1 provides an overview of the various GRPs in the area of authorization fees.

PTA practice

The majority of PTAs also contain obligations with regard to authorization fees.¹² In contrast to the SDR Disciplines, several of these agreements explicitly limit the obligation of authorization fees to the application stage only, by providing that the fees at issue are those that are “charged for the completion of relevant application procedures” (for example, Article 8.15.7 of 2022 RCEP) or are those “which the applicants may incur from their application” (for example, Article 8.31.2 of 2019 EU–Japan EPA). These agreements frequently replicate the key elements of the SDR Disciplines, meaning that fees are to be reasonable, transparent and do not restrict in themselves the supply of the relevant service.¹³ They also mirror the SDR Disciplines in stipulating that authorization fees “do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision”.¹⁴

Figure 1: GRPs in the area of authorization fees



Some PTAs, however, reflect a more closely cost-oriented focus. For example, the 2017 EU–Canada CETA provides that “an authorization fee that an applicant may incur in relation to its application for an authorization shall be reasonable and commensurate with the costs incurred.”¹⁵ It is also seen, for example, in the case of the 2016 EU–Georgia Association Agreement (Article 95), the 2014 Switzerland–China FTA (Annex VI, Article 2) and the 2011 Hong Kong, China–New Zealand CEPA (Annex III to Chapter 13).

With respect to transparency, several PTAs contain specific provisions requiring the publication of authorization fees, such as the 2023 UK–Iceland, Liechtenstein and Norway FTA, the 2021 EU–UK TCA, the 2020 PACER Plus, and the 2020 USMCA.¹⁶

It is also worth noting that most PTAs maintain the same obligations on authorization fees across all services sectors, i.e. also including financial services. This means that even those agreements which have separate chapters on financial services (for example, 2017 EU–Canada CETA, 2022 RCEP, 2019 EU–Japan EPA) do not contain a different obligation for fees in this area. One exception is the 2020 USMCA “Financial Services”, whose Article 17:13:7(k) is in line with the obligation contained in the Alternative SDR Disciplines: “financial regulatory authorities provide applicants with a schedule of fees or information on how fee amounts are calculated”. Additionally, the provision sets out the additional safeguard that parties are not to “use the fees as a means of avoiding the Party’s commitments or obligations under [the Financial Services] Chapter”.

Implementation at the domestic level

At the domestic level, governments regulate the issue of fees related to authorization in various ways, depending on the specific characteristics of each sector. An analysis of WTO–World Bank STPD data shows significant diversity in how authorization fees are regulated in terms of amount and structure, reflecting differences in regulatory objectives in different sectors and the intensity of oversight required. Nevertheless, there are various GRP aspects that are common in guiding the determination and levying of fees across sectors. These include, for example, ensuring that fees are transparent, proportionate to regulatory effort and non-discriminatory, that information on fee schedules is published, and that periodic reviews of fee amounts are carried out, including in consultation with stakeholders.

As an example, financial services often involve higher and more complex fee structures due to the sector’s systemic importance, requiring intensive supervision, risk mitigation and prudential oversight. Authorization fees for locally established suppliers typically include fees to cover administrative review costs and license issuance fees payable upon approval, which may vary based on the scope of financial activities. Annual supervision fees may also apply and are calculated either as a flat rate or based on institutional size or risk profile.

A transparent and reason-based approach to regulating authorization fees is exemplified by New Zealand’s Financial Markets Conduct (Fees) Regulations of 2014.¹⁷ In New Zealand, a financial institution license is required for any registered bank, licensed insurer, or licensed non-bank deposit taker in the business of providing one or more relevant financial service, if that service is received by a consumer in New Zealand.¹⁸ The licensing fees are calculated on a cost-recovery basis as the charges are directly linked to the estimated time and resources required by the regulator to assess each application.

In 2024, the basic application fee for a financial institution licence was NZD 1,024.93¹⁹ based on 5.75 hours of estimated time to assess a standard application.²⁰ The fee for each authorized body included in the licence was NZD 614.95²¹ based on an estimated assessment time of 3.45 hours.²² If the assessment time exceeds 6.75 hours, the Financial Markets Authority (FMA) is authorized to charge an additional hourly fee of NZD 178.25, or *pro rata per part-hour*.²³ Furthermore, applications to vary licence conditions are subject to a base fee of NZD 115, plus the same hourly rate of NZD 178.25.²⁴ These fees are clearly outlined on the FMA’s official website,²⁵ and applicants are informed in advance of any additional charges, along with the reasons for those charges.²⁶ License fees²⁷ can be paid online by credit card, debit card, or real time debit at the time of application submission via the FMA website.²⁸

Insofar as professional services are concerned, fees are typically generally administrative in nature and linked to discrete steps in the qualification/authorization process: (i) assessing foreign qualification and recognition, (ii) undertaking examinations and any required bridging or practical training, (iii) admission/licensing/registration, and (iv) ongoing annual fees to maintain the right to practice and ensuring compliance with ethical standards. Such charges are typically framed as cost-oriented,

funding credential checks, assessment delivery, admission processing and regulatory supervision, rather than serving as revenue-raising instruments.

In the specific case of legal services, authorization fees for foreign professionals typically include charges for recognition of foreign qualifications, professional licensing or bar registration fees, as well as fees for local examinations and mandatory training. Additionally, annual fees may also be required for maintaining active licensure. For example, both in England and Wales as well as in Singapore, the authorization pathway for foreign-trained lawyers follows the same basic pattern: (i) assessment/exam fees (Solicitors Qualifying Examination, or SQE, in England and Wales; Part A in Singapore) to cover the delivery of national assessments; (ii) an admission/registration fee payable on being admitted; and (iii) an annual practising-certificate fee to fund ongoing regulation.²⁹

These fees are published online, payable electronically and are framed as cost-oriented administrative fees rather than revenue-raising instruments. Exam fees fund assessment delivery; admission fees cover processing; and practice fees are set to recover the regulator's approved costs (including mandated levies), rather than to generate surplus income.³⁰ In Singapore, the practising-certificate fee is prescribed under the legal framework and supports regulatory and professional functions.

Overall, the structure splits non-refundable processing/assessment charges from post-grant and ongoing fees, aligning payment points with the underlying regulatory costs. In addition to fees related to the individual qualification process, competent authorities in many jurisdictions also levy company-level authorizations and levies. Looking at other professional services, in auditing, audit-firm registration and inspection fees are widespread, while in many jurisdictions, engineering and architecture firms require certificates of authorization.

When it comes to telecommunication services, common licensing objectives include regulating the provision of an essential public service, expanding service networks, establishing a level playing field for competition, supporting consumer protection, generating government revenues, and ensuring the efficient allocation of radio spectrum (i.e. frequencies for various forms of communication such as radio and television) in the public interest.³¹ Correspondingly, fee frameworks in this sector usually comprise two

elements: (i) licence/authorization fees, which are typically cost-recovery (covering regulatory processing and compliance oversight); and (ii) spectrum-related charges, which include one-off spectrum assignment payments (e.g. auction receipts where mobile operators bid for frequency blocks and the highest bidders pay an upfront price to secure usage rights, or administered incentive pricing where regulator sets a fee that reflects the economic value of the spectrum to encourage efficient use, and which, in practice, often generate substantial public revenues) and recurring spectrum management/usage fees, aimed at covering the costs of ongoing spectrum administration and encouraging efficient use.

Framed this way, the mix of licence fees and spectrum charges is a means of achieving the policy objectives above, with cost-recovery applying to regulatory and spectrum-management activities, and assignment payments reflecting the value and efficient use of the spectrum. Authorization fees to establish in the local market typically include payments to the competent authority for the right to operate and offer services, administrative charges to cover the regulator costs associated with managing and supervising use of radio spectrum, and administrative charges to compensate the authority's costs for overseeing other regulatory functions, such as licensing and ensuring compliance with license terms.

The International Telecommunication Union (ITU) considers a best practice to distinguish between different types of fees to help improve transparency, cost-based structure, and efficiency.³² Fees should not impose unnecessary burdens on the sector and should be proportionate to the operational size of the service provider.³³ Furthermore, spectrum fees should be applied on an equitable basis and, ideally, be accompanied by published fee schedules developed in consultation with stakeholders.³⁴

Singapore exemplifies certain GRP aspects in this area. Administered by the Infocomm Media Development Authority (IMDA), Singapore's licensing framework distinguishes between service-based operators (SBOs) and facilities-based operators (FBOs) and applies differentiated and proportionate fees. Foreign and domestic investors seeking to provide telecom services without deploying infrastructure can obtain an SBO (class) licence for a modest one-time application fee of SGD 200.³⁵ For FBOs, which deploy and operate their own telecom infrastructure, Singapore employs a tiered

annual fee model based on the operator's annual gross turnover (AGTO), with fees starting at SGD 80,000 and scaling up to 1 per cent of AGTO for larger operators.³⁶

In addition to licensing fees, the IMDA adopts a cost-recovery approach to spectrum fees. According to IMDA's *Spectrum Management Handbook*, spectrum fees include a one-time application and processing fee, which covers the cost of evaluating the suitability of the assigned frequency, and an annual frequency management fee, which recovers the cost of ongoing regulatory oversight to safeguard frequency use.³⁷ In terms of value, the spectrum application and processing fee is SGD 100 per frequency for commonly assigned frequencies used temporarily or occasionally, and SGD 300 per frequency for all other types, including satellite downlink frequencies.³⁸

An annual frequency management fee is determined based on bandwidth and service type, with clearly defined rates; for instance, SGD 400 for small-band private mobile use³⁹ and up to SGD 29,800 for 10–20 MHz of spectrum.⁴⁰ For high-demand spectrum bands, such as those used for 5G services, Singapore employs transparent and market-based auctions – competitive bidding with published rules and reserve prices so that bidders reveal how much they value

each frequency block, and licenses go to the highest-valuing users.⁴¹ All of these prescribed fees and auction details are published online on the IMDA's website.⁴²

In conclusion, fees are a critical component of authorization processes, and how they are determined and communicated to the public strongly influences the accessibility and predictability of services markets. Domestic fee structures necessarily vary depending on sector-specific regulatory needs and the type of authorization required. Nevertheless, several GRP principles are broadly recognized for the determination and levying of authorization fees – which are also reflected in the SDR Disciplines and various recent services PTAs. These include transparency of fees, namely whether fee amounts are clearly published, including with a legal basis, their rationale and notice of changes (ideally online); their reasonableness and cost-oriented nature, ensuring that fees reflect actual regulatory costs rather than acting as *de facto* market barriers; and the availability of electronic payment methods. Together, these practices help ensure that authorization fees do not become unnecessary obstacles to market entry, and contribute to a fair, predictable and accessible regulatory environment for obtaining permission to supply services.

ENDNOTES

1 For the purpose of this Handbook, and to reflect the scope of authorization fees addressed in the SDR Disciplines, “authorization fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision”.

2 SDR Disciplines (WTO, 2021), para. 9. Note that in the Alternative SDR Disciplines, the authorization fee obligation is different, and will be discussed further below.

3 SDR Disciplines (WTO, 2021), para. 13 (c).

4 TFA, Article 6.1.

5 TFA, Article 6.1.

6 WTO (2005), para. 7.385.

7 WTO (2005), paras. 7.378-388; WTO (2001), paras. 11.67-68.

8 SDR Disciplines (WTO, 2021), para. 9.

9 SDR Disciplines (WTO, 2021), para. 22(c).

10 Alternative SDR Disciplines (WTO, 2021), para. 8. Consistent with the horizontal SDR Disciplines, the footnote adds that “[a]uthorization fees do not include fees for the use of natural resources, payments for auction, tendering or other non-discriminatory means of awarding concessions, or mandated contributions to universal service provision.”

11 It should be noted that an equivalent provision has recently been added to the WTO Agreement on Investment Facilitation for Development (IFD) (Article 18.2), official document INF/IFD/W/55, for application on foreign direct investment in all economic sectors, including services sectors. However, discussions on the incorporation of the IFD Agreement in the WTO rulebook are still ongoing among WTO members and, therefore, the Agreement is not yet in force.

12 CPTPP (2018), Article 10.8.5; USMCA (2020), Article 15.8.4.

13 See, for example, RCEP (2022), Article 8.15; Pacific Alliance Additional Protocol (2016), Article 9.9(4); EU-Japan EPA (2019), Article 8.31.2; UK-Japan CEPA (2021), Article 8.31.2; Indonesia-Republic of Korea CEPA, Article 6.10.3(a).

14 See, for example, UK-Australia FTA (2023), fn 19 to Article 8.8.8; UK-New Zealand FTA (2023), fn 8 to Article 10.9; UK-Iceland, Liechtenstein and Norway FTA (2023), fn 38 to Article 3.36; EU-UK TCA (2021), Article 151.3; ATISA (2021), fn 9 to Article 16.10; RCEP (2022), Article 8.15.7(a); USMCA (2020), Article 15.8.4; and CPTPP (2018), fn 7 to Article 10.8.5.

15 EU-Canada CETA (2017), Article 12.3.8.

16 UK-Iceland, Liechtenstein and Norway FTA (2023), Art. 3.38: Publication and Information Available; EU-UK TCA (2021), Article 153: Publication and information available; PACER Plus (2020), Chapter 7, Art. 17.3.c; USMCA (2020), Article 15.8.6(a).

17 Government of New Zealand, *Financial Markets Conduct (Fees) Regulations 2014*, LI 2014/110 (version as at 1 January 2024), <https://www.legislation.govt.nz/regulation/public/2014/0110/latest/whole.html#DLM6001542>.

18 Government of New Zealand, Financial Markets Authority (FMA), “Financial Institution Licensing” (22 January 2024), <https://www.fma.govt.nz/business/services/financial-institutions/financial-institution-licensing/>.

19 Government of New Zealand, *Financial Markets Conduct (Fees) Regulations 2014*, LI 2014/110 (version as at 1 January 2024), Schedule 1, Part 1.1, <https://www.legislation.govt.nz/regulation/public/2014/0110/latest/whole.html#DLM6001542>.

20 Government of New Zealand, Financial Markets Authority (FMA), *Financial Institution Licence Guide*, Version 3 (2025), p. 6, <https://www.fma.govt.nz/assets/Licensing-guides/Financial-institution-licence-guide.pdf>.

21 Government of New Zealand, *Financial Markets Conduct (Fees) Regulations 2014*, LI 2014/110 (version as at 1 January 2024), Schedule 1, Part 1.1, <https://www.legislation.govt.nz/regulation/public/2014/0110/latest/whole.html#DLM6001542>.

22 Government of New Zealand, FMA, *Financial Institution Licence Guide*, p. 6, <https://www.fma.govt.nz/assets/Licensing-guides/Financial-institution-licence-guide.pdf>.

23 Government of New Zealand, *Financial Markets Conduct (Fees) Regulations 2014*, LI 2014/110 (version as at 1 January 2024), Schedule 1, Part 1.1, <https://www.legislation.govt.nz/regulation/public/2014/0110/latest/whole.html#DLM6001542>.

24 Government of New Zealand, *Financial Markets Conduct (Fees) Regulations 2014*, LI 2014/110 (version as at 1 January 2024), Schedule 1, Part 1.2, <https://www.legislation.govt.nz/regulation/public/2014/0110/latest/whole.html#DLM6001542>.

25 Government of New Zealand, Financial Markets Authority (FMA), “Financial Institution Licensing” (22 January 2024), <https://www.fma.govt.nz/business/services/financial-institutions/financial-institution-licensing/>.

26 Government of New Zealand, Financial Markets Authority (FMA), *Financial Institution Licence Guide*, Version 3 (2025), p. 6, <https://www.fma.govt.nz/assets/Licensing-guides/Financial-institution-licence-guide.pdf>.

27 This payment is to apply for a financial institution licence and does not include any annual levies or fees to register on the Financial Service Providers Register.

28 Government of New Zealand, Financial Markets Authority (FMA), *Financial Institution Licence Guide*, Version 3 (2025), p. 6, <https://www.fma.govt.nz/assets/Licensing-guides/Financial-institution-licence-guide.pdf>.

29 For England and Wales, see: Solicitors Regulation Authority, "How much does the SQE cost?", <https://sqa.sra.org.uk/about/cost>; "Fee policy 2025/26" (Updated 30 September 2025), <https://www.sra.org.uk/mysra/fees/current-fees/>. For Singapore, see: Singapore Institute of Legal Education, "Part A of The Singapore Bar Examination", <https://www.sile.edu.sg/the-singapore-bar-admission/part-a/>; The Law Society of Singapore, "PC Application", <https://www.lawsociety.org.sg/for-lawyers/pc-application/>.

30 In England and Wales, the practising-certificate fee is collected alongside earmarked levies (e.g. contributions to the oversight bodies and a separate Compensation Fund contribution), which are ring-fenced for regulatory/consumer-protection purposes.

31 Intven, Oliver and Sepulveda (2000), pp. 2-4; Blackman and Srivastava (2011), p. 65.

32 Intven, Oliver and Sepulveda (2000), pp. 17-18; ITU (2016), p. 10.

33 Intven, Oliver and Sepulveda (2000), p. 18.

34 ITU (2016), pp. 25-27.

35 Government of Singapore, Infocomm Media Development Authority (IMDA), *Guidelines for Submission of Application for Services-based Operations Licence*, Version 5b (2022), p. 6, <https://www.imda.gov.sg/-/media/imda/files/regulations-and-licensing/licensing/telecommunication/services-based-operations/sboguidelines.pdf>.

36 Government of Singapore, Infocomm Media Development Authority (IMDA), *Guidelines on Submission of Application for Facilities-based Operations Licence*, Version 7 (2025), pp. 6-7, <https://www.imda.gov.sg/-/media/imda/files/regulations-and-licensing/licensing/telecommunication/facilities-based-operations/fboguidelines.pdf>.

37 Government of Singapore, Infocomm Media Development Authority (IMDA), *Spectrum Management Handbook*, Issue 1 Rev 2.16 (2022), p. 35, <https://www.imda.gov.sg/-/media/imda/files/regulation-licensing-and-consultations/frameworks-and-policies/spectrum-management-and-coordination/spectrummgmthb.pdf>.

38 Government of Singapore, Infocomm Media Development Authority (IMDA), *Spectrum Management Handbook*, Issue 1 Rev 2.16 (2022), p. 35, <https://www.imda.gov.sg/-/media/imda/files/regulation-licensing-and-consultations/frameworks-and-policies/spectrum-management-and-coordination/spectrummgmthb.pdf>.

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41 Government of Singapore, Infocomm Media Development Authority (IMDA), *Spectrum Management Handbook*, Issue 1 Rev 2.16 (2022), p. 9, <https://www.imda.gov.sg/-/media/imda/files/regulation-licensing-and-consultations/frameworks-and-policies/spectrum-management-and-coordination/spectrummgmthb.pdf>.

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⑥ The governance of regulators: independence and impartiality of decision-making



KEY INSIGHTS

- Given the existence of increasingly complex and dynamic regulatory environments, the governance of regulators sets out core GRP areas that support effective regulatory outcomes. High quality governance underpins innovation and investment and ensures that safety and security standards are met, sending a clear signal that the economy is a predictable and reliable place to do business.
- Independence guarantees how regulators arrive at and administer decisions free from undue political or supplier influence. It can be ensured structurally (through institutional separation) or functionally (conflict-of-interest policies, reasoned actions, and review of decisions). Impartiality requires even-handed, requirements-based administration and fit-for-purpose procedures.
- GATS VI:1 addresses the conduct of administration (reasonable, objective, impartial) while the Reference Paper on Basic Telecommunications requires structural separation and impartial decision-making of regulators in a given sector. The SDR Disciplines extend this concept across sectoral authorization systems: decisions should be reached and administered independently from suppliers, and procedures should be impartial, adequate, and non-obstructive. They also include a WTO first provision on non-discrimination between men and women in authorization measures.
- Recent PTAs increasingly mirror the SDR Disciplines by requiring the independent arrival at and administration of decisions and the impartiality, transparency and adequacy of authorization procedures (often with telecom reference paper-style references to legal separation from suppliers), creating an external coherence benchmark for domestic frameworks across services sectors.
- Many jurisdictions have moved towards independent regulators, pairing autonomy with accountability through appointment and tenure rules, predictable funding, transparency, consultation, explanation of reasons, and independent review. Where full structural separation is not feasible or where powers are delegated to professional bodies, robust functional safeguards are essential.

Key features

Quality laws and regulations depend on regulators that can apply them in an effective and efficient manner, free from potential undue influence.

Regulators are the public interface between regulatory frameworks and citizens and businesses.¹ They are tasked with implementing and enforcing regulatory frameworks – to keep markets functioning and to pursue a variety of social, economic and environmental policy objectives.

For this reason, the governance arrangements of regulators – their legal basis, functions and accountability mechanisms – are critical to their ability to discharge their mandate in an effective and transparent manner and ensure their legitimacy in the eyes of the public.

The governance of regulators highlights several GRP-related aspects which can serve to promote public trust and reduce discretionary and unpredictable decision-making-driven risk, thereby enhancing the quality of regulatory outcome. *The 2012 OECD Recommendation of the Council on Regulatory Policy and Governance* suggests that OECD Member countries:

Develop a consistent policy covering the role and functions of regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence.²

Two main aspects of governance for regulators can be distinguished³: (i) external governance (how the regulator interacts with its external environment) – the functions, relationships and distribution of powers between regulatory bodies and regulated entities; and (ii) internal governance (how the regulator is structured and operates internally) – the regulator's organizational design, conduct, responsibilities, accountability and oversight mechanism.⁴ Evidence shows that more consistent and predictable regulatory decision-making can foster investment.⁵ Fair treatment can encourage innovation by reducing uncertainty and risks associated with new products or technologies. Furthermore, it is essential to guarantee that safety and efficacy standards of regulated products or activities are met, and that any potential exceptions are based on objective and justifiable criteria (such as differences in the nature of the products or activities being regulated).

In support of this aim, the OECD organizes governance guidance in relation to seven areas: clear definition of roles; preventing undue influence and maintaining trust; decision-making and governing body structure; accountability and transparency; engagement; funding; and performance evaluation (see Box 1).

A well-governed regulator aligns their policy design, their operational delivery, and their review and learning functions so that each stage informs and strengthens the overall regulatory cycle.⁶ Policies are designed with implementation in mind; operations generate data on timeliness, quality and outcomes; and periodic review that uses evidence to adjust rules, guidance and processes. As the OECD frames it, policy-making is a whole-of-government activity which relies on the support of various institutions with a view to driving coherence, improvement and predictability for citizens and businesses.⁷

An initial GRP principle for the governance of regulators relates to the definition of roles and transparency: a quality regulator has a defined purpose, an established structure and set of functions, decision-making methods, as well as coordination mechanisms with other authorities to avoid duplication, gaps or conflicting actions. With this in mind, the regulatory powers should be clearly and transparently specified in the establishing legislation and be appropriate and sufficient to achieving the objectives.⁸ In addition, governments should compile and maintain a public record of all existing regulators and the functions they are entrusted with.⁹ The extent to which regulators prescribe specific activities depends on the specificity of each case; principle-based legislation, which leaves regulators with more discretion in selecting the appropriate tools to pursue their functions, is likely to be the most appropriate in complex or rapidly changing fields.¹⁰

Additionally, a regulator should not be assigned conflicting competing functions or objectives; a framework, at least, should be provided to guide the regulator in assigning priorities and making trade-offs between assigned functions, while at the same time protecting the interests of the public.¹¹ Clarity also applies with respect to the requirements and procedures of the appointment of regulators' staff, as well as behavioural codes, and policies regarding conflicts of interest. Transparency also extends to regulators' rules and processes. Key instruments, including compliance and enforcement policies, inspection protocols and sanctioning criteria should

Box 1: The OECD best practice principles for regulatory policy: the governance of regulators

The OECD has developed seven principles of good governance:

- **A clear definition of roles is essential for a regulator to fulfil their function effectively:** a sound regulator has clear objectives, with defined and structured functions and established mechanisms to coordinate with other relevant regulatory bodies to achieve the desired regulatory outcomes.
- **Preventing undue influence and maintaining trust:** it is critical that regulatory functions and decisions are undertaken with integrity and independence to maintain public confidence in the regulatory system. This is even more important for encouraging trade and investment and fostering an enabling environment for inclusive economic growth and development.
- **Defining the governing body and decision-making structure:** regulators require governance arrangements to ensure their effective functioning, preserve regulatory integrity and support the pursuit of the established regulatory objectives.
- **Accountability and transparency:** the expectations for each regulator should be clearly outlined and published by the appropriate oversight body. Key operational policies and other guidance material, including with respect to compliance and enforcement, should be publicly available, together with information about available review mechanisms.
- **Engagement:** a quality regulator establishes mechanisms for stakeholder engagement with a view to collecting the knowledge and experience of the regulated sector, as well as the businesses and citizens affected by regulatory action.
- **Funding:** funding should be adequate and predictable to enable the regulator to operate efficiently and effectively to fulfil the established objectives. Funding processes should be transparent, efficient and as simple as possible.
- **Performance evaluation:** regular independent (external) evaluation is key to fostering awareness of the impacts of regulatory actions and decisions. This helps ensure accountability and to drive continuous improvements within the regulatory system.

Source: OECD, 2012.

be published in plain language, together with available guidance to facilitate understanding. Lastly, to prevent or reduce potential overlap and regulatory burden, regulators should be required to coordinate across levels with a view to supporting each other in the pursuit of their common objectives.¹²

To sustain progressive learning, a regulator should engage with regulated entities and the wider public in ways that are regular, meaningful, and fit-for-purpose, while guarding against undue industry or political influence that skews decisions away from the public interest.¹³ To strengthen accountability and public confidence, the regulator should set measurable performance indicators (e.g. timeliness, reversal/error rates, compliance outcomes and stakeholder satisfaction), provide regular reports on them and commission independent evaluations at appropriate intervals. To ensure that engagement reflects the full range of affected interests, the regulator needs to give attention to providing accessible formats and multiple channels for engagement as well as targeted outreach where participation barriers exist.

In addition, regulators should report periodically on the performance of GRP tools. This should cover inter alia (i) how consultations were conducted and what changed as a result of the input received; (ii) the use of RIA in the development of measures and review of existing ones, as well as (iii) information on timeliness of acknowledgements and decisions, backlog levels, review outcomes, and compliance trends. Taken together, these practices create a transparent feedback loop between operations and periodic review and support continuous improvement.

Accountability concerns regulators' oversight structure. Reporting lines should be explicit (e.g. parliament, minister, board). Regulators should issue reasoned, reviewable decisions, setting out the criteria and evidence applied, so that oversight bodies and affected parties can understand, scrutinize, and, where appropriate, appeal them. Review mechanisms of both individual decisions and, where relevant, the regulator's instruments, should be transparently accessible, together with information about timelines for review and available remedies.¹⁴

The regulator's budget is also relevant to GRP. Funding should be appropriate to enable the regulator to effectively and efficiently pursue the established objectives and to reduce risks that may undermine its independence and impartiality.¹⁵ The regulator's budget should be clear, understandable, accessible and, above all, transparent.¹⁶ Some forms of regulatory decisions require the imposition of fees and charges, notably for issuing authorizations or licences or other types of approvals. For regulators funded through fees, the cost-recovery scheme should not be at risk of setting unnecessary or inefficient administrative burdens; similarly, compliance costs on regulated entities should be able to be justified through a cost-benefit analysis.¹⁷ The relevant ministry may consider developing a proposed fee schedule (or a calculation method) in consultation with the regulator, regulated entities and other relevant stakeholders – with a view to ensuring fairness and maintaining the trust of the regulated entities.¹⁸

Finally, another aspect of GRP is how to guarantee a regulator's freedom to reach and administer decisions without undue influence from (i) the government and (ii) the interests of the regulated. Independence from the government is not an end in itself. Rather, it is a tool to protect technical and requirement-based decision-making where political incentives may conflict with the regulator's mandate. This is important when short-term political pressure could distort long-term objectives (e.g. safety, service quality, financial soundness, network investment), or decisions have significant distributional effects (e.g. prices, access to services, market entry). Similarly, where the government is itself an operator in the market, lack of independent regulators raises competitiveness and neutrality concerns. To this end, at the EU level, for example, national energy regulators must be independent of government and market participants to ensure competitive neutrality in access, tariffs and unbundling. Comparable separation principles appear in many jurisdictions in the telecoms sector.

In addition, it is key to ensure that regulators' decisions are taken and administered free from influence where regulatory powers are delegated to non-governmental bodies that may also be composed of service suppliers (including, for example, bar councils/law societies, medical councils, engineers' or architects' associations). In these situations, independence is generally ensured through functional measures such as conflict-of-interest and recusal policies, separation of

investigative, prosecutorial and adjudicative functions, and external review. In sum, the actual or perceived risks of undue influence determines which institutional arrangement is most appropriate for the regulator's activities and objectives.¹⁹

GATS, SDR Disciplines and other relevant trade agreements

While certain WTO agreements require particular institutional functions (such as SPS and TBT enquiry points, and independent tribunals for review under GATT Article X:3(b)), the WTO does not mandate the organizational design of regulators.²⁰ Rather, the WTO focus is on how laws and regulations are applied – with a view to promoting decision-making that is transparent and free from undue influence (especially from domestic producers or higher political pressure). In other words, WTO rules aim to build a good governance “infrastructure” in which regulators operate and provide checks on their actions, but they stop short of dictating how internal structure should function (for example, rules on appointments, funding systems, board structure, and so forth).

GATS Article VI:1 requires that, in sectors where WTO members have undertaken specific commitments, measures of general application affecting trade in services “are administered in a reasonable, objective and impartial manner”. This provision sets a due-process baseline for how regulators apply rules in practice. These terms have been elaborated upon in WTO dispute settlement in the context of GATT Article X:3(a). “Reasonable” has been interpreted to mean “in accordance with reason”, “not irrational or absurd”, “proportionate”, “sensible”, and “within the limits of reason, not greatly less or more than might be thought likely or appropriate”.²¹ In essence, it signals an administration that is coherent and proportionate to the regulatory aim – not arbitrary, irrational, or excessive. In practice, this points to measures being applied with sensible justification, consistency, and without burdens that are clearly out of balance with the stated objective. “Objective” refers to fact-based, criteria-driven administration rather than personal preferences or *ad hoc* judgement.

Decisions should, therefore, rest on verifiable requirements and evidence, be applied consistently across similar cases, and recorded appropriately so

they can be explained and reviewed. The meaning of “impartial” has been discussed in the context of Article X:3(a) of the GATT. It requires even-handed application, i.e., simply put, no favouritism or prejudice in how rules are administered. Similar cases must be treated alike, and authorities must avoid conflicts of interest and improper influence in day-to-day administration.²²

Notably, Article VI:1 does not prescribe an institutional model for regulators. Rather, it governs how administration is carried out. Many of the GRPs identified in this Handbook make “reasonable, objective and impartial” administration concrete, for example, through published criteria and forms, time limits for decision, status tracking, written reasons and access to review mechanisms.

The requirement of impartiality and independence is further elaborated in the Reference Paper on Basic Telecommunications Services.²³ Paragraph 5 on “Independent regulators” provides that “the regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants”. This links independence to two distinct requirements. First, the regulator must be structurally distinct from service suppliers and not answerable to them. This means the regulator’s authority does not derive from or answer to those regulated. Their organizational and institutional reporting lines are to be independent of any operator of telecommunication services (i.e. the regulator is not housed within, overseen by, or financially or politically dependent on a supplier). Secondly, procedures must treat all market participants even-handedly and be applied consistently.

The SDR Disciplines extend the concept of independence beyond the telecommunications sector and provide that:

If a Member adopts or maintains measures relating to the authorization for the supply of a service, the Member shall ensure that its competent authorities reach and administer their decisions in a manner independent from any supplier of the service for which authorization is required.²⁴

In the context of independent review of customs-related actions under GATT Article X:3, WTO dispute settlement has defined the term “independent” as “not subject to the control or influence of another;

not associated with another (often larger) entity”.²⁵ Accordingly, regulators must be provided with the necessary freedom in institutional and practical terms from interference by other agencies.²⁶ It should be noted, however, that SDR Disciplines, which demand independence from suppliers rather than from governmental agencies, clarify in a footnote that the independence of regulators “does not mandate a particular administrative structure”, rather, “it refers to the decision-making process and administering of decisions”.²⁷ This approach has likely been adopted because the SDR disciplines apply across different levels of government and all service sectors, including those where structural separation between regulators and service suppliers may be difficult to achieve.

In practice, governments may consider a combination of safeguards to be put in place to protect and insulate the decision-making process, such as (i) non direction clauses that prohibit instructions in individual cases; (ii) publication of eligibility criteria and evaluation checklists that guide and bind the handling of cases; and (iii) random case allocation combined with conflict-of-interest declarations and recusal rules. Operational GRPs discussed in this Handbook, such as the publication of information, processing of applications and review of decisions, support functional independence.

