“Strengthening relations with citizens is a sound investment in better policy-making and a core element of good governance. It allows governments to tap new sources of policy-relevant ideas, information and resources when making decisions. Equally important, it contributes to building public trust in government, raising the quality of democracy and strengthening civic capacity”.

ISSUES TO BE COVERED IN THIS MODULE

Introduction

Part 1 Overview of the Consultative Process
   What is it?
   Why is it important?
   How has it changed?
   Who participates in the consultative process?
   When do public consultations take place?
   How are consultations conducted?

Part 2 Country Examples
   Canada
   United States
LAURA RITCHIE DAWSON is a Senior Associate and Program Director, Americas region, at the Centre for Trade Policy and Law, Carleton University/University of Ottawa. She is responsible for technical assistance and training programs in the Americas including major projects related to the Canada-Costa Rica Free Trade Agreement, the Canada-Central America Free Trade Agreement, as well as regional and multilateral trade issues in Latin America and the Caribbean. In addition to her work in the Americas, Dr. Dawson is involved in trade policy and negotiations training in Russia, Ukraine, and China. She is also involved in research projects in the area of public consultation, trade negotiations, trade and development, trade, trade policy implementation in developing and transition economies, and the linkages between trade policy and poverty alleviation. Dr. Dawson has been a member of the CTPL faculty for eight years and is a sessional professor at Carleton University in the departments of international affairs, political science and public affairs. She holds an M.A. in international affairs and a Ph.D. in political science.

E-mail: dawson@ctpl.ca
INTRODUCTION TO PUBLIC CONSULTATION

The process of public consultations has become essential for the management of trade policy. A dictionary definition of consultation is “to seek information or advice.” In the process of managing a wide range of policies, democratic governments seek advice from stakeholders, that is the parties who are most interested in and directly affected by the policies. At the same time they seek to inform the stakeholders and the public in general about the purpose and intended impact of the policies. The objective of consultation is twofold: to gain information so that policies can be shaped to support the public interest, and to educate the public about the need for such policies. It is an interactive process that applies not just to trade but to other policies such as those dealing with taxation, pensions, labour, agriculture and the environment.

Part 1 of this module discusses the consultative process in general; Part 2 looks at the practice in selected countries. Since the process regarding trade is relatively new, countries are learning from each other’s experiences.

PART 1

OVERVIEW OF THE CONSULTATIVE PROCESS

WHAT IS IT?

There is no unique definition for public consultations, but rather several that focus on different aspects of the process. For some, public consultation is a strategy designed to generate trust through the involvement of the general public. For others, the process is a formal and structured dialogue between the government and the public to achieve a common understanding of an issue, and to receive input and advice for acceptable solutions. Public consultations can also be seen as a process that allows and promotes a two-way flow of information between the government and the public. Consultations are one of several tools through which governments and their citizens work together to develop sound public policy.
Figure 1. A diagrammatic view of the cycle of public consultation

As depicted in Figure 1, the process is circular meaning that it is a continuing one. Although consultations are intense at certain times such as during a round of WTO trade negotiations, the process should allow for continuing discussions as long as the policy is in effect. In many countries, consultations occurred during the Uruguay Round, and have become more intense with the introduction of the WTO in 1995 leading into the current Doha round of negotiations started in 2001. Feedback on a policy after it has been implemented helps in the development of policy improvements and future reforms.

**WHY IS CONSULTATION IMPORTANT?**

Public consultation permits governments to explain and justify their decisions to the public and to persuade those who are opposed to change or modify their views. The early rounds of GATT negotiations addressed the lowering of tariffs and involved two principal sets of stakeholders, those firms and employees that would face increased competition from

---

2 Often the term STAKEHOLDER is used to describe a person or group with an interest in a particular government policy (one who 'holds a stake' in an issue). Some stakeholder interests may be direct, such as a business that faces direct changes in revenue as a result of policy change. Some interests may be indirect, such as a citizen's group that is concerned that a policy change may affect future conditions related to, for example, the environment or social issues. The term stakeholder identifies those party's who have an interest in an issue but it does not identify whether that interest is direct or indirect, large or small, immediate or long-term, or other qualitative or quantitative elements.
foreign imports, and those that would gain greater access to foreign markets when tariffs were reduced. Trade policy had to balance these two sets of interests. Governments knew who had to be consulted, and the principal stakeholders usually knew when and how to provide their input.

