

Implementation and Monitoring

Date

Structure of the discussion

- The importance of implementation
- Planning for implementation
- Elements of implementation before entry into force: legal scrub and implementing legislation
- Other elements of implementation: setting up the FTA's institutional apparatus
- Effective implementation

- The importance of monitoring
- Monitoring preference utilisation
- Monitoring compliance at home
- Monitoring compliance abroad





The importance of implementation

Why does it matter?

- To ensure businesses can take advantage of the FTA
- To make sure that you comply with your FTA commitments
- To make sure that you have mechanisms to support coherent policy





What does implementation involve

What types of activity are needed to implement an FTA?





Implementation activities

working groups under the FTA

mechanisms of cooperation

the working of the FTA

agreeing roster of experts

utilisation

preferential tariff rates

commitments





Implementation activities: examples

the WTO

- But FTAs often extend them: more details or new areas

be appointed

- This ensures that if there is a dispute, it can be heard

agreements, including ILO conventions or environmental treaties

implement them but some require legislation on specific topics also.





Planning for implementation

Who will be doing what?

- Which ministry will cover which FTA chapter?
- What will they do?
- Who will be responsible for overarching coordination?





Planning for implementation

Consider the table here. Pick *five* chapters from your FTA and consider which ministry will lead on its implementation, and what actions that will entail.

You might want to do this in group or by yourself.

FTA chapter	Lead Ministry	Activity

Legal scrub

- Review by lawyers
- Ensure accuracy, clarity, and coherence of the final treaty text
- Correct errors and ambiguous provisions (as far as possible)



Implementing legislation

- Ensuring that national law aligns with commitments under the FTA
- May grant powers to adjust rules in line with FTA commitments
- Or restrict what governments can do in relation to specific partner



Setting up institutions

Preparing the FTA's structure

- Committees, working groups, and dialogues
- Dispute settlement mechanisms
- Rules of procedure, appointment of panelists, (in due course) agenda setting



