

“Internal Coordination Mechanisms”

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Successful implementation of TBT requires key internal coordination mechanisms

- Office of Management and Budget (OMB) coordination of domestic regulation through EO 12866 and Administrative Procedures Act.
- National Institute of Standards and Technology (NIST) coordination role as the Notification Authority, U.S. Inquiry Point and manager of Notify U.S.
- United States Department of Agriculture (USDA) coordination of U.S. Government comments on WTO Member notifications on agricultural products.
- USTR Coordination of Intergovernmental Affairs and Public Engagement
 - Intergovernmental Policy Advisory Committee (State Coordination)
 - Industry and Agriculture Trade Advisory Committees (Industry Coordination)
- USTR Coordination of the Trade Policy Staff Committee (TPSC)

Interagency Coordination of Rulemaking: OMB Office of Information and Regulatory Affairs

- Role of the Office of Information and Regulatory Affairs (OIRA)
 - OIRA was established by the Paperwork Reduction Act of 1980, partially in response to the explosion in regulation that occurred in the 1970s and earlier in the U.S.
 - As part of the OMB, OIRA is a central body that has special standing with the agencies.
 - OIRA is the lead division of OMB for regulatory oversight and interagency review of “significant” regulations.
 - OIRA also develops and oversees government-wide policies in the areas of information collection, information policy, privacy, and statistical and science policy.

Review of Rulemaking Process



Stages of the rulemaking process where TBT coordination occurs.

Federal Regulation

Internal coordination mechanisms to notify U.S. Federal TRs and CAPs.

Regulatory Planning and Review (EO 12866)

- Pre-public consultation
- Regulator drafts TR or CAP
- OMB coordinates interagency views
- USTR reviews TR or CAP for consistency with U.S. trade agreement obligations

Administrative Procedures Act

- Regulator publishes draft TR or CAP in Federal Register
- Public Comment Period

WTO Notification

- NIST reviews Federal Register daily
- NIST determines TRs and CAPs to notify; consults with Regulator and USTR as needed
- Notifies WTO for same comment period as contained in Federal Register

Federal Regulation

Internal coordination mechanisms to respond to WTO Member comment on a U.S. Federal TR or CAP.

Comment received on WTO Notification

- U.S. Inquiry Point receives and acknowledges comment.
- U.S. Inquiry Point sends comment to Regulator and posts in Federal Register docket.
- When final TR or CAP is published in the FR, Regulator responds to all substantive comments.

Consultation requested on WTO Notification

- USTR receives a request to consult on U.S. WTO Notification.
- USTR contacts POC from Trade Policy Staff Committee to address questions or concerns.
- USTR, Regulator or U.S. Embassy delivers responses.

The Office of Intergovernmental Affairs and Public Engagement (IAPE)

- The Office of Intergovernmental Affairs and Public Engagement (IAPE) leads USTR's public outreach efforts to state and local governments, both small and large business and agricultural communities, and labor, environmental and consumer groups.
 - Intergovernmental Policy Advisory Committee (coordination with States)
 - Agriculture Trade Advisory Committees (coordinated jointly with USDA)
 - Industry Trade Advisory Committees (coordinated jointly with USDOC).

State Regulation

Internal coordination mechanisms to notify U.S. State TRs and CAPs.

Publication of State Measures

- State publishes draft TRs and CAPs in state journal for notice and comment period.

WTO Notification

- U.S. Inquiry Point regularly reviews database of state regulations.
- USTR reviews list of State TRs and CAPs to notify.
- U.S. Inquiry Point notifies State TR or CAP.

State Regulation

Internal coordination mechanisms to respond to WTO Member comment on a U.S. State TR or CAP.

Comment received on WTO Notification

- U.S. Inquiry Point receives and acknowledges comment.
- U.S. Inquiry Point sends comment to State Regulator .

Consultation requested on WTO Notification

- USTR receives a request to consult on U.S. WTO Notification.
- USTR contacts USTR IAPE, and USTR IAPE contacts the State Governor's Office.
- State Governor's Office connects USTR with State Regulator for consultation.
- USTR, State Regulator or U.S. Embassy delivers responses.

U.S. Inquiry Point, USDA FAS Transmits U.S. Comments on WTO Notifications

USDA FAS reviews notifications and drafts comments on high impact agricultural notifications, finalizes with interagency, transmits comments via Post or Inquiry Point

Inquiry Point records and transmits outgoing comments and incoming comment responses, shares with interagency, industry

USDA coordinated submission of 111 comments out of 919 TBT notifications reviewed in FY 2018

Federal Agencies and Industry

- Review notifications and comments on draft TRs and CAPs

U.S. Inquiry Point and USDA FAS Post

- Inquiry Point transmits comments on behalf of industry to WTO members
- USDA FAS coordinates review, drafting, and submission of comments on agricultural TBT notifications

Comment Responses

- Inquiry Point, USDA FAS receives responses and shares with interagency and industry for review, next steps, additional engagement by USG

Industry Comments on WTO Notifications

Internal coordination mechanisms to comment on other WTO Member Notifications.