The first six rounds of GATT negotiations – see Box 1 – up to and including the Kennedy Round in the 1960s, were concerned mainly with tariff reductions. The two sets of stakeholders in each country would make their views known directly to governments and broader consultations were not undertaken. The general public showed little or no interest in the process, and wider ranging consultations were considered unnecessary and probably not even contemplated. This lack of public interest follows from the fact that, while there are many members of the public, each is affected in a small way by a change in trade policy, while the principal stakeholders are fewer but experience a relatively greater impact.

From the Tokyo Round on, the trade agenda expanded to include a wider set of issues. As tariff rates fell, non-tariff barriers became more important as impediments to trade and codes were negotiated for issues like subsidies and technical trade barriers. With the Uruguay Round and the establishment of the WTO, the agenda broadened even further with the inclusion of trade in services, investment and intellectual property.

The widening agenda meant that the WTO intruded on a broader range of domestic policies. Other interest groups became directly affected by trade policy and lobbied to have their voices heard. This forced governments to rethink the process of public consultations. Then, the WTO dispute settlement mechanism swung into action. Cases were settled that had a direct impact on individuals and groups for whom trade policy had previously been unimportant. This created a further demand for public consultations. Politicians and officials soon realised that the small group of experts that were involved in negotiating trade agreements would have to be expanded or there could be a public backlash against further attempts at trade liberalization. To some extent, this has occurred with the growth of the anti-globalization movement.

The rise of this movement and opposition to trade liberalization caused governments to lose control of the policy agenda and allowed others to shape it. The last few years has

---

**BOX 1: GATT NEGOTIATING ROUNDS, 1947 TO 2003**

<table>
<thead>
<tr>
<th>Negotiating Round</th>
<th>Date</th>
<th>Major Accomplishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geneva</td>
<td>1947</td>
<td>GATT established.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tariff reduction of about 20% negotiated.</td>
</tr>
<tr>
<td>Annecy</td>
<td>1949</td>
<td>Accession of 11 new contracting parties.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tariff reduction (2%)</td>
</tr>
<tr>
<td>Torquay</td>
<td>1950-51</td>
<td>Accession of 7 new contracting parties.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tariff reduction (3%)</td>
</tr>
<tr>
<td>Geneva</td>
<td>1955-56</td>
<td>Tariff reduction (2.5%)</td>
</tr>
<tr>
<td>Dillon Round</td>
<td>1960-61</td>
<td>Negotiations external tariff of EC. Tariff reduction (4%)</td>
</tr>
<tr>
<td>Kennedy Round</td>
<td>1964-67</td>
<td>Tariff reduction (35%)</td>
</tr>
<tr>
<td>Tokyo Round</td>
<td>1973-79</td>
<td>Tariff reduction (33%). Six codes negot (subsidies, technical barriers, etc.)</td>
</tr>
<tr>
<td>Uruguay Round</td>
<td>1986-94</td>
<td>WTO established.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Additional tariff reductions.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>New agreements on dispute settlement agriculture, clothing, services, investment and intellectual property.</td>
</tr>
<tr>
<td>Doha Round</td>
<td>2001-</td>
<td>To be determined</td>
</tr>
</tbody>
</table>

witnessed an agonizing process of elected politicians and their officials trying to regain control of the agenda. In part, they have done so but there will never be a return to the pre-1990s period when officials, working on behalf of elected politicians, could engage in technical consultations and ignore the need for general consultations with the public.

