WTO'S Trade Policy Review Mechanism (TPRM) and Indonesia's Compliance in Agriculture Sector

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This article is designed to appraise TPRM as a monitoring instrument in WTO and understand how it affects Indonesia's compliance in the agriculture sector. On paper, TPRM should be exercised as a surveillance system to boost transparency and compliance. However, the author doubts the current periodic, differentiated by economic power, and the self-serving reporting system of the TPRM. As this process is complicated and flexible, where often used as a diplomatic visit or excuses to initiate diplomatic relations between turbulent nations, the writer believes that TPRM is only the tip of the iceberg with unlimited complex problems underneath. Adapting instruments from International Law and Rational Choice Theory, the writer borrowed Guzman's framework to determine how TPRM could affect Indonesia's compliance in the agriculture sector. This article will give a better understanding of the monitoring process of an international institution, especially the one with no law enforcement system and held fundamentally by mutual respect and good faith.

Keywords: *WTO; TPRM; Indonesia; agriculture; compliance; Guzman; International Law; surveillance*

Introduction

Many of the preceding researches on International Law have asked how states stay in compliance or choose to defect in international agreements (Duruigbo, 2001; Henkin 1979, Chayes and Chayes, 1993). Many International Relations research has also been applied to the WTO (Keohane, 1984; Ruggie, 1982; Kratochwill and Ruggie, 1986). However, most of the research has its concentration on dispute settlement mechanisms or the context of International Law as a whole, but none of them is using TPRM (Trade Policy Review Mechanism) as a specific object of study. TPRM plays a significant role in building an environment of cooperation; in which it smoothes the flow of information between states, especially in the element of compliance. Using this, the members can easily discover other members' compliance with the WTO. TPRM then held accountable to cater to a strong reputation making an instrument for WTO.

However, TPRM is often overlooked since it is separated from the DSU (Dispute Settlement Understanding) and has no other function than becoming an annual report. On the other hand, WTO is not equipped with an expulsion mechanism, in which notoriety in the WTO is often deemed redundant –since degradation of reputation does not rule out countries to make new international agreements, and it automatically relies sanction mechanism solely on the countries involved.

Reports that are made usually contains only the

good side of the policy, declaration of intention and its compliance, without never clearly report policies that are categorized as a violation (WTO Secretariat Review, 2013). Indonesia is considered half-heartedly in following TPRM obligations, by only several fulfilled close to satisfying results. Therefore, this study will try to explain how WTO as a regime is affecting Indonesia's compliance in TPRM, specifically in the agriculture sector.

The agriculture sector is taken since it is highly important for a country's economic situation and the welfare of its people. Agriculture has been covered with various conflicts among states, in which Indonesia is constantly contributing to. Nation's interest is usually cannot be negotiated if it has affected a huge number of people, in which Indonesia is well aware of, considering how their policy is constantly changing depending on the requirements of the agricultural sector.

Research Question

How does WTO's TPRM as a Regime affect Indonesia's compliance in the agriculture sector?

Theoretical Framework

Under the big umbrella of various compliance theories, this study will take an approach to several compliance concepts that have been drawn by previous scholars in the study. Surprisingly, various approaches that come to analysis do not come from the legal field of study, but rather come from International Relations. Different than the legal framework that can be applied in domestic law, as the enforcer is present, the application of the law in an anarchic situation seems hard to digest and lacking any satisfying explanation.

The first school of thought is taken from the perspective of Realism. Taking its classical form in the promise-making mechanism, Realism thrives on the Machiavellian principle on "rational-actor conception of compliance" (Chayes & Chayes, 1998). As a big believer of self-reliance and self-interest in relative gains, this theory emphasizes that compliance will only happen if the bargain is in line with the state interest.