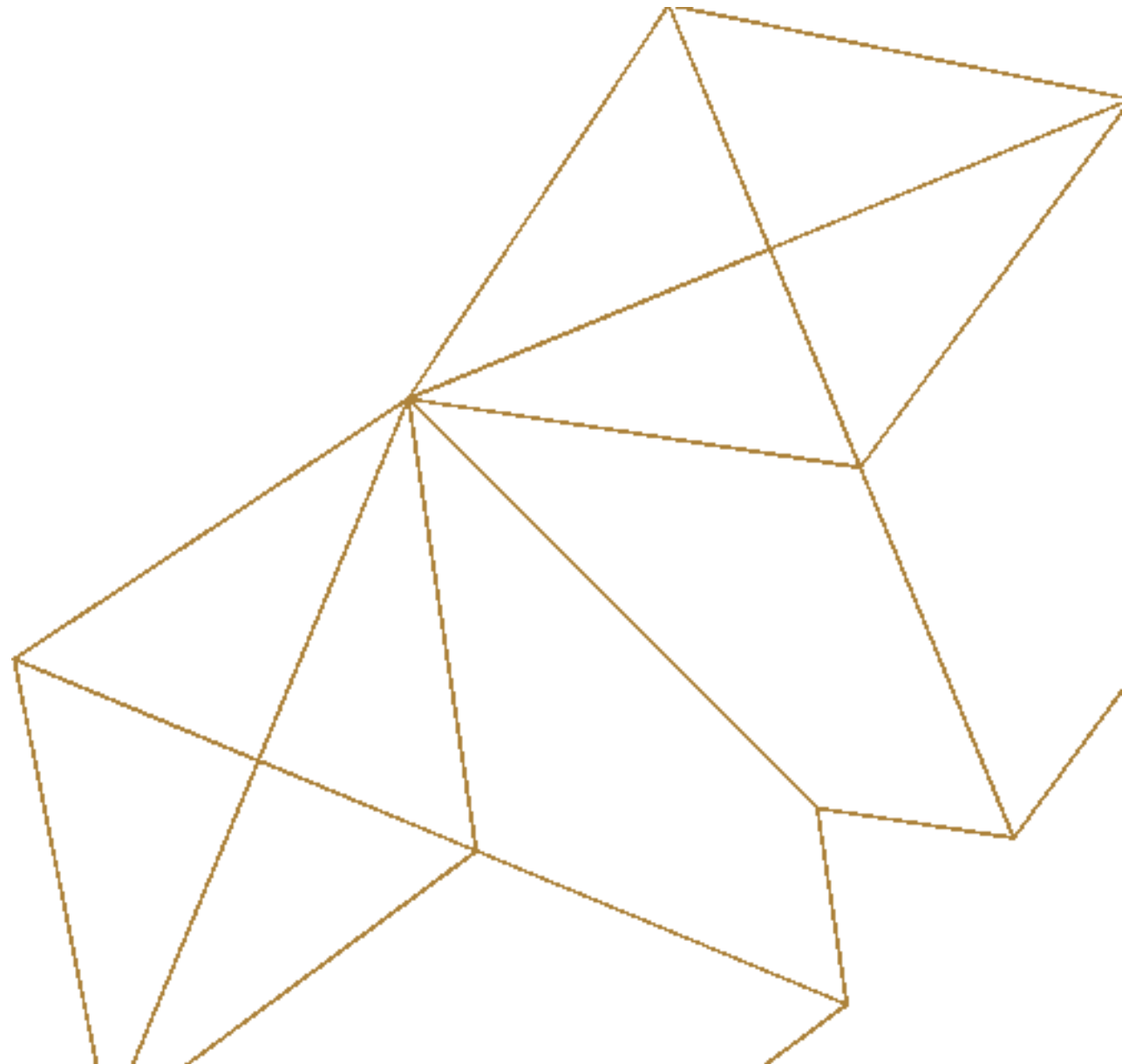


Reflecting on effective implementation

- Recall the importance of coordination and communication
- Aligning this FTA with others, and potentially work of WTO
- Engaging with stakeholders, including business and civil society



Monitoring



Monitoring preference utilization

- And how do you know?
- Identifying which products could benefit from a preference

- Beyond your own data, or FTA partner, consider: ONS, WTO, Comtrade, UNCTAD, OECD



Monitoring compliance at home

- Importance of cross-government understanding of FTA and its commitments
- Embedding FTA awareness in policy process
- Identifying overlapping commitments with other FTAs, or WTO, to help reduce the burden



Monitoring compliance abroad

- Drawing on intelligence from business
- And notification systems and committees (e.g., the WTO ePing system)
- And 3rd parties (e.g., EU and US market access barriers reports) or institutions' (e.g., WTO Trade Policy Reviews)
- Colleagues posted overseas for context and detail

Monitoring compliance at home

- Consider:
 - You are planning on introducing new front of pack labelling requirements on processed foods that are high in sugar, salt, or fat.
 - In your country, which ministry would lead on this?
 - How would they know if it met your obligations under your FTA?
 - At what stage do you think you would need to inform your FTA partner – and what do you think they would do?



Monitoring compliance abroad

- Consider:
 - Your FTA partner has introduced a new support scheme to provide low interest loans to providers of digital banking services.
 - Would you expect to be notified under your FTA? Perhaps under a subsidies provision? Or elsewhere? And if not, how would you find out about this?
 - And if you have concerns about the impact it could have on your banks – how might you pursue this?

Monitoring compliance at home

- It is helpful to consider whether or not you are confident that colleagues in non-trade ministries would feel comfortable considering the implications of new policies in relation to FTAs
- Both in terms of content (specific obligations) and forums (where it may come up, such as a committee)
- Many measures can be introduced, but officials must be prepared so they can successfully regulate without falling foul of trade disciplines.



Monitoring compliance abroad

- It is useful to consider how you will find out about particular types of measures.
- Would business be ready to inform you? Or would you need to keep it on your radar otherwise?
- Are you ready to respond to notifications, and comfortable identifying the most helpful follow-up questions of your FTA partner?

Implementation and monitoring as part of the FTA's lifecycle

Implementation is essential to get your FTA up and running

Monitoring is essential to see how it's working

Both necessary to ensure it does what *you* need it to do

By building networks and relationships to make this FTA work well, it support you to consider how it can be improved in the future



Further materials

- WTO Integrated Database is available [here](#). Some members including EU, Iceland, Japan, Korea, Norway, Switzerland, Turkey & USA notify data on imports by preference.
- Rules of Origin Facilitator is a database of preferential RoOs and their requirements, [available here](#).
- On the use of data:
 - S Lui *et al*, The use of microdata for firm-level analysis of preference tariff utilisation in the UK: technical report (2023) available [here](#).
 - Kaloskampis *et al*, Employing data science to analyse the use of preferential tariffs in free trade agreements (2022) available [here](#).

- The most recent EU 'implementing and enforcing EU trade agreements' report is available [here](#).
- The 2023 USTR report on Foreign Trade Barriers is available [here](#).
- WTO Trade Policy Reviews which cover (inter alia) potential barriers, are available [here](#).

- W Alschner's blogpost on CETA, mentioned earlier, available [here](#).

- The first UK Trade and Cooperation Agreement (TCA) implementation report (2023) available [here](#).
- Report from the Commission on the implementation and application of the TCA (2023) available [here](#).

- WTO statistical information, available [here](#).
- UN Comtrade Database for global trade data, available [here](#).
- WTO ePing, for TBT and SPS measures, available [here](#).
- Global Trade Alert, for a wide range of measures that affect trade, available [here](#).