Inquiry Point provides comment guidance on to U.S. industry:

<https://tsapps.nist.gov/notifyus/data/guidance/guidance.cfm>

For FY 18, the U.S. Inquiry Point has a record of 282 U.S. comments sent. Some of the comments concern actions that were not notified to the TBT Committee.

Notify U.S.

- U.S. Inquiry Point service to distribute WTO notifications on a daily basis to U.S. interests.

U.S. Inquiry Point

- Receives U.S. Industry Comment and transmits to WTO Member.

Consultation

- Industry may opt to directly engage other WTO Member on its comments or request assistance from the U.S. Government to convey comments.

Trade Policy Staff Committee

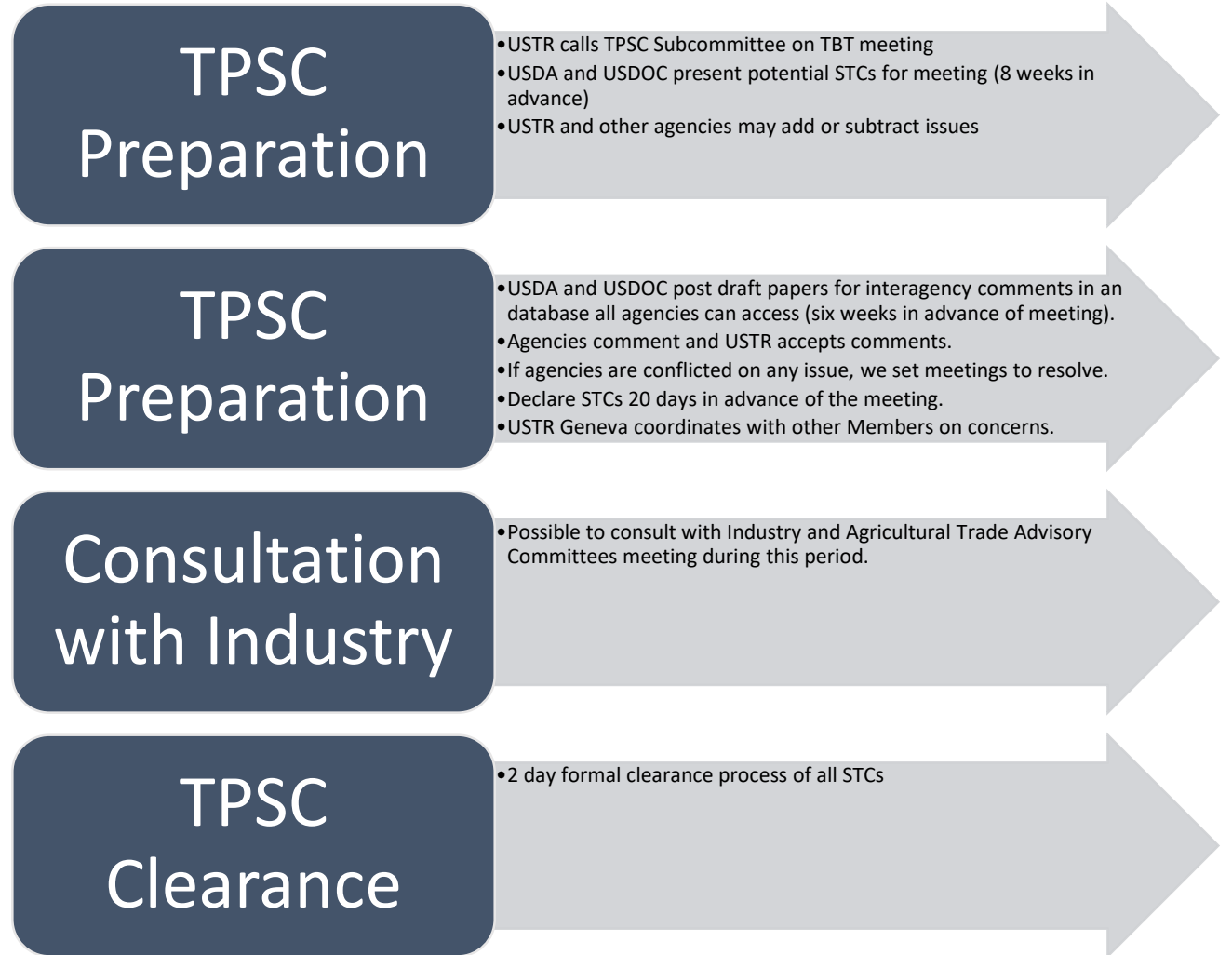


The U.S. Trade Representative has primary responsibility, with the advice of the interagency trade policy organization, for developing and coordinating the implementation of U.S. trade policy.

Under the Trade Expansion Act of 1962, Congress established an interagency trade policy mechanism to assist with the implementation of these responsibilities. USTR executes its institutional interagency role through two processes, the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC) - both chaired by USTR.

Coordination of STCs to WTO TBT Committee

Internal Coordination on presenting STCs to WTO Members



Thank you!

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