The second explanation, Regime Theory, takes Realism's explanation into concern when its basic assumptions start to fall. Regime Theory believes the Realism explanation as flawed when there are regimes that are successful in maintaining multilateral agreement without a horrifying, significant punishment. An International institution that works mainly in economic concerns, such as GATT, WTO, IMF or World Bank, up until today is still considered by regime theory as significant and able to enforce the main part of its envision to its members. Regime theory is defined as a set of principles, norms, rules and decision-making procedures, which are explicitly or implicitly applied, that are publicly known and affecting the state's behavior (James & Ronen, 2007). Discussing this issue, Keohane (2005) asserts that WTO –and organizations alike, is advocating cost reduction of trade –its main principle, create the framework of decent interaction and behaviour of state action, strengthening information flows between states, and thus force states to constantly interact with each other. Here, Keohane (2005) emphasizes the role of the regime in creating value for

reputation and teaching reciprocity between states. Today, Regime theory is metamorphosed into neoliberal institutionalism, which is a more general rubric (Duruigbo, 2001). Keohane (1989) perceived that institution is including a far broader scope than that of regimes and says that it incorporates almost every interaction, rules, which prescribe expectation, identity, and belief of a state. In here, Keohane (1989) diverge institutions in three categories:

(1) Formal or cross-national nongovernmental organizations –such as WTO.
(2) Regimes, defined as "Institutions with explicit rules agreed upon by governments, that pertainto particular sets of issues in international relations."
(3) Conventions, defined as "informal institutions, with implicit rulesand understandings, that shape the expectations of actors."

Both Regime Theory and Realism share common ground on the state's and its self-interest. However, since Realism eliminates the significance of International Law, but regime theory believes it as central in shaping a state's behavior and expectations, the ideas are different from one another.

Guzman Theory of Compliance

In December 2002, a prominent scholar named Andrew T. Guzman wrote an article specifically addressing the compliance-based theory of International law. Guzman (2002) was combining previous assumptions from Realism, Liberalism, Regime theory (Institutionalism) to address the issue and created a series of assumptions to explain both (1) instances of compliance with international law and (2) instances of violation.

Guzman (2002) draws his theory based on several assumptions:

(1) International Law affects states' behavior to the extent that it impacts countries' incentives, different from the traditionalist definition, in which it affects behavior with the fact that the law is not always followed.
(2) States are independence and self reliance.
(3) The domestic legal institution plays an important role in a state's compliance with International Law.
(4) It is relevant only in a repeated interaction model.

In his theory, Guzman (2002) argues that countries would be more likely to comply if they consider two factors, reputation, and retaliation (sanctions).

First, reputation affects states in a long game in which it will affect how future treaties will be made. It assumes that a country will be more likely to agree with a country that has a good reputation, in which the cost of maintaining a reputation is lower than defection. Moreover, accounting for the reputational effects, the decision to violate international law will only benefit in a short period and take what is should have gained in the longer period. This explains why countries choose to comply with such an anarchic system.

Second, Guzman argues that the country will only comply if their defection is sanctioned by a penalty that able to change the equilibrium. If a penalty failed to change

the payoffs –enough to make cooperation a dominant strategy, then the sanction system is defined as a failure. Sanctions include all costs associated with such defection, including punishment or retaliation by other states and reputational costs that affects a state's ability to commit in the future (Guzman, 2002).

Using this assumption, the study is considered the framework will help answer how WTO as a regime affects Indonesia's compliance in TPRM. It will examine the requirements of a regime to ensure the highest probability of compliance and will explain the motivation of compliance, or defection, which concentrated on the ability of the WTO to create an impact on reputation and substantial damage in every defection.

TPRM (Review on Government's Trade Policy)

Regime theory has various mechanisms in approaching compliance in a regime. Among them is a reporting mechanism. Reporting mechanism has been seen as one way of improving the treaty's effectiveness and at the beginning of the past decade, the Siena Forum on International Law of the Environment foresightedly suggested that the problem of non-compliance should be addressed through the use of "*reporting requirements, special non-compliance procedure and measures, liability provisions, and dispute settlement procedures* (Sienna Forum, 1990)." This mechanism is proposed to create a sense of shaming and guilt into member countries, in which the member is being shaped by the regime to value reputation and reciprocation –but it was mainly voluntary reciprocity.