In a democratic system, it will become increasingly difficult for politicians to brush aside the general concerns of their constituents and still get re-elected. They will have to provide a mechanism for general consultations, be prepared to respond to media inquiries and become informed about the intricacies of trade policy. The onus will be on officials to educate and support the elected representatives. Their job will be made easier if they learn how to shape the debate to examine relevant issues rather than be driven by those with concerns largely unrelated to trade.

**WHAT IS CIVIL SOCIETY?**

“Civil society”...includes the full spectrum of what would commonly be considered interest groups including advocacy NGOs, charities and other non-profit organizations, labour unions as well as professional and trade associations....I use the term “NGO” synonymously with “civil society organization” although I recognise that NGO is often used in both broader and narrower senses.


NGOs "...include consumer associations, conservation and environmental groups, societies concerned with development in poor countries, human rights groups, movements for social justice, humanitarian societies, organizations representing indigenous peoples, and church groups from all denominations. The are now often classed together, misleadingly, under the heading of 'civil society'."

"Generally speaking, the NGOs are anti-liberal. With some exceptions, they are hostile to, or highly critical of, capitalism, multinational enterprises, freedom of cross-border trade and capital flows, and

**HOW HAS CONSULTATION CHANGED OVER TIME?**

Since the introduction of the WTO in 1995, there has been growing public debate about trade policy that has influenced the process of consultations. Politicians are forced to respond to their constituents’ demands for information about issues being negotiated, as well as the ongoing operation of the WTO and other trade agreements that a country may have signed. Claims that trade policy is made in secret have to be countered with explanations of what is involved in the process, how negotiations are conducted and what the benefits of trade liberalization are for the public.

A milestone in this process was the attempt by the OECD to negotiate a Multilateral Agreement on Investment (MAI) in 1997. Responding to charges, actually unfounded but nevertheless persuasive, that the agreement was being negotiated in secret and if implemented would give undue power to foreign investors and multinational corporations, governments undertook damage control by initiating consultations with the public through a variety of means. Public criticism and protests during meetings of the WTO in Seattle and of other international economic organizations in places like Washington, London, Quebec City and Genoa reinforced the need for wider consultations.

At this time, attention was given to the roles of non-governmental organizations (NGOs) and terms like “civil society” entered the language of trade consultations. The opponents of liberalization represent a wide range of interests, some of which have little to do with trade policy. Trade liberalization is seen by these groups to be part of the process of globalization
that they also oppose. Their actions forced governments to pay more attention to the need for public consultations.

Another development affecting the consultation process has been information technology that has facilitated the ability of NGOs to organise their opposition to trade liberalization. Only slowly have governments used the same technology to respond by providing information electronically to influence the debate. The impact of electronic communications at the time of the WTO Seattle meeting in December 1999 is discussed in Box 2 below.


The tumult in Seattle began 11 months ago with a salvo of e-mail.

“Everybody clear your calendars”, read the message sent Jan. 26 to thousands of supporters by Public Citizens' Global Trade Watch, a lead organizer of this week’s protests. “We are going to Seattle at the end of November”.

That e-mail, and others from allied organizations, began ricocheting around the globe the moment Seattle was selected to host the World Trade Organization talks.

Soon there were dozens of “listservs”, or e-mail discussion groups, devoted to devising ways to disrupt the event. By this fall, there was a central Web site […] seeking volunteers, distributing fliers, providing directions and even assisting protesters in finding lodging.

These were the digital origins of what has become one of the most incendiary U.S. political uprisings in a generation, with hundreds of police and National Guardsmen using tear gas and concussion grenades to face down armies of protesters.

And Wednesday, as the WTO talks finally got underway and 300 demonstrators were arrested, organizers of the massive protest said its magnitude would not have been possible without the Internet.