The SDR Disciplines further add to the GATS Article VI:1 obligation to administer measures of general application in an impartial manner. They provide that if a WTO member adopts or maintains measures relating to the authorization for the supply of a service, the WTO member shall ensure that the procedures are “impartial and that the procedures are adequate for applicants to demonstrate whether they meet the requirements”.²⁸ The SDR Disciplines also require that WTO members ensure that “the procedures do not in themselves unjustifiably prevent the fulfilment of requirements”.²⁹

Read together with the requirement on objective and transparent authorization criteria, the SDR Disciplines seek to ensure that procedures must genuinely enable applicants to demonstrate compliance with those stated requirements.³⁰ They also set out a design constraint: even if criteria are lawful and transparent, the procedures themselves must not unjustifiably prevent their fulfilment, namely, they should avoid features that add friction without a legitimate purpose (for example, opaque documentary demands, arbitrary scheduling slots, or duplicative filings). Overall, the SDR Disciplines

aim to ensure that authorization must follow neutral, criteria-based, and reviewable procedures that work in practice and are not structured so that they obstruct qualified applicants (e.g. by opaque evidence demands, arbitrary scheduling, or excessive formalities).

Moreover, for the first time in WTO history, the SDR Disciplines require that authorization measures do not discriminate between men and women.³¹ This obligation aims to embed gender neutrality into what applicants must show and how their authorization requests are assessed. It may be seen as a concrete representation of the requirement to ensure that authorization measures are based on objective and transparent criteria (such as, according to GATS Article VI, the competence and the ability to supply a service). The provision seeks to ensure that gender-based exclusions or quotas; gender-specific eligibility conditions (e.g. marital status); documentation requests only for women (e.g. pregnancy tests, proof of childcare) or only for men (e.g. military status); different experience/education thresholds by gender; or dress standards that impose unequal burdens without a legitimate aim, do not apply. It would also prohibit systematic differential treatment during authorization procedures (including regarding authorization fees, application time frames, submission of applications, or response time for enquiries), with a view to ensuring the fairness and uniformity of treatment of all applicants.

The footnote to this obligation specifies two categories of differential treatment that do not constitute discrimination: (i) measures that are reasonable and objective and pursue a legitimate purpose (and are proportionate to that purpose), and (ii) temporary special measures aimed at accelerating *de facto* equality between men and women. In practical terms, compliant design will ordinarily focus on removing procedural impediments and improving access to the authorization system, rather than altering the substantive threshold of competence. Lowering qualification standards by gender might also be seen as incompatible with other elements of the SDR Disciplines – particularly the objectivity of criteria and the requirement to ensure that procedures are adequate for applicants to demonstrate whether they meet the same requirements. Temporary special measures should be transparent, time-limited, and ideally subject to periodic review, so that they can be phased out once the underlying participation gap has been addressed.

PTA practice

Requirements on regulatory governance similar to those contained in the SDR Disciplines have progressively found entry in PTAs. Several PTAs merely replicate the GATS obligation to administer measures affecting services trade in a reasonable, objective and impartial manner. It is, for example, the case of the 2018 CPTPP,³² the 2021 ATISA³³ and the 2022 RCEP.³⁴

In the area of authorization procedures for services, some recent agreements also expand obligations in line with those of the SDR Disciplines. This is the case, for instance, of the 2020 Peru-Australia FTA and the 2024 ASEAN Services Facilitation Framework (although not binding) which set out that where authorizations are required, regulators' decisions are to be reached and administered in an independent manner and that procedures are to be impartial towards all applicants.³⁵ The 2020 USMCA contains the same obligation, but also adds that decision-making procedures should not in themselves prevent the fulfilment of requirements.³⁶

Similarly, a number of recent EU Agreements (including the 2019 EU-Japan EPA,³⁷ 2020 EU-Viet Nam FTA,³⁸ 2021 EU-Armenia CEPA³⁹) establish, alongside the impartiality of procedures, that competent authorities should reach their decisions in an independent manner and not be accountable to any person supplying the services or carrying out the economic activities for which the licence or authorization is required.⁴⁰

The 2014 Switzerland-China FTA provides, instead, in the Annex dedicated to trade in services, that “in sectors where specific commitments are undertaken, relevant regulatory authorities of each Party shall be separate from, and not accountable to, any service suppliers they regulate”.⁴¹ Hence, along the lines of the Reference Paper on Basic Telecommunications, the concept of structural separation between regulators and regulated entities is extended across sectors, with the only exceptions of postal, courier and railway transportation services.⁴² While applying across sectors, the 2011 Hong Kong, China-New Zealand CEPA stipulates that licensing procedures are to be impartial with respect to all applicants and that “the competent authority should be operationally independent of and not accountable to any supplier of the services for which the licence is required”.⁴³

Implementation at the domestic level

At the domestic level, there has been a clear, decades-long shift towards independent regulators across jurisdictions and sectors. Comparative datasets show the model diffused globally from the 1980s onward, moving from a handful of cases to widespread adoption.⁴⁴ They originally appeared where governments sought credible commitment and insulation from short-term political or supplier pressures, especially as markets were liberalized and network industries opened to competition and where new investment was needed, with an independent body helping make reforms acceptable to the public. As the OECD puts it, while some arrangements were conceived as interim steps pending competition, regulators have remained present in multiple markets, with a political rationale that is twofold: protecting consumers and attracting investment on efficient terms; and helping mitigate political risk perceived by private investors.⁴⁵

The WTO-World Bank STPD shows that, on average, almost 77 per cent of the economies analysed legally guarantee the independence of regulators from services suppliers. The highest levels of implementation can be observed in financial services (commercial banking, 97.8 per cent; insurance services, 94.9 per cent) and telecommunication services (mobile telecommunication services 92.6 per cent) – indicating the relevance of this GRP in these sectors. However, where a regulator exists, only 47.8 per cent of the economies covered have regulators independent (i.e. structurally separate) from the sector ministry.

One example is Austria where the Financial Market Authority (FMA) was established as an independent legal entity by the 2001 Financial Market Authority Act.⁴⁶ The Act expressly provides that the FMA “shall not be bound by any instructions in the performance of its duties”, thereby establishing operational independence from the federal government in supervising the banking, insurance, securities and pension sectors.⁴⁷ The Federal Minister of Finance retains oversight focused on lawfulness and remit but cannot direct or influence supervisory decisions in individual cases.⁴⁸ The FMA’s governance framework is built around a dual-board structure.⁴⁹ An executive board is responsible for managing the overall operation and affairs of the FMA and is required to perform its duties “in a legal, expedient, economic, and efficient manner” under its Rules of Procedure.⁵⁰ It is required to prepare a

Compliance Code, which sets out detailed rules for handling sensitive and compliance-relevant situations, including restrictions on financial transactions with supervised entities, the use of non-public information, as well as procedures for reporting conflicts of interest and maintaining impartiality.⁵¹

A supervisory board oversees the organization and management of the FMA and approves key instruments such as the Rules of Procedure and Compliance Code of the executive board, as well as the FMA’s financial statements and annual reports.⁵² The Compliance Code sets rules for conflicts-of-interest, use of non-public information, dealings with supervised entities, and recusal. Appointments to both boards – through established procedures – are for fixed five-year terms with limited removal grounds.

The FMA operates a self-financing model with separate accounting groups (banking, insurance, securities, pensions).⁵³ The FMA’s supervisory costs are primarily recovered from supervised entities through periodic payments, with income from authorization fees – collected for specific licensing or approval procedures – which are also credited to the respective accounting groups to offset their overall costs.⁵⁴ The federal government contributes a fixed annual amount.⁵⁵ The executive board of the FMA draws up annual financial plans, including investment and staff planning, subject to supervisory board approval.⁵⁶ The Authority’s financial statements are audited by an independent external auditor and are publicly disclosed on the FMA’s website.⁵⁷

As to procedural and decision-making autonomy, the FMA is empowered to enforce the administrative decisions it issues, with the exception of administrative penal decisions.⁵⁸ Appeals against administrative decisions of the FMA are heard by the Federal Administrative Court, rather than by the Federal Ministry of Finance.⁵⁹ The FMA’s annual report summarizes selected proceedings, illustrating the use of independent review in practice.⁶⁰ Furthermore, the Act requires that the FMA conduct public consultations on draft regulations, circulars, guidelines and minimum standards, together with relevant explanatory documentation.⁶¹ Overall, the combination of statutory functions, transparent rule-making and consultations, and independent judicial review signals predictability to market participants while maintaining accountability. Potential residual risks are mitigated by fixed term appointments, the dual-board structure, external audit,

and the public nature of consultation outputs and reasoned decisions.

In keeping with common international practice, and the regulation of the accounting profession being assigned to an independent body, Hong Kong, China established the Accounting and Financial Reporting Council (AFRC) under the Financial Reporting Council (Amendment) Ordinance 2021.⁶² The AFRC is a full-fledged independent regulator with comprehensive oversight of the accounting profession.⁶³ This 2021 reform transformed the former Financial Reporting Council, created in 2006 primarily as an investigative body without disciplinary powers, into an authority with expanded regulatory remit.⁶⁴ The 2021 reform consolidated under the AFRC key regulatory powers, including the issuance of practising certificates to certified public accountants (CPAs); registration of CPA firms, corporate practices and local Public Interest Entity auditors; and the inspection, investigation and discipline of CPAs and practice units.⁶⁵ As stipulated by law, the AFRC is composed of a chairperson, a chief executive officer, and at least seven other non-practitioner members appointed by the Chief Executive of Hong Kong, China.⁶⁶ Public officers are expressly excluded from membership to guard against perceived interests or conflicts and to reinforce functional independence from government and supplier interests; furthermore, each appointment by the Chief Executive must be published in the *Gazette*.⁶⁷ Members of the AFRC must disclose interests and conflicts, recuse where relevant, and maintain a register of such disclosures available for public inspection.⁶⁸

The regulator's funding model has also evolved to strengthen its financial independence. Under the 2021 reform, the AFRC has expanded its revenue base by collecting fees for issuing practising certificates to CPAs and the registration of practice units since 1 October 2023.⁶⁹ While the government provided seed capital to support the transition and cover short-term funding needs, the AFRC indicated that it would work with the government to explore ways to achieve the "user-pays" principle in the long run and to ensure adequate consultation with members and industry before implementing any concrete plans.⁷⁰

To ensure transparency and accountability in the exercise of its regulatory functions, the AFRC operates under a multi-layered oversight framework. Decisions of the AFRC are subject to review by the Public Interest Entities Auditors Review Tribunal and further

appeal to the Court of Appeal. The AFRC's annual reports on activities and audited financial statements are tabled before the Legislative Council for scrutiny. In addition, the Process Review Panel for the AFRC, established by the Chief Executive as an independent non-statutory body, reviews the AFRC's cases and internal procedures to ensure that its actions are consistent with established policies and guidelines.⁷¹ The AFRC also publishes step-by-step guidelines for the authorization processes,⁷² reports,⁷³ as well as stakeholder consultation and studies on its website.⁷⁴

In the UK, the Office of Communications (Ofcom) was established as an independent statutory regulator under the Office of Communications Act 2002 to oversee communications services. The Act created Ofcom as an institution distinct from the government, explicitly stipulating that it "shall not be treated for any purposes as a body exercising functions on behalf of the Crown", and that its members and employees are not to be regarded as servants of the Crown.⁷⁵ This institutional separation provides the legal foundation for Ofcom's independence from ministerial departments and regulated entities, while ensuring accountability through transparent governance and reporting mechanisms.

Ofcom's governance structure seeks to strike a balance between independence, expertise and public oversight. The regulator comprises a chairman, executive members, and other non-executive members, with the chairman and non-executive members appointed by the Secretary of State. Before and throughout a member's appointment, the Secretary of State must be satisfied that the chairman and each non-executive member has no financial or other interest which may prejudice them in carrying out their functions,⁷⁶ and members are required to disclose any potential conflict of interest.⁷⁷ The chairman and non-executive members are appointed for fixed terms, and the grounds for removal – such as misbehaviour, bankruptcy, or incapacity – are defined by statute, with any removal decision requiring publication and a written statement of reasons.⁷⁸ These provisions collectively embed safeguards against political or commercial influence in the appointment and tenure of Ofcom's members.

Financial arrangements under the Office of Communications Act further strengthen Ofcom's autonomy while maintaining public accountability. The regulator is required to conduct its affairs so that its revenues from statutory charges and fees are sufficient to meet the costs of carrying out its functions, thereby

operating largely on a self-financing basis.⁷⁹ Any surplus revenue is managed under the direction of the Secretary of State.⁸⁰ This funding model thus ensures financial sustainability while preventing dependence on annual budgetary appropriations that could compromise regulatory impartiality.

Transparency and accountability are reinforced through extensive statutory reporting obligations. Ofcom must submit annual reports, which are audited annually and made publicly available.⁸¹ Moreover, the Act requires Ofcom, in managing its affairs, to align with generally accepted principles of good corporate governance.⁸²

In conclusion, independence and impartiality are complementary anchors of regulatory governance; independence protects arrival at and administering of decisions from undue political or supplier influence, while impartiality requires even-handed, requirement-based administration and fair design of procedures. The GATS speaks to the administration of measures (reasonable, objective, impartial), while the subsequently developed Reference Paper on

Basic Telecommunications adds the structural separation and impartial decision-making of regulators. The SDR Disciplines extend this across services sectors by requiring, (i) decisions to be reached and administered independently from suppliers and, (ii) impartial, adequate, and non-obstructive authorization procedures; it also contains a first-time WTO obligation on non-discrimination between men and women. Recent PTAs increasingly codify similar commitments – requiring independent arrival at and administration of decisions, and impartial, adequate authorization procedures with a view to creating an external coherence benchmark for domestic frameworks. Domestically, jurisdictions have converged towards independent regulators, with practical safeguards that blend structural and functional tools. The WTO-World Bank STPD shows broad legal guarantees of independence from suppliers, though independence from ministries remains uneven. Evidence illustrates that independence is not an end in itself and can be tailored to the sector's risk profile and balanced with transparency, engagement and effective oversight.

ENDNOTES

- 1 OECD (2014), p. 9.
- 2 OECD (2012), Principle 7.
- 3 OECD (2014), p. 19.
- 4 OECD (2014), p. 19.
- 5 OECD (2014), p. 51.
- 6 OECD (2014), p. 26.
- 7 OECD (2012).
- 8 OECD (2014), p. 30.
- 9 OECD (2012), Principle 7.
- 10 OECD (2014), p. 31.
- 11 OECD (2014), p. 30.
- 12 OECD (2014), p. 30. For more information, please see subsection 2.13 on “Domestic Inter-agency Coordination”.
- 13 For more information, please see subsection 2.7 on “Stakeholder Engagement”.
- 14 For more information, please see subsection 2.10 on “Review of Administrative Decisions”.
- 15 OECD (2014), p. 98.
- 16 OECD (2014), p. 98.
- 17 OECD (2016), p. 30.
- 18 OECD (2014), p. 100.
- 19 OECD (2014), p. 50.
- 20 For independence in the context of review of administrative decisions, see subsection 2.10 on “Review of administrative decisions”. Note also that the Agreement on Government Procurement obliges its parties to maintain an independent and impartial domestic review body for bid challenges (Article XVIII:4).
- 21 WTO (2012b), para. 7.850.
- 22 WTO (2012a), para. 7.694.
- 23 The Reference Paper on Basic Telecommunications Services was adopted on 24 April 1996 and establishes a set of pro-competition principles that over 100 WTO members have incorporated as additional commitments under GATS Article XVIII in their schedules of specific commitments, making these regulatory principles binding for their basic telecom markets. See https://www.wto.org/english/tratop_e/serv_e/telecom_e/tel23_e.htm.
- 24 SDR Disciplines (WTO, 2021), para. 12.
- 25 WTO (2006), para. 7.520.
- 26 WTO (2006), para. 7.520.
- 27 SDR Disciplines (WTO, 2021), fn 11 to para. 12.
- 28 SDR Disciplines (WTO, 2021), para. 22(b).
- 29 SDR Disciplines (WTO, 2021), para. 22(c).
- 30 SDR Disciplines (WTO, 2021), paras. 22(a) and (b).
- 31 SDR Disciplines (WTO, 2021), para. 22(d).
- 32 CPTPP (2018), Article 10.8.1.
- 33 ATISA (2021), Article 16.1.
- 34 RCEP (2022), Article 8.15.1.
- 35 Peru-Australia FTA (2020), Article 9.8.4; ASEAN Services Facilitation Framework (2024), para. 5.
- 36 USMCA (2020), Article 15.8.2. The USMCA, like the SDR Disciplines, also requires that authorization requirements and procedures are based on criteria that are objective and transparent.
- 37 EU-Japan EPA (2019), Article 8.31.
- 38 EU-Viet Nam FTA (2020), Article 8.20.
- 39 EU-Armenia CEPA (2021), Article 160.
- 40 EU-Viet Nam FTA (2020), Article 8.20.
- 41 Switzerland-China FTA (2014), Annex VI, Article II.
- 42 Switzerland-China FTA (2014), Annex VI, Article II.
- 43 Hong Kong, China-New Zealand CEPA (2011), Annex III to Chapter 13.
- 44 Jordana, Levi-Faur and Fernández i Marin (2011).
- 45 OECD (2016).
- 46 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 1.
- 47 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 1.
- 48 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 16.
- 49 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 4.
- 50 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Articles 6(1) and 6(2).

- 51 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 6(4); FMA, Compliance Code of the Austrian Financial Market Authority (FMA), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=3283&nonce=41c6006630d661ab>.
- 52 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 10.
- 53 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Articles 19(1)-(3).
- 54 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Articles 19(4) and 19(10).
- 55 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 19(4).
- 56 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 17.
- 57 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 18.
- 58 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 22(1).
- 59 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Article 22(2).
- 60 FMA (2023).
- 61 Government of Austria, *Financial Market Authority Act* (as amended), <https://www.fma.gv.at/wp-content/plugins/dw-fma/download.php?d=2144&nonce=e4abc3aa1f1baa14>, Articles 22(3) and 22(3a). See FMA consultation portal at <https://www.fma.gv.at/en/category/news-en/information-en/>.
- 62 Hong Kong, China, *Accounting and Financial Reporting Council Ordinance*, Cap. 588, Hong Kong e-Legislation, <https://www.elegislation.gov.hk/hk/cap588>.
- 63 Hong Kong, China, *Accounting and Financial Reporting Council Ordinance*, Cap. 588, Hong Kong e-Legislation, available at <https://www.elegislation.gov.hk/hk/cap588>.
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82 Government of the UK, *Office of Communications Act 2002* (as amended), <https://www.legislation.gov.uk/ukpga/2002/11/contents>, Section 3.



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⑦ Stakeholder engagement



KEY INSIGHTS

- Stakeholder engagement is a critical area of GRP which is intrinsically linked to transparency, enhancing legitimacy and trust in government action.
- While the GATS does not cover stakeholder engagement, the SDR Disciplines – similar to many PTAs – contain a defined set of GRPs in this area. These range from publishing draft laws and regulations (or detailed summaries); guaranteeing an opportunity for comments by interested persons; considering the comments collected; publishing final measures with their purpose and rationale; and establishing a reasonable time between the publication of final measures and the date on which compliance is required by services suppliers.
- WTO-World Bank STPD data indicate that 45.6 per cent of surveyed economies legally require publication of draft measures and an opportunity to comment, and 52.7 per cent of these also require the consideration of input collected. However, even in the absence of a legal requirement, many jurisdictions today consult as a matter of policy. Such mechanisms – whether by law or in practice – embed various GRP principles, including leveraging a mix of consultation tools (also online), using plain and concise language, establishing minimum consultation periods, and establishing clear reporting-back systems.

Key features

A high-quality regulatory framework engages all materially affected stakeholders, including services suppliers, consumers, workers and civil society, and gives them meaningful opportunities to contribute to the design and implementation of laws and regulations. A key tool for achieving this objective is well-structured public consultation procedures which strengthen transparency, improve the evidence base, and enhance the legitimacy and compliance of regulatory systems.

“Stakeholder engagement”, as it is often referred to, therefore represents an important area of GRP; it is the process of involving various categories of persons who have an interest in a specific initiative, decision, or action. In the context of services regulation, stakeholders might include services suppliers, investors, government agencies and community members, amongst others – both domestic and foreign alike. The objective of stakeholder engagement mechanisms is to include affected parties in the development of regulation, notably by seeking their inputs, addressing their concerns, and updating them about relevant regulatory developments.

By factoring in different perspectives and interests, stakeholder engagement helps to inform and improve decision-making, delimit expectations, identify risks and consequently achieve higher quality outcomes.¹ The involvement of relevant stakeholders has also been found to encourage innovation and build mutual trust between regulators and those subject to regulation – conferring a greater sense of understanding to regulatory outcomes, thereby also promoting public acceptance and compliance.²

This subsection focuses on stakeholder engagement in the specific context of the drafting and adoption of regulations affecting trade in services. While stakeholder engagement is an important element of and contributes to the objectives of RIA³, it is addressed separately here as it constitutes a participation practice with its own objectives, legal underpinnings and toolset, such as open and targeted consultations, plain language materials, online channels and reporting-back duties; it is often also used in the absence of or outside of RIA. Furthermore, stakeholder engagement also complements the internal coordination among governmental agencies.⁴

Stakeholder engagement involves several elements which are frequently but not always separated in

time. It can start at an early pre-drafting stage, to inform regulators of the various concerns and continue throughout the policy development stage. Typically, the following nine elements are part of stakeholder engagement⁵:

- **Identifying stakeholders:** Determine the relevant stakeholders who will be affected by or have an interest in the proposed regulation. Consultations require the involvement of a variety of stakeholders, with sufficient safeguards to limit undue influence.⁶
- **Planning consultations:** Develop a plan outlining how stakeholders will be engaged, including how information will be shared, groups involved, consultation periods, methods and types of consultation (surveys, meetings, etc.) to be used, as well as objectives. To be effective, engagement will need to take place as early as possible in the policy-making process.⁷
- **Disseminating information:** Publish information (including through gazettes, newspapers, and websites) with respect to (i) the proposed regulation (including objectives and rationale, relevant background materials, etc.); (ii) opportunities and procedures for stakeholder engagement (including which stakeholders can participate, duration of consultation period, managing and consideration of comments, publication and access to comments submitted, etc.); as well as (iii) the authority responsible for the proposed regulation that may be contacted in case of queries. To ensure meaningful participation, information should be provided in a clear and plain way.⁸
- **Gathering input from stakeholders:** Collect comments, feedback, opinions and suggestions from stakeholders. The most common mechanisms for conducting consultations are websites of relevant ministries or regulators, online surveys and polls, focus groups and workshops, public hearings, as well as targeted outreach to specific stakeholder groups (such as business associations). In some instances, consultations are conducted through unified websites where all ministries post their draft regulations, and which provide a platform for stakeholders to submit their comments. It should be noted that highly technical or specialized regulatory areas, such as sectoral regulations, may require more selectivity in consultation than regulatory regimes of wider public interest and impact. In the same way, more contentious areas of regulation (e.g. taxation) may require formal mechanisms for public engagement and maximum transparency.⁹

- **Analysing input received from stakeholders:** Review and analyse the input gathered from stakeholders to understand views, concerns, interests and potential impacts of the proposed regulation.
- **Drafting or adapting regulation based on input collected:** Based on the feedback collected, create or modify the proposed regulation.
- **Providing feedback to stakeholders:** Respond to inputs received by stakeholders, including through consolidated responses; make all comments received publicly accessible and report on the overall result of consultations.
- **Publishing final regulation:** Finalize the regulation and communicate it to the general public, together with an explanation of its purpose and rationale.¹⁰
- **Allowing time frame between publication of regulation and date of required compliance:** Establish a transition period prior to entry into force of a regulation, to allow those affected to prepare and adapt to its provisions accordingly.

GATS, SDR Disciplines and other relevant trade agreements

Stakeholder engagement has emerged as a GRP in recent years. Indeed, the GATS does not contain any requirements on advance publication of laws and regulations before their adoption nor on consultations with stakeholders on proposed measures. Article III:1 merely requires final measures of general application that pertain to or affect the Agreement's operation to be published promptly, and at the latest by their time of entry into force.

Recognizing the value of improving the legitimacy and quality of regulatory outcomes, the SDR Disciplines contain a dedicated set of GRPs on stakeholder engagement.¹¹ While the latter encompass contact and dialogue with stakeholders throughout the rule-making process, the SDR Disciplines focus on the stage at which draft laws or regulations have already been formulated. In other words, they do not require an iterative approach to consultations, with multiple rounds of consultations, including with a view to assessing the ongoing need to initiate new regulatory proposals or modifications to existing laws and regulations.

Out of the nine GRP aspects described above, five are reflected in the SDR Disciplines, namely (i) advance publication of relevant laws and regulations; (ii) reasonable

opportunity for comments; (iii) consideration of comments received; (iv) publication of final measures, together with an explanation of their purpose and rationale; and (v) reasonable time between publication of measures and date of required compliance (see Figure 1).

Advance publication of relevant laws and regulations

The SDR Disciplines require WTO members to publish the following elements in advance:

- Their laws and regulations of general application proposed for adoption, and which relate to covered areas (i.e. measures related to licensing and qualification requirements and procedures, and technical standards); or
- Documents that provide sufficient details about such a possible new law or regulation to allow interested persons and other WTO members to assess whether and how their interests might be significantly affected.¹²

Beyond measures of general application, WTO members are also encouraged to publish in advance relevant procedures and administrative rulings of general application.¹³

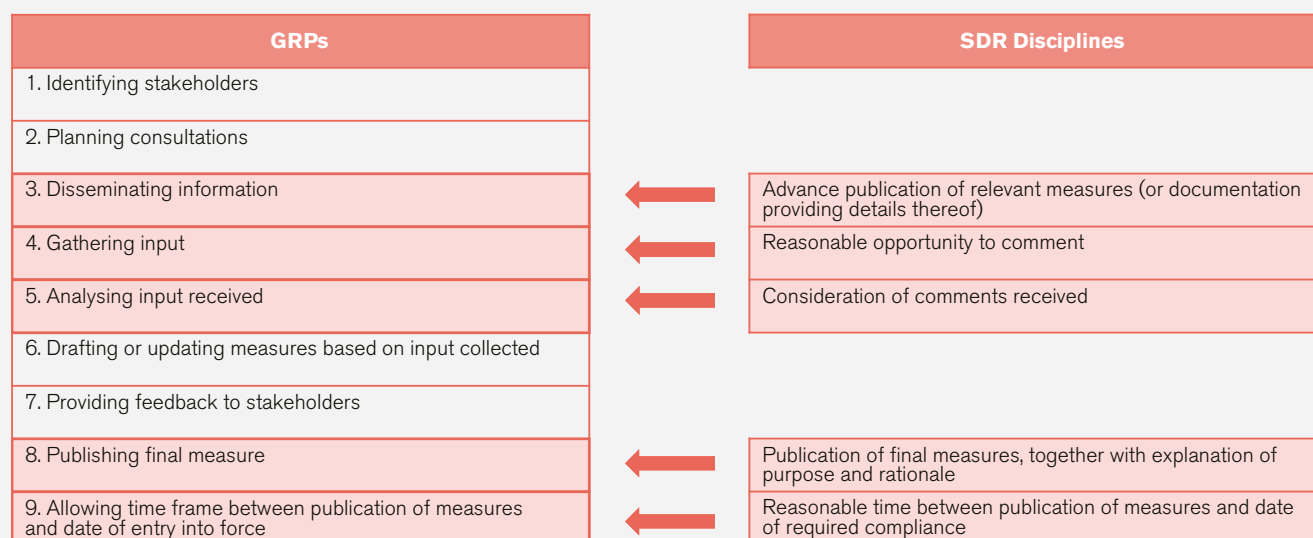
It is also worth noting that, alongside publishing draft texts of laws or regulations, WTO members are encouraged to explain their purpose and rationale.¹⁴ In this context, the term “publish” is defined as “to include in an official publication, such as an official journal, or on an official website”.¹⁵ Overall, the publication requirement is meant to lead to the broad availability of measures, so as to allow all interested persons to consult and get acquainted with them.

Reasonable opportunity to comment

The SDR Disciplines require that WTO members provide a reasonable opportunity to interested persons and other WTO members to comment on proposed laws and regulations, or documents providing details on those measures.¹⁶

The beneficiaries of the stakeholder engagement are identified as “interested persons and other members”. This encompasses both natural and juridical persons¹⁷ which may be affected by a measure. “Interested” persons denominate a broader group than “affected” persons, and includes individuals, groups, or entities

Figure 1: Linkages between GRPs on stakeholder engagement and the SDR Disciplines



Source: WTO/World Bank.

that have a stake, concern, or interest in a regulation, regardless of whether they are directly impacted by it. In addition to services suppliers, it would encompass industry associations, advocacy groups, or academics. It should be noted that, in contrast to most domestic stakeholder engagement processes, the SDR Disciplines also explicitly include foreign governments (“other WTO members”) among the beneficiaries of the public comment procedures.¹⁸

The process for providing “reasonable opportunity” to comment would require authorities to demonstrate a general openness to receiving such comments.¹⁹ This would encompass a reasonable time frame for interested persons to review the proposed measures and prepare and submit their inputs through the established channels. Whether a time frame is reasonable would critically depend on the length and complexity of the proposed regulation; other factors, such as the urgency of the regulatory proposal, and the user-friendliness of response mechanisms may also play a role. A common minimum time frame would be between 30 to 60 days, but shorter or longer periods may be appropriate depending on urgency or on the breadth of impact. Notably, in trade in goods, a Decision adopted by WTO members in the Technical Barriers to Trade Committee (TBT Committee) recommends granting a period of no less than 60 days – and

whenever possible even longer (such as 90 days) – for the presentation of comments on proposed technical regulation and conformity assessment procedures.²⁰

Reasonable opportunity for comment would also require the establishment of easy and accessible methods for submitting comments, such as submitting comments online, via email, or by mail. The possibility of holding focus group discussions and oral public hearings may also be envisaged, depending on the subject matter and level of technicality of the regulation under consideration.

In order to obtain comments from marginalized or under-represented groups, as well as foreign suppliers, authorities may also consider making relevant documents and consultation procedures available in multiple languages, provide accessible formats for individuals with disabilities (e.g. braille, large print, or audio formats), and provide simplified language versions for the public, especially where technical jargon is prevalent.²¹

Consideration of comments received

The SDR Disciplines require the consideration of comments received on proposed laws and regulations or the documents providing details on those measures.²² “Consideration” means that the comments

should have some sort of influence on the final decision. The regulatory authority would not have to adopt specific suggestions, but it should review and factor comments into the analysis. Decision makers should weigh up the pros and cons raised by the public or stakeholders before finalizing the law or regulation.

The SDR Disciplines do not explicitly require authorities to take any outward actions that demonstrate that the comments received have been given due consideration, for example, by requiring authorities to respond to the comments. Neither do they require the publication of the comments, the preparation and publication of summaries, or replies to them.

For a competent authority to consider the comments received would nonetheless require an internal process to:

- Analyse the comments in detail, ensuring that they are understood;
- Assess the relevance and substance of the comments, and consider whether the feedback provides useful information, suggestions, or objections that could improve, adjust, or refine the proposed measure;
- Balance differing opinions and decide which course best aligns with the policy objectives, while taking into consideration the strength of evidence or reasoning behind different viewpoints.

Throughout the process, internal documentation or records should be kept that demonstrate that comments have been considered. This could include notes or reports summarizing the comments received and explaining how they were evaluated.

To allow space for different types of stakeholder engagement mechanisms, the SDR Disciplines provide special flexibilities for such obligations, set out in the terms “to the extent practicable and in a manner consistent with its legal system for adopting measures”.²³ The latter element ensures that the method and process of implementing the obligation must align with the specific domestic legal framework and established procedures for creating laws and regulations. This flexible obligation recognizes WTO members’ varying levels of economic development, administrative frameworks, or resources that may pose challenges to uniform implementation of stakeholder engagement processes.

Publication of final measures, together with an explanation of their purpose and rationale

The SDR Disciplines contain two additional obligations with the objective of ensuring the informed and effective participation of stakeholders in regulatory processes and decisions.

Building on GATS Article III:1 which requires the prompt publication of final measures at the latest by their entry into force, the SDR Disciplines encourage WTO members to explain the purpose and rationale of laws or regulations.²⁴

Reasonable time frame between publication of measures and date of required compliance

Furthermore, the SDR Disciplines provide that reasonable time must be allowed between publication of the text of a law or regulation and the date on which services suppliers must comply with it.²⁵ The objective is to balance regulatory needs for change with legitimate interests of predictability and business continuity for suppliers. What constitutes a reasonable period may differ from case to case, depending on the difficulty and time needed by services suppliers to adapt to the mandated regulatory change. Notably, in the area of trade in goods, the TBT Committee agreed that a “reasonable” period is to be understood to normally mean a period of no less than six months for the entry into force of technical regulations and conformity assessment procedures so producers and exporters can adapt their products to the new requirements, except where such a delay would be ineffective for the measure’s legitimate objective.²⁶

PTA practice

A requirement to have mechanisms in place for stakeholder engagement is incorporated in a good number of PTAs. The elements of (i) advance publication of information on laws and regulations of proposed measures for adoption and (ii) opportunity for interested persons to comment, appear in several PTAs, even predating the SDR Disciplines.