WTO recognizes 6 main parts of the agreement, among them are TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights), Dispute Settlement, and TPRM (Review on government's trade policies). TPRM has been there since before the WTO established and working as the monitoring instrument for WTO member countries. It functions on making a comprehensive report based on documentation by member countries and a report drawn by the secretariat on its responsibility based on the information available to it and that provided by the Member or Members concerned (Agreement on the Uruguay Round, 1994). Both in secretary drawn TPRM and government drawn TRPM include the agricultural sector under International Trade Relations and Trade and Related Policies Development.

Based on the WTO official website, Indonesia has documented its last Trade Policy Review by March 2013. Beforehand, there are previous 4 reviews listed in November 2007, May 2007, May 2003 and November 1998. There are various regulations entitled to different members of WTO about the period of the subjected review. The impact of individual Members on the functioning of the multilateral trading system, defined in terms of their share of world trade in a recent representative period, will be the determining factor in deciding on the frequency of reviews (Agreement on the Uruguay Round, 1994). With an exception that if the trade policies or practices may have a significant impact on the trading partners, members concerned may be requested by the Trade Policy Review Body (TPRB).

TPRM Mechanism and Compliance

TPRM does not intend to serve as a basis for enforcement of specific obligations under other agreements, become a reference document for the DSU or impose new commitments. The significance of TPRM itself is designated only as a medium for study. With the existence of TPRM, the member has presented with a medium of self-reflection to further stimulate the internal evaluation of trade policies. It helps promote the trade efficiency to the domestic agency and help members to become better WTO citizens.

For the WTO, TPRM helps all the WTO members in surveillance. It has succeeded in reaching areas of WTO obligations that may be slightly ignored and to ensure that these obligations addressed. The mechanism has helped WTO to highlight the most significant trade situation and virtually cover all the member of WTO. With the TPRM, members and the regime can keep the same rhythm in the linkage between trade and economic reform, the ineffective gain of protectionist policy and the implication of those policies to other members.

The TPRM believes the previous principles of the WTO should be the scope of its review, including transparency of changes in the trade policies and non-discrimination in the treatment of trading partners. TPRM also covers the consistency and predictability of the economic situation, and if there are any, patterns in violation or protectionism happening in a member country, a form of restriction and the participation in the DSU.

In the bigger picture, TPRM is a very simple agreement. First, countries promise to make a report every certain period of time depends on their share in global trade. Second, the secretariat will respond, also with a report, but more detailed and comprehensive, to be stored in the WTO's trade policy archive. Third, if a country wants to make a significant change in its trade policy, it is obliged to notify the TPRB (Trade Policy Review Body).

The detailed version, step-by-step mechanism of TPRM is divided into five major parts. The review process will be initiated with a date set for the review meeting of the TPRB. Setting the date is important to make the schedule for the next step. After the time is set, the TPRB usually will put the other four steps in the deadline required, given adequate time to finish the components of the review. The Secretariat might also visit the country directly to introduce TPRM or to gather data, especially in the least-developed countries or developing countries that need special assistance.

In the second step, the Secretariat will send a request on the components. Member countries then will have four to six weeks to gather all the information needed for the TPRM, including official publication or any other media to ensure the accuracy of the review.

The Secretariat will then make the first draft of the report on the third step. The report will be sent to the national authorities of the member under review for verification and comments. The report and the policy statement by the member under review will be distributed for five weeks before the meeting.

The fourth step is a visit to the capital. Secretariat will make a specific team visit the member under review for a week to ten days. During this visit, the Secretariat will have

national authorities in a discussion and finalize the draft. The Secretariat will often take a university research center or any major private business to discuss the report.