“The Internet has become the latest, greatest arrow in our quiver of social activism”, said Mike Dolan, field director for Global Trade Watch. […] That, he said, is true not only because of the Net’s geographic reach, but because of its ability to link disparate political groups that might not have identical agendas but, at least in the case of the WTO, can identify a common enemy.

… the Internet has been an invaluable tool for disseminating information to a vast audience at almost no cost. To illustrate the Net’s impact, she described an instance six years ago when her organization obtained a leaked copy of the agreement that created the WTO. “I took it to Kinko’s, made copies and Federal Expressed it to 30 people I work with”, she said. When her group got its hands on another sensitive document last year, she said, “I scanned it into our computer and then e-mailed it not just to those same 30 people but posted it on our Web site for the world to read.”*

There are now NGO websites that monitor developments in trade policy and provide information to other NGOs and to those involved in lobbying governments around the world. One such site is Public Citizen's Global Trade Watch at http://www.citizen.org/trade/

“Public Citizen is a national, non-profit consumer advocacy organization founded by Ralph Nader in 1971 to represent consumer interests in [the US] Congress, the executive branch and the courts. We fight for openness and democratic accountability in government, for the right of consumers to seek redress in the courts; for clean, safe and sustainable energy sources; for social and economic justice in trade policies; for strong health, safety and environmental protections; and for safe, effective and affordable prescription drugs and health care.”

In Canada, an organization with similar objectives is the Council of Canadians at...
The Power of the Internet

Ever-cheaper and more accessible communication technologies and, particularly, the Internet, are making people in very different parts of the world not only aware that they share common interests and values, but also that they can act together to realize their common goals. The Internet makes it possible for political activism to take place outside the territorial control of governments, allowing the linkage of societal groups in a loose network across national borders. The World Bank has estimated that the number of Internet users has skyrocketed from about 96 million in 1997 to more than 350 million in 2001.

An example is the anti-globalization protest that led to the debacle of the WTO negotiations in Seattle in 1999, which made extensive use of this technology in organizing its activities. Technology afforded a qualitatively different level of impact, allowing for a scale of activity and a degree of influence that was able to tip the balance between state and non-state actors.

The response of governments has been to establish websites that provide updates of trade policy issues in general and information on ongoing negotiations. Comments from the public are invited for posting on the websites. At present there is no shortage of information about trade agreements and the issues being discussed. This will never be enough to satisfy those that want to be at the negotiating table where trade-offs are made, but their input into negotiations is considerably greater than in the past. One problem with the glut of information is that the arcane details of trade agreements do not make exciting reading for the general public. The majority of protesters continue to complain about the process being secretive while being unwilling to read the fine print of draft proposals.

The differing degrees of understanding mean that there are really two levels to the process, general consultations in which the public can participate and technical consultations that involve a handful of officials and interest groups who are immersed in the management of trade policy and agreements and can provide substantive input. Public consultations equate with those that take place at the general rather than the technical level; what is reported in the former is fed into the latter.

In sum, the context for public consultations on trade matters has undergone marked changes in recent years. It is a more complex process than in the past and one that needs to be managed.

- Issues in trade negotiations have gone from tariffs to non-tariff barriers to trade and to a trade agenda that has a direct impact on a wide range of domestic policies and interest groups. Deeper integration is taking place between countries.

- The wider agenda has attracted the attention of more stakeholders and NGOs claiming to represent civil society. They are well organised and vocal but have not been elected to represent anyone

- NGOs have been skilful in their use of information technology to organise domestic and international support for their views. They have rallied the support of other anti-globalization activists who are opposed to a wide range of interests aside from trade liberalization. This has made trade policy part of a wider policy agenda and more
difficult to manage.

- Governments and those groups favouring trade liberalization have responded to their opponents and now provide a continuing flow of information in support of their views. It is difficult to know how effective this is in countering the views of anti-globalization protesters.

- Public consultation provides input at the general level that is fed into technical consultations undertaken by trade officials.