For example, a PTA that embodies these two elements is the 2011 Malaysia-India CECA. This agreement incorporates the requirement for the parties to (i) publish laws, regulations, procedures, and administrative rulings of general application before their

adoption; and (ii) provide a reasonable opportunity, where appropriate, to interested persons and the other party to comment on such proposed measures.²⁷

An agreement which goes further than the SDR Disciplines is the 2018 CPTPP. In the “Transparency” Chapter, Article 26.2 requires the parties to endeavour to (i) publish the proposed measure no less than 60 days in advance of the date when comments can be submitted; and (ii) set out a period which provides sufficient time for an interested person to evaluate the proposed regulation and formulate and submit comments.

Several other PTAs contain obligations that go beyond these two key elements and include a commitment on the “consideration of comments received”.²⁸ In many PTAs, like in the SDR Disciplines, this element is expressed as a best endeavour commitment, such as in the case of the 2020 Indonesia-Australia CEPA,²⁹ the 2020 EU–Vietnam FTA,³⁰ and the 2009 United States–Oman FTA.³¹ Instead, other agreements impose hard obligations on the parties to consider the comments received by interested stakeholders. Examples are found in the EU–Mexico Modernized Global Agreement,³² the 2020 USMCA,³³ and the 2018 CPTPP.³⁴

In contrast to the above agreements, the more recent 2021 United States–Ecuador Protocol has more extensive commitments on stakeholder engagement and goes further than the elements envisaged by the SDR Disciplines. The Protocol recognizes the role of GRPs to support the development of compatible regulatory approaches among the parties, as well as to reduce or eliminate unnecessarily burdensome, duplicative, or divergent regulatory requirements, thereby promoting international trade, investment and economic development.³⁵

The Protocol encapsulates the following elements of stakeholder engagement: (i) online publication of draft regulations, including (ii) an explanation of their objective and rationale; (iii) an opportunity to comment for interested stakeholders; and (iv) appropriate consideration of comments received on draft regulations by interested persons.³⁶ Going beyond the SDR Disciplines, the Protocol further envisages (v) obligations to conduct RIA before and after adoption of measures; (vi) disclosure of the data, other information, and scientific and technical analyses it relied on in support of the regulation, including any risk assessment; (vii) explanation of the data, other information, and analyses that the regulatory authority

relied on as a basis for the regulation; as well as (viii) the name and contact information of an individual official from the regulatory authority responsible for developing the regulation that may be contacted regarding questions before the entry into force of the regulation.³⁷ With respect to the SDR Disciplines, the Protocol is missing only one key aspect of stakeholder engagement, namely allowing reasonable time between the date of publication of a new measure and the required date of compliance by services suppliers.

Several PTAs also incorporate the obligation to allow a reasonable period of time between publication and entry into force of laws and regulations, in line with the SDR Disciplines. For example, Article 26.2 of Chapter 26 of the 2018 CPTPP, as well as Article 14.6 of the 2021 ATISA require, to the extent possible, that reasonable time is provided between publication of regulations and the date on which they enter into effect.

Implementation at the domestic level

At the domestic level, numerous jurisdictions have set up different stakeholder engagement mechanisms. The latter are either set out in a legal instrument – either the constitution or a primary or secondary legislation – or carried out as a common practice. The WTO–World Bank STPD data show that 45.6 per cent of the economies surveyed legally require the publication of measures in draft form and opportunities for comments for interested persons, of which 52.7 per cent also require the consideration of such comments, either in their respective constitutions or in primary or secondary legislations (for another source of data on stakeholder engagement, see Box 1).³⁸ However, elsewhere, such as in Canada or the UK, stakeholder engagement does not exist under a legal mandate. Rather, it constitutes a common practice built on codes of conduct or policy guidance frameworks.³⁹

Across the board, two key trends appear to be developing. First, in recent years, there has been an increase in the use of digital technologies to call for and receive stakeholders’ input, including through online centralized portals. For example, Canada has introduced an online platform to allow stakeholders to engage on regulatory issues, including by participating in polls and surveys, and reacting to comments by other stakeholders as well as consultation administrators.⁴⁰ Furthermore, it appears that governments are expanding consultation periods with a view to enhancing participation.

Box 1: Public engagement in policy making in the World Bank GovTech Maturity Index (GTMI)

Under the GTMI,⁴¹ the Digital Citizen Engagement Index (DCEI) covers various aspects related to public engagement in policymaking. In particular, the GTMI survey asks the following three questions (I-30 to I-32):

- Are there national platforms that allow citizens to participate in policy decision-making?
- Are there government platforms that allow citizens to provide feedback on service delivery?
- Does the government publish its citizen engagement statistics and performance regularly?

The 2022 GTMI update shows that, in recent years, more than 150 governments (out of 198) have worked on their interaction with citizens and have progressively improved their engagement systems. Furthermore, around 50 per cent of jurisdictions have implemented mechanisms or digital platforms to enable citizen feedback. The average [DCEI index](#) appears highest in the South Asian region, followed by East Asia and the Pacific and the Middle East and North African economies. However, only about 30 per cent of the economies publish information or data about the performance of their public engagement platforms, showing that there is room for improvement, especially with respect to transparency and reporting-back procedures.

In light of this, the *2025 OECD Regulatory Policy Outlook* highlights that over 75 per cent of OECD member countries are progressively introducing minimum consultation periods, with 49 per cent providing at least four weeks.⁴² However, the Policy Outlook notes that, across OECD member countries, there is still some space for improvement, notably with respect to better planning of consultations; this includes making information about upcoming consultations more timely and widely available, as well as providing feedback to stakeholders on a more systematic basis, about how their input has been considered. In fact, currently, only 33 per cent of OECD member countries provide direct feedback to stakeholders, potentially dissuading them from participating and making the exercise more meaningful.⁴³

Across OECD member countries, there is also space to make stakeholder engagement more inclusive by diversifying communication channels and involving under-represented groups, thereby avoiding potential undue influence from more resourced stakeholders.⁴⁴

One instructive example is Spain, through its Law 40/2015, which mandates regulatory bodies to conduct consultations through the web portals of competent authorities, even prior to making a regulatory proposal. Article 26 of the Law stipulates that a consultation procedure shall address (i) the problems that are intended to be solved with the new rule; (ii) the need and opportunity for comments; (iii) the objectives of the rule; and (iv) possible regulatory and non-regulatory alternative solutions. The consultation procedure is aimed at giving

potentially affected persons or entities the opportunity to comment on the need for a regulation, how they may be impacted, and whether a solution may be developed without adopting a regulation.

The results of this procedure shape the way an eventual regulatory proposal, if considered appropriate, would be worded and presented to the public. The Law mandates competent authorities to give interested persons sufficient time to comment during consultations, i.e. a minimum of 15 days. The requirements established for the consultation procedure can only be waived in specific circumstances, including where (i) there are serious reasons related to public interest to justify it; or (ii) the proposed regulation does not have a significant impact on economic activity; or (iii) it does not impose relevant obligations on the addressees; as well as (iv) in case of an urgent need to process a regulatory initiative.

Another notable example is Mexico. Pursuant to Articles 69-H and 69-J of Mexico's Federal Law on Administrative Procedures (*Ley Federal de Procedimiento Administrativo*), the government is required to collect comments and feedback on proposed regulations. To this end, Mexico has established a dedicated regulatory oversight body known as the National Commission for Regulatory Improvement (*Comisión Nacional de Mejora Regulatoria* – CONAMER).⁴⁵ CONAMER publishes all regulatory proposals on its website⁴⁶ and provides the opportunity for interested stakeholders and the general public to comment.

This practice ensures that the regulatory authority receives impartial advice on proposed regulations, thereby contributing to improved regulatory quality in Mexico. Over the years, this system has been effective in enhancing transparency, reducing regulatory burdens and fostering a collaborative environment between the government and stakeholders. For instance, the consultation process contributed to reducing regulatory costs from 4.25 per cent to 2.71 per cent of Mexico's GDP between 2012 and 2016.⁴⁷

In South Africa, it is the constitution itself that mandates both the National Assembly and provincial legislature to involve relevant stakeholders in their legislative processes.⁴⁸ As a result, the government has, over the years, set up various mechanisms of public consultation run by State or independent organizations. One such mechanism is instituted by the National Economic Development and Labour Council which provides a platform for stakeholders to negotiate policies affecting labour and the economy, and facilitates consultations between business, trade unions, civil society and the government through its ministries.

A similar role is played in the environmental policy sphere by the National Environmental Management Act. This Act mandates the participation of all interested and affected persons in environmental governance. It requires the government to take into account the interests, needs and values of such persons in decision-making.⁴⁹ For large-scale projects that require environmental impact assessments, the following is required before approval of any measures: (i) conducting a public participation process; (ii) creating a register of interested and affected persons; and (iii) recording the comments of interested and affected persons in reports and plans.⁵⁰

Aside from these statutory and government-enabled channels of stakeholder engagement, non-governmental organizations also play a key role in fostering

stakeholder engagement in South Africa. One such organization that has been operating since 1995 is the Parliamentary Monitoring Group.⁵¹ The Group provides a platform for interested persons to write directly to parliamentary committees on topical issues and other policy and legislative matters. These committees, consisting of relevant ministries and departments, consider the comments which may become a critical source, with influence on national policies.

In conclusion, public engagement in policymaking is integral to trust in government action and a strong signal of good governance. Transparency only delivers its benefits when stakeholders have the opportunity to act on the information made publicly available – not merely view it. For this reason, the SDR Disciplines, like many modern PTAs, include core GRP commitments in this area, notably with respect to publishing draft laws and regulations, guaranteeing the opportunity for comment, considering comments collected, publishing final measures together with their purpose and rationale, and establishing a reasonable time frame between the publication of final measures and the date on which compliance is required by services suppliers. Building on international commitments, many jurisdictions have institutionalized public consultation mechanisms and implemented various other practices, such as using online tools and plain language, establishing minimum consultation periods, and providing a reasonable time period before the entry into force of new laws and regulations. To strengthen this practice further, authorities can engage early in the policy cycle; tailor engagement to different stakeholder groups and improve inclusivity by using a mix of consultation channels and formats (including online portals); establish clear reporting-back procedures showing how input was considered; and keep transparent records of the analysis. Implementing and tracking these steps in a consistent way enhances accountability and improves the quality and effectiveness of regulatory outcomes.

ENDNOTES

- 1 World Bank (2017), pp. 3, 10.
- 2 Johns and Saltane (2016).
- 3 For more information, see subsection 2.12 on “Regulatory Impact Assessment”.
- 4 For more information, see subsection 2.13 on “Domestic Inter-agency coordination”.
- 5 These elements are identified including based on the indicators utilized by the World Bank’s Global Indicators of Regulatory Governance in the area of public consultation.
- 6 OECD (2025).
- 7 OECD (2025).
- 8 OECD (2025). For the requirement to use plain and concise language, see also subsection 2.3 on “Online Publication of Information”.
- 9 OECD (2020), p. 46.
- 10 See AccountAbility (2015), Section 4: Stakeholder Engagement Process.
- 11 SDR Disciplines (WTO, 2021), paras. 14-18.
- 12 SDR Disciplines (WTO, 2021), para. 14.
- 13 SDR Disciplines (WTO, 2021), para. 15.
- 14 SDR Disciplines (WTO, 2021), para. 18.
- 15 SDR Disciplines (WTO, 2021), fn 12 to para. 13.
- 16 SDR Disciplines (WTO, 2021), para. 16.
- 17 The term “person” is defined in GATS Article XXVIII(j) as either a natural or juridical person.
- 18 SDR Disciplines (WTO, 2021), para. 16.
- 19 The GATS requires, in the context of recognition measures under Article VII, to “afford adequate opportunity” for other interested WTO members to negotiate their accession to a recognition agreement, or in the case of autonomous recognition, “to demonstrate that education, experience, licenses, or certifications obtained or requirements met in that other member’s territory should be recognized”. This requirement has been understood to require at least a general willingness to include other members in the recognition process. See Pitschas (2003), 495-564, p. 527, para. 93.
- 20 WTO (2022).
- 21 OECD (2025).
- 22 SDR Disciplines (WTO, 2021), para. 17.
- 23 SDR Disciplines (WTO, 2021), paras 14-18
- 24 SDR Disciplines (WTO, 2021), para. 18.
- 25 SDR Disciplines (WTO, 2021), para. 19.
- 26 WTO (2022).
- 27 India-Malaysia CECA (2011), Article 13.2.
- 28 Note that the agreements cited thereafter may either contain three elements or more of stakeholder engagement.
- 29 Indonesia-Australia CEPA (2020), Article 19.2.
- 30 EU-Viet Nam FTA (2020), Article 13.3.
- 31 United States-Oman FTA (2009), Article 11.8(3).
- 32 EU-Mexico Modernized Global Agreement, Chapter X, Article X.7 (as published on its political conclusion in April 2018 and updated in April 2020 and January 2025, https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countriesand-regions/mexico/eu-mexico-agreement/text-agreement_en).
- 33 USMCA (2020), Article 28.9.
- 34 CPTPP (2018), Article 26.2.
- 35 United States–Ecuador Protocol on Trade Rules and Transparency (2021), Annex II: Good Regulatory Practices, Article 2.
- 36 United States–Ecuador Protocol on Trade Rules and Transparency (2021), Annex II: Good Regulatory Practices, Article 9.
- 37 United States–Ecuador Protocol on Trade Rules and Transparency (2021), Annex II: Good Regulatory Practices, Article 9.
- 38 Sections 59(1)(a), 72(1)(a), and 118(1)(a) of the Constitution of South Africa mandate both the National Assembly and provincial legislatures to involve the public in their legislative processes, <https://www.gov.za/documents/constitution/constitution-republic-south-africa-04-feb-1997>; Article 10 of the Constitution of Kenya recognizes public participation in its legislative and policy processes as one of its national values, https://www.parliament.go.ke/sites/default/files/2023-03/The_Constitution_of_Kenya_2010.pdf. Additionally, Kenya adopted a specific Public Participation Bill in 2019 to further regulate public engagement, [https://parliament.go.ke/sites/default/files/2019-10/The%20Public%20Participation%20\(No.1\)%20Bill%202019.pdf](https://parliament.go.ke/sites/default/files/2019-10/The%20Public%20Participation%20(No.1)%20Bill%202019.pdf).
- 39 Bteddini (2013); DBT (2023).
- 40 OECD (2025).
- 41 For more information on the World Bank GTMI, please refer to the box in subsection 2.4 on “Single windows”.
- 42 OECD (2025).
- 43 OECD (2025).
- 44 OECD (2025).

45 CONAMER was established as a result of the reform and enactment of the Regulatory Improvement General Law in 2018; see World Bank (2017).

46 <https://www.gob.mx/conamer>.

47 Government of Mexico, "COFEMER puts the procedures, services and regulations of the Federal Government up for public consultation" (in Spanish), press release, 21 June 2017, <https://www.gob.mx/conamer/prensa/cofemer-pone-a-consulta-publica-los-tramites-servicios-y-regulaciones-del-gobierno-federal?idiom=es>.

48 See the Constitution of South Africa (1996), Sections 59(1)(a), 72(1)(a), and 118(1)(a).

49 Government of South Africa, National Environmental Management Act No. 107 of 1998, Sections 2.(4)(f), 2.(4)(g), https://www.saflii.org/za/legis/consol_act/nema1998331/.

50 Government of South Africa, Amendments to the Environmental Impact Assessment Regulations 2014, Chapter 6, <https://www.gov.za/documents/national-environmental-management-act-regulations-environmental-impact-assessment-7>.

51 For more information, please see <https://pmg.org.za/page/what-is-pmg>.



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⑧ Enquiry points



KEY INSIGHTS

- Enquiry points are recognized across all trade policy areas as a core GRP supporting two-way information flows between governments and stakeholders, both domestic and foreign; they are also known to reduce search and compliance costs.
- The GATS only contains limited obligations to respond to other WTO members' enquiries and (for developed economies) to facilitate access to market information for service suppliers from developing economies.
- The SDR Disciplines – like many modern services PTAs – extend enquiry mechanisms to all service suppliers and persons seeking to supply a service. However, specificities regarding their implementation are left to the discretion of each jurisdiction, in particular based on resource constraints. In contrast, certain agreements on goods trade (notably the TBT and SPS Agreements, as well as the TFA) spell out additional GRP principles for enquiry points, including maximum time-limits for replies, access to documentation, cost-based fee rules and auxiliary functions (such as supporting public consultations).
- At the domestic level, enquiry points are widespread but heterogeneous. Their structures and functions range from sectoral help desks in individual ministries or agencies to centralized portals for enquiries.

Key features

Effective access to reliable information underpins trade, including trade in services. Although most jurisdictions now meet baseline transparency requirements by publishing their laws and regulations,¹ this does not always provide the necessary clarity for businesses about what concrete steps, requirements and documentation, fees, or timelines those rules entail. Because authorization procedures can be fragmented and complex, service suppliers – particularly small businesses – face high search and compliance costs. Well-designed enquiry points can help reduce these hurdles by contextualizing published rules and providing clear, authoritative and timely guidance. For this reason, they are widely recognized as a core GRP element.

An enquiry point is a formally designated office or mechanism responsible for receiving and responding to individual requests for information about laws, regulations, requirements and procedures. Its main purpose is to facilitate communication between the government and interested stakeholders, including foreign governments, businesses and other relevant stakeholders.

Enquiry points ensure that stakeholders receive clear, accurate, complete and up-to-date information, thereby improving transparency and regulatory compliance. Enquiry points are also instrumental in promoting legitimacy and accountability, as well as building trust among relevant parties. Furthermore, by working as an interface between various government agencies and bodies, enquiry points can promote internal coordination and regulatory consistency (Figure 1).

While there exist different possible forms of enquiry points, the practice shows two main models: a single crossgovernment referral centre, and a dedicated help desk operated by each competent authority.² While a single referral centre can better serve users' interests and

needs, it requires more significant coordination efforts and resources to address questions that may be under the purview of different government bodies.³ On the other hand, an agency-specific enquiry point can ensure faster and more accurate responses, as the staff responsible for answering are specially trained in this area.⁴

Additionally, a combination of the two models is possible to allow requests that fall outside the knowledge base of the single enquiry point to be transferred to the competent agency.⁵ In practice, the functions of an enquiry point are frequently assigned to an existing ministry or regulator.⁶ Alternatively, a new and dedicated mechanism, such as a stand-alone unit, can be entrusted with such a task. Furthermore, where a single window mechanism exists, the enquiry point can be integrated directly within it.⁷

An enquiry point's effectiveness hinges on the availability and visibility of accurate and updated contact information and the services it provides.⁸ Contact details of the enquiry point typically include the postal address, e-mail address, telephone number and operating hours. When accessing enquiry points, stakeholders also benefit from clarity regarding the scope and processing times of enquiries, the formats in which submissions may be made and the manner and timing in which responses can be expected, as well as any fees charged for processing of enquiries.

Through enquiry points, information can be provided in different ways:

- **Orally:** by visiting the enquiry point and talking directly to staff; or contacting the enquiry point by telephone.
- **Electronically:** by e-mail, through specialized online forms, through a dedicated portal, or through an online chat facility, etc.⁹

Figure 1: Enquiry points – Benefits and rationale

Feature	Description	Why it matters
 Transparency and accessibility	Access to all relevant laws, regulations, requirements and procedures	Promotes predictability, lowers search costs and enables compliance
 Legitimacy and accountability	Authoritative, documented responses to specific questions	Builds stakeholder trust and reduces regulatory uncertainty
 Coordination and consistency	Interface between various government agencies and bodies	Ensures accurate and complete responses; reduces inconsistencies between requirements and procedures

Information can be provided in the local language, in English, or in multiple languages (including the language of those making the request).

Besides answering questions, enquiry points can also serve as a repository of relevant information and documentation. In addition, they can be set up to provide an entry point for submitting comments on existing or proposed laws and regulations, thereby supporting governments in designing and implementing relevant measures.¹⁰

GATS, SDR Disciplines and other relevant trade agreements

Considering their key role in enhancing the understanding of and supporting compliance with regulatory frameworks, enquiry points are a standard feature of trade agreements, albeit generally with different scope and beneficiaries.

Article III:4 of the GATS mandates WTO members to establish (within two years from the entry into force of the agreements) enquiry points “to provide specific information to other WTO members, upon request, on (a) all measures of general application and international agreements affecting trade in services, as well as (b) the introduction of any new, or any changes to existing, laws, regulations or administrative guidelines which significantly affect trade in services covered by a member’s specific commitments under GATS and that are subject to the notification requirement.”¹¹ In the area of trade in services, enquiry points are not required to be depositories of laws and regulations. Furthermore, to enhance their visibility and effectiveness, WTO members decided that information on the establishment of enquiry points must be notified under the GATS.¹²

Moreover, GATS Article IV:2 establishes an additional requirement specifically for developed economies, and to the extent possible other WTO members. Such a requirement consists of establishing contact points to facilitate the access of service suppliers from developing economies to information, related to their respective markets, concerning (a) commercial and technical aspects of the supply of services; (b) registration, recognition and obtaining professional qualifications; and (c) the availability of services technology.

Thus, for developed WTO members, the GATS already contains a requirement for information for the benefit of service suppliers, albeit only those from developing economies. While enquiry points are clearly intended to respond to specific information requests, there remains ambiguity around what exactly constitutes facilitating access to the types of information set out in GATS Article IV:2. However, it should be noted that, out of the 150 WTO members that submitted notifications to the WTO, only two (Malawi and Sweden) provided different contact details for the enquiry point under Article III:4 and the contact point under Article IV:2. Furthermore, three WTO members notified specific enquiry points for different particular sectors (Niger, Senegal and Uganda). This suggests that WTO members tend to rely on the same mechanisms to address enquiries from other governments as those from service suppliers of developing countries.¹³

Under the SDR Disciplines, the scope of enquiry points has been expanded to provide the following:

Each Member shall maintain or establish appropriate mechanisms for responding to enquiries from service suppliers or persons seeking to supply a service regarding the measures by Members relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in service.^{FN} A Member may choose to address such enquiries through either the enquiry and contact points established under Articles III and IV of the Agreement or any other mechanisms as appropriate.

FN: It is understood that resource constraints may be a factor in determining whether a mechanism for responding to enquiries is appropriate.¹⁴

The SDR Disciplines go beyond the GATS by requesting that enquiry points also assist service suppliers. This ensures that not only WTO members but also those affected by the laws, i.e. existing or prospective businesses, can directly engage with competent authorities, by asking questions and requesting information.

Notably, the SDR Disciplines refrain from prescribing how enquiries must be addressed. In view of this, each WTO member is allowed to adopt a mechanism within the constraints of its administrative or budgetary resources. Accordingly, a WTO member may establish an enquiry point, contact point or any other mechanism of its choosing provided the mechanism achieves the objective of responding to questions regarding the relevant measures.

For the purposes of comparison, the SPS Agreement (Article 7 and Annex B “Transparency of Sanitary and Phytosanitary Regulations”) also requires each WTO member to maintain “one enquiry point [...], responsible for the provision of answers to all reasonable questions from interested WTO members [...] as well as the provision of relevant documents” regarding a range of sanitary and phytosanitary-related requirements and procedures. In a similar way to GATS Article III:4, the scope of the enquiry point under the SPS Agreement is strictly intergovernmental and does not extend to enquiries from trade operators.

The obligation on enquiry points set out in the TBT Agreement is, however, more detailed and ambitious: Article 10 of the TBT Agreement requires that WTO members ensure that one (or more) enquiry point exists which can answer all reasonable enquiries on technical regulations, standards and conformity assessment procedures. As in the SDR Disciplines, enquiries can come from WTO members as well as from other interested parties. While the TBT Agreement does not provide further guidance with respect to modalities and functioning, it sets out that when for legal or administrative reasons more than one enquiry point is established, the WTO member is required to provide complete and unambiguous information on the scope of responsibility of each of these enquiry points. In addition, it shall ensure that any enquiries addressed to an incorrect enquiry point shall promptly be conveyed to the correct enquiry point.¹⁵

Unlike the GATS, TBT enquiry points serve as centralized hubs for laws and regulations and are required to provide access to relevant documentation.¹⁶ In particular, Article 10.5 of the TBT Agreement requires that, upon WTO members’ request, developed country WTO members shall provide translations of documents in English, French or Spanish.

Under the TFA, WTO members may decide whether to establish or maintain the operation of one or more enquiry points to handle trade-related enquiries in the framework of different border control agencies, including based on their resources and capacity.¹⁷ Furthermore, the task of enquiry points may be assigned to a private sector entity; in this case, government agencies would be required to monitor and assess the performance and the accuracy of the information provided.¹⁸

In a similar way to the TBT and SPS Agreements, the TFA limits the scope of WTO members’ obligation to responses to “reasonable enquiries”.¹⁹ In view of this, it has been argued that, under the TFA, enquiry points are about questions of a general nature and not specific to a consignment.²⁰ Upon traders’ request, enquiry points are also tasked with providing documentation and forms required to comply with the existing import, export and transit procedures.²¹

While the TFA does not require specific ways of providing information and documents (in paper or electronic form)

Figure 2: GRPs in the area of enquiry points

Functions	Models	Language of the information provision
- Responding to enquiries from governments - Responding to enquiries from interested persons - Repository of laws and documentation - Platform for public consultations - Supporting governments in designing and implementing regulations - Resolving problems encountered by users	- Single referral centre - Dedicated help desks within competent authorities - Integration in single window mechanisms - Function assigned to private sector with government supervision	- Local language(s) - English - Multiple languages (including language of users)
	Methods for providing information	Other relevant GRPs
	- Visit to office - Telephone - E-mail - Specialized online form - Online chat	- Free of charge / fees commensurate with costs - Answers provided within reasonable time frames

Source: WTO/World Bank.

nor the language, it provides guidance on two additional GRP elements related to enquiry points:

- **Fees:** Article 1.3.3 encourages WTO members to not demand payment of a fee for answering enquiries. Should a fee be requested, the TFA requires WTO members to limit the amount and charges to the approximate cost of the service rendered. Following the principle of non-discrimination, fees should be the same for locals and foreigners.²²
- **Time frames for replies:** Article 1.3.4 provides that enquiry points shall answer enquiries “within a reasonable time” set by each WTO member. In this light, WTO members can determine a “reasonable period” at their discretion, although this can differ according to the nature or complexity of the request.

Figure 2 provides an overview of GRPs in the area of enquiry points.

PTA practice

The requirement to establish enquiry points is a standard element of modern services PTAs. In many of them, such as the GATS, the right to request information is limited to other governments. For example, Article 8.14.6 of the 2022 RCEP only requires that questions from other parties are responded to regarding any new, or modified existing laws, regulations or administrative guidelines, or international agreements, that affect or pertain to trade in services.

Other agreements, however, largely replicate the obligation contained in the SDR Disciplines by extending the right to request information to service suppliers, while providing similar flexibility for

implementation based on available resources. This is the case, for example, of Article 10.11.1 of the 2018 CPTPP and Article 9.11 of the 2020 Peru-Australia FTA. While the 2020 Hong Kong, China-Australia FTA (Article 7.10) and the 2012 United States-Colombia Trade Promotion Agreement (Article 11.8) both contain an obligation on the establishment of appropriate mechanisms to respond to enquiries from interested persons, they also specify requirements for resource and budget capacity – suggesting a higher level of ambition for implementation. Another interesting example is the 2024 EU-Central America Association Agreement. Article 178 mandates the establishment of enquiry points, but, unlike the SDR Disciplines, it does not provide flexibility for implementation. Furthermore, as in the GATS, it specifies that “[e]nquiry points need not be depositories of laws and regulations.”

Overall, it is worth noting that none of the PTAs examined determine further GRP principles for enquiry points, like the TBT and SPS Agreements, or the TFA.²³

Implementation at the domestic level

Looking at domestic practice, while enquiry points exist when it comes to services trade, it appears that no systematic information is available on how they function and what their main features are.

Overall, the majority of WTO members have notified an enquiry or contact point²⁴, with 136 providing basic information such as an e-mail address (Box 1). Among the latter, however, only 22 have included a reference to a website. It should be noted that in the limited instances where websites have been notified, these

Box 1: Notifications of enquiry points under the GATS

Under the GATS, WTO members have notified the following:

- Six WTO members have provided an e-mail address (either of an individual person or an office);
- 12 WTO members have provided a phone number (either of an individual person or an office);
- 110 WTO members have provided both an e-mail address and a phone number;
- 20 WTO members have provided an e-mail address, a phone number, as well as a website;
- One WTO member has provided an e-mail address and a website;
- One WTO member has provided a phone number and a website.

Source: WTO official document S/ENQ/78/Rev.25, 18 February 2025.

generally are the official websites of relevant ministries, departments, or office (for example, ministry of trade, ministry of foreign trade, ministry of commerce). This is the case also for developed economies, such as the EU which, as enquiry and contact point, notified the office of the Directorate-General for Trade in Brussels.

The EU has also provided a phone number, an e-mail address, as well as the reference to the EU Access2Markets online portal which provides general information relevant for those considering trading services.²⁵ The portal contains an online web form to contact the authorities.²⁶ The UK has followed a similar approach; under the GATS, it has notified an enquiry and contact point with an e-mail address, a phone number, and a link to the website of the Department for Business and Trade (trade policy, implementation and negotiations, trade in services).²⁷ Interestingly, the portal provides further links to dedicated webpages and contacts, particularly on (i) requiring support on setting up and doing business in the UK, as well as (ii) requesting information on export-related issues for UK-based businesses.

While the practice on enquiry points may vary among jurisdictions and different areas of trade, it is worth highlighting that citizens' right to request information from the government is at this time enshrined in the foundational regulatory instruments of certain countries. This is the case, for instance, in Colombia where Article 23 of the 1991 Constitution embodies the "right of petition". Article 23 entitles any interested person to submit a question to the government regardless of the person's nationality, i.e. including foreigners. This includes *inter alia* requesting access to documents or receiving information on laws and regulatory procedures in writing or orally, free of charge. To achieve the Constitution's objectives, Colombia emphasizes the use of any "appropriate mechanism" to submit petitions to any governmental authority or agency, any private entity exercising delegated powers and any private association.²⁸

In the specific case of trade in services through commercial presence (mode 3), the practice related to enquiry points is generally more advanced. Investment promotion agencies often function as enquiry points for interested investors. For example, the Guyana Office for Investment (Go-Invest) serves as a primary contact for investors to establish their activity in Guyana and facilitate their operations throughout the business lifecycle.²⁹ Go-Invest assists in providing information on incentives available to investors and regulations relevant to the sectors of interest. It also develops profiles on

various investment opportunities in Guyana as well as supporting investors in obtaining the necessary concessions, authorizations and permits.

Furthermore, Go-Invest works with the government with a view to designing and implementing policies that are adequate to the needs and interests of potential investors. The Go-Invest website contains an online chat facility which allows users to obtain immediate replies to specific questions. The website also contains detailed information on various investment opportunities in the services sectors (including financial, education and health services),³⁰ as well as an application form for an investment preliminary screening.³¹

In conclusion, enquiry points are now recognized in trade policy as a core GRP that lowers search costs, enables the flow of information between governments and relevant stakeholders, and facilitates access to complete information. In services, however, the binding international baseline remains modest: GATS Article III:4 confines the obligation to respond to other WTO members' requests for information and does not require enquiry points to act as depositories of laws; Article IV:2 adds an obligation for developed WTO members to facilitate access to market information for services suppliers from developing economies. In contrast, the SDR Disciplines extend to all service suppliers' access to enquiry points, but conditions their implementation based on resource constraints. Other WTO agreements offer clearer service-quality cues. The TBT Agreement requires enquiry points to answer all reasonable enquiries and provide access to relevant documents, including translations upon request; the TFA also encourages no-fee or cost-based replies. Likewise, domestic practice ranges significantly from sectoral help desks housed in individual ministries or agencies to the establishment of centralized portals that route enquiries (regardless of the sector) through a fully integrated information system. GATS enquiry-point notifications – although sporadic and often sparse in detail – suggest that enquiry points exist in most, if not all, jurisdictions, and expect competent offices to respond to enquiries. Taken together, GATS notifications confirm that enquiry points are already widespread in services, but that there may also be room to be more ambitious, notably by borrowing from the clearer service-quality benchmarks found in other trade in goods-related deals. Aligning these benchmarks – including on timeliness, cost and language – would enhance the practical value of enquiry points and further reduce compliance costs for service suppliers, especially small ones.

ENDNOTES

1 For more information, see subsection 2.3 on “Online Publication of Information”.

2 UNECE (2022), p. 15; WTO (2018), p. 12.

3 UNECE (2022), p. 15.

4 UNECE (2022), p. 15.

5 UNECE (2022), p. 15.

6 WTO (2018), p. 12.

7 For more information, see subsection 2.4 on “Single Window”.

8 UNECE (2022), p. 16.

9 UNECE (2022), p. 16.

10 WTO (2018), pp. 54-55. For more information, please see subsections 2.7 on “Stakeholder Engagement” and 2.12 on “Regulatory Impact Assessment”.