The fifth step is the meeting of the TPRB. In this meeting, other members will submit questions to be answered by the member under review at least two weeks before the first session of the review meeting –it usually consists of two sessions, each for half a day, and the representative of the member under review will answer at the start of the first session. The report will then complete and ready for publication.

Mainly, it will receive reports, make reports and store reports. Countries do not even need to think about what should be included in the report or what should be dismissed. There is already a format provided by the TPRM established in 1989. It is divided into two major parts: (A: "Trade policies and practices", B: "Relevant background against which the assessment of trade policies will be carried out: Wider economic and developmental needs, external environment") and contain a detailed list of issues and subjects to be addressed (Wolfrum, Stoll & Kaiser, 2006). Some people may think that it is ridiculous for a country to break its reputation for a mere report. But if there is nothing on the table rather than an immaterial reputation, it might be a little bit more complicated than that.

Before we jump into the theoretical approach and cases, we need to ask why WTO needs TPRM in the first place. Different from its fellow complicated agreements in the Uruguay Round, TPRM governs nothing but monitoring process. It serves as WTO's trade information system. TPRM Secretariat was tasked to "make factual presentations on developments in various members on their disciplines covered by a committee", which means that the Secretariat will make reports that will help the other members keeping track of other's country trade policy change (Elsig, Eckhardt & Iliuteamu, 2013). But since it is not done in real-time, the TPRM's main purpose is to ensure that transparency is achieved between member countries, with addition to enable a multilateral assessment of the effects of policies on the world trading system. The Quad –four biggest traders, European Union, the United States, Japan, and Canada, are examined every two years. The next 16 countries, in terms of their share in the world trade, are reviewed every four years. The remaining countries are reviewed every six years, with the possibility of a longer interim period for the least developed countries (WTO Handbook, 2015). Combined documents, from the government and the Secretariat, are published together with the proceeding of the Trade Policy Review Body. Trade Policy Review is vital for the outsiders that still foreign with the countries' policies and current circumstances and reading the compiled version available on the WTO's website will be very helpful to understand it.

There are, however, several flaws in the legal text of WTO's TPRM. First, TPRM is completely detached from the Dispute Settlement Understanding agreement, making it toothless in giving any direct sanction to the member countries, no matter how bad they perform in the Trade Policy Review. The TPRM legal text consists of the obligations and the mechanism of the review, but none of

them mention what will happen if they refuse or unable to make a review.

Second, its vital requirement to decide compliance is highly flawed by the unclear definition of rules. On the article C point (ii), it is written that

> "*.....in the event of changes in a Member's trade policies or practices that may have a significant impact on its trading partners, the Member concerned may be requested by the TPRB, after consultation, to bring forward its next review* (TPRM Legal Text, 1994)"

But there is no clear measurement of significance written on the text, which leaves the interpretation solemnly based on a member's understanding. It also happens in the article D, where the reporting mechanism requires members to provide brief reports between reviews when there are any significant changes in their trade policies (TPRM Legal Tex, 1994).

Third, the TPRM obligations are highly permissive for circumstantial adjustments. The Article D (TPRM Legal Text, 1994) has mentioned the format that is used will be based on Outline Format for Country Reports established by the Decision of 19 July 1989 (BISD 36S/406-409), but it gives the loose space by also write

> "*amended as necessary to extend the coverage of reports to all aspects of trade policies covered by the Multilateral Trade Agreements in Annex 1 and,where applicable, the Plurilateral TradeAgreements.* (TPRM Legal Text,1994)"

Revision of the format is made by the TPRB process, but the legal text does not put any measurement for a necessary condition to happen, and vaguely state the revision will be based on experience.

Compliance and International Law

In 2005, a pair of prominent scholars consisted of Professors Jack Goldsmith and Eric Posner (2005) released their claim on the book titled "Limits of International Law". They said pessimistically that International Law, especially which includes multinational collective action, cannot be trusted under a mere treaty. And just like the title of the book, International Law thus deemed ineffective to address a global problem.