**Effective public consultation should accomplish the following:**

- Promote mutual trust, understanding and cooperation
- Reinforce public awareness and understanding on the importance of trade
- Provide the avenue for lasting support of international trade commitments
- Enhance the chances of success and public support for government initiatives
- Blunt the criticism of uninformed protesters
- Avoid unflattering press coverage

### WHO PARTICIPATES IN THE CONSULTATIVE PROCESS?

Participation depends on the political and governmental structure of each country and the ways in which information is communicated back and forth between stakeholders, the public, and elected and appointed officials. Each country has to adapt its consultation process to the particular political, economic and social circumstances. For example, a parliamentary system of government works differently from a presidential and congressional system; a country with one central government operates differently from a federal system with different levels of government; and the federal dimensions of the European Union (EU), made up of sovereign states, differs from the US, Australia and Canada, where the state and provincial governments are part of one sovereign state.

While recognising the need for each country to customize its consultation process, a number of generalizations can be made. Consultations should be open to anyone with an interest in the issues at stake. Typically these include:

- interest groups/stakeholders
- government trade departments
- other government departments
- non-governmental organizations
- the media
- academics
- research institutes
Those stakeholders directly affected by trade policy are likely to be well informed about the issues and timing of negotiations, for example, farmers, textile manufacturers, owners and users of intellectual property. One of their concerns will be how their interests may get traded off in a general negotiation affecting many sectors.

Trade policy expertise will likely reside in one department of government, but will depend on input from other departments, especially those with an economic or sector specific mandate such as agriculture, manufacturing, telecommunications or financial services. As the trade agenda has widened, more departments of government are becoming involved.

In federal systems, subnational levels of government will have particular interests depending on the structure of their local economies, for example a concentration on resources, manufacturing or services. They will be allied with private sector groups associated with these economic sectors.

Outside government, NGOs, academics and the media may provide input to the consultative process. This is presently the case in OECD countries and increasingly so elsewhere. Individual academics in law, economics and political science are becoming knowledgeable about trade policy and publish their research in academic journals. While the media is automatically attracted to news events like the riots in Seattle, a number of journalists, especially on large newspapers, are well informed on WTO issues and take the time to consult specialists and websites when writing their stories.

The disadvantages faced by interest groups and individuals in small countries are partially alleviated by their use of the Internet and various training programs provided by the WTO and developed countries through aid agencies. Wider broadband access to the Internet and development of trade policy training materials will aid this process.

---

**WHEN DO PUBLIC CONSULTATIONS TAKE PLACE?**

Public consultations can take place at every phase of the policy process, from problem identification and policy formulation to its execution and evaluation.

*The five stages of the public policymaking process include,*

1. **Agenda building or problem identification** – how problems come to the attention of the government.
2. **Policy formulation** – how strategies are developed for dealing with the problems on the agenda
3. Policy adoption or decision making – how governments choose to take a particular course of action

4. Policy implementation – how the decision is carried out

5. Policy evaluation – how results are monitored and assessed.

Stage 3 is crucial. Those elected balance the alternatives and choose the options that favour some stakeholders over others. Unelected members of civil society would like to provide input at this stage but will find their input confined mainly to the other four stages. Ultimately the elected representatives have to decide on the choice between alternatives.
THE POLICY CYCLE

Consultation

Advice

Information

Education

Agenda Setting

Decision Making

Problem Recognition

Implementation

Monitoring and Feedback
The Role of Public Consultation Pre-Decision and Post-Decision (See Policy Cycle Diagram)

In general, public consultation that takes place before the government has reached a decision on a particular policy may serve the following purposes:
1. Education and information for government
2. Education and information for citizen stakeholders
3. Influence the direction of government policy.

After the government has committed to a policy decision, however, public consultation is likely to have little affect on changing the direction of government policy unless new and important information is brought to light that fundamentally changes the government’s calculation of a policy’s costs and benefits. Therefore, in the post-decision period, the rationale for public consultation tends to be limited to education and information purposes.