11 GATS, Article III:4, with modifications based on preceding paragraphs 1 and 3

12 WTO, Council for Trade in Services, Decision on the Notification of the Establishment of Enquiry and Contact Points, official document S/L/23, 27 June 1996.

13 The latest compilation of contact and enquiry points is contained in WTO official document S/ENQ/78/Rev.25, 18 February 2025.

14 SDR Disciplines (WTO, 2021), para. 20.

15 TBT Agreement, Article 10.2.

16 TBT Agreement, Article 10.3.

17 TFA, Article 1.3.1.

18 UNECE (2022), p. 6.

19 TFA, Article 1.3.1.

20 UNECE (2022), p. 6.

21 UNECE (2022), p. 6; TFA, Article 1.3.4.

22 UNECE (2022), p. 6.

23 It should be noted that the recent Agreement on Investment Facilitation for Development (IFD Agreement), for trade in services through commercial presence, requires the establishment or maintenance of one or more focal points

or appropriate mechanisms to respond to enquiries from (i) investors seeking to invest and (ii) existing investors, and assist them in obtaining relevant information from competent authorities (Article 22). Enquiries should be responded to “within a reasonable time” and the parties “should not require fees for answering enquiries or assisting investors in obtaining information”. Additionally, such mechanisms “may be endowed with additional functions, such as resolving problems encountered by investors or recommending measures to improve the investment.”

24 The following WTO members have not notified enquiry points: Benin, Chad, Djibouti, Eswatini, Fiji, Guinea, Guinea-Bissau, Liberia, Papua New Guinea, Sierra Leone, Tanzania, Vanuatu and Yemen. Additionally, Comoros and Timor-Leste have two years to submit their notifications following their accession to the WTO in 2024. See also WTO official document S/ENQ/78/Rev.25, 18 February 2025.

25 European Commission, Access2Markets, “Services”, <https://trade.ec.europa.eu/access-to-markets/en/content/services>. See also WTO official document S/ENQ/78/Rev.25, 18 February 2025.

26 European Commission, Access2Markets, “Contact”, <https://trade.ec.europa.eu/access-to-markets/en/contact-form>.

27 UK Government, “Department for Business and Trade”, <https://www.gov.uk/government/organisations/department-for-business-and-trade>. See also WTO official document S/ENQ/78/Rev.25, 18 February 2025.

28 Note that, under the GATS, Colombia has designated the Ministerio de Comercio, Industria y Turismo, Dirección de Relaciones Comerciales as the enquiry point, and the Ministerio de Comercio, Industria y Turismo, Dirección de Inversión Extranjera, Servicios y Propiedad Intelectual as the contact point. Both ministry offices respond to the same phone number and are located at the same address in Bogotá.

29 Government of Guyana, Guyana Office for Investment (Go-Invest), “Invest & Grow in Guyana”, <https://www.guyanainvest.gov.gy/invest>.

30 Government of Guyana, Guyana Office for Investment (Go-Invest), “Services Investment Portfolio”, https://drive.google.com/file/d/1hFGj0qluyy3M3ob_g0NgmkGK71R2amEn/view.

31 Government of Guyana, Guyana Office for Investment (Go-Invest), “Guyana Office for Investment Preliminary Screening Form”, https://docs.google.com/forms/d/e/1FAIpQLScgpNlgpMKTxGODFeZqPQIQzACtu-zu_tDmkq77s30FihtMnA/viewform.



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⑨ Standards in services



KEY INSIGHTS

- With the evolution of digital technologies and market structures, standards are becoming an increasingly important GRP area for services and services trade – helping reduce transaction costs, promote interoperability, and signal minimum quality in service delivery.
- GATS covers standards to a limited extent only, notably by requiring WTO members to ensure that domestic regulation for services, including with respect to technical standards, is transparent, objective and not more trade-restrictive than necessary.
- The SDR Disciplines – mirrored in some recent services PTAs – address another instrumental GRP aspect when it comes to standards: they encourage open and transparent processes for developing standards, as well as providing technical assistance to help developing economies participate in standard-setting bodies.
- However, learning from the more evolved experience in trade in goods – namely through TBT – there are additional GRP principles which may prove useful in the area of services trade, in particular with respect to the impartiality of standard-setting bodies, the effectiveness and relevance of standards, as well as coherence and non-duplication/conflict with existing international standards.
- Domestic uptake of services standards is expanding. Various jurisdictions are exploring or adopting services standards across sectors (e.g. architecture, engineering and construction industries) as well as in newer areas such as AI, cybersecurity and privacy – including by incorporating by reference, or otherwise giving legal effect, to existing international standards (e.g. International Standards on Auditing).

Key features

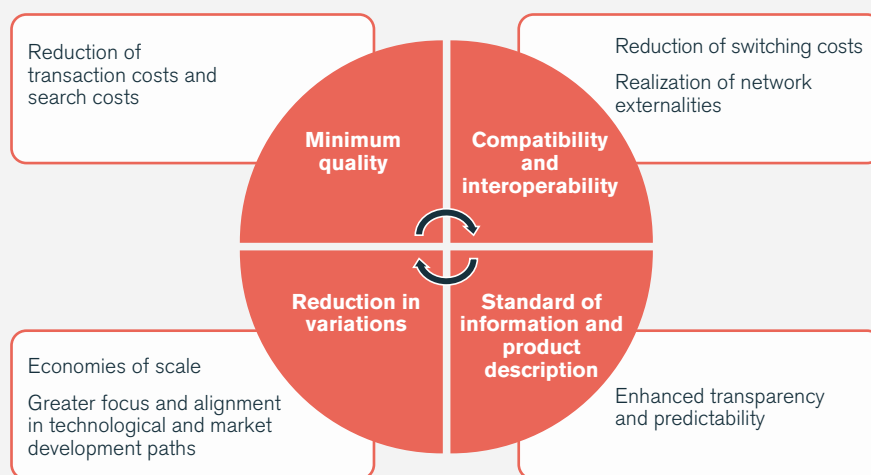
The International Organization for Standardization (ISO), one of the largest independent standard-setting bodies, describes a standard as “the best way of doing something”.¹ It defines it as a “document, established by consensus and approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for activities or their results”. The definition continues to clarify the objective of a standard, namely that it is “aimed at the achievement of the optimum degree of order in a given context”.²

In the field of services, standards are a critical component of regulatory frameworks within which services suppliers operate – they reduce risks, transaction costs and systems incompatibilities, thus enabling trade to take place.³ Amid rapid technological changes and the deepening of GVCs, standards play an increasingly important role in ensuring the reliability, quality, interoperability and safety of service delivery. They help address common failures in services markets, such as information asymmetries, by making key service attributes more visible and comparable, often through clear specifications, certification and disclosure. For instance, accounting and auditing standards reduce uncertainty about the accuracy of financial reporting; in transport and logistics, safety and security standards assure clients of reliable delivery; and in digital services, common protocols for data protection or cybersecurity provide confidence to users and regulators alike.

In this context, standards provide key information about the service and related processes; they establish benchmarks for minimum quality of performance, clarifying what customers can expect and what suppliers must deliver. They also enable compatibility and interoperability, reducing unnecessary variations and allowing systems, processes and organizations to work seamlessly together across different platforms and regions. Consequently, standards are key to encouraging competitiveness and lowering transaction costs, while at the same time fostering innovation and economies of scale (Figure 1).

Services standards only accounted for 2.2 per cent of new registered ISO standards in 2022.⁴ However, a high number of non-services-specific standards have implications for services, such as business management and innovation standards, as well as transport-related standards. Furthermore, there are specialized international standard-setting bodies that deal with specific services sectors, such as the International Air Transport Association (IATA) and International Civil Aviation Organization (ICAO) for air transport, the International Telecommunication Union (ITU) for telecommunications services, the International Maritime Organization (IMO) for maritime transport, and the International Financial Reporting Standards (IFRS) for accounting standards.

Figure 1: Key benefits of standards



Source: WTO/World Bank.

There are different types of standards that may be applicable to services:

- **Voluntary vs. mandatory standards:** voluntary standards are developed by private standard-setting bodies or market-leading firms setting a *de facto* industry standard. Voluntary standards are self-enforcing and spread through network effects. Mandatory standards, on the other hand, are imposed by governments. They are often based on well-established voluntary standards, and align, where possible, with international standards. It is worth noting that voluntary and mandatory standards can be complementary and mutually reinforcing.⁵ In many professional services (e.g. accountancy, architecture), standards drafted by professional bodies start as voluntary but become binding when legislation or licensing rules incorporate them by reference – for example, by requiring adherence to a profession's auditing, ethics, or competence standards as a condition of practice. In these co-regulatory models, a measure establishes the public-interest framework and delegates specific functions to professional bodies (e.g. accreditation for continuing professional development, inspections and discipline), while standards acquire legal effect through that incorporation.
- **Process/method vs. product standards:** process/method standards, which are most prevalent in services sectors, set out uniform ways of performing specific tasks or undertaking processes. For example, the International Standards on Auditing (ISAs) specify how auditors plan, test, document and report an audit. Regulators often require audits to follow ISAs, which standardizes the process of delivering the audit service and makes quality comparable across borders. Product standards identify the qualities or functions of a product. In services sectors, product standards often govern the tools or outputs used to deliver the service (e.g. Europay, Mastercard and Visa chip and terminal specifications, or health-data formats).

Standard-setting typically proceeds in two complementary ways: demand-driven (bottom-up) and regulation-driven (top-down).⁶ In the bottom-up approach, services and suppliers, especially with rapid changes in digital technologies, may initiate business demand for agreeing on a specific way of producing, supplying, or marketing a service. Once demand is established, it is the role of standard-setting bodies, with inputs from relevant stakeholders, to design and adopt standards. In contrast, with a top-down

approach, governments establish overarching objectives and guidelines, while allowing private standard-setting bodies to compete in developing and disseminating specific standards, and to provide certifications once these standards are met.

In the area of services, it is also important to distinguish “technical standards” from “regulatory standards”. Technical standards, as discussed above, are concerned with the characteristics of a service or the manner/process in which it is supplied. But there also exist standards – often referred to as “regulatory standards” – which set out principles for the regulation and supervision of a service.⁷ For example, the Financial Stability Board, established to coordinate national and international financial authorities and standard-setting bodies, identified 12 key standards widely recognized as minimum benchmarks for good practice. These include the “Core Principles for Effective Banking Supervision” by the Basel Committee on Banking Supervision, the “Insurance Core Principles” by the International Association of Insurance Supervisors, and the “Objectives and Principles of Securities Regulation” by the International Organization of Securities Commissions.

GATS, SDR Disciplines and other relevant trade agreements

Under the GATS, obligations related to standards are somewhat rudimentary. Broadly speaking, the GATS aims to ensure that domestic regulation for services, including with respect to technical standards, is transparent, objective and not more trade-restrictive than necessary.⁸

The GATS does not contain definitions for the terms “standard”, “technical standard” or “international standard”. Nevertheless, the term “standard” is used within the provision on recognition to clarify that a WTO member may recognize education, experience, requirements, licences or certificates of other jurisdictions, to fulfil its own “standards or criteria”.⁹

The phrase “technical standard” features only twice in the GATS, and both times in the context of Article VI. The first appearance is under the mandate of Article VI:4, which directs WTO members to develop any necessary disciplines to ensure that “measures relating to ... technical standards” do not constitute

unnecessary barriers to trade in services. The second appearance is in Article VI:5 which requires that WTO members, before any such disciplines are developed, do not apply technical standards that nullify or impair specific commitments contained in their schedules of specific commitments.

The phrase “international standards” is, however, used on three occasions. First, in the context of the period before the adoption of domestic regulation disciplines developed under Article VI:4. In view of this, Article VI:5 states that when assessing whether a WTO member complies with the requirement not to apply technical standards that would nullify or impair specific commitments, consideration should be given to the international standards of relevant international organizations applied by that WTO member. The phrase “relevant international organizations” refers here to international bodies whose membership is open to the relevant bodies of at least all WTO members. Importantly, this obligation, therefore, neither provides an obligation to use international standards nor create a presumption of compliance with the principle prescribed in Article VI:4.

The second reference to “international standards” appears in the context of recognition. Article VII:5 provides that recognition should be based on multilaterally agreed criteria in appropriate cases. In light of this, WTO members “shall work in cooperation with relevant intergovernmental and nongovernmental organizations towards the establishment and adoption of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions”.

The last reference is contained in the Annex on Telecommunications. Specifically for telecommunications services, Section 7(a) provides that WTO members “recognize the importance of international standards for global compatibility and inter-operability of telecommunication networks and services and undertake to promote such standards through the work of relevant international bodies, including the ITU and the ISO.” In the telecom sector, the Reference Paper on Basic Telecommunications (incorporated by more than 100 WTO members into their respective schedules of specific commitments) requires that WTO members ensure that interconnection with a major supplier is provided *inter alia* under non-discriminatory terms and conditions and that it should be provided “in a timely fashion, on terms, conditions (including technical standards

and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility and sufficiently unbundled”.¹⁰

Despite the absence of definitions in the GATS, WTO members – during negotiations in the WPDR – had developed a working definition which provides that “technical standards” are measures that prescribe “the characteristics of a service or the manner in which it is supplied”.¹¹ Furthermore, “technical standards also include the procedures relating to the enforcement of such standards.”¹² This definition reflects the distinction between the characteristics of a product and the related production methods. Technical standards could therefore be understood as rules or criteria describing the characteristics of the service (e.g. the format of a financial report), as well as the manner in which it should be performed, namely, the way in which an audit must be conducted, including various checks and reporting. It would cover both mandatory technical requirements for the supply of a service as well as situations where adherence to voluntary standards is accepted as one among several ways of complying with a mandatory requirement.

The SDR Disciplines, likewise, do not contain definitions of these terms. While the SDR Disciplines apply to “measures relating to [...] technical standards affecting trade in services”¹³, there is no attempt to regulate the substance of technical standards. In encouraging the provision of specific technical assistance and capacity building, WTO members that have adopted the SDR Disciplines have pledged such assistance which shall *inter alia* aim to facilitate “the establishment of technical standards” and facilitate the “participation of developing and in particular least-developed country members facing resource constraints in the relevant international organizations”.¹⁴

It is important to note that the SDR Disciplines focus on the phase of obtaining authorization to supply a service, but do not regulate the post-licensing phase in which services businesses must perform their services in a specific manner or observe a certain level of quality or safety. The only exception relates to the requirement for publication of information not only to obtain, but also to maintain, amend, or renew authorization.¹⁵ This requirement for information explicitly extends to technical standards.¹⁶

With regard to the substance of technical standards, the SDR Disciplines provide that they are to be

based on “objective and transparent criteria” and “do not discriminate between men and women”.¹⁷ Other relevant obligations in the SDR Disciplines relate to the publication of information on technical standards, as well as the procedures that applicants for authorization are required to follow to demonstrate compliance with technical standards.

Furthermore, the SDR Disciplines address in paragraph 21 the development of technical standards as follows:

Each Member shall encourage its competent authorities, when adopting technical standards, to adopt technical standards developed through open and transparent processes, and shall encourage any body, including relevant international organizations^{FN}, designated to develop technical standards to use open and transparent processes.

FN: The term “relevant international organizations” refers to international bodies whose membership is open to the relevant bodies of at least all Members of the WTO.

International regulation in the field of trade in goods contains more detailed obligations on GRPs for technical standards which, with time and experience, may be carried over and adapted to the specificities of services trade. In particular, the TBT Agreement aims to balance, on the one hand, the need to implement standards for safety, health, environmental protection and consumer information, with on the other hand, the goal of preventing protectionism and unnecessary obstacles to international trade. It sets out a comprehensive framework for the preparation, adoption and application of technical regulations and standards, and for conformity-assessment procedures (testing, inspection, certification).¹⁸

The TBT Agreement requires, among other things, that technical regulations, standards and conformity assessment procedures are not more trade-restrictive than necessary to achieve legitimate objectives, such as protecting human health and safety, animal and plant life, or the environment.¹⁹

Unlike the GATS and the SDR Disciplines, the TBT Agreement determines that where relevant international standards exist (or their completion is imminent), WTO members shall use them, or the relevant parts of them, as a basis for their technical regulations – except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the

legitimate objectives pursued.²⁰ Importantly, whenever a technical regulation is prepared, adopted or applied, and is in accordance with relevant international standards, it shall be presumed – unless proven otherwise – not to constitute an unnecessary obstacle to international trade.²¹ Such an explicit reference to international standards in the TBT Agreement reflects a more developed experience and, as a consequence, a more frequent use of standardization in the area of trade in goods.

Recognizing the costs for producers and exporters associated with the diversity of regulations and standards across jurisdictions, the TBT Agreement also requires WTO members to play a full part in international standardizing bodies in the development of international standards, with a view to progressively harmonizing technical regulations.²² Along the same lines, WTO members are also required to give positive consideration to accepting as equivalent, technical regulations of other WTO members, even if these regulations differ from their own, provided that they adequately fulfil the objectives of their own regulations.²³

To ensure that information related to technical regulations and standards is transparent and made easily available, all WTO members are expected to keep each other informed through the WTO. In practice, around 900 new or modified regulations are notified each year.²⁴ The TBT Committee is the forum tasked with sharing information and discussing concerns about the regulations and their implementation.

The SPS Agreement requires that measures taken to protect human, animal or plant life or health from specified risks (e.g. food-borne hazards, animal diseases, plant pests) are based on scientific principles and not maintained without sufficient scientific evidence, and that WTO members conduct a risk assessment in line with internationally accepted methods to achieve their chosen appropriate level of protection.²⁵ However, unlike the TBT Agreement, which does not identify international standard-setting bodies, it explicitly ties domestic measures to three international standard-setting organizations – the Codex Alimentarius (food safety), the World Organisation for Animal Health (animal health) and the International Plant Protection Convention (plant health). When a measure conforms to a relevant international standard, it is deemed necessary and is presumed consistent with the SPS Agreement and the GATT. A WTO member may apply a stricter level of protection than the international

standard only if it can be scientifically justified or is supported by a risk assessment²⁶ consistent with its chosen appropriate level of protection.

Beyond the scope and core features of standards (Figure 2), there is another relevant GRP aspect, which is that of their development. This issue is addressed both by the SDR Disciplines (for trade in services) as well as by the TBT Agreement (for trade in goods), although by the latter in a more detailed way (for a comparison between the TBT Agreement and the SDR Disciplines, see Figure 3). Annex 3 of the TBT Agreement contains a “Code of Good Practice for the Preparation, Adoption and Application of Standards”. This Code sets out key procedural disciplines for governmental and non-governmental standardizing bodies so that standards are prepared and applied coherently and do not create unnecessary obstacles to trade.

In 2000, The TBT Committee adopted “Six Principles” which provide guidance on how to turn the Code’s high-level objectives into operational criteria for developing international standards.²⁷ The Principles address (i) transparency, (ii) openness, (iii) impartiality and consensus, (iv) effectiveness and relevance, (v) coherence, (vi) and the development dimension. These Principles identify several elements that may also prove relevant to trade in services. The Principles, like the SDR Disciplines, underscore the importance of transparency and openness in the development of standards processes. Transparent processes are

understood to include the publication of information regarding standard development activities, such as work programmes or draft proposals, so that stakeholders, including standard-setting bodies in other WTO members may be informed.

Closely linked to transparency, open processes facilitate the participation of all materially affected stakeholders – such as SMEs, technical experts, or consumer advocacy groups, whether foreign or domestic – at any stages of the development of a standard. As also set out in the SDR Disciplines, constraints on developing economies to effectively participate in standards development need to be taken into consideration. The openness of any international standardization process requires that no governments are excluded from the process and that tangible ways of facilitating developing country members’ participation are sought, including through appropriate technical assistance and capacity building.

Other Principles, although going beyond the scope of the SDR Disciplines, may equally constitute GRP in the field of development of standards for services. For example, there is a call for coherence, to avoid standards being developed in conflict with existing international standards or duplicating the work of international standard-setting bodies. Standard-setting processes should strive for maximum “effectiveness and relevance”, with a view to ensuring that standards effectively address regulatory and market needs and reflect advances in technology and science.

Figure 2: Main features of standards

Scope	Product standard Process/method standard
Legal force	Voluntary standard Mandatory standard Hybrid standard
Origin	Private sector-driven Regulation-driven
Key GRP principles	Transparency Objectiveness No more restrictiveness than necessary
Linkage with international standards	Use of international standards

Source: WTO/World Bank.

Figure 3: Development of technical standards – comparison between the TBT Agreement and the SDR Disciplines

GRP	TBT Agreement	SDR Disciplines
Transparency - Publication/availability of information including technical standards. - Make standard-setting activities visible as early as possible, including to other WTO members.	✓	✓
Openness Participation at all stages to all materially affected stakeholders (SMEs, technical experts, consumers; foreign and local).	✓	✓
Impartiality and consensus - No favouritism toward particular stakeholders. - Decisions reflect balanced input. - Due process safeguards.	✓	
Effectiveness and relevance - Standards address real regulatory/market needs and keep pace with science/technology. - Processes to identify ongoing relevance of standards (remove and review as necessary). - Cohesive use of voluntary and mandatory standards.	✓	
Coherence Avoid conflict with existing or imminent international standards or duplication of relevant work by international standard-setting bodies.	✓	
Development dimension Facilitate participation of developing economies in international standard-setting bodies, including through technical assistance and capacity building.	✓	✓

Source: WTO/World Bank.

Standardizing bodies should have procedures to identify whether standards have become obsolete, or ineffective, and review them as required. Additionally, standard-setting bodies should ensure impartiality in activities for standard development, with no favouritism with regard to particular stakeholders. To ensure the continuous implementation of procedural principles, mechanisms for impartial procedural appeals should also be made available. Procedures should actively seek to reconcile differing views and provide fair consideration of all comments throughout the development process.

PTA practice

New generation PTAs dealing with services trade contain numerous references to technical and international standards. Many of these agreements traditionally replicate or recall the mandate of GATS Article VI:4 to develop disciplines that ensure that technical standards do not constitute unnecessary barriers to trade, while some others go further and operationalize this mandate. For example, Article 8.15.5 of the 2022 RCEP stipulates that each party shall endeavour to ensure that any measures relating to technical standards it adopts or maintains are

consistent with the objectives set out in GATS Article VI:4, i.e. (i) based on objective and transparent criteria, such as competence and the ability to supply the service; (ii) and not more burdensome than necessary to ensure the quality of the service.²⁸

Moreover, Article 8.15.6 specifies that, to determine whether technical standards are based on objective and transparent criteria, international standards of relevant international organizations applied by that party shall be taken into account.²⁹ Similarly, Article 16.4 of the 2021 ATISA requires that ASEAN member states “maintain measures relating to technical standards as a condition for the supply of a service, to ensure that: a) such measures are based on objective and transparent criteria.”³⁰

Several PTAs contain references to “international standards” in chapters related to trade in services. For example, the 2021 ATISA uses the term in an obligation equivalent to GATS Article VI:5. In view of this, Article 16.5(b) provides that international standards are to be taken into account to determine whether ASEAN member states are in conformity with the obligation to not apply licensing and qualification requirements and technical standards in a manner that nullify their obligations under the Agreement.³¹

Standards-related obligations also appear in sectoral chapters or annexes of PTAs. For example, when it comes to telecommunications services, numerous PTAs have incorporated the Reference Paper on Basic Telecommunications, with the obligation to provide interconnection with a major supplier under non-discriminatory, timely terms and conditions (including technical standards and specifications), that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled.

This is the case, for instance, of the 2021 ATISA Annex on Telecommunication Services (Article 8),³² as well as the 2020 USMCA (Article 18.9).³³ Also in the field of telecommunications, some PTAs require enhanced transparency to ensure that relevant information on conditions affecting access to and use of public telecommunications transport networks and services is publicly available, including “information on bodies responsible for the preparation and adoption of standards affecting such access and use”.³⁴

In the area of professional services, obligations related to standards can also often be encountered. The 2022 RCEP Annex on Professional Services aims to foster cooperation between the parties’ professional bodies on issues that relate to the recognition of professional qualifications, licensing, or registration. In this context, each party shall encourage its relevant bodies to work towards the development of mutually acceptable professional standards (paragraph 6); provide information concerning standards and criteria for the licensing and certification of professional service suppliers (paragraph 7); and encourage its relevant bodies to refer to international frameworks, where applicable, in developing common standards and criteria for the relevant professions (paragraph 8).³⁵

With regard to financial services, in their respective sector-specific annexes, both the 2022 RCEP and the 2021 ATISA provide that a party may recognize prudential measures of any international standard-setting body, another party, or a non-party in determining how its measures relating to financial services shall be applied.³⁶

Additionally, e-commerce chapters in PTAs similarly often reference international standards. For example, in the case of the 2022 RCEP which, in Article 12.8, requires the parties to take into account international standards, principles, guidelines and criteria of relevant international organizations or bodies, in the

development of its legal framework for the protection of personal information.³⁷ Similarly, Article 16.4 of the 2017 EU-Canada CETA states that, when adopting or maintaining measures to protect the personal data of e-commerce users, both the EU and Canada must take into account international standards of data protection set by relevant international organizations to which they both belong.³⁸

It should also be noted that, at present, only a very limited number of PTAs address the issue of the development of standards for services. The 2020 USMCA is one of these agreements and which substantially replicates the SDR Disciplines, requiring that “each Party shall encourage its competent authorities, when adopting a technical standard, to adopt technical standards developed through an open and transparent process, and shall encourage a body designated to develop a technical standard to use an open and transparent process.”³⁹

Furthermore, some agreements address the issue of cooperation on standards-related matters.⁴⁰ For instance, the 2017 EU-Canada CETA contains a Chapter on “Regulatory cooperation” which sets out the parties’ commitment to cooperate on issues that concern the development, adoption, implementation and maintenance of international standards, guides and recommendations, including in the field of services.⁴¹ The parties are also required to “identify the appropriate approach to reduce adverse effects of existing regulatory differences on bilateral trade and investment in sectors identified by a Party, including, when appropriate, through greater convergence, mutual recognition, minimising the use of trade and investment distorting regulatory instruments, and the use of international standards, including standards and guides for conformity assessment”, among others.⁴²

Implementation at the domestic level

At the domestic level, various jurisdictions are currently looking at services standards, across sectors as well as in new areas such as AI, cybersecurity and privacy. For example, in the architecture, engineering and construction (AEC) industries, standards – covering qualifications, processes, materials and safety – are critical to protect consumers and ensure service quality.⁴³

Further to a business call for standardization initiated in the UK, in 2019 the ISO approved international building

information modeling (BIM) standards (ISO/TC 59/SC 13).⁴⁴ BIM provides a shared digital framework that allows public and private actors to collaborate across the project lifecycle. The standard pursues three key objectives: (i) to enable interoperability of information; (ii) to deliver a structured set of standards, specifications and reports to define, describe, exchange, monitor, record and securely handle information, semantics, and processes, with links to geospatial and other built environment information; and (iii) to enable object-related digital information exchange.⁴⁵

Chile was one of the first jurisdictions to adopt BIM standards in Latin America.⁴⁶ In collaboration with AEC industry representatives, the government of Chile adopted a national BIM strategy programme in 2016, known as “Planbim”.⁴⁷ The expected benefits of this plan included better quality; transparency and traceability of project information; greater collaboration around common standards; improved regulatory compliance; faster permit approvals; and enhanced predictability with fewer delays.⁴⁸ To promote the implementation, Chile phased BIM requirements into public works, embedded training in the university architecture curriculum and organized free courses for the private sector.⁴⁹

Chile also joined the BIM Global Network to align with international practice.⁵⁰ While implementation is ongoing, a number of challenges persist: these include gaps in interoperability for some underlying datasets, the need for significant ICT investment and skills development, and the importance of steady political support and international cooperation as technologies evolve.⁵¹

The ISAs are developed and issued by the International Auditing and Assurance Standards Board (IAASB) – an independent standard-setting board supported by the International Federation of Accountants, with oversight by the Public Interest Oversight Board. ISAs set out how to plan and perform an audit, what evidence should be obtained and documented, how the engagement is quality-managed, and how to report the results.

They also prescribe the form that the auditor's report should take and cover topics such as fraud, estimates and subsequent events.⁵² Many jurisdictions make ISAs effectively binding by adopting national versions in laws or regulations. For example, in the UK, the Financial Reporting Council issues national standards based on IAASB ISAs for statutory audits.⁵³ In Australia, the Auditing and Assurance Standards Board issues Australian Auditing Standards as mandatory legal instruments.⁵⁴

Similarly, in South Africa, the Independent Regulatory Board for Auditors has adopted the ISAs as issued by the IAASB, without modifications, making them mandatory for registered auditors.⁵⁵ These examples show how various jurisdictions turn voluntary international benchmarks into binding domestic standards, by directly incorporating them in their regulatory frameworks. This results in audits using consistent procedures and reports, cross-border comparability and improved trust, while also clarifying oversight roles of public authorities and professional bodies.

In conclusion, as technologies and market structures evolve, standards are becoming increasingly important for services and services trade. While the GATS only addresses standards to a very limited extent, several key GRP principles – such as transparency, objectivity, and necessity – can help ensure that these reduce transaction costs, promote interoperability and signal minimum quality in service delivery. GRPs also play an instrumental role when it comes to guiding the development of standards. In this way, the SDR Disciplines already encourage open and transparent processes, as well as the provision of technical assistance to facilitate the participation of developing economies in standard-setting bodies. However, learning from the TBT experience, the adoption of additional GRP principles, including impartiality, effectiveness and relevance, coherence and non-duplication/conflict with international standards, may further strengthen the legitimacy and uptake of services standards and foster their broad adoption across international markets.

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- 1 International Organization for Standardization (ISO), "Standards", <https://www.iso.org/standards.html>.
- 2 International Organization for Standardization (ISO), "Consumers and Standards: Partnership for a Better World- 1. Standards in our world", https://www.iso.org/sites/ConsumersStandards/1_standards.html.
- 3 Marchetti (2015), pp. 137-159.
- 4 APEC (2024), p. 3.
- 5 APEC (2024), p. 9.
- 6 APEC (2024), p. 10.
- 7 Marchetti (2015).
- 8 GATS, Article VI:1.
- 9 GATS, Article VII:1.
- 10 WTO, Reference Paper on Basic Telecommunications, https://www.wto.org/english/tratop_e/serv_e/telecom_e/tel23_e.htm.
- 11 WTO (2011).
- 12 WTO (2011).
- 13 SDR Disciplines (WTO, 2021), para. 1. Note that the Alternative SDR Disciplines exclude technical standards from its scope. Hence, for WTO members that have opted to apply these Alternative SDR Disciplines for their commitments in financial services, there are no obligations with regard to technical standards.
- 14 SDR Reference Paper (WTO, 2021), Section I, para. 12.
- 15 SDR Disciplines (WTO, 2021), para. 13.
- 16 SDR Disciplines (WTO, 2021), para. 13(d).
- 17 SDR Disciplines (WTO, 2021), para. 22(a) and (d).
- 18 These terms are defined in Annex 1 of the TBT Agreement. A "technical regulation" refers to a "[d]ocument which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method." Additionally, the term "standard" is defined as a "[d]ocument approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method." Finally, a "conformity assessment procedure" is identified as "[a]ny procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled".
- 19 TBT Agreement, Article 2.2.
- 20 TBT Agreement, Article 2.4.
- 21 TBT Agreement, Article 2.5.
- 22 TBT Agreement, Article 2.6.
- 23 TBT Agreement, Article 2.7.
- 24 WTO, "Understanding the WTO: The Agreements - Standards and safety", https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm4_e.htm#TRS.
- 25 SPS Agreement, Articles 2 and 5.
- 26 SPS Agreement, Article 3.
- 27 WTO, "Principles for the Development of International Standards, Guides and Recommendations", https://www.wto.org/english/tratop_e/tbt_e/principles_standards_tbt_e.htm. See also WTO (2022), Annex 2.
- 28 RCEP (2022), Article 8.15.5.
- 29 RCEP (2022), Article 8.15.6.
- 30 ATISA (2021), Article 16.4.
- 31 ATISA (2021), Article 16.5(b).
- 32 ATISA (2021), Annex on Telecommunication Services, Article 8.
- 33 USMCA (2020), Article 18.9.
- 34 ATISA (2021), Annex on Telecommunication Services, Article 15; RCEP (2022), Annex 8B: Telecommunications Services, Article 16.
- 35 RCEP (2022), Annex 8C: Professional Services, paras. 6, 7, and 8.
- 36 RCEP (2022), Annex 8A: Financial Services, Article 6; ATISA (2021), Annex on Financial Services, Article 5.
- 37 RCEP (2022), Article 12.8.
- 38 EU-Canada CETA (2017), Article 16.4.
- 39 USMCA (2020), Article 15.8.5.
- 40 For more information, see subsection 2.14 on "International regulatory cooperation".
- 41 EU-Canada CETA (2017), Article 21.4(h).
- 42 EU-Canada CETA (2017), Article 21.4(r).
- 43 APEC (2024).
- 44 International Organization for Standardization (ISO), "ISO/ TC 59/SC 13 – Organization and Digitization of Information about Buildings and Civil Engineering Works (BIM)", <https://www.iso.org/committee/49180.html>.