Answering this claim, Guzman (2008) made a theory on compliance that works based on three aspects, infamously known as the Three Rs of Compliance: Reputation, Reciprocity, and Retaliation. He claimed that his theory came from institutionalism in a repeated-game model of national behaviour and believes that this theory will prove that international law does affect the behavior of the state (Guzman, 2002). Mentioned also in his essay, Reputation and International Law, that previous Goldsmith and Posner (2005) book ignores completely the role of reputation (Guzman, 2005).

Applying Theory of Compliance on Indonesia and TPRM

Before applying Guzman theory to TPRM and Indonesia, this study will break upon the necessity of applying this theory upon the WTO's TPRM. First, the study will analyze the actors and model of the game. Guzman

(2002) believes that the model of the game that is suitable for this theory is a repeated-game model of national behavior. This means that the model of international law presented is an infinitely repeated game, in which countries are making international obligations modeled as a two stage-game. In the first stage, states negotiate over the content of the law and the level of commitment. In the second stage, states decide whether or not to comply with International Obligations (Guzman, 2002).

When Indonesia is entering the WTO, it sets the declaration of compliance regarding six treaties, in which one of them is TPRM. Based on their share of the world trade, the treaty requires Indonesia to report for every four years. In the explanation above, members are required to make a "full report", and required to "describe the trade policies and practices pursued by the Member or Members concerned" (Wolfrum, Stoll, & Kaiser, 2006). For this report is finalized in a time period, the interaction is limited between the WTO and the states to make the report. However, in Section D –Reporting, the TPRM underlines a serious requirement on sudden policy change or a change that significantly affecting other members. If a significant change of trade policies take place, member countries need to notify the TPRB effective immediately. This aspect is important to be mentioned as Guzman theory originally only analyzes the role of state actors in international law, therefore the connection between states need to be clarified before applying it directly between Indonesia and WTO's TPRM (Tsai, 2010).

After reassuring that the theory applies to the circumstances, we need to understand the assumptions and the logic of the theory. Guzman (2002) believes that compliance theory must explain both compliance and violations of international law. When the reputational effect may alter countries' incentive to make its decision, it does not automatically lead them to compliance if there is no enforcement mechanism in the form of immediate sanction that can balance the pay-off to the equilibrium. As an example, a country might violate a trade law regarding the export tax if the pay-off that can be generated from that policy is overpowering the sanction. However, if the sanction is in the form of, as an example, embargo, the country will suffer more than what it gets from the violation. Guzman (2002) argues that only in this condition, with the addition of a strong enforcing mechanism, compliance will be achieved completely.

Different from the DSU, the main function of the TPRM is to achieve greater transparency and understanding of the trade policies and practices of the WTO members. For the developing and least-developed countries, the existence of TPRM is vital to understand the connection between trade and economic efficiency. The comprehensive report is a reflection of what they do and how the international trade partner reacts. With the IMF, UN and the World Bank representative's presence at the TPRB meetings, the member under review can also have their economic system adjusted to the WTO demands.

Since the construction of TPRM as a regime is not essentially expected their members to comply fully, or loose in terms of compliance, the reputational value in the TPRM alone is low –even close to nonexistent.

TPRM will ensure that the violations will acquire naming and shaming, but the inability of the various governments to deliver it into report can be easily avoided by arguing on the lack of human resources, the reputation in the TPRM cannot be judged as valuable.

The importance of Notification

Notification is deemed vital as it is the most traditional way to show compliance and is a complete general requirement for transparency, not only it will help the domestic trader, but also provide the member trading partners with sufficient information via the WTO. Notification should be made in very concise and specific regulations, their means and precise content of which agreement involved. Transparency as a whole is always deemed vital to the sustainability of a multilateral agreement. It is encouraged by GATT article X (Publication and Administration of Trade Regulation), which provides in paragraph 1 that, "*Laws, regulations, judicial decisions and administrative rulings of general application" on matters related to trade "shall be published promptly in such manner as to enable government and traders to become acquainted with them*". Paragraph 2 further provides that "*measures of general application*" affecting duties, or "*imposing a new one or more burdensome requirement, restriction or prohibition on imports*" or payment cannot "*be enforced before such measure has been officially published*". This article also requires the publication of "*agreements affecting international trade policy which are in force between the government or a governmental agency of any contracting party and the government or governmental agency of any contracting party*" (VanGrasstek, 2013).

