This book is the first academic monograph to provide a critical analysis of the WTO’s Trade Policy Review Mechanism (TPRM). In order to do so, it first looks at the TPRM’s historical development into the WTO’s mechanism for peer review. In this context, the book provides a historical analysis of the concept of peer review and distils a peer review mechanism’s theoretical core elements in terms of objectives, structure and participants. It then applies these elements to the five defining institutional phases of the TPRM (Article X of the GATT (1947), the Tokyo Round negotiations resulting in the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (1979), the report ‘Trade Policies for a Better Future: Proposals for Action’ (1985), the Functioning of the GATT System (FOGS) negotiations (1986), and the provisional adaption of the TPRM during the Montreal mid-term review of the Uruguay Round (December 1988)). The book then measures to which degree the TPRM has been performing well as the WTO’s mechanism for peer review. In order to do so, it follows the first five institutionally mandated appraisals of the TPRM (1999, 2005, 2008, 2011, and 2013). The book concludes that the TPRM has functioned well but that its performance could and should be improved in order to remain politically relevant. In order to do so, it provides some recommendations which are tested against the background of the last (sixth) appraisal which precede the upcoming Eleventh WTO Ministerial Conference in Buenos Aires (December 2017).

Introduction
Mathias Kende


Published in print: 2018 Published Online: April  Publisher: Oxford University Press 2018
DOI: 10.1093/oso/9780198817611.003.0001
The Introduction contains an executive summary of the book. It also encompasses some background highlighting the rationale for the book, detailing the still persistent lack of comprehensive academic literature on the TPRM and the need for further research with regard to the TPRM, both as an ‘understudied’ WTO entity and as a prime example of a mechanism for peer review, and an explanation with regard to the methodology, which aims to assess the TPRM’s historic and actual performance as the WTO’s system for peer review through a specific focus (1) on the implementation of the TPRM’s objectives (transparency and naming and shaming); (2) its evolving structures, thereby focusing on individual TPRs and on the yearly Overviews of Developments in the International Trading Environment; and (3) its participants, the government under review and its peers, the WTO Secretariat, and the discussant(s)).

Critical Analysis of the TPRM
Mathias Kende

Published in print: 2018 Published Online: April Publisher: Oxford University Press 2018 ISBN: 9780198817611 eISBN: 9780191859137 Item type: chapter

This chapter covers the historical development of the WTO’s mechanism for peer review. It examines the conceptual development of peer review and distils typical core elements (objectives, structure, and participants) by looking at the IMF, the OECD, the FSB, the APRM, the UPR, and the UNFCCC and its Kyoto Protocol. These elements are then applied to analyse the historical advent of the TPRM. The analysis also covers the first five appraisals of the TPRM (1999, 2005, 2008, 2011, and 2013). For each of these, it examines the TPRM’s objectives (including its implementation of the naming and shaming objective and potential link(s) with the Dispute Settlement Body), its structure (focusing on individual reviews and on the yearly overviews of developments in the international trading environment), and on its participants (focusing on governmental attendance and participation rates, the evolving capacities of the WTO secretariat, and on the attitudes of discussants).
Conclusions
Mathias Kende

Published in print: 2018 Published Online: April 2018
Publisher: Oxford University Press
Item type: chapter

The Conclusion to this book confirms that the TPRM has functioned relatively well but that its performance could and should be improved in order for it to remain politically relevant. In this regard, this chapter provides some recommendations with regard to the objectives, the structure, and the respective participants of the TPRM. Each of these recommendations are tested against the background of the last (sixth) appraisal of the system (2016) whose results precede the upcoming Eleventh WTO Ministerial Conference in Buenos Aires (December 2017). The book concludes that some of the results of the last appraisal are a step into the good direction but that the WTO Membership will need to be more ambitious in order to keep the system relevant.

The ICESCR in State Public Policy-making within the World Trade System
Diane A. Desierto

in Public Policy in International Economic Law: The ICESCR in Trade, Finance, and Investment
Published in print: 2015 Published Online: April 2015
Publisher: Oxford University Press
Item type: chapter

This chapter analyses the interaction of various political institutions and treaty gateways in the world trade system to maintain States’ regulatory freedoms to protect public policy objectives. It demonstrates that ICESCR compliance can be accommodated within the interpretation of various trade law provisions that inherently grant States flexibility to calibrate measures to vindicate public policy objectives, from general exceptions under GATT Article XX and GATS Article XIV, balance-of-payments measures, SPS measures, technical regulations under the TBT Agreement, the TRIPS Agreement, and provisions on special and differential treatment (S&D). The chapter also shows how States can implement the ICESCR in their decision-making capacity at the political organs of the World Trade Organization (WTO), from shaping the content of the Trade Policy Review Mechanism (TPRM), to wielding the Ministerial
Conference’s agenda-setting, negotiation, amendment, and waiver powers, in order to calibrate WTO commitments with the State’s public policy objectives exemplified under the ICESCR.