45 International Organization for Standardization (ISO), "ISO/TC 59/SC 13 – Organization and Digitization of Information about Buildings and Civil Engineering Works (BIM)", <https://www.iso.org/committee/49180.html>.

46 APEC (2024), p. 21.

47 Global BIM Network, "What is Planbim", <https://globalbim.org/info-collection/what-is-planbim/>.

48 APEC (2024), pp. 21-22.

49 APEC (2024), p. 22.

50 APEC (2024), p. 22.

51 APEC (2024), p. 23.

52 International Auditing and Assurance Standards Board (IAASB), "Standards & Pronouncements", <https://www.iaasb.org/standards-pronouncements>.

53 Financial Reporting Council (UK), "Auditing Standards", <https://www.frc.org.uk/library/standards-codes-policy/audit-assurance-and-ethics/auditing-standards/>.

54 AUASB (2020).

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⑩ Review of administrative decisions



KEY INSIGHTS

- The right to review administrative decisions affecting trade in services is key to making authorization systems predictable, impartial and correctable in practice.
- The GATS establishes the right for affected service suppliers to request prompt review of administrative decisions and, where justified, appropriate remedies, through judicial, arbitral, or administrative tribunals or procedures that provide objective and impartial review.
- The SDR Disciplines complement the GATS and require publication of available review procedures. Some recent PTAs go further by guaranteeing suppliers a reasonable opportunity to support their respective claims during the proceedings, as well as guaranteeing the independence of the review bodies.
- At the domestic level, while differing in their structure, review systems are significantly widespread – with 97 per cent of the economies covered in the WTO-World Bank STPD formally providing for the right to review across services sectors, 96.5 per cent having established an independent authority handling the review, and 92.5 per cent making the review procedures publicly available.

Key features

Sector-specific laws and authorization frameworks empower competent authorities to take administrative decisions with legal effect. These decisions apply general measures to specific individual cases with binding legal consequences, such as assessing an authorization application or determining instances of non-compliance. They are based on laws and regulations that set out conditions and criteria for obtaining authorization and requirements for conducting any permitted business activity.¹ They also encompass monitoring of compliance, as well as enforcement of breaches, including through sanctions or punitive costs.²

The possibility for individuals adversely affected by administrative decisions to request review is a key tenet of due process. Regulatory frameworks which provide the right to challenge decisions are critical to prevent abuse of discretionary authority and discriminatory treatment, as well as to preserve the validity, integrity and fairness of the regulatory system.³ In brief, the purpose of the review is to strike a balance between ensuring administrative efficiency and the protection of individuals' interests.

Challenging the validity of administrative decisions may take various forms, often involving multiple levels of review, beginning with an internal appeal within the competent authority itself to address, if necessary, external bodies entrusted with this task, such as administrative tribunals, or the courts. Alternatively, the administrative and judicial procedures could run in parallel. The structure of such review systems depends on the procedures generally prevalent in the legal system to protect individual rights, including the following:

- **Constitutional protection for individual rights:** Constitutions bestow individual rights, including rights to due process, fairness, equality and protections against arbitrary governmental action. For instance, the Charter of Fundamental Rights of the European Union states that every person is entitled to “the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, officers and agencies of the Union”.⁴ In certain instances, constitutions reserve such rights exclusively for citizens, thereby excluding foreign persons.
- **Horizontal legislation and sector-specific regulations:** Horizontal statutes, such as civil

procedure codes, may provide broad rights to individuals to bring a cause of action before a civil court. Similarly, certain jurisdictions have administrative procedural frameworks to ensure efficiency, timeliness and fairness in administrative decision-making. Sector-specific measures, which discipline the actions and responsibilities of regulatory authorities may also guarantee recourse, including to foreigners.

- **Implementing measures:** Rules framed to implement sectoral legislations often prescribe procedures for application for licences, including requirements and conditions to be fulfilled, grounds for rejection and possible recourse against the regulatory authority.

Providing a review mechanism to challenge administrative decisions is an internationally recognized GRP. It is instrumental to increase regulatory quality and legitimacy of the institutional framework. For this GRP, the OECD recommends that its member countries⁵:

Ensure the effectiveness of systems for the review of the legality and procedural fairness of regulations, and of decisions made by bodies empowered to issue regulatory sanctions. Ensure that citizens and businesses have access to these systems of review at reasonable cost and receive decisions in a timely manner.

In its commentary, the OECD emphasizes that appeals should be heard by a separate authority other than the body responsible for making the original decision.⁶ The right to review should also set out the grounds on which it can be initiated, including procedural fairness and due process, review of facts, and review of law. Other GRP principles play an important role in this area, notably (i) establishing standard time periods within which individuals or businesses can expect a decision to be made when asking for a decision's review⁷; (ii) identifying time frames within which reviews can be requested; (iii) guaranteeing the right to review free of charge; as well as (iv) providing the right to present relevant documentation and arguments for the defence. Additionally, (v) the precise legal effect of the review decisions should be specified,⁸ together with the different types of remedies available, and (vi) safeguards to ensure the independence and impartiality of review decisions should be upheld. Box 1 provides for an account of the implementation of the right to challenge decisions in OECD member countries and Figure 1 summarizes the types of review and their legal bases, as well as relevant GRP elements.

Box 1: The right to challenge decisions among OECD member countries

Mechanisms to challenge decisions made in individual cases exist in all OECD member countries. Citizens and businesses can have administrative decisions reviewed by a court (in 38 jurisdictions), and in a majority of them (34 jurisdictions), such decisions can also be reviewed by the body in charge of enforcing the regulation that was the basis for the decision. Some jurisdictions make other mechanisms available to challenge such decisions. For instance, it is possible to appeal an individual decision before an independent body (in 26 jurisdictions), have a ministry review the decision (in 25 jurisdictions) or have the decision reviewed by a specialized administrative body (in 22 jurisdictions). In addition, 24 OECD member countries reported that businesses and citizens may petition the decision-making agency to reconsider its decision.

Source: OECD (2021).

GATS, SDR Disciplines and other relevant trade agreements

In international trade law, the right to request review is enshrined across a range of WTO agreements: Article X:3(b) of the GATT provides for the prompt review and correction of administrative actions related to customs matters by independent tribunals or procedures.⁹

The latter action has effectively served as a basis for other WTO agreements, including Article 41.4 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (opportunity for review of administrative decisions related to the

enforcement of intellectual property rights);¹⁰ Article 4 of the TFA (appeal or review of customs and trade-related administrative decisions);¹¹ Article 13 of the Anti-Dumping Agreement (judicial, arbitral, or administrative review of anti-dumping decisions);¹² and Article 23 of the Subsidies and Countervailing Measures Agreement (SCM Agreement) (judicial, arbitral, or administrative review of countervailing decisions).¹³

In the area of trade in services, GATS Article VI:2(a) provides for the principle of review of administrative decisions for all measures affecting trade in services across all sectors¹⁴:

Figure 1: Review of administrative decisions

Type of review	Legal basis
▪ Judicial, arbitral, administrative tribunals or procedures ▪ Review authority separate to the body responsible for making the original regulatory decision	▪ Constitution ▪ Horizontal legislation ▪ Sector-specific regulation ▪ Implementing measures
Relevant GRP elements	
▪ Publication of review procedures ▪ Time periods for review decisions ("prompt review") ▪ Safeguards to ensure the independence, impartiality, and objectivity of review decisions ▪ Time frames within which review can be initiated ▪ Review procedures free of charge ▪ Right to present relevant documentation and arguments during review ▪ Specification of legal effect of review ▪ Identification of types of remedies available (such as reversal or modification of decisions, reprocessing of requests, compensation, or instructions which the initial deciding authority should comply with)	

Source: WTO/World Bank.

Each Member shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Member shall ensure that the procedures in fact provide for an objective and impartial review.

Notably, in accordance with Article VI:2(a), administrative decisions are to be reviewed at the request of the affected service supplier, establishing an individual right for both domestic and foreign service suppliers to seek remedy. This provision implies that accessible and effective channels for submitting such requests must be made available.

Article VI:2 does not prescribe the institutional structure of the review process. It allows WTO members to choose between “judicial, arbitral or administrative tribunals or procedures”. These terms, in the context of GATT Article X:3(b), have been interpreted to not prescribe a particular type of review or correction of administrative action relating to customs matters.¹⁵ This suggests there may be “a variety of ways in which a WTO member may comply with the obligation of maintaining tribunals or procedures for prompt review and correction”.¹⁶ Nonetheless, Article VI:2 of the GATS demands that whatever system is chosen, it must provide “for the prompt review of, and where justified, appropriate remedies” and that the related procedures provide for an “objective and impartial review”.

The right of WTO members to choose the most convenient review method is limited insofar as any procedures that are “not independent of the agency entrusted with the administrative decision concerned” shall nonetheless ensure that the “procedures in fact provide for an objective and impartial review”. This means that even where the reviewer of the decision is part of the same regulatory authority, it must maintain an unbiased approach to the review of facts and law. This could be ensured through protecting the tenure of the reviewers or judges and insulating them from any retaliatory action from the regulatory authority.

Under the GATS, the terms “prompt review”, “objective” and “impartial” are not specifically defined. In this context, regulatory authorities may be guided by the interpretation of similar terms in Article X of the

GATT to identify best practices regarding the review of administrative decisions. In the context of GATT Article X:3(b) which deals with the “prompt review and correction of administrative action relating to customs matters,” the term “prompt” has been interpreted to mean “in a quick and effective manner and without delay”.¹⁷ Whether a review is conducted without delay “depends on the context and particular circumstances, including the nature of the specific type of action to be reviewed and corrected”.¹⁸

The requirement for an “objective” review implies that authorities must not treat suppliers in an arbitrary manner, and that similar situations must be treated in the same way.¹⁹ The impartiality of the reviewing authority and process is also a critical feature; it requires that a review is conducted without giving special consideration or privileges or interest to other equally affected parties.²⁰ It can also be interpreted to mean that the reviewing authority shall not have any substantial interest in the outcome of the matter. WTO panels have not presumed that regulatory authorities that are part of the government, would *per se* act partially towards state-owned enterprises or domestic traders. In such situations, authorities will have to establish guardrails that ensure the independence and impartiality of authorities with links to the government and domestic traders, including with respect to the publication of the reasons for the decision, conflict of interest rules, as well as other accountability mechanisms.

Importantly, GATS Article VI:2 requires that a review process must be initiated, upon request of the applicant, if the challenged decision has been found to be flawed. Based on the overarching objective to restore fairness and rectify any harm done, authorities have discretion to determine what “appropriate remedies” would be in any given case. This could involve, *inter alia*, the reversal or annulment of the original decision, or its modification and replacement with another decision, the referral to the original authority for a new decision while considering the outcome of the review process. Appropriate remedies could also comprise compensation for damages and losses.

Article VI:2 of the GATS does not specify procedural details of the review. WTO members may therefore identify certain requirements for the review, e.g. that requests are made within specific time frames, in writing, that they clearly identify the administrative decision challenged and the grounds for challenge.

The obligation is generally understood to imply that the parties involved in the proceedings have a fair opportunity to present or defend their claims.

It should also be highlighted that Article VI:2(b) provides for a safeguard from the obligation in sub-paragraph (a). It states that sub-paragraph (a) must not be construed to oblige a WTO member to “institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system”. In practice, most WTO members are able to establish some form of administrative, judicial, or arbitral review, consistent with GATS requirements, given the substantive flexibility in the range of options. However, Article VI:2(b) acknowledges that, for some jurisdictions, structural, constitutional, or practical incompatibilities could prevent implementing any of these options. The safeguard clause ensures that these WTO members are not forced into obligations that would require substantial upheaval of their regulatory frameworks.²¹

The SDR Disciplines do not elaborate on the obligations contained in GATS Article VI:2. However, they require the publication of procedures for appeal and review of administrative decisions on authorization applications.²² They provide that WTO members promptly publish:

... the information necessary for service suppliers or persons seeking to supply a service to comply with the requirements and procedures for obtaining, maintaining, amending and renewing such authorization. Such information shall include, *inter alia*, where it exists: (...) (e) procedures for appeal or review of decisions concerning applications;

PTA practice

Many PTAs guarantee the review of administrative decisions in a similar way to that set out in the GATS. This is the case, for example, of the 2018 EFTA-Philippines FTA,²³ the 2018 China-Georgia FTA²⁴, and the 2020 PACER Plus Agreement.²⁵ These agreements contain obligations reproducing the content of GATS Article VI:2.

Furthermore, it should be noted that some recent PTAs build on the obligations contained in GATS Article VI:2. For instance, the 2022 India-Australia ECTA includes commitments that are similar to those found in GATS Article VI:2.²⁶ Moreover, in the chapter dedicated

to horizontal transparency issues (Chapter 10), it contains a provision which requires the parties to put in place judicial, arbitral or administrative tribunals or procedures to ensure the prompt review and, where warranted, correction of administrative actions relating to any matter covered by the agreement, i.e. beyond the services trade chapter.²⁷ The obligation goes further and sets out that:

2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceedings are provided with the right to:
 - a. reasonable opportunity to support or defend their respective positions; and
 - b. a decision based on the evidence and submissions of record.

A similar approach is adopted, for instance, by the 2011 Hong Kong, China-New Zealand CEPA,²⁸ and the 2022 RCEP.²⁹ These agreements, in addition to the obligation to review administrative decisions contained in the services chapter, based on GATS Article VI:2, also provide for a horizontal right to administrative review applicable to all matters within their scope of application. Specifically, the relevant provisions in the horizontal chapters also guarantee that those involved in the proceedings have a fair opportunity to present or defend their positions, and that decisions are based on the evidence and submissions on record. Finally, the horizontal provisions typically ensure that, unless further appealed, the decision will be implemented and will guide the enforcing authority's actions on the matter in question. Moreover, these agreements provide that tribunals in charge of the review shall be impartial and independent of the authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.

Another interesting example is the 2020 EU-Viet Nam FTA.³⁰ Besides containing an obligation to guarantee the prompt review and correction of administrative actions both in the services trade as well as in the horizontal transparency chapters, the agreement goes even further specifically with respect to the resolution of telecommunications disputes. Article 8.37 establishes the right to appeal for any user or supplier of telecommunications services affected by the decision of a regulatory authority.³¹ The appeal body is required to (i) be independent from the party involved; (ii) have the appropriate expertise to carry out its functions effectively; (iii) duly take into account the merits of the

case; and (iv) be effective. The provision further sets out that “where the appeal body is not judicial in character, written reasons for its decision shall always be given and its decisions shall also be subject to review by an impartial and independent judicial authority”.

It is worth noting that only a few PTAs contain an explicit obligation to publish procedures relating to review of administrative decisions, as set out in the SDR Disciplines. Among these, the 2020 USMCA,³² in the chapter dedicated to trade in services, where authorization for the supply of a service is required, the party shall provide the necessary information to service suppliers or persons seeking to supply a service, including “any procedure for appeal or review of a decision concerning an application”.³³

Implementation at the domestic level

At the domestic level, the right to seek review of administrative decisions is widely regarded as a fundamental principle of due process and effective remedy – often enshrined in constitutions or core administrative-law statutes – even though its design and functions vary across jurisdictions. The WTO-World Bank STPD shows that, on average, 97 per cent of the economies studied have introduced the right to review across services sectors. Furthermore, 96.5 per cent of them have an independent authority handling the review and 92.5 per cent of them make the review procedures publicly available.

For example, in New Zealand, the right to apply to the High Court for judicial review of decisions exists independently of any statutory appeal rights and is affirmed in the New Zealand Bill of Rights Act 1990 (NZBORA).³⁴ In 2021, New Zealand adopted a set of legislative guidelines including, among others, on the creation of a system of appeal, review and complaint.³⁵ The guidelines note that where a public body makes a decision affecting a person’s rights or interests, that person should generally be entitled to have the decision reviewed.

The ability to review or appeal decisions helps to ensure that these are in accordance with the law. Also, the prospect of scrutiny encourages first-instance decision makers to produce decisions of the highest possible quality. The guidelines indicate that there are two main processes for decisions to be reconsidered, depending on the nature of the decision and the decision-maker.

The two types are (i) judicial review (which is always available regardless of whether a statutory appeal or other complaint mechanism exists) to check whether a decision was made lawfully; and (ii) when provided by law, an appeal to an appellate court or tribunal to reconsider the case and make new findings of fact or law, or both. Interestingly, the guidelines state that the review or appeal procedure “should contain adequate safeguards to protect an individual’s rights and interests and be consistent with the right to natural justice affirmed by section 27(1) NZBORA”.

Some common procedural protections for appeals include the following:

- independent and impartial decision-makers;
- the opportunity to be heard (whether by oral hearing or in writing);
- ensuring parties are aware of issues that affect their case (such as notice of hearings and impending decisions);
- disclosure of relevant material;
- the availability of legal representation;
- a right to call and cross-examine witnesses;
- a requirement that the decision-maker give reasons;
- the provision of interpreters;
- the provision of a further right of appeal.³⁶

Furthermore, the guidelines recommend the inclusion of an internal review process to reassess the merits of a decision, with the goal of identifying and correcting errors (especially those involving factual findings) without the cost or public exposure that an external appeal or judicial review might entail. Internal reviews are regarded as particularly appropriate to ensure quality and consistency of decisions across multiple decision-makers.

Another interesting example is Japan where, in 2014, the government introduced a fundamental revision aimed at simplifying its existing Administrative Complaint Review Act, originally adopted in 1962.³⁷

This important streamlining reform established a system for allowing citizens to file complaints against administrative decisions through simple, prompt and fair procedures. Prior to this revision, there were three different steps of appeal, namely (i) objection against the acting agency or an agency that has failed to act; (ii) request for review against a reviewing agency; and

(iii) request for a second review against a ruling on a request for review.

With the 2014 updated Act, the filing of an objection has been combined with the request for review, with the aim of improving the fairness of procedures conducted internally within administrative agencies. The procedure provides that the hearing officer, who has not been involved in the original administrative decision, hears the argument of the acting or non-acting agency and the applicant, and on that basis, submits the opinion to the reviewing agency. A group of third-party experts also participate as a consultative body to assist the reviewing agency. To ensure the timely completion of procedures, the Act also requires the reviewing agency to endeavour to establish and publicly share standard time frames typically needed for making a determination from the date a review request is submitted (Article 16).³⁸

In conclusion, the right to review is not ancillary to other GRPs for services trade – it is the mechanism that ensures that authorization systems are predictable, impartial and correctable in practice. The right to request review had already been anchored in the GATS: WTO members are mandated to provide for,

at the request of an affected service supplier, the prompt review of (and, where justified, appropriate remedies) administrative decisions affecting trade in services, through judicial, arbitral, or administrative tribunals or other procedures that ensure an objective and impartial review. The GATS, however, does not prescribe a specific institutional model for implementing such right. The SDR Disciplines complement this framework by requiring prompt publication of available review routes. Some recent PTAs go further by spelling out due process guarantees, such as a reasonable opportunity to support their respective positions, as well as the independence of the review decisions. Domestic experience suggests review works best under the following conditions: (i) grounds (i.e. law, facts, procedure) are clearly stated; (ii) routes and time limits are transparent, predictable, and low-cost; (iii) reviewers are structurally independent from the original decision maker; (iv) the legal effect and remedies are specified; and (v) reasoned, published decisions and internal review loops drive consistency and learning. Embedding these GRP elements in domestic regulatory frameworks helps limit authorities' discretion, prevent discriminatory practices and promote continuous improvements in regulatory quality.

ENDNOTES

1 Fn 4 to Article 4.1 of the TFA defines "administrative decisions" as "a decision with a legal effect that affects the rights and obligations of a specific person in an individual case. It shall be understood that an administrative decision in this Article covers an administrative action within the meaning of Article X of the GATT 1994 or failure to take an administrative action or decision as provided for in a Member's domestic law and legal system. For addressing such failure, Members may maintain an alternative administrative mechanism or judicial recourse to direct the customs authority to promptly issue an administrative decision in place of the right to appeal or review under subparagraph 1(a)."

2 Administrative decisions may also include internal rulemaking or delegated legislation, such as procedures for submission of applications. However, since rules or their drafts cannot ordinarily be "appealed", this section will only focus on administrative decisions that have some element of adjudicative decision-making, such as accepting or rejecting an application.

3 OECD (2012).

4 EU, Charter of Fundamental Rights of the European Union, OJ C 326/391, 26 October 2012, pp. 391-407, Article 41.

5 OECD (2012), Recommendation 8, p. 18.

6 OECD (2012), Recommendation 8, p. 18.

7 OECD (2012), Recommendation 8, p. 18.

8 Ideally, it should be specified what legal effect a review outcome has and what remedies the reviewer can grant, i.e. whether the review body's decision binds the authority responsible to the original decisions; whether the review body's decision replaces the original decision; whether the original decision is sent back to the authority for reconsideration; whether the review body's decision can be enforced, and by whom.

9 GATT, Article X:3(b).

10 TRIPS Agreement, Article 41.4.

11 TFA, Article 4.

12 Anti-Dumping Agreement, Article 13.

13 SCM Agreement, Article 23.

14 GATS, Article VI:2(a).

15 WTO (2011), para. 205.

16 WTO (2011), para. 205.

- 17 WTO (2010), para. 7.1074.
- 18 WTO (2011), para. 203.
- 19 See WTO (2012), para. 7.876. Note that the related concept of uniform administration of procedures under Article X:3(a) has been construed to mean application of rules that is consistent and predictable, such that persons similarly situated are subject to uniformity of treatment.
- 20 WTO (2006), paras. 7.123-7.135.
- 21 Inclusion of the safeguard clause may reflect the multilateral nature of the obligation. Note that the PTAs between a limited number of partners frequently omit this safeguard.
- 22 SDR Disciplines (WTO, 2021), para. 13.
- 23 EFTA-Philippines FTA (2018), Article 6.7.2.
- 24 China-Georgia FTA (2018), Article 8.8.2.
- 25 PACER Plus (2020), Chapter 7, Article 10.2.
- 26 India-Australia ECTA (2022), Article 8.14.
- 27 India-Australia ECTA (2022), Article 10.4. It should be noted that the review obligation is linked in this Article to the issue of impartiality and independence of authorities entrusted with administrative enforcement.
- 28 Hong Kong, China-New Zealand CEPA (2011), Article 9 of Chapter 13 and Article 4.1 of Chapter 15.
- 29 RCEP (2022), Article 8.15.2 of Chapter 8 and Article 17.6 of Chapter 17.
- 30 EU-Viet Nam FTA (2020).
- 31 EU-Viet Nam FTA (2020), Article 8.37.
- 32 USMCA (2020).
- 33 USMCA (2020), Article 15.8.6. Note that the USMCA contains only a horizontal provision on Review and Appeal (Article 29.4), in Chapter 29 on "Publication and Administration", but does not contain provisions specifically set out in the services chapter.
- 34 Government of New Zealand, Ministry of Justice, "Constitutional Issues & Human Rights", <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/>.
- 35 Government of New Zealand, Legislation Design and Advisory Committee (LDAC), "Legislation Guidelines 2021 – Chapter 28: Creating a system of appeal, review, and complaint", <https://www.ldac.org.nz/guidelines/legislation-guidelines-2021-edition/appeal-and-review-2/chapter-28>.
- 36 Government of New Zealand, Legislation Design and Advisory Committee (LDAC), "Legislation Guidelines 2021 – Chapter 28: Appeal and Review", <https://www.ldac.org.nz/guidelines/legislation-guidelines-2021-edition/appeal-and-review-2/chapter-28>.
- 37 Hitomi (2014).
- 38 Government of Japan, Administrative Complaint Review Act No. 68 of 2014, Japanese Law Translation (Ministry of Justice), <https://www.japaneselawtranslation.go.jp/en/laws/view/2984/en>.

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⑪ Assessment of qualifications



KEY INSIGHTS

- GRPs related to the assessment of foreign qualifications are progressively gaining more importance; this enables qualified foreign service suppliers to operate across borders more easily and efficiently, without compromising quality.
- Under the GATS, WTO members are required to provide for adequate procedures to verify the competence of professionals of other jurisdictions. Furthermore, the GATS allows WTO members to recognize various types of qualifications obtained abroad, autonomously or through a mutual arrangement.
- The SDR Disciplines apply GRP principles to qualifications requirements and procedures and require examinations, where used, to be scheduled at fairly frequent intervals with a reasonable period of time to request them; they also encourage receiving requests electronically and using electronic means for other aspects of the examinations. Some recent PTAs align with the SDR Disciplines, while others go beyond, including by encouraging oral examinations and offering exams in the other parties' territories.
- At the domestic level, differences exist among jurisdictions and across sectors, particularly in the application of substantive assessment criteria and procedures. Recent technological advances allow for tools such as digital submission, online examination, as well as remote invigilation – enhancing the accessibility and efficiency of examinations. Other practices are also emerging, including structured paths for recognition via a third jurisdiction, helping to create new opportunities for qualified suppliers to offer their services in other jurisdictions.

Key features

In order to obtain authorization, service suppliers need to comply with a range of substantive requirements. Depending on the specific sector, some of these requirements relate to their competence to supply such a service. This is the case typically in the field of professional services (e.g. law, accounting, engineering) but also in other areas such as education (e.g. teachers), transport (e.g. pilots) and financial services (e.g. insurance agents).

Natural persons typically acquire their qualifications in their home jurisdictions before looking to provide services in foreign ones. In such cases, for natural persons to be able to operate abroad, the host economy must not only be open to foreign-qualified professionals but also assess whether the qualifications obtained abroad are equivalent to those typically required in the host jurisdictions.

Several GRPs exist with regard to the assessment of qualifications, notably with respect to two main aspects: (i) substantive requirements to be fulfilled for admission to the assessment; and (ii) assessment procedures.

GATS, SDR Disciplines and other relevant trade agreements

In addition to the non-discrimination principle set out in GATS Article II (most-favoured-nation treatment) and Article XVII (national treatment), Article VI:6 requires WTO members, where they have undertaken commitments specifically in professional services in their schedules of specific commitments, to “provide for adequate procedures to verify the competence of professionals of any other Member”.¹ The obligation concerns the specific situation of persons engaged in the supply of professional services whose competence has been acquired outside the host country jurisdiction. One GRP principle which has emerged in this area concerns giving due consideration to applicants’ relevant professional experiences, including by taking into account membership in professional associations or registries in other jurisdictions.²

Article VI:6 aims to ensure that where market access is granted, such access is not undercut by lack of adequate verification mechanisms of competence in the host economy. The provision deals with procedures

only and does not address the issue of different substantive requirements between foreigners and local professionals. The latter is possible only where national treatment limitations have been entered in schedules of specific commitments, that is to say, limitations allowing WTO members to impose requirements that modify conditions of competition to the advantage of domestic suppliers.

WTO members have provided no further guidance as to what constitutes “adequate procedures” in GATS Article VI:6. Keeping in mind the objective of the provision (namely, to ensure that qualified foreign professionals can engage in the supply of services), the procedures must therefore be appropriate to establish equivalence between foreign and local qualifications and competence. Implementing the provision means ensuring that competent foreign professionals are not unfairly excluded from practising a certain profession, while maintaining the required competence levels that prevail in the domestic market.

An important tool to facilitate the assessment of qualifications is through recognition under GATS Article VII:1. A WTO member may, for the purpose of meeting its standards or criteria for authorization, licensing or certification, recognize education or experience obtained, requirements met, and licences or certifications granted in another jurisdiction.³ In accordance with the conditions set out in this Article, recognition can be granted autonomously, or through a mutual recognition arrangement (MRA) with other WTO members. In a nutshell, recognition facilitates the realization of market access opportunities compared to a process of verification of competence through Article VI:6.

To ensure that the benefits do not remain exclusive, the GATS requires there to be a degree of openness in recognition regimes. Where a WTO member grants recognition autonomously, it must provide an adequate opportunity for any other WTO member to demonstrate that education, experience, licences or certifications obtained, or requirements met, in the other WTO member’s territory be recognized.⁴ However, where recognition is accorded based on a mutual agreement, WTO members are required to provide adequate opportunity to other interested WTO members to negotiate their accession to such an arrangement or, alternatively, to negotiate comparable ones.⁵ These obligations are complemented with a substantive obligation not to grant recognition

in a manner that would constitute a means of discrimination or a disguised restriction on trade in services.⁶

Furthermore, in accordance with GATS Article VII:5, recognition should, wherever appropriate, be based on multilaterally agreed criteria, and WTO members shall work in appropriate cases towards common international standards and criteria for recognition as well as the practice of relevant services trades and professions.⁷

The SDR Disciplines contain several GRP principles which are relevant in the assessment of competence of foreign service suppliers, through their applicability to qualification requirements and procedures. With respect to substantive requirements, they stipulate that measures, including qualification-related requirements, are based on transparent and objective criteria including the competence to supply a service.⁸ Moreover, the SDR Disciplines provide that information, particularly in relation to the procedures for verifying qualifications and competence, is clearly outlined and accessible, including details on how to apply for examinations, what documentation is required, timelines for processing, as well as associated fees.⁹

Appropriate mechanisms (such as help desks or enquiry points) are to be established to guide interested suppliers, including foreign ones who are seeking instructions, with a view to meeting local requirements and requesting examinations.¹⁰ In accordance with the SDR Disciplines, (qualification) procedures are to be impartial and adequate for applicants to demonstrate that they meet any existing qualification requirements.¹¹ Additionally, procedures are to be conducted within established and reasonable time frames, and applicants are to be informed of the results of their applications (i.e. in this case, examinations), including with reasons in case of failure, and given the opportunity to re-apply.¹² A possibility should be provided to submit applications to demonstrate compliance, including with qualification requirements, to only one competent authority.¹³

Furthermore, the SDR Disciplines address the issue of assessment of qualifications directly and in a manner complementary to the GATS as follows:

If a Member requires an examination for authorization for the supply of a service, that Member shall ensure

that its competent authorities schedule such an examination at reasonably frequent intervals and provide a reasonable period of time to enable applicants to request to take the examination. Having regard to the cost, administrative burden, and the integrity of the procedures involved, Members are encouraged to accept requests in electronic format to take such examinations, and to consider, to the extent practicable, the use of electronic means in other aspects of examination processes.¹⁴

This provision contains four key elements:

1. Authorities shall schedule any required examinations at reasonably frequent intervals

The term “reasonably frequent intervals” refers to the expectation that if a jurisdiction requires examinations, to provide authorization for the supply of a service, such exams should be held often enough to avoid creating unnecessary delays or barriers to market entry. The appropriate frequency may vary depending on factors such as the volume of applicants, the complexity and resource intensity of the examination, and the administrative capacity needed to ensure integrity and fairness of the process. For example, examinations with standardized written formats and high demand may be held continuously or several times per year, while highly specialized or practical assessments requiring expert supervision or specific facilities (e.g. aviation, or clinical tests) may be offered less frequently.

In practice, intervals for professional exams typically range from one to four times per year, depending on the profession and the jurisdiction (Figure 1).

2. Authorities shall provide a reasonable period of time to enable applicants to request to take the examination

This requirement seeks to ensure that applicants have sufficient time to submit their applications for examinations, ensuring that they can prepare the necessary documentation, plan logistics and review relevant materials. In practice, application/registration models vary: some exams offer rolling, year-round scheduling, where eligible applicants can reserve dates during a booking window (anecdotal evidence points to booking windows offering dates of 3–6 months in the future). Where fixed examination sittings are offered, application windows commonly open 1–4 months (or more) ahead and close about 2–8 weeks before the exam.¹⁵

Figure 1: Frequency of examinations in selected WTO members and professions (2025)

Country	Accounting exams	Engineering exams	Medical exams	Nursing exams
United States	CPA: Year-round through private online invigilation services	- FE exam: Year-round through private online invigilation services; - Most PE: Year-round	USMLE steps 1, 2, and 3 Year-round	NCLEX: Year-round through private online invigilation services
Canada	CFE: twice per year	Varies by province; multiple sittings per year common	MCCQE Part 1: Year-round through private online invigilation services	NCLEX: Year-round through private online invigilation services
Australia	CPA: Four times per year	No fixed national examination schedule (applications accepted year-round).¹⁶	- Multiple choice year-round through private online invigilation services); - Clinical: in scheduled blocks	NCLEX: Year-round; OSCE held in scheduled blocks
India	CA exam: Three times per year	- No single national licensure exam. GATE: Once per year. - IEI AMIE exams: per IEI schedule.	FMGE twice per year	State-specific; multiple sittings per year common
South Africa	- Initial test of competence twice per year; - Assessment of professional competence once/year	Competency assessed on rolling basis without fixed examination schedule	Two to three times per year	Two to three times per year
Brazil	Twice per year	- No national exam; - Registration with regional engineering councils based on a ministry-recognized degree.	Revalida exam: Twice per year	- No national exam; - Registration with state nursing council based on a Brazilian-recognized degree
China	CPA: Once per year	- No single, all-discipline licensure exam; - Specialty-specific national qualification exams held once per year	National medical licensing exam: Once per year	National nursing registration exams: Once per year

Glossary of abbreviations in Figure 1:

- AMIE — Associate Member of the Institution of Engineers (India)
- CA — Chartered Accountant
- CFE — Common Final Examination (CPA Canada).
- CPA — Certified Public Accountant
- FE — Fundamentals of Engineering (US)
- FMGE — Foreign Medical Graduate Examination (India).
- GATE — Graduate Aptitude Test in Engineering (India).
- IEI — Institution of Engineers (India)
- MCCQE — Medical Council of Canada Qualifying Examination.
- NCLEX — National Council Licensure Examination (nursing).
- OSCE — Objective Structured Clinical Examination
- PE — Professional Engineer (US licensure)
- Revalida — Exame Nacional de Revalidação de Diplomas Médicos (Brazil).
- USMLE — United States Medical Licensing Examination.