By interpreting this guideline, it is safe to say that failure in notifying the TPRB regarding policy changes or failure in providing publication –in this, TPRM report can be included, can alter a member's reputation in the WTO. The indicative list of notify-able measures can be found in WTO's Annex to the Decision on Notification Procedures, which ranged from tariffs, quantitative restrictions, up to any other 200 provisions, which most of them related to non-tariff measures (VanGrasstek, 2013).

However, there are several drawbacks to this notification requirement. Empirically, most of the developing countries have failed to fulfill this obligation. As an example, the Agreement on Subsidies and Countervailing Measures, article 25.1, requires the member to fill out reports annually. It must be noted that all members must make an annual filling regardless of their provision of the subsidy. 58 members acknowledge subsidy and 27 reports no subsidy in 1995. There are 132 WTO members at that time, which means that 35,6 percent of the total member failed to make their report. 14 years later, in 2009, the number of subsidy notifications rose to 62, while 10 notify the other way. However, in 2009, there are 153 members in total. Therefore the greatest rate of growth was in the number and share of members who made no notification, up to 52,9 percent of the total member failed to make their report (WTO Documents, 2012).

In his theory, Guzman (2002) believes that every compliance or defection should provide new information. As an example, we

cannot say that a least-developed country is defecting when they are unable to make reports or notification based on a lack of human resources. It is simply because the country is not able to make any choice to submit the information or not, they simply can't. This is relative when we talk about developed countries, in which they cannot claim on such matters while seeing their advanced education system.

The fact that TPRM is separated from other WTO's other function and the voluntary-based domestic transparency makes TPRM a non-binding agreement. This means that TPRM can only make a pressing environment through other members. Under those understandings, TPRM publications, including reports, evaluations and suggestions for the economic and trade policy under review, and the responses of a reviewed member to questions, cannot serve as a basis for deciding whether a member has met its obligations or for making an argument in a dispute settlement procedure (Xianxun, 2015).

Limited Influence of TPRM to the WTO

Up until this point, we can translate several points:

1. The WTO is hoping that publicizing protectionist policies, with a comprehensive study on what they cost on a member country's economy and the world economy as a whole, will reduce their chances of being adopted or repeated in the future.
2. However, the TPRM –including notification procedures, are full of loopholes, illegitimate for deciding compliance or become a supporting document at the DSU, and voluntary and non-binding in nature, TPRM cannot be defined as influencing reputation as it does not provide new information on compliance or defection.
3. TPRM then become an implicit sanction mechanism of the WTO, to the extent that the WTO can only give the shaming-guilt concept, and it is as powerful as the WTO could be in governing international trade. The dispute settlement system of the WTO is not considered a sanction system since Guzman (2002) theoretical framework requires an entity that cans sanctions, such as court sanction in domestic violations. The sanction in DSU is not imposed by any entity other than the country winning the case. The WTO also does not have the power to initiate the case.

To examine the logic of the damage mechanism, we must know first the definition of sanction intended by Guzman. In his 2002 essay, Guzman believes that existing penalties for violations of international law should be, at least, sufficient to change the equilibrium of the game. Interpretation of this word is tricky, as it has to follow all costs associated with such a failure, including punishment or retaliation and reputational costs that affects the state's ability to make commitments in the future.