HOW ARE CONSULTATIONS CONDUCTED?

Governments conduct public consultations in many ways. As noted above, consultations can take place along the whole spectrum of trade policymaking, from the identification of the problem to the implementation and ulterior evaluation of the particular policy. They can also involve a wide array of participants, from subnational governments to interest groups, the media and individual citizens.

How the government decides to conduct the process of public consultations, when and how to engage the stakeholders, and how to interpret the results is pretty much open to individual governments. However, there are several rules identified as essential in the conduction of public consultations. Many of these are suggested in Denis Stairs, *Foreign Policy Consultations in a Globalizing World*, Montreal, IRPP, Vol.1,no.8, Dec. 2000.

- **Be clear about your purposes.** It is important for the success of the consultation to state clearly the objectives of the consultation – whether it is to gather information, to hear opinions, to form consensus, etc.
- **Be clear** with the participants about what issues are open for consultation and what are not.
- **Be clear in advance about how the results of the consultation will be used.** This helps to avoid the risk that some of the participants develop unrealistic expectations about the outcome and get frustrated when their demands are not delivered. Consultations are a means to deliver better, more effective and lasting policies, and not a form of direct democracy. **Public consultations do not imply that the policies are made by unelected members of the public, but rather that they are made by the legitimate authorities after due consideration of the various interests and opinions that exist among the public. Therefore, it should not be left to the participants to believe that their input will be determinative of final decisions; their inputs will help in the formation and implementation of the final decisions.**
- **Be trustworthy and objective.** The fact that public consultations are not intended to be a form of direct democracy does not mean that governments

"A well-designed public consultation program ensures that the public feels listened to. Even unpopular decisions can be accepted by the public if the consultation process is perceived as having integrity" (Canadian Centre for Management Development, 1997).
should engage in public consultations only to fulfill the requirement. Do not engage in consultations if the final
outcome is already decided in advance or else the participants will soon cease to engage with the governments that appear consistently devious in their dealings with them. Conversely, reliable and trusted information can subdue hostility even among those opposed to a policy.

**OTHER OBJECTIVES OF GOVERNMENT-CITIZEN ENGAGEMENT IN POLICY MATTERS**

A renewal of democratic politics in terms that facilitate government-citizen engagement over the direction of future trade agreements should also aim to encompass elements such as:

- **Transparency and Public Information** – provide timely notification and access to relevant, accurate domestic and international trade documentation.

- **Communications and Consultations** – encourage national and multilateral trade policy development processes that reach out to parliamentary and public participation on a regular basis
  - **Representation** – provide multiple structures to ensure that citizens’ interests are articulated in all relevant forums and at all stages from pre-negotiation through implementation of agreements
  - **Deliberation** – create policy development approaches that facilitate public education, shared learning and real dialogue among all participants
  - **Legitimation** – establish constitutional procedures to ensure public-interest examination, informed public consent and due process prior to the acceptance of legally binding international trade and investment obligations
  - **Oversight** – create independent review and feedback mechanisms to support ongoing monitoring by parliamentary bodies and citizen organizations of commercial agreements and the overall operations of the trade regime
  - **Final Accountability and Redress** – introduce measures to ensure that trade decisions are authorized through democratic means, however indirectly, and that democratic remedies are available when problems and conflicts arise (as they inevitably do).
SOME COMMENTS ON THE CONSULTATION PROCESS

Non-governmental organizations play significant roles in the formulation of public policy and are undoubtedly important channels of public opinion and concerns. However, Parliaments remain the only elected, publicly accountable and therefore most legitimate representatives of citizens… For the future, there needs to be a more vigorous and sustained effort by governments and by the WTO itself to establish and maintain dialogue with civil society. Parliamentary groups can play a vital role in this regard and I very much welcome the initiative taken by the legislators’ assembly in Seattle to establish a Standing Body of WTO parliamentarians.