Source: WTO/World Bank.

3. Authorities are encouraged to accept requests in electronic format to take such examinations

The obligation to accept examination requests in electronic format is to be distinguished from the obligation to accept applications for authorization in electronic format. The former obligation serves to facilitate one distinct step in the authorization process (the sitting of examinations), whereas the latter facilitates the permission to supply the service altogether.

The shift towards electronic submission of applications for professional and equivalence examinations has become widespread across both developed and developing countries. The benefits of electronic systems – such as lower costs, faster processing times and ease of access – have driven many regulatory bodies to move away from paper-based procedures.¹⁷ However, there are still some countries or professional bodies that maintain paper-based systems, either due to technical limitations or other concerns or preferences. Many jurisdictions have adopted hybrid models where portions of the process are handled electronically, but some verification steps still require manual submission of documents.¹⁸

4. Authorities are encouraged to consider the use of electronic means in other aspects of examination processes

With advancements in technology, the trend towards conducting exams on computers in the host jurisdiction, instead of paper, has become more prevalent both in developed and developing economies.

Furthermore, the possibility of remote examinations has progressively been spreading, partly in response to the disruptions caused by the COVID-19 pandemic. Remote examinations range from supervised examinations in test centres in the host jurisdiction, to examinations that can be taken abroad, either in accredited test centres or remotely invigilated (proctored) exams on personal computers. The availability of remotely invigilated examinations has expanded since COVID-19, particularly via major private online invigilation services (e.g. Pearson VUE's OnVUE and Prometric's ProProctor) and is now used by several jurisdictions in various sectors.¹⁹

For many professional and other services, practices vary: some regulators maintain domestic test-centres, others are piloting remote test centre options, and a few accept remotely invigilated ancillary tests (e.g. language

proficiency assessments). Where permitted, remote invigilation can lower travel and visa costs for foreign candidates, but adoption remains exam-specific rather than jurisdiction-wide. In parallel, some jurisdictions are deploying automated tools or AI-assisted review mechanisms to verify qualification documentation or support decision-making, while ensuring transparency and the possibility of meaningful human oversight, including avenues for review or appeal, as essential safeguards.

A summary of GRPs in the area of assessment of qualifications in both the GATS and the SDR Disciplines can be found in Figure 2.

Other supportive GRP practices related to the assessment of qualifications have emerged in various jurisdictions (Figure 3). For example, in case of deficiencies in the qualifications, some regulators identify the missing requirements and offer the applicant an opportunity to meet them, including through course work, examinations or training. The possibility of fulfilling such requirements may extend to institutions in the host jurisdiction, as well as home ones, including by utilizing electronic tools. Another practice relates to the recognition of qualifications obtained in third jurisdictions. This means that, if a foreign professional has already been recognized in another jurisdiction, the authorities facilitate the recognition of such “recognized qualifications”, as long as these are considered equivalent or may be supplemented by additional training. Such “triangulation” helps avoiding duplication of efforts and accelerates the authorization process. However, it is still quite uncommon as it requires a high level of trust in another jurisdiction's regulatory decisions, which many governments may be reluctant to grant due to legal liability, quality assurance concerns and divergent qualitative standards.

PTA practice

In PTAs, obligations relating to the assessment of qualifications reflect to a variable extent the four GRP elements set out in the SDR Disciplines.

Most PTAs generally reproduce the first two GRP elements in this area, that is to say, (1) scheduling examinations at reasonably frequent intervals, and (2) providing a reasonable time for applicants to request to take the examination. This is the case, for example, in the 2018 CPTPP²⁰, the 2022 RCEP²¹, the 2016 Pacific Alliance Additional Protocol²², and the 2011 Hong Kong, China–New Zealand CEPA.²³

Figure 2: GRPs on assessment of qualifications – Comparison between the GATS and the SDR Disciplines

GRPs	GATS	SDR Disciplines
Non-discrimination between foreign and local professionals ("national treatment")		
Non-discrimination between foreign professionals (MFN)		
Assessment based on objective and transparent criteria		
Availability and accessibility of information on assessment procedures		
Establishment of appropriate guidance mechanisms to provide support to foreign professionals		
Possibility to submit applications to demonstrate compliance with qualification requirements to only one competent authority		
Procedures for the assessment of foreign professionals conducted within established and reasonable time frames		
Provision of information on result of examinations, including deficiencies in applications and possibility to complete them		
Provision of information on result of examinations, including reasons of failure of examination and possibility for retaking it		
Possibility for appeal or review of assessment decisions		
Acceptance of authenticated copies in place of original documents		
Impartiality and independence of assessment procedures		
Procedures not excessively burdensome or disproportionate to the nature of the profession		
Reasonable and transparent fees charged for qualification procedures		
Organization of examinations held at reasonably frequent intervals		
Opening of applications for examinations sufficiently in advance to allow participants sufficient time to apply and prepare, including logistics		
Possibility for electronic examinations in the host country		
Possibility for remote examinations to be offered at international test centres		

 Covered

Source: WTO/World Bank.

Some agreements also add the other two elements, which are (3) accepting requests for examinations electronically and (4) using electronic means in the examination process – thereby mirroring in full the SDR Disciplines. For instance, Article 8.8 of the 2023 UK-Australia FTA on "Domestic Regulation" reflects all four elements discussed above.²⁴

Similarly to GATS Article VI:4(a), the 2020 USMCA explicitly requires that measures relating to qualification requirements and procedures (such as examination or assessment procedures) are to be "based on criteria that are objective and transparent".²⁵ As examples of such criteria, the Article refers to "competence and the ability to supply the service".²⁶ Furthermore, with respect to examinations, Article 15.8.3(c) states that where a party requires an authorization for the

supply of a service, it shall ensure that its competent authorities schedule "the examination at reasonably frequent intervals and provides a reasonable period of time to enable an applicant to request to take the examination".²⁷

Compared to the SDR Disciplines, this obligation replicates the third element (namely, accepting requests for examinations in electronic format). However, it does not explicitly require that the request for and/or conduct of the examination process be done electronically. It should be noted that the USMCA also sets out recognized "professional levels": it identifies a list of professions, such as accountant, architect, computer systems analyst, economist and the corresponding minimum education requirements and alternate credentials.²⁸

Figure 3: Emerging GRPs in assessment of qualifications

Assessment focused on actual skills, knowledge, and abilities required for the supply of the services (competency-based assessment)	Requirements not more burdensome than necessary and only containing requirements relevant to ensure the quality of services	Legitimate and proportionate language requirements
Consideration of qualifications recognized by third jurisdictions	Fees not higher than the approximate costs incurred by the competent authorities, including for supervision of the relevant service	Possibility to complete deficiencies in requirements for qualifications (including through course work, training, or work experience)
Opportunity for foreign suppliers to demonstrate competence through experience, references, or relevant membership in professional associations	Facilitation of access to international assessments and examinations (including through supportive visa measures)	Use of automated tools or AI-assisted review mechanisms to process qualification documentation or support decision-making

Source: WTO/World Bank.

The USMCA states that:

Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level in a profession set out in Appendix 2, if the business person otherwise complies with the Party's measures applicable to temporary entry, on presentation of: (a) proof of citizenship of a Party; and (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry.²⁹

Therefore, where businesspersons fulfil the qualifications set out in Appendix 2, the parties are required to grant them temporary access.³⁰ Additionally, the parties are prohibited from requiring “prior approval procedures, petitions, labour certification tests or other procedures of similar effect” as a condition for temporary entry. Nonetheless, prior to entry, the parties may require businesspersons seeking temporary entry to obtain a visa or its equivalent.³¹

With respect to the procedures for assessment, it is interesting to note that the 2020 Indonesia-Australia CEPA³² and the 2003 Singapore-Australia FTA³³ go beyond the ambition of the SDR Disciplines. Besides the use of electronic means for conducting examinations, these PTAs provide that the parties should explore, as appropriate, the possibility of conducting such examinations orally, as well as providing opportunities for taking such examinations in the territory of the other party.

The issue of recognition of qualifications via a third jurisdiction is included in various MRAs. For

example, in 1996, Australia and New Zealand signed the Trans-Tasman Mutual Recognition Arrangement (TTMRA), which provides a practical pathway for secondary recognition of foreign professional qualifications.³⁴ Under the TTMRA, individuals registered to practise a regulated profession (such as doctors or engineers) in New Zealand and Australia are legally entitled to practise an equivalent profession in each other's jurisdictions without further assessment. In practice, this means that even professionals holding third-country qualifications – such as from India or the Philippines – who are first recognized and licensed in New Zealand can subsequently gain access automatically to the Australian market based on that original recognition. In effect, New Zealand assumes the initial evaluative role, and its recognition facilitates secondary recognition in Australia. Similarly, in 2024, the EU and Canada concluded an MRA on the professional qualifications of architects – the first bilateral MRA for professional qualifications to be concluded by the EU.³⁵

Building on the 2017 EU-Canada CETA which sets out the conditions under which architects can temporarily move between the EU and Canada to provide services or set up a business there,³⁶ the MRA aims to supplement such guarantees with a straightforward process for EU architects to obtain a Canadian licence and vice versa, provided they meet the conditions in the MRA. Specifically, once the MRA enters into force, architects with a minimum of 12 years of combined education, training and practice (including four years of practical experience) will be able to apply online for

recognition of their professional qualifications by the authorities of the jurisdiction where they wish to work.

EU architects also need to complete a one-off 10-hour online course. Both EU and Canadian architects have to register with the relevant local authorities in order to get permission to work.³⁷ In addition, Article 4.3 of the MRA provides the basis for recognition of a third jurisdiction by stating that such requirements “may also be met by formal qualifications issued by a third party and recognized as equivalent according to the requirements of a jurisdiction of a party, and where appropriate, supplemented by professional training, examination or professional experience as required in that jurisdiction”.³⁸

Implementation at the domestic level

At the domestic level, practice with respect to assessment of qualifications varies significantly depending on the different jurisdictions and sectors. One example is Canada, where foreign-educated engineers seeking admission to practice are required to apply to a provincial engineering regulator for, amongst other things, an assessment of academic and experience qualifications.³⁹ In the case of Nova Scotia, for example, to satisfy the academic requirements, examinations may be assigned to verify knowledge that an applicant is presumed to have, based on their academic background (confirmatory exams) or to address gaps identified in their academic record (structured confirmatory or general exam programmes).⁴⁰ Applicants who hold both a recognized bachelor’s and master’s degree in the same or a closely related discipline will have their master’s degree evaluated to determine whether any examinations can be waived.

Similarly, applicants with 10 or more years of relevant experience may have exams waived or reduced based on the depth and relevance of their professional background. After the academic assessment is completed, applicants will receive information on the decision by e-mail, which will outline any further steps required to fulfil the academic requirements for registration. All registration requirements must be completed before an applicant is eligible to apply for licensure as an “engineer in training”. Applicants may request a re-assessment if they wish to submit additional information following a decision. The outcome of any re-assessment will be communicated within six months of receiving the additional information. If an

applicant disagrees with the decision, they may request an internal review within 30 days. The results of the internal review will be communicated within 60 days of receiving the request.

Regarding the nursing profession, Canada has implemented a comprehensive and accessible system – the National Nursing Assessment Service (NNAS) – through which foreign-qualified nurses are assessed and licensed. To be eligible for the NNAS, applicants must meet specific criteria: they must have completed post-secondary nursing education outside of Canada, never been licensed as a nurse in Canada, as well as hold a nursing license from a foreign jurisdiction.⁴¹ The application process is designed to be user-friendly: applicants begin by creating an online account in the NNAS application portal where they can complete the application form, including personal information, details about their nursing education and employment history. A fee – published in the NNAS Applicant Handbook – is required to proceed with the submission of the application.⁴²

The NNAS process emphasizes thorough verification of credentials. Most documents must be submitted directly by third parties, such as educational institutions and licensing bodies, with digital submission encouraged for efficiency. Applicants can monitor the status of their application in real-time through the online portal, allowing them to see when documents are received and their status in the review process. Once the document verification process is complete, an advisory report will be prepared by the NNAS within 5 days (express service) to 12 weeks (regular service) containing all verified documents, curriculum assessment, as well as any correspondence. This report is automatically sent to the regulatory body in the province of choice of applicants, who is advised to download a copy for their records.⁴³ After receiving their advisory report, candidates can proceed to take the assessment.

The assessment can be taken at domestic or international testing centres (for an additional fee).⁴⁴ The primary examination for nursing licensure is the NCLEX which is available for both Registered Nurses and Licensed Practical Nurses. It aims to assess knowledge and skills essential for safe and effective nursing practice, including with respect to the safety and effective care of the environment, health promotion and maintenance, psychosocial and physiological integrity. The NCLEX uses computerized adaptive testing (CAT) to administer the questions. The goal of CAT is to determine the ability of the candidate in relation to the pass standard: every

time the candidate answers an item, the computer re-estimates the candidate's ability by considering all the responses given so far.

Testing adjustments for otherwise qualified candidates can be provided only with the authorization of the nursing regulatory body.⁴⁵ For quality control purposes, every NCLEX test is scored twice: once by the computer at the test centre and then the result is verified after the examination record has been transmitted to the regulatory authority. Results are sent to candidates up to six weeks after taking the examination. In case of failure, the regulatory body sends a candidate performance report which identifies the candidate's relative strengths and weaknesses based on the test, with a view to guiding preparation before retaking the examination. Candidates are entitled to take the test eight times a year, and there must be 45 test-free days between each examination.

With respect to the opportunity for applicants to remedy deficiencies in the requirements to be authorized to practice a certain profession, one notable example is the EU. Under the EU Directive on the recognition of professional qualifications, applicants from other EU member states may be allowed to undergo compensation measures, such as an adaptation period of up to three years or an aptitude test, when their qualifications are found to be "substantially different" from those required in the host EU member state.⁴⁶ In such cases, the applicant must be duly informed through a decision, which explains the qualification required, the level held by the applicant, and the "substantial differences" in knowledge, skills or competences that justify the compensatory requirement.⁴⁷ The decision on compensation measures shall be made with due regard to the principle of proportionality and take into account the applicant's prior professional experience or validated lifelong learning.⁴⁸

The Recognition Act adopted by Germany offers a concrete example of how the EU Directive is implemented domestically, with the procedure for the recognition of foreign professional qualifications and related requirements made publicly available on the information portal of the German government.⁴⁹ For regulated professions, German authorities conduct an equivalence assessment of foreign qualifications against the German "reference occupation". If "substantial differences" are found, the applicant receives a notice which explains the differences in detail and informs the applicant of the compensation measures available. In regulated professions, applicants are generally given

the choice between completing an adaptation period or undergoing a knowledge or aptitude test in Germany. In some cases, the notice may also provide information about approved providers of the required training measures. Once the choice of the compensation measure is made by the applicant, it must be communicated to the competent authority.

Upon successful completion of this measure, a certificate is issued, which must then be submitted to the authority as part of the recognition process. Subsequently, any remaining requirements for authorization to practice are assessed. If authorization is granted, the applicant is then eligible to practice the profession. Notably, Germany has introduced a special "recognition visa" to support non-EU nationals who need to complete compensation measures in the German territory.⁵⁰ To be eligible, applicants must provide proof of partial recognition, meaning that the German competent authority has already issued a notice on available compensation measures. Additionally, the applicant must show confirmation of registration for an appropriate compensation measure with a recognized provider in Germany, such as a training institution or employer, which is responsible for delivering the required compensation measure. A demonstrable knowledge of the German language is also required, along with proof of financial means to cover living expenses for the duration of the stay.

The same EU Directive also addresses the issue of recognizing qualifications via a third jurisdiction. Article 3.3 states that qualifications originally issued by a non-EU jurisdiction may be treated as valid within the EU/European Economic Area (EEA) provided that the qualification holder (an EU/EEA national) has acquired at least three years of professional experience in the relevant field in the member state that recognized the qualification, in accordance with Article 2.2. This experience must be certified by the host member state.⁵¹ In effect, the member state that first recognized the third country qualification assumes the initial evaluative burden and its recognition may serve as the basis for subsequent secondary recognition elsewhere in the EU territory.

An example of the implementation of the EU Directive can be found in Finland through its Act on the Recognition of Professional Qualifications (1384/2015).⁵² Under this Act, an EU/EEA citizen holding a qualification from outside the EU/EEA, may obtain recognition in Finland, if that qualification was first recognized in another EU/EEA member state and

the individual subsequently gained a minimum of three years of relevant professional experience in that member state. This means, for example, a Swedish engineer qualified in India, who became licensed in France and worked there for at least three years, could later apply to practice in Finland, relying on France's recognition as a basis for the secondary recognition.

Looking at the scope and procedure of the assessment examination in the UK, the General Medical Council (GMC) oversees the Professional and Linguistic Assessments Board (PLAB) test, which is designed to assess the competency of doctors who obtained their qualifications outside the UK, the EEA, or Switzerland.⁵³ Interested candidates have to create a GMC online account to apply for the examination and submit all the eligibility documents. The online account also serves for booking preferred exam slots (which are open approximately 11 months prior to the assessment period) and pay the necessary fees (the amount of which can be adjusted to special categories and needs).⁵⁴ The PLAB website includes detailed and comprehensive information on which qualifications and institutions are acceptable to sit the PLAB exam. Some qualifications are examined for eligibility on a case-by-case basis. Contact details for enquires are provided, together with an indication of what information interested candidates need to provide to facilitate faster responses.

Through the online portal candidates also receive the results of their exams (six weeks after the assessment date), ensuring all information for candidates is in one central location.⁵⁵ The examination consists of two distinct parts. The first component, PLAB 1, is a written examination. It is conducted quarterly, with sessions held in February, May, August and November at various international testing centres. The latter, often managed by the British Council, are strategically located in major cities worldwide and across the UK, ensuring widespread accessibility for candidates. The demand is monitored closely and where it exceeds existing capacity, extra places for examinations are generally made available in subsequent assessment periods to ensure more flexibility and responsiveness to candidates' interests. To be eligible for PLAB 1, applicants must possess an approved overseas medical qualification and demonstrate proficiency in English.

PLAB 2, the second part of the examination, is a practical assessment structured as an objective structured clinical examination (OSCE). This hands-on evaluation consists of 16 scenarios, each lasting eight minutes, designed to

simulate real-life clinical situations. Scenarios reflect real life settings and encounters that a qualified doctor may expect in their everyday work. Examiners mark candidates on 3 main domains, mainly data gathering and technical and assessment skills, clinical management skills and interpersonal skills.⁵⁶ Once both parts have been passed, foreign doctors can apply for registration with a licence to practise in the UK. In 2023, 21,916 candidates sat part 1 of PLAB from 23,500 assessment places offered, an increase of more than 7,446 candidates who took the exam in 2022. In a survey completed by 914 candidates in 2023, it emerged that satisfaction with the PLAB part 1 assessment is very high. It was noted that, from the application submission to delivery of results, candidate experience is at the fore of the assessment: information is easily accessible on the PLAB website, queries are dealt with promptly, and test centres operate efficiently.

In conclusion, despite the relatively limited number of specific and legally binding multilateral obligations, significant progress has been made in creating a more facilitative environment for the assessment of qualifications. The GATS requires WTO members to establish adequate procedures to verify the competence of foreign professionals and permits recognition of education, experience, licences or certifications obtained abroad. The SDR Disciplines and various recent services PTAs address the issue of assessment of qualifications directly and require competent authorities to schedule any examinations used at reasonably frequent intervals, provide reasonable time frames for applicants to request examinations, encourage the receipt of requests in electronic format, and consider electronic means in other aspects of examination processes. Some recent PTAs align with assessment-relevant SDR Disciplines, while others go beyond, including by exploring oral examinations and offering exams in the other parties' territories. Domestically, differences remain across jurisdictions and sectors, particularly in the application of substantive assessment criteria, procedures and recognition practices. However, various factors have contributed to improving the ease of qualification assessment. Technological advancements, including digital submission systems and remote invigilation, have enhanced efficiency and accessibility. The introduction of systems for the electronic submission of applications, online verification tools and automated assessment mechanisms have minimized procedural burdens, reducing delays and costs for foreign professionals. Emerging practices – such as structured opportunities to remedy identified deficiencies and, in

some cases, recognition via a third jurisdiction – are creating additional pathways. Furthermore, increased international cooperation, regulatory harmonization efforts and bilateral or multilateral arrangements have also played a crucial role. The expansion of MRAs and sector-specific arrangements contributes to greater predictability for service suppliers seeking

cross-border qualification recognition. Taken together, these developments reflect a growing commitment to balance regulatory rigour with practical facilitation, so that qualified professionals can supply services across borders more efficiently while safeguarding the pursuit of public policy objectives.

Annex

Overview of GRPs in the area of assessment of qualifications

Principle of non-discrimination

- No distinction in substantive requirements between foreign and local professionals, unless explicitly included in WTO members' schedules of specific commitments. Different substantive requirements which would be regarded as incompatible with GATS Article XVII would include higher educational requirements for foreign professionals than for nationals, requirements for longer working experience, prior experience requirements, or occupation in certain companies (e.g. A-listed companies) in the host jurisdictions.
- No distinctions in substantive requirements between foreign professionals from different WTO members, unless specific preferences for foreign professionals of specific jurisdictions are explicitly provided for in MFN exemption lists or PTAs (GATS Article II).

Substantive assessment requirements

- Assessment based on transparent and objective criteria related to the skills and qualifications required for the profession (GATS Article VI:4 and VI:5; SDR Disciplines, paragraph 22(a)).
- Assessment focused on the actual skills, knowledge and abilities required for the profession, rather than just the form or origin of the qualification. It should exclude subjects not relevant to the activities for which authorization is sought.
- Eligibility to undergo assessment not more burdensome than necessary and containing only relevant requirements to ensure the quality of service (e.g. minimum prior presence or residence in the country to be eligible to undergo assessment).

- Requirements for language proficiency based on a legitimate public policy objective, such as consumer safety, ensuring services quality, or language working knowledge essential for practice. Whether language skills are required should depend on the nature of the profession and the level of client interaction. Authorities should assess whether full proficiency of the language is required for all services and in all circumstances. For example, some jurisdictions allow professionals to practice if they have basic or intermediate proficiency and can demonstrate that they can communicate sufficiently to perform their duties.⁵⁷ However, they may be required to improve their language skills over time. Authorities should consider granting authorization on the condition that the professional ensures effective communication with clients, which can include hiring interpreters or working with colleagues who can communicate fluently in the local language.

- Facilitation of recognition via third jurisdiction ("triangulation") (for example, 2024 EU-Canada MRA, Article 4.3).⁵⁸

Assessment procedures

- Information on the procedures for verifying qualifications and competence clearly outlined and accessible to foreign professionals. This includes information readily available on how to apply, what documentation is required, timelines for processing and criteria for assessment (SDR Disciplines, paragraphs 7(a) and 13).
- Appropriate guidance mechanisms established to provide support for foreign professionals through

clear instructions, help desks, or guidance on meeting local requirements. (GATS Article IV:2; SDR Disciplines, paragraph 20).

- Possibility to submit applications to demonstrate compliance with qualification requirements to only one competent authority (SDR Disciplines, paragraph 4).
- Procedures for the assessment of foreign professionals conducted within established and reasonable time frames (SDR Disciplines, paragraph 7).
- Provision of information on result of examinations, including deficiencies in applications and possibility to rectify this (SDR Disciplines, paragraph 7).
- Provision of information on reasons of failure of examination, with possibility for re-applying (SDR Disciplines, paragraph 7).
- Possibility for review of assessment decisions (GATS Article VI:2).
- Acceptance of authenticated copies in place of original documents (SDR Disciplines, paragraph 6(b)).
- Impartial and independent procedures with respect to all applicants (SDR Disciplines, paragraphs 10 and 22(d)).
- Procedures not excessively burdensome or disproportionate to the nature of the profession (SDR Disciplines, paragraph 22(c)).
- Reasonable and transparent fees charged for qualification procedures (SDR Disciplines, paragraph 9). Fees should not be higher than the approximate costs incurred by the competent authorities, including those for supervision of the relevant service (e.g. EU-Georgia Association Agreement, Article 95 on licensing and qualification procedures).⁵⁹
- Assessment typically includes practical tests, interviews or professional exams. Authorities should consider allowing foreign professionals to demonstrate their competence not only through formal qualifications but also through relevant professional experience, supervised work periods, references or portfolios of work. The possibility of fulfilling such requirements should not *a priori* be restricted to host country institutions, unless there are justifiable reasons.⁶⁰ If membership in a relevant professional association or registry is indicative of the level of competence or the extent of experience of the applicant, such membership should also be taken into account.
- Examinations held at reasonably frequent intervals (SDR Disciplines, paragraph 10). Depending on the examination, this could be on a rolling basis, or in multiple fixed sittings a year. Applications for examinations open sufficiently in advance of the examinations to allow participants sufficient time to apply and prepare, including logistics (SDR Disciplines, paragraph 10).
- Possibility for remote examinations to be offered in the home jurisdiction and at international test centres (electronically or paper-based).
- Possibility for electronic examinations in the host jurisdiction (rather than paper-based examinations).
- Possibility for remote examinations on personal computers.
- In case of deficiencies in the qualifications, applicants are informed of requirements to meet the deficiencies (including through course work, examinations, training or work experience).
- Facilitate access to international assessments and examinations, by considering implementing supportive visa measures for foreign candidates. These could include accelerated processing and the acceptance of verification letters from recognized examination bodies to confirm the purpose of travel.
- Authorities may consider the use of automated tools or AI-assisted review mechanisms to process qualification documentation or support decision-making, while ensuring transparency and the possibility of human oversight in cases of doubt or appeal.

ENDNOTES

- 1 GATS, Article VI:6.
- 2 EFTA-Hong Kong, China FTA (2012), Annex VII, Article 6.
- 3 GATS, Article VII:1.
- 4 GATS, Article VII:2.
- 5 GATS, Article VII:2.
- 6 GATS, Article VII:3.
- 7 For more information on standards, see subsection 2.9 on “Standards in Services”.
- 8 SDR Disciplines (WTO, 2021), para. 22(a) and footnote 17.
- 9 SDR Disciplines (WTO, 2021), para. 13.
- 10 GATS, Article IV:2; SDR Disciplines (WTO, 2021), para. 20.
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- 16 Chartered status is granted through a competency-based assessment, including documentation review and professional interview.
- 17 For more details about the benefits of electronic of procedures, see subsection 2.2 on “Electronic Submission of Applications”.
- 18 For example, foreign-qualified lawyers aiming to sit for the South African Legal Practice Council (LPC) can submit their initial applications online, including proof of qualifications and relevant experience. Candidates must physically submit certified copies of their degrees, transcripts and proof of work experience.
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12 Regulatory impact assessment



KEY INSIGHTS

- RIA is a key GRP tool for strengthening regulatory governance that leverages expert analysis and stakeholder input to design high-quality, evidence-based and proportionate regulatory interventions – which is particularly important in services sectors with a heavy regulatory burden.
- Neither the GATS nor the SDR Disciplines contain RIA obligations.
- Many recent PTAs encourage or require RIA to compare regulatory alternatives, consider various types of impacts (on trade, small businesses, the environment, etc.), as well as to publish findings of the analysis. In some cases, PTAs also encourage the use of RIA to assess the effectiveness and continued relevance and improvement of existing regulatory measures.
- At the domestic level, an increasing number of jurisdictions have introduced RIA – with or without a formal legal mandate – *ex ante*, for measures under development, and *ex post*, to evaluate those in force. Several jurisdictions have also been relying on impact assessment mechanisms to examine the potential of prospective trade arrangements and their wider economic, social and environmental effects.

Key features

Trade policymaking relies on sound evidence. In a rapidly evolving and complex regulatory environment, it is essential that regulatory frameworks are designed based on the best available data and analysis, with a clear statement of the problem to be addressed, the policy objective, as well as feasible alternatives.¹

RIA is a key area of GRP (Box 1); it serves to analyse the expected effects of regulatory interventions whether they be laws, regulations, administrative rules, policies or other measures and, where relevant, to review measures that are already in place. Leveraging stakeholders' practical experience, RIA helps ensure that measures are of high quality and designed to achieve their objectives in the most effective and efficient manner.² The benefits of putting in place a RIA framework can be set out as follows³:

- **Efficiency:** through a systematic comparison of options and analysis of costs and benefits, RIA helps to identify the most efficient regulatory approach.
- **Transparency:** RIA promotes transparency by requiring regulators to articulate their intentions in writing, set out possible regulatory options, available evidence, and expected impacts, explain the reasons that support regulatory choices, engage with stakeholders, and publish the results of the assessment for the benefit of the public.

- **Accountability:** monitoring expected impacts and checking the coherence of proposed measures against medium- to long-term policy goals makes regulators more accountable and supports continuous improvement.

RIA can be conducted (i) *ex ante*, i.e. based on analysis and forecasts, as an input to the drafting and adoption of measures; and/or (ii) *ex post*, i.e. carried out after the adoption of measures to analyse the actual effects of their implementation and evaluate any modifications or additions that may be required. In this respect, technical and scientific expertise and information play a crucial role. RIA processes combine quantitative and qualitative analyses of economic, social and environmental impacts of regulations so that decision makers can compare and weigh up the costs and benefits of alternative policy options.

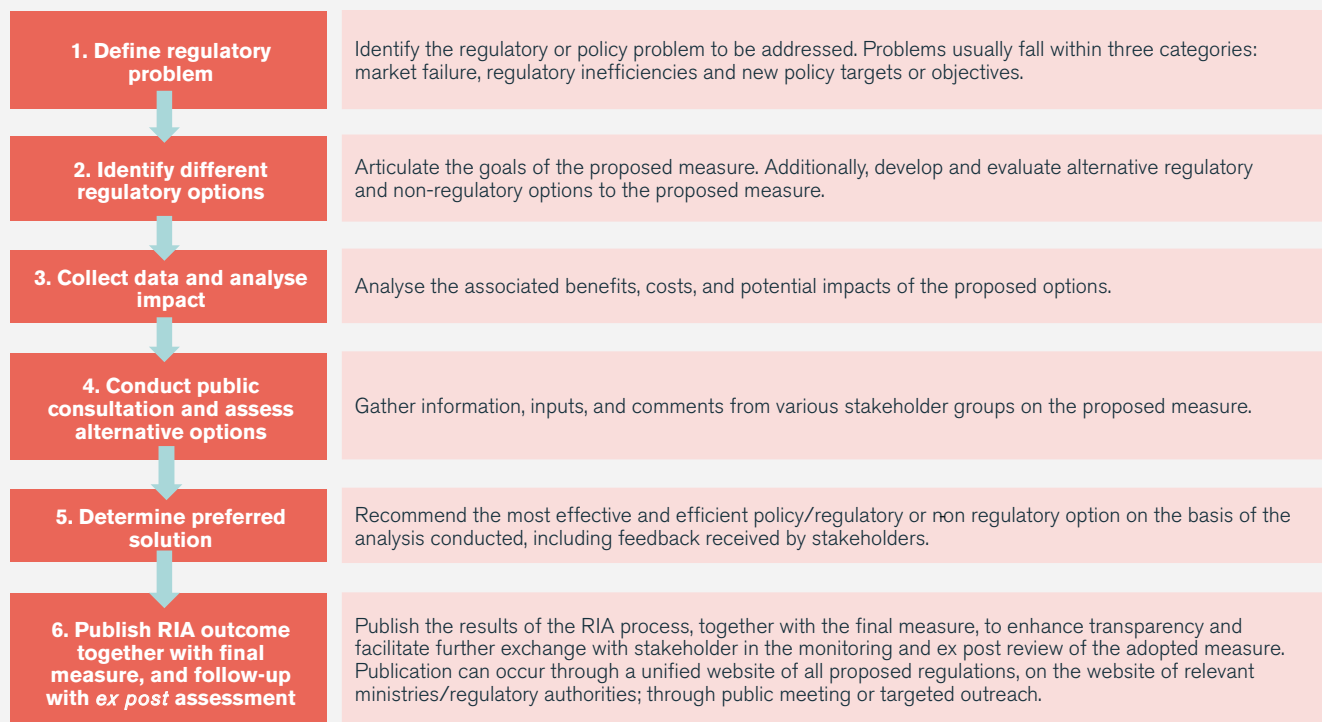
RIA plays a crucial role in the services context. Many services sectors are extensively regulated to protect consumers, ensure fair competition and achieve other policy objectives. For this reason, a holistic assessment of measures affecting the supply of services helps avoid imposing unnecessary burdens on services suppliers, particularly for SMEs, as well as unintended consequences that may be detrimental for attaining public policy objectives. RIA can serve as a tool to ensure that laws and regulations are proportionate, cost-efficient, effective and do not act as unwarranted barriers to trade.