First, the category of punishment or retaliation could be placed by the TPRM review. However, the damage done by this retaliation cannot be considered as damaging. Although the damage done can be as far as

depleting the image of a member under review, it does not affect a state's ability to make future commitments with the WTO. Up until today, there is no provision for expulsion mechanisms in the WTO. However, there might be something akin that can lead to expulsion. Article X of the WTO Agreement provides amendment space for WTO agreement. Some provisions can be amended "only upon acceptance by all Members," while others can be approved with super-majorities of varying sizes. Special circumstances may be noticed as "a nature that would not alter the rights and obligations of the Members" is continued by "shall take effect for all Members upon acceptance by two-thirds of the Members" (VanGrasstek, 2013). However, it should be noted that the amendment "takes effect for the Members that have accepted them upon acceptance by two-thirds of the Members and thereafter for each other Member upon acceptance by it".

In a hypothetical situation where the amendment takes place and it cannot be enforced to the member that is not agreed to it, article X:3 further provides that in such cases (VanGrasstek, 2013):

> "The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under this paragraph is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference."

It means that if the condition happens, the entire member of the WTO is possible to invite the defector to leave voluntarily or even expel the refusing member. If this scenario happens, the TPRM could influence the decision making by providing a clear track record of the members concerned. Every defection that recorded could be used by certain concerned members to bring up the consistent defect, or if the record shows good track, persuade the rest in the other direction. Nevertheless, the impact will be considered minimum since the publications will not be useful as a legal document or even considered valid in the first place.

Indonesia's TPRM and Compliance in Agriculture Sector

By July 2013, the TPRB has released revised publications of the 2013 review, marking Indonesia's completion of the 4th review since 1998. The 2013 Trade Policy Review reveals Agriculture, forestry, and fishing contributed 14.7% of GDP in 2011 and engaged an estimated 35.9% of the employed labor force, continuing to employ more than 40 million persons (WTO Secretariat, 2013). The number shows that the welfare of the agriculture sector is highly influencing the economy of a country. It is mentioned that in 2013 reports, Indonesia has followed its WTO notification obligations, especially in the area of agriculture.

If we see it from 1997-1998, Indonesia's condition under President Soeharto is highly full of monopoly. The TPRM mentioned import monopolies, licensing requirements and export restrictions on agricultural products that were removed in the 1998 economic reform. This is a big change since Indonesia joined WTO

in 1995, but it was made based on necessity rather than being pushed or influenced by the monitoring mechanism. In 1998, Indonesia was in deep inflation under President Soeharto regime. By easing and eliminating violations, Indonesia was hoping that investment will flow back into the country and elevate Indonesia back to a stable condition.

On the other side, many restrictions are still alive and healthy in the agriculture sector. Rice import is still being intervened by quantitative import restrictions, and it has become a consistent restriction with only a minor adjustment in this sector. The fact that this violation has made an appearance in every TPRM publication about Indonesia, from 1998 to 2013, represents Indonesia's solid stance to control their rice price. It eased and become more stringent in a different order. Rather than slowly decreasing as it supposed to be if it was influenced by the pressure of TPRM publications, the policy changes in Indonesia are more affected by the global market condition at that time. Defending ceiling price for the consumers and keep it at a stable rate has been a public government interest in this sector. With various and continuous government intention to keep intervening, there is no sign of shame represented as the government keeps enacting this policy. This underscores the point that states are unlikely to perform their treaty obligations when the capacity to do so is nonexistent (Chayes, 1998).

Reflecting on these various empirical evidence, it appears that TPRM is not significantly affecting Indonesia's compliance in the WTO. Trade liberalization that is allowed in the agricultural sector is adjusted to follow the country's current needs rather than preserving reputation. As the previous analysis in the second chapter found, Indonesia as a state cannot found the reputational value of following the TPRM as it does not affect Indonesia's ability to make future agreements with the WTO. Moreover, the sanction method, in a form of naming every violation clearly, does not damage Indonesia better than what it got by defecting. In the dilemma between to follow or to defect, the TPRM case is an absolute win for defection. If the country happens to be in line with WTO rules and regulations, it is merely because the policy enacted is coincidentally in line with WTO's goals. The 2013 TPRM mentioned Indonesia's solid consistency in the notification system, which made it worse to the TPRM because many changes made between 2007 and 2013 were new introduction of tariff and import restrictions.

Based on this, Indonesia has failed to reveal itself as what Guzman (2002) refers to as compliance. In the "good" state, in which here defined as the condition where comply is better than defect, Indonesia can comply easily since it is rational to do so. This can be proved by the flexible policy of Crude Palm Oil that varies based on the state the policy is in. On the other hand, in the "bad" state, when the international condition does not support Indonesia's interest, Indonesia is unable to sustain its compliance. This is rooted in the nature of the organization that does not foster a reputation as a token to make future agreements. The WTO relies too much on voluntary measure and started persuasively the have made compliance void.

Improving the System

After we found the insignificance of TPRM to alter the state's decision-making process, the study thus proposed several points of improvement that can be performed by the TPRM.

First is making TPRM a determining point for compliance by linking it with the Dispute Settlement Understanding. The TPRM proceeding is now conditioned only for information-seeking process. The study finds it immensely strange that a proceeding made by the WTO secretariat on a very comprehensive process that includes government officials does not apply as a legal document to be presented at the Dispute Settlement Understanding. TPRM needs to be acknowledged as valid and powerful. With the linkage between TPRM and DSU, it could help TPRM strengthen its influence on the WTO member, keeping in mind that their violation will be able to be used against them.

Secondly, TPRM needs a broader scope under its supervision. The proceeding published by the TPRB today is very easy to read and intended for the public that needs a better understanding of their country or other countries' performance. Nevertheless, it is in the form of a report-list that is usually too concise. People or government officials may find reports in the TPRM proceeding, but don't know why it could be considered need revising or need to be continued in the future.

The third is the cross funding from developed to the least developed country. If it can be in the form of money, the developed country could lend their human resources by sending staff to the least developed country. (Chayes, Chayes, 1998). The staff will help another sovereign country in making reports or guiding them to the understanding of the WTO.

Conclusion

Reporting on compliance, enforcement, and other activities to international regulatory is often described as essential to meet the goal of the regulatory body (Mitchell, 1994). In the case of compliance and WTO, TPRM plays like the heart of its reporting mechanism. TPRM is obliged to make a substantial report based on the government statement, notification and various legal documents of a member under review.

The review process will be done under the supervision of TPRB together with WTO members' representatives. At the end of the review process, TPRM will publish two proceedings. One is for the government policy statement and the other one is a comprehensive report made by WTO's Secretariat. However, TPRM does not intend to serve as a basis for enforcement of specific obligations under other agreements, become a reference document for the DSU or impose new commitments. The fact that TPRM is separated completely from other WTO's other function and the voluntary-based domestic transparency makes TPRM a non-binding agreement. Under those understandings, TPRM publications, including reports, evaluations and suggestions for the economic and trade policy under review, and the responses of a reviewed member to questions, cannot serve as a basis for deciding whether a member has met its obligations or for making an argument in a dispute settlement procedure (Xianxun, 2015).

In Indonesia, the TPRM mentioned import monopolies, licensing requirements and export restrictions on agricultural products that were removed in the 1998 economic reform. But these reforms done in the agriculture sector were motivated by economic necessity, rather than the TPRM as the surveillance instrument. By seeing that many restrictions are still alive in the agriculture sector today, TPRM is empirically proven not to be able to influence the state's decision-making process. This underscores the point that states are unlikely to perform their treaty obligations when the capacity to do so is nonexistent (Chayes, Chayes, 1998).

Indonesia as a state cannot found the reputational value of following the TPRM as it does not affect Indonesia's ability to make future agreements with the WTO. Moreover, the sanction method, in a form of naming every violation clearly, does not damage Indonesia better than what it got by defecting.

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