Box 1: The 2020 OECD principles on regulatory impact assessment

The OECD identifies principles related to RIA in the following five areas:

- **Political commitment:** RIA requires consistent political backing and stakeholder support in order to be effectively implemented.
- **RIA governance:** RIA entails integration with other regulatory management tools, adjusting to the legal and administrative system, as well as the effective allocation of responsibilities.
- **Strengthening the capacity and accountability of the administration:** Efficient RIA demands regular guidance and training of relevant staff.
- **Targeted and appropriate methodology:** Successful RIA requires a simple and flexible methodology including the development of strategies on collecting and accessing data, communication of RIA results, and engagement of stakeholders throughout the process.
- **Continuous evaluation and improvement:** Comprehensive evaluation, including quality oversight of the RIA framework, ensures continued usefulness and effectiveness.

Source: OECD (2020).

Figure 1: Main RIA steps

Source: WTO/World Bank.

In brief, RIA is a structured process that guides policymakers to ask “systematic questions about different policy options and the consequences of government interventions”.⁴ Its output is a report that studies and assesses different policy options based on available evidence. By making analysis and reasoning explicit, RIA improves policy-making by improving its transparency, efficiency and accountability. RIA typically consists of six main steps (as set out in Figure 1)⁵:

- **Private sector:** large corporations, SMEs and industry associations contribute by providing input and feedback on costs, feasibility and implementation as the “end-users” of laws and regulations.
- **Civil society and consumers:** RIA processes increasingly involve consumer groups, professional associations, or other civil society organizations, with a view to ensuring that broader societal interests and distributional impacts are considered.

RIA generally involves the participation of various groups:

- **Regulatory authorities and/or specialized government bodies:** the regulatory authority (e.g. a line ministry or sector regulator) responsible for a measure usually leads the RIA. While such an authority is best equipped to identify regulatory challenges in specific areas, their close involvement may also encourage a conservative outlook and limit motivation in finding new solutions or developing new approaches to regulations.⁶ To mitigate this, some systems assign a specialized government agency to conduct RIAs, or to review and monitor assessments conducted by other authorities, thereby providing methodological guidance and ensuring that a high-quality RIA is the result.⁷
- **Experts:** RIA often requires technical expertise in law, economics, scientific or sector-specific knowledge, to effectively assess the impacts of a proposed or existing measure.

RIA covers a wide range of possible impacts⁸:

- **Private sector, including small businesses:** RIA assesses the economic costs and benefits of a proposed measure. Such analysis may address questions such as compliance costs and feasibility/ burden for businesses of various sizes, as well as impact on innovation and competition.
- **Society:** RIA evaluates distributional effects (i.e. who stands to gain or lose, and by how much across demographic groups and firm sizes) and assesses broader social outcomes (including poverty, employment, and job creation).⁹
- **Equality and inclusiveness:** RIA evaluates whether and how a proposed measure impacts different groups of individuals, and whether equality and inclusiveness objectives are met.

- **Environment:** RIA analyses how a proposed measure advances environmental objectives, such as reducing pollution or promoting sustainability, or whether it creates unintended harm.
- **Competitiveness and market openness:** RIA studies whether a proposed measure promotes contestability, i.e. encouraging competition by allowing new entrants into the market, or if it boosts existing companies, therefore hindering competition; establishes trade barriers; and attracts or discourages foreign investment.
- **Public sector:** RIA looks at the administrative costs related to implementation and enforcement of a proposed measure, including human resources required, infrastructure, monitoring and oversight.
- **Regulatory coherence and international obligations:** RIA determines whether a proposed measure is consistent with the existing domestic regulatory system, as well as whether it complements or conflicts with other international rules and agreements.

It is also worth noting that, in recent years, several jurisdictions have conducted RIA in parallel to or upon conclusion of PTA negotiations to examine the potential impacts of their adoption (also in specific areas such as

sustainability, environmental, or human rights), including through international cooperation.¹⁰

Figure 2 provides an overview of the key features of RIA.

GATS, SDR Disciplines and other relevant trade agreements

Several WTO agreements contain obligations that certain types of measures be necessary to achieve a legitimate objective or be science- or risk-based. These requirements speak to the legal quality of a measure, however, do not amount to a RIA which evaluates policy alternatives, costs and benefits, and possible administrative burdens.

In the GATS, Article VI:4 instructs WTO members to develop disciplines to ensure that licensing and qualifications requirements and procedures, as well as technical standards, are objective and transparent and not more burdensome than necessary to ensure the quality of the service. Undertaking RIA does not, alone, demonstrate that a measure meets these tests.¹¹ However, robust

Figure 2: RIA key features

On what basis is RIA conducted?	▪ Legal requirement ▪ Administrative practice (including guidelines)
What types of impacts are covered by the RIA?	▪ Private sector, including small businesses ▪ Society and inclusive growth ▪ Environment ▪ Competitiveness and market openness ▪ Public sector ▪ Domestic regulatory framework and international obligations
What types of measures are subject to RIA?	▪ Laws ▪ Regulations ▪ Policies ▪ Other types of rules (subject to relevant criteria)
Who conducts the RIA?	▪ Regulatory authority responsible for the measure ▪ Specialized government agency
Who else is involved?	▪ Experts ▪ Private sector ▪ Civil society ▪ Consumer groups
When is RIA conducted?	▪ <i>Ex ante</i> ▪ <i>Ex post</i>
How is RIA communicated?	▪ Unified website of all proposed regulations ▪ Website of relevant ministries/regulatory authorities ▪ Public meeting ▪ Targeted outreach ▪ Other

Source: WTO/World Bank.

ex ante RIA can support a “least trade-restrictive” design by (i) clearly defining the legitimate objective and the specific problem; (ii) identifying and comparing reasonably available regulatory and non-regulatory alternatives (including based on the use of international standards, mutual recognition and digital delivery); (iii) assessing expected trade effects (across modes of supply and for SMEs) alongside economic, social and environmental impacts; and (iv) documenting why the chosen option is proportionate and not more burdensome than necessary, with plans for *ex post* review to address any disproportionate effects. In this way, RIA builds a sound evidence base that enhances policy quality and supports careful alignment with the WTO framework.

The SDR Disciplines do not address the issue of RIA.

PTA practice

By contrast, new generation PTAs increasingly include RIA-related obligations, mostly framed as horizontal requirements rather than specifically related to services trade. PTAs typically contain a flexible obligation requiring the use of RIA in appropriate circumstances or where a proposed measure is expected to have a significant impact on trade.

One notable example is the 2018 CPTPP. In the Chapter on “Regulatory coherence”, Article 25.5 encourages the parties’ competent authorities to conduct a RIA process when developing proposed regulatory measures that exceed a threshold of economic impact, or, where appropriate, any other regulatory impact.¹² More specifically, the CPTPP sets out that RIA should *inter alia* carry out the following:

- i. Assess the need for a regulatory proposal, including a description of the nature and significance of the problem¹³;
- ii. Examine feasible alternatives, including, to the extent feasible and consistent with laws and regulations, their costs and benefits, such as risks involved as well as distributive impacts, recognizing that some costs and benefits are difficult to quantify and monetize¹⁴;
- iii. Explain the grounds for concluding that the selected alternative achieves the policy objectives in an efficient manner, including, if appropriate, reference to the costs and benefits and the potential for managing risks¹⁵;
- iv. Rely on the best reasonably obtainable existing information including relevant scientific, technical, economic or other information, within the boundaries

of the authorities, mandates and resources of the particular regulatory agency¹⁶; and

- v. Take into consideration the potential impacts on SMEs.¹⁷

Furthermore, the CPTPP includes a best-endeavour commitment to conduct *ex post* RIA with a view to reviewing, at appropriate intervals, regulatory measures to determine whether they should be “modified, streamlined, expanded or repealed”.¹⁸ Such a periodic review aims to ensure that regulatory regimes are progressively more effective in achieving the desired policy objectives.¹⁹

A similar RIA obligation is contained in Article 28.11 of the 2020 USMCA.²⁰ Interestingly, the 2019 EU-Japan EPA goes even further: the chapter on “Good regulatory practices and regulatory cooperation”, besides providing that the parties endeavour to carry out a RIA of major regulatory measures under preparation, also requires that the findings of impact assessments are published no later than the publication of the proposed or final measure.²¹ Additionally, the parties are asked to maintain and make publicly available processes for and the results of periodic retrospective evaluations of regulatory measures in force.²²

It is also worth noting that in the case of the 2017 EU-Canada CETA, the impact assessment of the Agreement on the environment is identified as one area of cooperation between the parties.²³

Implementation at the domestic level

At the domestic level, RIA mechanisms have been established in several jurisdictions. Nowadays, impact assessment is systematically used by over 80 per cent of OECD member countries.²⁴ Given the recognition of RIA as a key pillar of good governance, an increasing number of non-OECD economies are also following suit, although to a lesser extent when it comes to *ex post* reviews.²⁵ Various approaches have been adopted when it comes to the implementation of RIA systems (Box 2), with different scopes and levels of sophistication of methodologies. In some jurisdictions, the conduct of RIA is based on the existence of a legal requirement to enhance authority, while, in others, it is a recurring administrative practice (notably based on developed guidelines).

Box 2: Regulatory experimentation as a tool for innovative and evidence-based policy-making

Regulatory experimentation – or “regulatory sandbox” as it is sometimes referred to – is a form of “testing new regulatory approaches or technologies in controlled environments to gather evidence and refine policies”.²⁶ Such regulatory tests are typically limited in scope and time, and involve the evaluation of new products, services, regulatory tools and implementation methods. Under direct regulatory supervision, regulatory experimentation aims at fostering knowledge and evidence that can improve the quality of regulatory systems.²⁷ In order to be effective, regulatory experimentation needs to be fully integrated in the policy-making cycle and used in combination with other GRP instruments, notably stakeholder engagement, RIA and domestic inter-agency coordination.²⁸

According to OECD data, while only a minority of jurisdictions have to date formally introduced regulatory experimentation in their policies, evidence suggests that uptake is increasing but remains uneven across sectors and countries.²⁹ Regulatory experimentation goes beyond the lifting or easing of regulatory constraints and, depending on the specific context and goal, spans a variety of approaches (e.g. establishing new regulatory processes or adapting regulatory frameworks) which can serve to promote evidence in complex, fast-changing and innovation-dominated policy environments.

Some governments adopt whole-of-government approaches to experimentation, while some others use it as a tool in certain specific sectors (such as financial services, AI, and energy), with varying levels of ambition. For example, in Canada, the Centre for Regulatory Innovation – a whole-of-government authority – is tasked with helping regulators make use of regulatory experimentation, including on the use of AI.³⁰ At the sectoral level, Austria, Bahrain, Denmark, Italy and the United Arab Emirates have introduced regulatory sandboxes in the financial services sector by providing for the possibility of exemptions under their existing domestic frameworks.³¹

Source: OECD (2024); Sarliève et al. (2025).

South Africa, for example, introduced a requirement to subject any proposed policy initiatives, legislation or regulation to a socio-economic impact assessment (SEIAS).³² The SEIAS aims to improve South Africa's regulatory framework by (i) minimizing unintended adverse consequences of policy initiatives, and (ii) by anticipating implementation and compliance-related risks and encouraging measures to mitigate them.³³ Overall, the key goal of the SEIAS is to ensure that laws, regulations and policies are aligned with the core national priorities, namely addressing unemployment, poverty and inequality. The SEIAS applies to new or amended primary legislation, subordinate legislation with significant societal impact, significant regulations and major policy proposals. Building on technical analysis and participatory research, SEIAS consists of two types of assessment, namely initial and final impact assessment, both of which are applied concurrently to different stages of policymaking.

The SEIAS initial impact assessment is conducted at the conceptual phase of a proposed measure to stimulate discussions about alternative options to

tackle an identified problem. The process helps assess the extent to which different regulatory options would address identified issues, including their costs, risks and impact on various social and economic groups. The SEIAS final impact assessment, on the other hand, provides a detailed evaluation of the likely effects of the selected regulatory option in terms of its implementation and compliance costs as well as anticipated outcome. The SEIAS guidelines provide that the final assessment be published together with the draft policy initiative to allow for public comments and consultations with stakeholders. It further determines that a more in-depth analysis and broader consultation with stakeholders should be undertaken for proposals where the initial assessment suggests there will be substantial implementation costs, compliance costs, outcomes, risks or political sensitivity. In contrast, if a proposal seems unlikely to have a significant impact, either by itself or through subordinate regulations, the final assessment can be more limited.³⁴

Canada is an example of a jurisdiction that consistently carries out RIAs. The Cabinet Directive on Regulation, recently updated in 2024, elaborates on the

“fundamentals” of Canada’s federal regulatory policy. The latter is guided by four key principles: (i) regulations protect and advance the public interest and support good governance; (ii) the regulatory process is modern, open, and transparent; (iii) regulatory decision-making is evidence-based; and (iv) regulations support a fair and competitive economy.³⁵ As a key pillar of evidence-based decision-making, government agencies are responsible for conducting RIAs on all regulatory proposals.

The Directive defines a RIA as “the systematic approach to the identification and critical assessment of the potential positive and negative effects and implications of a regulatory proposal for consideration by the public, stakeholders and the Cabinet”.³⁶ RIAs are critical to ensure that “benefits to Canadians outweigh the costs”.³⁷ Through both qualitative and quantitative analysis, government agencies are required to conduct an early assessment of regulatory proposals, known as “triage”, with a view to determining potential positive and negative effects, as well as feasible alternatives and more streamlined options.³⁸ A clear, non-technical synthesis of the expected impacts – referred to as a “RIA Statement” (RIAS) – is published in the *Canada Gazette* together with the text of the proposed measure.³⁹ The latter is open for comments by the public for a minimum period of 30 days.⁴⁰ Furthermore, the Directive provides that all approved regulations must be published in the *Canada Gazette*, alongside the RIAS, to enable an understanding of the motivations and objectives behind regulatory changes.⁴¹

Furthermore, Canada conducts RIA as part of its PTA negotiations: using quantitative and qualitative analysis, the economic impact assessments aim to analyse the economic effects of measures included in Canada’s PTAs.⁴² While the quantitative assessment focuses on the interaction among different sectors as a result of trade liberalization, capturing the economy-wide effect of the agreement on the Canadian economy, the qualitative analysis provides an assessment of measures that are not possible to quantify for lack of analytical tools or available data. These assessments are undertaken by experts in the subject matter, in consultation with other government departments. With respect to services, Canada uses the Services Trade Restrictions Index (STRI) either from the OECD or from the WTO-World Bank and comparable indices for GATS bindings (e.g. the WTO-World Bank GATS Trade Restrictions Index) and preferential commitments (e.g. the WTO-World Bank Preferential Services Trade

Restrictions Index) to assess negotiating scenarios or final outcomes of trade agreements. These indicators are converted into *ad valorem* equivalents which are incorporated in a dynamic computable general equilibrium (CGE) model of global trade. The model is then used to estimate the economy-wide, environmental, and labour impacts of proposed agreements and of final outcomes.⁴³

Recently, the European Free Trade Association (EFTA) Secretariat also undertook a sustainability impact assessment (SIA) in parallel to the negotiations for an FTA between the EFTA States and the Kingdom of Thailand (signed on 23 January 2025, pending entry into force).⁴⁴ In light of the broad and ambitious scope of the envisaged Agreement, EFTA sought to analyse its potential effects, while considering the respective trade interests and sensitivities of all parties. The SIA involved a combination of quantitative and qualitative methodologies in four main steps⁴⁵:

1. Baseline scenario development: the initial step involved an analysis of the current situation in the EFTA States and Thailand, utilizing CGE modelling. This analysis highlighted potential trade and economic impacts, including risks and opportunities in goods, services, foreign direct investment, intellectual property rights and specific sectors.
2. Screening for issues: the second step identified potential concerns and sectors requiring closer examination as areas most likely to be affected by the Agreement.
3. Sustainability risk analysis: the third step focused on assessing the sustainability risks of the Agreement, taking into account the whole economy, different societal groups and environmental issues.
4. Conclusions and recommendations: the final step involved formulating conclusions and recommendations, including based on stakeholders’ input collected throughout the project.

In conclusion, international and domestic practice concur on the importance of RIA as a tool for strengthening regulatory governance. Given the regulatory intensity of the services sector, evidence-based decision-making that draws on expert analysis and stakeholder input helps design high-quality regulatory interventions and avoid unwarranted effects and burdens on the economy and beyond. While neither the GATS nor the SDR Disciplines contain RIA obligations, many new generation PTAs

include RIA to analyse different regulatory alternatives and promote the use of the most cost-efficient and effective option, thereby enhancing the transparency and efficiency of regulatory systems and increasing regulators' accountability. At the domestic level, an increasing number of jurisdictions (across various levels of development) apply RIA – with or without a formal

legal mandate – not only when developing laws and regulations, but also when assessing prospective trade arrangements and their wider economic, social and environmental effects. Overall, RIA does not replace policy judgment but, when applied before and after adoption of measures, it provides a structured evidence base for better decisions and timely course corrections.

ENDNOTES

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13 Domestic inter-agency coordination



KEY INSIGHTS

- Inter-agency coordination (IAC) is a core GRP that operates across the entire regulatory cycle – from policy design and drafting to implementation, enforcement and review – reducing duplication and inconsistencies, improving predictability for suppliers and consumers. IAC is closely linked with several other GRPs, notably RIA, and stakeholder engagement.
- While neither the GATS nor SDR Disciplines refer to IAC, it is incorporated in recent PTAs via two recurring elements: (i) publishing the procedures and mechanisms for inter-agency coordination to promote transparency and accountability; and (ii) establishing dedicated platforms to exchange information and encourage regulatory alignment over time, including through a central coordinating body with monitoring and reporting functions.
- Economies at different levels of development use various arrangements showing that IAC can be tailored to specific mandates, capacity and sectoral needs, while pursuing coherent policy objectives. Domestic practice suggests that effective IAC depends on consistent political backing, clear mandates and resources, light-touch central coordination with respect to reporting/monitoring, flexibility, cross-institutional capacity building, and early risk management (e.g. overlaps, data-sharing, IT interoperability).

Key features

In the area of services, effective regulation often requires the involvement of multiple authorities with distinct mandates and technical expertise. Their competences may intersect at various stages of the regulatory process – from policy design and rule-making to implementation, monitoring and review. Where responsibilities overlap, coordination among agencies becomes essential to ensure coherent policy outcomes, avoid duplication and enhance regulatory quality.

This is particularly important in services sectors where regulation spans multiple mandates (e.g. competition, consumer protection, privacy, prudential¹ reasons, and health) and carries far-reaching societal impacts. Consider, for example, a situation in which the ministry of health sets quality and safety standards for healthcare providers, while the ministry of finance regulates pricing and the solvency of private insurers. If the two authorities act in isolation, well-intentioned measures could conflict: hospitals might be required to use cutting-edge medical equipment to ensure best quality patient care, while insurers may face strict price caps that prevent them from covering the higher costs.

While both ministries pursue legitimate policy objectives within their mandates, the lack of coordination between them may reduce the financial viability of both hospitals and insurers, ultimately limiting patients' access to affordable healthcare. The lesson extends beyond health: in many service sectors, uncoordinated regulation may impose duplicative or inconsistent requirements, raise compliance costs and undermine public policy objectives. In view of this, domestic IAC is today recognized as a core GRP. At a practical level, it connects trade and regulation by (i) aligning requirements and procedures and consolidating them (including in single window systems);² (ii) integrating international standards into domestic rule-making (including for the recognition of qualifications); as well as (iii) coordinating proportionate, risk-based implementation, supervision and monitoring.

IAC entails systematic dialogue, information sharing and joint action among competent authorities at all levels of government with a view to promoting coherence and efficiency in regulatory systems. Coordination mechanisms can take various forms – from standard inter-agency committees and shared information platforms to *ad hoc* working groups on

cross-cutting issues. To support coordination, a central body may be established with overarching oversight and reporting functions. Additionally, the IAC processes and mechanisms may be made publicly available to foster transparency and accountability. To function effectively, these arrangements typically rely on high-level political backing, clear allocation of responsibilities, adequate resources and transparent procedures. IAC contributes to a more predictable and transparent regulatory environment for service suppliers and consumers alike, reduces administrative duplication and facilitates alignment with international commitments, including those related to trade in services.

IAC is closely linked to various other GRPs, notably RIA and stakeholder engagement.³ RIA and IAC are mutually reinforcing; effective RIA relies on the collaboration of all relevant domestic bodies to gather data, assess potential impacts and validate findings. At the same time, IAC serves the broader function of ensuring coherence and information flow throughout the regulatory process – from policy design to implementation and review – and benefits from the expert insights gathered through RIA. Complementarities also exist with stakeholder engagement. High-quality consultation with external stakeholders thrives on inter-agency coordination of notices, timelines and responses; in turn, stakeholder input informs coordinated decisions on design, implementation and review. In light of this, this Handbook – like various other GRP toolkits⁴ – addresses IAC as a stand-alone GRP for effective and quality rule-making.

IAC occurs through a variety of formal and informal mechanisms⁵ and can take place at various stages of the policy cycle. These stages are not strictly sequential, as coordination may continue or re-emerge as new issues arise (Figure 1):

1. Policy formulation and agenda setting:

- The lead regulatory authority identifies the need for a new measure or amendment to an existing one and defines objectives.
- Early engagement with other competent authorities helps clarify mandates, share data and identify potential overlaps or synergies.
- Relevant agencies review the proposal and provide feedback, as well as align the initiative with wider policy priorities.

2. Drafting and design of measures:

- The inter-agency committee or working group is set up to prepare the draft measure.
- The committee reviews input from all relevant agencies, considers cross-cutting implications and ensures consistency of the draft measure with international obligations.
- Exchange of feedback between the committee and relevant agencies takes place until a coherent draft emerges.

3. Public consultation:

- The committee publishes the draft measure for comments by stakeholders.
- The committee considers the feedback received and makes relevant adjustments.
- The text of the measure is finalized by the committee.

4. Adoption, implementation and monitoring:

- The final measure is adopted through the appropriate procedures.
- The measure is implemented and enforced by the lead regulatory authority.
- Coordination continues during implementation, including through shared inspection systems, common data platforms, or joint compliance monitoring.
- Regular information exchange among agencies helps identify emerging issues and ensure consistent enforcement.

5. Evaluation and review:

- Relevant agencies jointly review the effectiveness, proportionality and continued relevance of the measure.
- Feedback and input are considered to assess the need for any adjustments or improvements.⁶

Various GRP-enabling conditions support IAC and help improve the quality of regulatory frameworks and government services delivery:

- **High-level political backing:** Visible support from senior leadership signals priority and is instrumental in ensuring that coordination is implemented and sustained.⁷
- **Clear mandates and responsibilities:** Assigning tasks, objectives, as well as necessary resources (human and financial) strategically contributes to ensuring

success of coordination.⁸ Publishing IAC procedures and mechanisms helps promote transparency.

- **Reporting and monitoring, including through a central coordinating body:** Establishing reporting and monitoring procedures promotes accountability of all stakeholders involved.⁹ A light-touch coordinating body with convening, tracking and reporting functions can help ensure that coordination works on the ground.
- **Adaptability:** Establishing flexible and simple coordination mechanisms is essential to guarantee their sustainability and continuous improvement over time.¹⁰
- **Cross-institutional capacity building:** The most successful forms of coordination appear to be those that are built as a standard practice (rather than being designed as an ad hoc temporary effort).¹¹
- **Risk forecasting:** Anticipate potential challenges (e.g. overlapping mandates, data-sharing barriers, IT interoperability, organizational pushback, timing misalignments) to enhance the chances of success of IAC.¹²

GATS, SDR Disciplines and other relevant trade agreements

The GATS does not include an obligation to require inter-agency coordination among relevant regulatory authorities of WTO members. Likewise, this area is not covered by the SDR Disciplines.

PTA practice

Recent PTAs increasingly incorporate GRPs on cross-border cooperation, with IAC appearing more and more as a recurring element. Across agreements, two obligations appear most often: (i) providing transparency about IAC mechanisms (public descriptions of processes and mechanisms, points of contact, etc.); and (ii) establishing institutional platforms (committees/forums) to exchange information and encourage regulatory alignment over time, including through a central coordinating body with monitoring and reporting functions.

One example is the 2018 CPTPP in which Chapter 25 is dedicated to “Regulatory coherence”, defined as “the use of good regulatory practices in the process of planning, designing, issuing, implementing and reviewing regulatory measures in order to facilitate

achievement of domestic policy objectives”.¹³ Notably, Article 25.4.1 states that “regulatory coherence can be facilitated through domestic mechanisms that increase interagency consultation and coordination associated with processes for developing regulatory measures”.¹⁴

Taking into account the different levels of development of the parties, as well as their political and institutional structures, the CPTPP stipulates that the parties are required to implement processes and mechanisms to facilitate effective inter-agency coordination, including through a central coordinating body.¹⁵ In addition, the parties are required to produce and make publicly available documents that include descriptions of the processes and mechanisms that have been set up to facilitate coordination.¹⁶ While IAC may take different forms depending on the specific circumstances of each party (including differences in levels of development and political and institutional structures), they should have the overarching abilities to:

- a. Review proposed regulatory measures covered by the agreement to determine their adherence to good GRPs;
- b. Strengthen consultation and coordination among domestic agencies with the objective of identifying potential overlap and duplication and precluding the creation of inconsistent requirements across agencies;
- c. Make recommendations for systematic regulatory improvements; and
- d. Publicly report on reviewed regulatory measures, proposals for systematic regulatory improvements, and updates on changes to the process and mechanisms.¹⁷

The 2019 EU-Japan EPA is another example: the parties are committed to maintaining internal coordination processes or mechanisms to foster GRPs.¹⁸ Furthermore, each party is required to make publicly available descriptions of the processes and mechanisms under which its regulatory authority prepares, evaluates and reviews its regulatory measures.¹⁹ Interestingly, the 2019 EU-Japan EPA provides for the establishment of a Committee on Regulatory Cooperation which is *inter alia* tasked with inviting relevant authorities and other stakeholders to exchange information and promote coordination on GRPs.²⁰

Another agreement that underpins the need for IAC is the 2020 USMCA. In a cross-cutting chapter dedicated to “Good regulatory practices”, the USMCA

recognizes that “the implementation of government-wide practices to promote regulatory quality through greater transparency, objective analysis, accountability, and predictability can facilitate international trade, investment, and economic growth, while at the same time contributing to each party’s ability to achieve its public policy objectives at the level of protection it considers appropriate”.²¹ It also underscores that “the application of good regulatory practices can support the development of compatible regulatory approaches, and the reduction or elimination of unnecessarily burdensome, duplicative, or divergent regulatory requirements”.²²

Accordingly, the USMCA notes the parties’ commitment to maintain a central regulatory coordinating body with the key functions of promoting government-wide adherence to GRPs, as well as performing key advisory, coordination and oversight functions to improve the quality of regulations.²³ In addition, the parties are committed to making internal processes and mechanisms of coordination publicly available.²⁴ It should be noted that the USMCA goes further than the CPTPP in articulating the objectives and scope of IAC. Notably, in the USMCA, IAC can also serve as a platform to conduct RIA with a focus on assessing existing regulatory burdens on small businesses, and ensuring that regulatory approaches do not unnecessarily restrict competition in the market.²⁵ Furthermore, IAC is considered essential for ensuring the integration of relevant international standards and supporting compliance with existing international trade and investment obligations.²⁶

Implementation at the domestic level

At the domestic level, governments have put in place different IAC mechanisms. For instance, in the US, the Federal Communications Commission (FCC) is the primary authority for communications law and policy.²⁷ The FCC has various responsibilities, including processing licenses and other regulatory filings, consumer information and education, as well as encouraging the development of innovative services. In addition, it is entrusted with ensuring that regulatory proposals and measures in force are consistent with both domestic policy objectives and international commitments. With this purpose, the FCC works closely with various other agencies, including the Department of Commerce, the Department of Justice, and the Federal Trade Commission.

Whenever the need for adoption of a new measure or modification to an existing one is identified under Title 47 (Telecommunication) of the Code of Federal Regulations, an inter-agency working group, consisting of various committees, is set up to address cross-cutting concerns. The committees provide objective and publicly accessible advice based on input from consumer groups, industry stakeholders, public safety officials and other interested parties.²⁸

In the UK, the Regulation Directorate – a unit within the Department for Business and Trade – provides central oversight of regulatory quality and leads the cross-government reform agenda. In collaboration with all departments, it promotes targeted, efficient and effective regulation aligned with international best practices.²⁹ Under the mandate of the government's Better Regulation Framework, the Regulation Directorate helps shape the UK's regulatory landscape as well as its international commitments, ensuring high-quality rule-making and proposing alternatives where appropriate. Furthermore, the Regulation Directorate exchanges information and expertise with foreign partners and international organizations and, in this way, fosters the UK's participation in shaping international standards and rules, with the main goal of levelling the playing field for UK businesses. Finally, when considered beneficial, the Regulation Directorate supports the alignment of the UK's regulatory practices with those of its foreign partners, including by commitments on cross-border cooperation under PTAs.

A different approach to IAC has been established by Malaysia. In 2009, the government sought innovative ways to optimize the provision of public services to further national development goals. This prompted the development of the “Blue Ocean Strategy” (BOS) with the primary aim of fostering collaboration between government agencies, non-governmental organizations, and the private sector.³⁰ With the goal of making Malaysia a high-income economy by 2020, government agencies were mandated to develop high impact, low-cost improvements to the provision of public services. The BOS launched several initiatives to be based on collaboration among multiple ministries and agencies, as well as in partnership with NGOs or the private sector.

One notable example of such an initiative is the collaboration between the Malaysian Communications and Multimedia Commission and private telecommunication operators, with the goal of extending the reach of broadband internet and other

communication infrastructure to rural areas. Other initiatives include the Urban Transformation Centres, the Rural Transformation Centres and the Mobile Community Transformation Centres. These centres operated as “one-stop shops” bringing together various stakeholders to efficiently and effectively provide different kinds of services (e.g. passports, licensing, health and social services). The success of the BOS was driven by several factors. Implementation was initially led by the Office of the Chief Secretary and later by the National Strategy Unit in the ministry of finance, which facilitated cross-agency collaboration, monitored delivery, and provided troubleshooting for bottlenecks. Better coordination domestically led to significant optimization of resources (personnel and infrastructure) and a reduction in duplications and inefficiencies, ultimately resulting in lower costs and higher quality services.³¹

Mozambique implemented an IAC system to improve the allocation of school grants and the availability of critical medicines.³² In 2011, Mozambique was facing significant challenges in the education and health sectors. This was due to insufficient communication and coordination with regards to the allocation of finances and other resources, between the ministry of economy and finance (MEF) and the line ministries, i.e. the ministry of health and the ministry of education and human development. The education sector reported persistent delays in the allocation of school grants, as well as a lack of transparency in the education budget and spending at the district level. In the health sector, difficulties were encountered with respect to medicine distribution, including fragmented management responsibility and inefficient and inaccurate information flow.

With World Bank support, the National Treasury Directorate – part of the MEF – established a Programme Coordination Team to strengthen coordination between the MEF and health and education ministries. The Programme was structured around various disbursement-linked indicators (DLIs) to be completed in the respective sectors by specific deadlines. Once a DLI was met, the World Bank would release funds as performance-based allocations to incentivize timely results and longer-term behavioural change. Ministries could use the funds for a wide range of activities, from improvements in the working environment and training, to procuring educational materials or medicines.

Coaches were appointed to (i) facilitate communication and coordination between the three ministries, as well as between the provincial and national authorities; and

to (ii) support ministries in identifying and overcoming bottlenecks in their efforts to achieve the DLIs. Through this Programme, Mozambique made measurable progress in allocating school grants and strengthening school management and supervision. Key success factors included institutional capacity building (including by training officials on new tools and processes, enhancing communication and coordination), clear incentives and upgraded IT and data systems to support coordination.

In conclusion, IAC – the regular flow of information and collaboration among government agencies and other stakeholders – is a core GRP underpinning coherent regulation across the entire regulatory cycle (design, implementation, enforcement and review). IAC is closely aligned with various other GRP tools, notably RIA and stakeholder engagement. Overall, effective IAC reduces duplication and inconsistencies and improves predictability for service suppliers and consumers.

While the GATS and the SDR Disciplines do not prescribe IAC, recent PTAs incorporate commitments in this area with a view to promoting the alignment of regulatory frameworks with GRPs. While IAC structures and functions vary, PTAs converge on two main GRP-related aspects: (i) publishing the procedures and mechanisms for inter-agency coordination to promote transparency and accountability; and (ii) establishing dedicated platforms to exchange information and encourage regulatory alignment over time, including through a central coordinating body with monitoring and reporting functions. At the domestic level, IAC takes different forms tailored to specific mandates, capacity and sectoral needs, and can serve a variety of purposes. Domestic practice suggests that, as policy issues grow increasingly complex, more stakeholders and a greater array of interests need to be involved in policy-making to foster the quality, effectiveness and efficiency of regulatory systems.

ENDNOTES

1 In financial services, the term “prudential” refers to a regulatory objective of protecting investors and depositors and of avoiding instability or crises in financial markets.

2 For more information, see subsection 2.4 on “Single Window”.

3 For more information, see subsection 2.7 on “Stakeholder Engagement”. For more information, see subsection 2.12 on “Regulatory Impact Assessment”.

4 OECD (2012), Principle 10: Regulatory Coherence across Levels of Government; OECD (2025), pp. 19-21, 121-136; Molinuevo and Sáez (2014), pp. 31-33.

5 Harrington et al. (2021), p. 8.

6 The information presented here is on the basis of several sources: Harrington et al. (2021); Moyi (2020); Schito (2022); Burke (2019).

7 World Bank (2018), pp. 21-22.

8 World Bank (2018), pp. 21-22.

9 World Bank (2018), pp. 21-22.

10 World Bank (2018), pp. 21-22.

11 World Bank (2018), pp. 21-22.

12 World Bank (2018), pp. 21-22.

13 CPTPP (2018), Article 25.2.

14 CPTPP (2018), Article 25.4.1.

15 CPTPP (2018), Article 25.4.1.

16 CPTPP (2018), Article 25.4.2.

17 CPTPP (2018), Article 25.4.2.

18 EU-Japan EPA (2019), Article 18.4.

19 EU-Japan EPA (2019), Article 18.5.

20 EU-Japan EPA (2019), Article 18.14.

21 USMCA (2020), Article 28.2.

22 USMCA (2020), Article 28.2.

23 USMCA (2020), Article 28.3.

24 USMCA (2020), Article 28.4.2.

25 USMCA (2020), Article 28.4.1.

26 USMCA (2020), Article 28.4.1.

27 US Government, Federal Communications Commission (FCC), “What We Do”, <https://www.fcc.gov/about-fcc/what-we-do>.

28 US Government, Federal Communications Commission (FCC), “What We Do”, <https://www.fcc.gov/about-fcc/what-we-do>.

29 See UK Government, “Regulation Directorate”, <https://www.gov.uk/government/groups/better-regulation-executive>.

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31 World Bank (2018), pp. 57-60.

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14 International regulatory cooperation



KEY INSIGHTS

- International regulatory cooperation (IRC) is a core GRP tool: as domestic regulations often produce cross-border spillovers and many policy challenges require transnational responses, IRC offers layers and combinations of mechanisms (information exchange, soft law, networks, MRAs, formal agreements, intergovernmental organizations harmonization and domestic IRC requirements) to improve regulatory effectiveness, as well as economic and administrative efficiency.
- Under the GATS, cooperation mandates are limited and centre on recognition of foreign qualifications (Article VII) as well as consultations on anti-competitive practices (Article IX). The SDR Disciplines complement cooperation; they treat other WTO members as relevant stakeholders in consultations and encourage support for dialogues among professional bodies to facilitate recognition of professional qualifications and authorizations.
- In PTAs, while IRC has traditionally featured in sector-specific chapters with varying degrees of focus, more recent agreements increasingly include dedicated chapters on IRC, with the level of ambition and binding nature tailored to the parties' objectives and degree of regulatory alignment.
- Governments are increasingly embedding IRC into domestic rule-making, by considering relevant international instruments, assessing cross-border impacts (both before and after adoption of laws and regulations), opening consultations to foreign stakeholders and, where appropriate, creating recognition/equivalence pathways – to prevent incompatibilities and avoid duplication.

Key features

In an increasingly interconnected global economy, domestic regulations often have cross-border implications. Moreover, challenges such as climate change, public health crises, digital governance and financial market instability are examples of issues that no single jurisdiction can effectively address in isolation. Regulators therefore need to look beyond national borders and communicate and cooperate with their counterparts abroad.

IRC is a core GRP pillar to promote the interoperability of domestic regulatory frameworks. It can be defined as “any agreement or organizational arrangement, formal or informal, between countries to promote some form of cooperation in the design, monitoring, enforcement, or ex post management of regulation”.¹ IRC also encompasses consensus-building efforts towards the broad goal of “promoting the interoperability of legal and regulatory frameworks”.²

IRC spans a range of mechanisms and approaches: from flexible tools for dialogue and information-sharing, including participation in international forums and the use of international standards and mutual recognition, to deeper forms of cooperation such as harmonization and integration of regulatory systems. IRC operates across the entire policy cycle, helping regulators anticipate emerging issues, address enforcement challenges and support implementation efforts.

As a tool for systemic risk management and long-term policy coherence, IRC involves multiple actors and operates at bilateral, plurilateral and multilateral levels. It relies on both binding and non-binding instruments, as well as networks of regulators. It also includes unilateral efforts to integrate an international perspective into domestic rule-making with a view to aligning domestic policies with internationally recognized good practices.

Ultimately, IRC improves regulatory effectiveness and efficiency on transboundary challenges by enhancing the quality of domestic regulatory frameworks, making them interoperable and enabling coordinated action. It can lower trade and compliance costs by reducing unnecessary divergence through the deliberate use of international instruments and cooperation tools, which in turn supports better cross-border implementation. It also widens the evidence base for rule-making through comparative analysis, foreign input and mutual learning, thereby strengthening trust, legitimacy

and compliance where participation of all relevant stakeholders is strong.

Recognizing the importance of bridging the gap between domestic policy-making and increasing cross-border challenges, the 2012 OECD *Recommendation on Regulatory Policy and Governance* identified IRC as a key GRP. It encouraged governments “in developing regulatory measures, to give consideration to all relevant international standards and frameworks for cooperation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction” (Box 1).³ While not a new topic, IRC plays a critical role for three main reasons:⁴

- i. **IRC improves regulatory effectiveness:** IRC can help coordinate the pursuit of shared regulatory objectives (such as tackling climate change, protecting biodiversity and stabilizing the global financial system).⁵
- ii. **IRC fosters economic efficiency:** IRC can lower transaction costs and promote economies of scale by reducing unnecessary diversity of requirements in different jurisdictions (e.g. via convergence around existing international standards or recognition of professional qualifications that avoids duplicative testing and licensing).⁶
- iii. **IRC promotes administrative efficiency:** IRC enables governments to exchange information, share experiences and mutual learning across all phases of the policy cycle. Additionally, it can also allow governments to demonstrate regulatory leadership in the shaping of international instruments, including in emerging regulatory areas.

The scope of IRC can vary from targeting a specific area or regulatory objective (in the area of services or beyond) to applying it horizontally across policy areas. While not strictly separated in practice but rather working in a continuum, there are various different formats of IRC⁷:

1. **Information exchange and data sharing:** *Ad hoc* or recurring exchanges and dialogue, or comparing different approaches – through conferences, coordinated multi-agency data requests (e.g., common templates and timelines), crisis monitoring exercises (e.g. coordinated reporting templates), incident notification methods. Such exchanges have proven especially valuable in data-limited or fast-moving areas (such as fintech, crypto-asset markets, AI-enabled financial services and cross-border marketplace and app-store platforms) or during stress events, such as the 2008 global financial crisis or the COVID-19 pandemic.

Box 1: The 2021 OECD best practice principles on IRC

Nearly a decade after the 2012 OECD *Recommendation on Regulatory Policy and Governance*, the OECD published the 2021 *Best Practice Principles for Regulatory Policy*. These Principles aim to guide governments in using IRC strategically and effectively to support better policy-making. The Principles are built on three key tenets:

- **Develop an IRC strategy:** establish a whole-of-government IRC strategy; set up a coordination mechanism to centralize relevant information on IRC practices and activities; promote an IRC conducive framework to raise awareness, build on existing platforms, reduce anti-IRC biases and create incentives for policymakers and regulators.
- **Embed IRC throughout domestic rule-making:** collect and rely on international knowledge and expertise; consider existing international instruments when developing regulation and document any departure from it; evaluate impact beyond borders; engage with foreign stakeholders; ensure consistency with international commitments and obligations; examine in advance cooperation needs to facilitate implementation and enforcement.
- **Cooperate internationally (bilateral, plurilateral and multilateral):** work with other jurisdictions to promote the development and diffusion of good practices and innovations in regulatory policy; participate in international forums that support regulatory cooperation; leverage mutual recognition; align IRC expectations across various policy instruments, including in trade agreements.

Source: OECD, 2021.

2. Soft law principles, guidelines, voluntary standards:

Non-binding instruments that are elaborated and endorsed by several jurisdictions and are used as a reference for the shaping of domestic rules. In services, this includes the *Basel Core Principles*, the 2017 IOSCO (International Organization of Securities Commissions) *Objectives and Principles of Securities Regulation*⁸, as well as the 2024 IAIS (International Association of Insurance Supervisors) *Insurance Core Principles and Common Framework for the Supervision of Internationally Active Insurance Groups*.⁹

3. Transgovernmental networks:

Peer-to-peer forums where regulators coordinate policy, supervision and enforcement in a specific area, such as the Basel Committee, IOSCO, IAIS, alongside supervisory colleges for cross-border banks and insurers.¹⁰ Other sectoral networks include the International Competition Network or the Global Privacy Assembly.

4. Regulatory partnerships and structured dialogues:

Platforms created by trade and cooperation agreements (e.g. regulatory cooperation councils/committees) with work programmes to promote quality regulation and minimize unnecessary divergence in sectors such as professional services or digital/financial services. These mechanisms are often supported by a number of transparency tools

(such as publishing draft measures, inviting public comments) and they often encourage the use of relevant international instruments and standards.

5. Mutual recognition:

Arrangements which allow for the recognition of qualifications, licenses or certificates obtained from competent authorities of other jurisdictions. MRAs may be entered into between governments, public entities (such as ministries), or governing authorities of professional services (which may be incorporated as private entities).

6. Bilateral, regional or multilateral arrangements:

Treaties, protocols or conventions which contain obligations requiring IRC (in a specific area or horizontally across all matters covered by an agreement) with a view to fostering economic and trade integration. Such agreements may also require the parties to notify the introduction of new laws and regulations – thereby enhancing transparency and exchange of information (such as under the various WTO agreements or other PTAs).¹¹

7. Intergovernmental organizations:

Intergovernmental organizations (such as the WTO, APEC, OECD) that provide platforms – through informal exchanges or established committees – to promote continued dialogue and regulatory cooperation.¹² Cooperation can also be based on documents (e.g. guidelines, codes of conduct, etc.) developed by such organizations but not legally binding on their members.¹³

8. Regulatory integration or harmonization:

Supranational organizations that adopt common binding rules and enable integrated markets, with central rules and institutions which drive regulatory cooperation and harmonization (e.g. EU Professional Qualifications Directive, EU “passporting”¹⁴ in financial services).

9. **Domestic IRC requirements:** Domestic requirements (horizontal or sectoral) which provide for the consideration or adoption of relevant international standards and instruments (including on GRPs). Such forms of cooperation in the early policy-making stages aim to avoid incompatibilities, inconsistencies and duplications with international commitments, and foster regulatory convergence in the long run.¹⁵ Domestically, governments can also allow foreign stakeholders to participate in policy-making by providing comments as well as for the assessment of the impact of measures beyond borders, thereby incorporating an international perspective into domestic regulatory frameworks.¹⁶

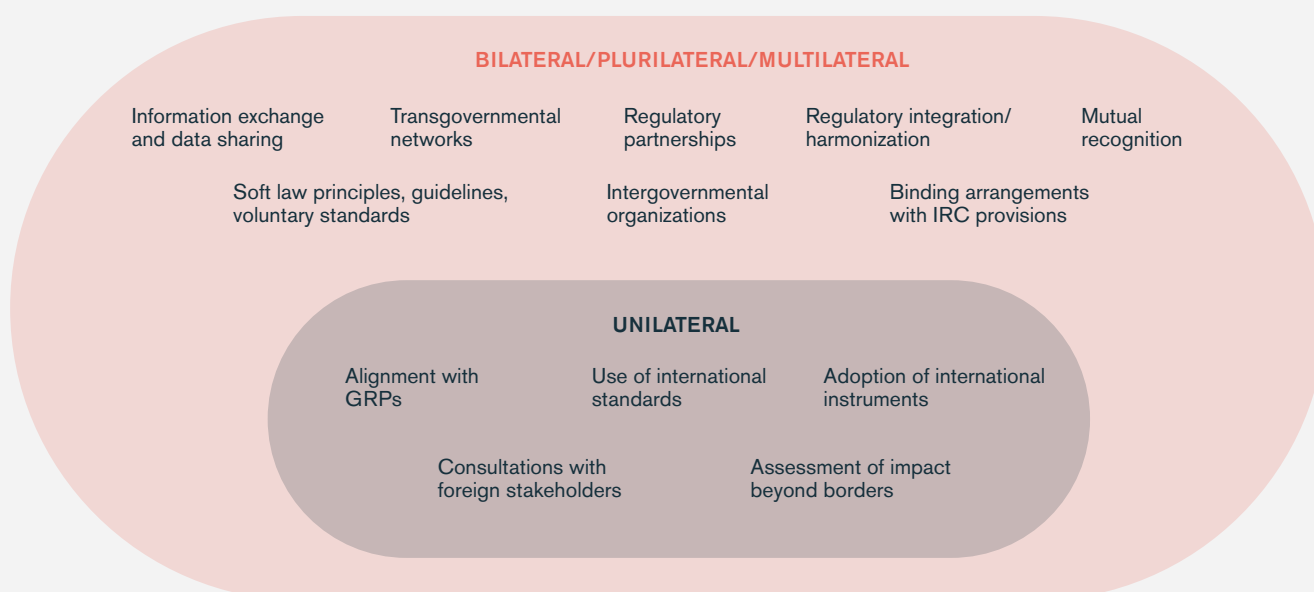
These mechanisms often operate in overlapping layers, involving a multitude of tools and a wide range of stakeholders. In the financial services sector, for example, non-binding global standards (such as those developed by IOSCO or IAIS), transgovernmental networks and supervisory colleges (including crisis-management groups), peer-review processes (like those of the Financial Stability Board or International Monetary

Fund–World Bank Financial Sector Assessment Program), and binding regional frameworks (such as EU capital and licensing rules) all interact and reinforce one another. The effectiveness of various cooperation mechanisms and of regulation more broadly, often depends on how these instruments are combined and sequenced, rather than on a single mechanism in isolation. Importantly, some forms of IRC preserve distinct domestic frameworks, whereas others lead to laws and regulations being harmonized (Figure 1).¹⁷

GATS, SDR Disciplines, and other relevant trade agreements

The GATS – which constitutes in itself an IRC mechanism – contains various provisions requiring WTO members to cooperate on regulatory issues in the context of trade in services. One area of focus is IRC on matters of recognition: Article VII:1 provides that WTO members may recognize education and experience obtained abroad, requirements met, or licenses or certifications granted in a particular jurisdiction. Such recognition, which may be achieved through harmonization or otherwise, may be based on an agreement or arrangement with the government concerned or may be agreed on autonomously. Article VII:2 contains two process obligations in this

Figure 1: IRC mechanisms



Source: WTO/World Bank.

Box 2: Prominent transgovernmental networks engaging in IRC

The OECD defines transgovernmental networks as “informal multilateral fora that bring together representatives from national regulatory agencies or departments to facilitate multilateral cooperation on issues of mutual interest within the authority of the participants”. Transgovernmental networks also vary widely in their consistency, governance structure and operational mode. Certain prominent examples include the following:

- The **International Organization of Securities Commissions** gathers agencies committed to cooperate in developing, implementing and promoting adherence to internationally recognized and consistent standards of regulation, oversight and enforcement, to protect investors, maintain fair, efficient and transparent markets, and seek to address systemic risks.
- The **International Association of Insurance Supervisors** represents insurance regulators and supervisors of some 190 jurisdictions and issues global insurance principles, standards and guidance papers; it also provides training and support on issues related to insurance supervision.
- The **International Competition Network** provides competition authorities with a specialized yet informal venue for maintaining regular contact and addressing practical competition concerns.
- The **International Laboratory Accreditation Cooperation** is an international cooperation of laboratory and inspection accreditation bodies created to help remove technical barriers to trade.
- The **International Accreditation Forum** is the worldwide association of conformity assessment accreditation bodies and other bodies interested in conformity assessment in the fields of management systems, products, services, personnel and other similar programmes of conformity assessment.

Source: OECD (2013).

regard. It requires WTO members to “afford adequate opportunity” for other WTO members to negotiate their accession to a recognition agreement or arrangement or negotiate comparable ones. In the case of unilateral recognition, the recognizing jurisdiction has to “afford adequate opportunity” for other WTO members to demonstrate that the education, experience, licenses, or certifications granted in their jurisdiction should be recognized. However, it is important to note that, under Article VII, no WTO member is obliged to extend recognition autonomously or by entering into an MRA.

In addition, Article VII:5 states the following:

Wherever appropriate, recognition should be based on multilaterally agreed criteria. In appropriate cases, Members shall work in cooperation with relevant intergovernmental and non-governmental organizations towards the establishment and adoption of common international standards and criteria [...].

WTO members can determine whether it is “appropriate” to base recognition on common

international standards and criteria for the practice of relevant professions in the field of services trade.

Another area of IRC mentioned in the GATS is trade-restrictive business practices¹⁸ of service suppliers (other than a legal monopoly): Article IX:2 obligates WTO members to enter into consultations to eliminate such practices and provides that the WTO member addressed “shall accord full and sympathetic consideration to such a request and shall cooperate through the supply of publicly available non-confidential information”.

In the context of the SDR Disciplines, there are two commitments that relate to IRC. First, WTO members are asked to consider supporting any dialogues between professional bodies relating to the recognition of professional qualifications, licensing, or registration.¹⁹ Furthermore, the stakeholder engagement provisions directly identify other WTO members as relevant stakeholders that should be afforded a reasonable opportunity to comment on proposed laws and regulations, and whose comments should be considered.²⁰

PTA practice

Obligations related to IRC have been featuring more prominently in modern PTAs to support the fulfilment of regulatory objectives and the promotion of quality regulatory frameworks. However, the approach to IRC varies significantly across agreements: traditionally, IRC provisions were included in sectoral chapters with a specific focus of application (e.g. TBT and SPS measures). However, reflecting a higher level of importance attached to this issue, more recent PTAs show a trend towards the inclusion of aspirational chapters dedicated specifically to cooperation matters.²¹

PTAs also differ in their ambition based on the level of regulatory alignment of the parties.²² Indeed, while some PTAs promote IRC through flexible structures, such as dialogue, exchange of information and mutual learning, others provide the legal basis for the establishment of special committees or dedicated platforms to support cooperation between the parties. Furthermore, in terms of scope, many agreements leverage IRC in RIA, stakeholder consultation and the adoption of international standards, while some newer agreements go beyond and cover cooperation as a tool for regulatory oversight and enforcement.²³

For example, the 2018 CPTPP dedicates a chapter to “Regulatory coherence”. The agreement aims to foster the use of GRPs with a view to achieving domestic policy objectives. When planning regulatory measures, the parties’ regulatory bodies are encouraged to consider those of other parties as well as relevant developments in international, regional and other forums.²⁴ The CPTPP promotes IRC including through information exchanges, dialogues or meetings with other parties, as well as interested persons and SMEs; training programmes and seminars; and various dedicated activities between regulatory agencies.²⁵ Furthermore, the CPTPP leverages IRC for the implementation of the Agreement (through the Committee on Regulatory Coherence), notably by identifying future priorities, including potential sectoral initiatives as well as other cooperative activities.²⁶

The 2020 USMCA defines IRC as “an effort between two or more Parties to prevent, reduce, or eliminate unnecessary regulatory differences to facilitate trade and promote economic growth, while maintaining or enhancing standards of public health and safety and environmental protection”.²⁷ In acknowledging the key role of IRC to promote regulatory compatibility, Article 28.17.3 lists different types of IRC mechanisms, which

can help reduce unnecessary regulatory differences and facilitate trade and investment, while supporting each Party’s ability to meet its public policy objectives:

- a. Early stage formal or informal exchange of technical or scientific information or data, including coordinating research agendas, to reduce duplicative research;
- b. Exploring possible common approaches to the evaluation and mitigation of risks or hazards, including those potentially posed by the use of emerging technologies;
- c. Whenever appropriate, regulating by specifying performance requirements rather than design characteristics, to promote innovation and facilitate trade;
- d. Seeking to collaborate in relevant international fora;
- e. Exchanging information, such as of a technical or practical nature, on regulations that each party is developing to maximize the opportunity for common approaches;
- f. Co-funding of research in support of regulations and implementation tools of joint interest;
- g. Facilitating the greater use of relevant international standards, guides, and recommendations as the basis for regulations, testing, and approval procedures;
- h. When developing or implementing regulations, considering relevant scientific or technical guidance documents developed through international collaborative initiatives;
- i. Considering common approaches to the display of product or consumer information;
- j. Considering the development of compatible platforms or formats for industry submission of product information for regulatory review;
- k. Coordinating in the implementation of regulations and sharing compliance information, including, as appropriate by entering into confidentiality agreements; and
- l. Periodically exchanging information, as appropriate, concerning any planned or ongoing post-implementation review or evaluation of regulations in effect affecting trade or investment.²⁸

In order to enhance the communication and collaboration between the parties, Article 28.18 establishes the Committee on Good Regulatory Practices.²⁹ The Committee is composed of government representatives from each party, including representatives from their central regulatory coordinating bodies as well as

relevant regulatory agencies.³⁰ Beyond overseeing the implementation of the agreement, the Committee is also entrusted with *inter alia* studying suggestions from stakeholders regarding opportunities to strengthen the application of GRPs; and considering developments in GRP and IRC with a view to identifying future work for the Committee or making recommendations for improving the operation and implementation of the Agreement.³¹

Similarly, the 2017 EU-Canada CETA also aims to facilitate and promote voluntary regulatory cooperation between the parties through a special body – the so-called Regulatory Cooperation Forum (RCF).³² The latter is co-chaired by EU and Canadian officials overseeing bilateral trade and regulatory cooperation. Importantly, the RCF also allows for the participation of non-governmental stakeholders, highlighting the importance of continuous dialogue and learning.

The RCF has four main functions: to “(a) provide a forum to discuss regulatory policy issues of mutual interest that the Parties have identified through, among others, consultations; (b) assist individual regulators to identify potential partners for cooperation activities and provide them with appropriate tools for that purpose, such as model confidentiality agreements; (c) review regulatory initiatives, whether in progress or anticipated, that a Party considers may provide potential for cooperation. The reviews, which will be carried out in consultation with regulatory departments and agencies, should support the implementation of this Chapter; and (d) encourage the development of bilateral cooperation activities [...], on the basis of information obtained from regulatory departments and agencies, review the progress, achievements and best practices of regulatory cooperation initiatives in specific sectors”.³³

It is worth noting that the scope of the RCF goes beyond trade between the parties and seeks to promote regulatory quality and efficiency, as well as to address bilateral policy issues which transcend domestic borders. In 2018, the RCF held its first meeting and adopted its first work plan, which covered five areas of collaboration, namely cybersecurity and the Internet of Things, animal welfare, “cosmetic-like” drug products, pharmaceuticals inspections, and consumer product safety.

With a specific focus on the area of services, the 2009 COMESA Regulations on Trade in Services require COMESA member states to promote an attractive and stable environment for the supply of services.³⁴ Recognizing the key role of cooperation, the Regulations provide that such promotion can take various forms, including (i) “mechanisms for information on, identification and

dissemination of business opportunities; (ii) development of legal frameworks favourable to trade and investment in services; (iii) development of model laws, regulations and uniform and simplified administrative procedures; (iv) development of mechanisms of joint investments, in particular with small and medium-sized enterprises of the member states; and (v) agreement on the need to cooperate in the development of services in economic areas that can accelerate economic development”.³⁵

In the context of MERCOSUR, however, the 2005 Montevideo Protocol on Trade in Services establishes the *Grupo Mercado Común*, which, among others, has the function of periodically assessing the developments of trade in services in the MERCOSUR area.³⁶ It also introduces the *Comisión de Comercio de MERCOSUR* entrusted with receiving notifications of new laws, regulations and administrative measures affecting trade in services adopted by MERCOSUR countries.³⁷

Implementation at the domestic level

In practice, many governments have put in place different mechanisms for IRC, both bilaterally as well as regionally.

The regulatory cooperation between New Zealand and the United States in the space transportation sector provides an example of the benefits of IRC and recognition of foreign licenses at the bilateral level.³⁸ In 2015, when Rocket Lab, a space transportation enterprise established in the United States, wanted to commence operations in New Zealand, space transportation was not specifically regulated by any legislation in that country. Furthermore, the incorporation of a Rocket Lab subsidiary in New Zealand would entail the transfer of sensitive technology. The United States therefore entered into a Technology Safeguards Agreement (TSA) to enable the use and secure management of sensitive US space launch and satellite technology in New Zealand, which the two countries executed in June 2016.³⁹ Subsequently, the New Zealand government entered into an agreement with Rocket Lab in September 2016. The government was therefore able to fulfill its obligations under the TSA based on this contractual business arrangement and manage the risks associated with Rocket Lab’s activities.

In 2017, New Zealand adopted the Outer Space and High-Altitude Activities Act. Significantly for IRC, the latter allowed the acceptance of licenses granted by overseas regulators upon the satisfaction of certain criteria, such as technical capability and mitigation of safety hazards.

Simultaneously, New Zealand's Ministry of Business, Innovation, and Employment engaged extensively with the US Federal Aviation Administration to swiftly establish a regulatory regime for space activities. Such discussions resulted in a Memorandum of Cooperation adopted in 2018 which mandated exchange about regulatory activities, regular inter-agency communication and sharing information about opportunities, training and risks. As a result of the extensive IRC between New Zealand and the US, Rocket Lab's Electron Launch Vehicle lifted off from the Mahia Launch Complex 1 in New Zealand and carried three satellites into orbit.

The Basel III Framework is a significant example of IRC specifically in the area of financial services. The Basel Committee on Banking Supervision (BCBS) is the primary global standard setter for the prudential regulation of banks and provides a forum for regular cooperation on banking-related issues with a view to preserving the stability of financial systems.⁴⁰ It comprises central banks and authorities from jurisdictions represented in the BCBS with formal responsibility for the supervision of banking business. The Basel Committee is just one of the various transgovernmental networks of regulators and experts which facilitate multilateral cooperation on issues of mutual interest. The Basel III Framework was developed in response to the financial crisis of 2007-2008, and to address shortcomings in the preceding framework (Basel II).⁴¹

In the immediate aftermath of the crisis, many central banks and supervisory authorities expressed an interest in addressing challenges within the banking system. In September 2010, the Basel Committee's Governing Body announced higher global minimum standards for internationally active banks, and later that same year, the Committee released the Basel III Framework. From 2011 to 2016, the Committee members cooperated closely and ensured that the measurement of Basel III standards was robust and consistent across global banks. In 2017, the Committee fulfilled the last component of Basel III reforms, and published new standards for credit risk, credit valuation adjustment risk and operational risk.⁴²

Another interesting sectoral example is the International Coalition of Medicines Regulatory Authorities (ICMRA). Established in 2014, the ICMRA is a voluntary, informal, strategic network of medicines regulators for sharing information and coordinating crisis response to help safeguard global health.⁴³ The idea to create the ICMRA originated in the recognition that the direct experience and leadership of medical regulators is required to address medicine regulatory and safety challenges. At present,

the ICMRA comprises 24 members and 18 associate members. Furthermore, the World Health Organization has observer status. The ICMRA provides a global architecture for IRC with three core functions, namely (i) addressing current and emerging global health challenges in a transparent, coordinated and authoritative manner; (ii) providing strategic direction for areas and activities common to many regulatory authorities' missions; as well as (iii) identifying areas for potential synergies and leveraging existing initiatives and resources.⁴⁴

In conclusion, IRC has long been recognized as a GRP area instrumental in boosting regulatory effectiveness and administrative efficiency. While the scope of IRC is broad and encompasses a variety of mechanisms and stakeholders, under the GATS – a multilateral cooperation instrument in itself – cooperation provisions are limited to the recognition of education, experience, licenses or certifications obtained abroad, whether autonomously, through harmonization, or the adoption of common international standards or criteria. Provisions also include the elimination of trade-restrictive business practices, through consultations between the WTO members concerned. On the other hand, the SDR Disciplines take a complementary approach – besides broadly allowing for the participation of foreign governments in stakeholder consultations, they also encourage support for dialogues among professional bodies as a tool to support the recognition of professional qualifications and authorizations. In PTAs, IRC has long featured in sector-specific commitments and newer deals increasingly include dedicated chapters on IRC matters, whose ambition and binding nature is calibrated to the parties' objectives and degree of regulatory alignment. Whether through formal dedicated bodies, informal dialogues, or unilateral requirements, IRC is increasingly leveraged by various jurisdictions to reduce unnecessary regulatory divergence and promote the mutual understanding and trust required to make trade work across borders and resolve today's global challenges.

ENDNOTES

- 1 OECD (2013), p. 153.
- 2 OECD (2021), p. 26.
- 3 OECD (2012), Principle 12.
- 4 OECD (2021), p. 19.
- 5 UK Government (2022), p. 10.
- 6 APEC (2024), p. 15.
- 7 OECD (2013), pp. 23-25.
- 8 IOSCO (2017).
- 9 IAIS (2024).
- 10 Supervisory colleges are standing cooperation groups of host and home country supervisors for a specific cross-border financial group. Colleges meet regularly to share information, align risk assessments, coordinate ongoing supervision, and plan for crisis management and resolution. Their aim is to make supervision faster, more consistent, and better coordinated across jurisdictions.
- 11 For instance, see World Trade Organization (WTO), Notification Portal Open Trade Data, <https://notifications.wto.org/en/notification-requirements/sanitary-and-phytosanitary-measures>.
- 12 OECD (2013), pp. 23-25.
- 13 OECD (2013), p. 25.
- 14 Passporting is a system under which an EU-authorized firm can provide the same regulated services across the EU/EEA—cross-border or via branches—without obtaining new licenses in each host country.
- 15 For more information on standards, please refer to subsection 2.9 on “Standards in Services”
- 16 For more information on stakeholder engagement, please refer to subsection 2.7 on “Stakeholder Engagement”. For more information on RIA, please refer to subsection 2.12 on “Regulatory Impact Assessment”.
- 17 OECD (2013), p. 43.
- 18 GATS Article IX does not define the term business practices, but stipulates that “[m]embers recognize that certain business practices of service suppliers, ..., may restrain competition and thereby restrict trade in services.”
- 19 SDR Disciplines (WTO, 2021), para. 11.
- 20 SDR Disciplines (WTO, 2021), paras. 14-17.
- 21 Kauffmann and Saffirio (2021), p. 36.
- 22 Kauffmann and Saffirio (2021), p. 37.
- 23 Kauffmann and Saffirio (2021), p. 36.
- 24 CPTPP (2018), Article 25.5.8.
- 25 CPTPP (2018), Article 25.7.
- 26 CPTPP (2018), Article 25.6.2.
- 27 USMCA (2020), Article 28.1.
- 28 USMCA (2020), Article 28.17.3.
- 29 USMCA (2020), Article 28.18.1.
- 30 USMCA (2020), Article 28.18.1.
- 31 USMCA (2020), Article 28.18.3.
- 32 EU-Canada CETA (2017), Article 21.6.
- 33 EU-Canada CETA (2017), Article 21.6.2.
- 34 COMESA Regulations on Trade in Services (2009), Article 13.
- 35 COMESA Regulations on Trade in Services (2009), Article 13.
- 36 MERCOSUR Services Protocol (2005), Article XXII.
- 37 MERCOSUR (2005), Article XXIII.
- 38 Government of New Zealand, Ministry of Business, Innovation and Employment, “International Regulatory Cooperation on Space Activities”, IRC Toolkit, <https://irctoolkit.mbie.govt.nz/case-studies/international-regulatory-cooperation-on-space-activities>.
- 39 Agreement between the Government of New Zealand and the Government of the United States of America on Technology Safeguards Associated with United States Participation in Space Launches from New Zealand, signed 16 June 2016, entered into force 12 December 2016, https://www.treaties.mfat.govt.nz/search/details/t/3858/c_1.
- 40 Bank for International Settlements (BIS), “The Basel Committee - overview”, <https://www.bis.org/bcbs/index.htm>.
- 41 BIS (2017).

42 Bank for International Settlements (BIS), "Basel III and global cooperation: where do we go from here?", Keynote speech by Carolyn Rogers - Secretary General of the Basel Committee on Banking Supervision (8 September 2021), <https://www.bis.org/speeches/sp210908.htm>.

43 International Coalition of Medicines Regulatory Authorities (ICMRA), "International Coalition of Medicines Regulatory Authorities (ICMRA)", <https://www.icmra.info/drupal/>.

44 International Coalition of Medicines Regulatory Authorities (ICMRA), "History of ICMRA", <https://icmra.info/drupal/en/aboutus/history>.



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