(M. Moore, “Parliaments and the WTO: Accountability in the new global trading system”, The Parliamentarian, April 2000, p. 139)

Our agreements must be agreed by governments and ratified by Parliaments. We all need to be more accountable. Parliaments and Congresses sustain governments. Public opinion sustains governments. Elected representatives are the main expression of civil society. Their support is measured, they are accountable, they need to be more involved. This is the real way in which we can counter some of the anxieties about globalization and public alienation. Elected representatives have a responsibility to become more involved, hold hearings, scrutinise where the taxpayer’s money is going, and ensure that the great international institutions created to manage global affairs have the moral authority that comes from the ownership and participation of Member governments. We need to involve Parliamentarians in a more focused, orderly and organized way.


The search must continue for better policy development and decision-making mechanisms. … We need to forge consensus first on the kinds of negotiating processes that can achieve a wide public ownership and early public interest examination of negotiating proposals. This challenge, to citizens as well as their political institutions, should be welcomed.


The government should respond to the recommendations from the Commons committee on demystifying the WTO regime and building the capacity for constructive citizen engagement—which means not just reacting to NGO critics but designing a process that more fully utilizes representative democratic institutions. Policy must aim at ensuring that open global markets
Part 2

PUBLIC CONSULTATIONS – COUNTRY EXAMPLES

In the following section we outline the public consultation process in Canada and the United States. There is considerable diversity in the process among different countries stemming from:

- **Differences in basic governance**: parliamentary vs. presidential systems; centralized vs. decentralized governments, etc.

- **Differences in cultural values**: and the ways that these are operationalized through institutional and governance systems. Even though Canada and the United States are quite similar in their cultural characters, differences between the two can be identified – differing priorities on efficiency versus inclusion, individual rights versus the health of the federation, etc. In countries with more distinct cultural differences, China compared to United States, for example, these differences will be more readily identifiable.

- **A historical legacy**: a history of authoritarianism vs. democracy, state-led vs. market-led development, protectionism vs. liberalization, can all shape the way in which policymaking takes place.

- **Differences in governments’ technical and monetary resources**: some governments have specific funds set aside for domestic consultations. However, this is not the case for many countries, where a lack of both technical expertise and monetary resources can pose important constraints on the process.

- **Civil society’s capabilities**: while in some countries civil society has been able to organize and participate effectively in the policy process, in many others, the level of organization and influence of some sectors of society is still weak or non-existent. In these cases, their effective participation in the policy process can be seriously compromised, with the opportunity for participation taken over by the most powerful actors to advance their partisan interests.
Canada has been engaged in implementing formal procedures and institutions for consulting on trade policy issues for more than 15 years. As a federal state, extensive consultation is not only desirable for this country, but it has become a political necessity.

WHO PARTICIPATES IN THE PROCESS?

There is a broad range of stakeholders participating in the consultations, including federal, provincial and local government officials; industry and agricultural associations; individual firms; trade unions representatives; non-governmental organizations; academics; media and individual citizens. The process has evolved in recent years so that almost anyone with an interest in the issues can provide input in some forum.

HOW DO THEY PARTICIPATE?

The consultative process is a mix of formal and informal mechanisms for participation.

FORMAL CONSULTATIVE MECHANISMS

There are two main formal consultative mechanisms:

1. A Continuing Committee on Trade Negotiations, called C-Trade, which provides for regular consultations between federal and provincial government officials.

2. Several advisory bodies set up to provide advice to the federal Minister of International Trade and senior government officials on the government’s trade policy:

   ▪ Special Advisory Committees on International Trade (SAGITs). These committees are comprised of senior business executives, as well as some representation from industry associations, labour unions, non-governmental organizations and academia. They provide an important source of advice for the government, as well as a means to keep industry and other interested parties informed of trade policy and trade negotiations developments. The operation of the SAGITs is supported by the Department of Foreign Affairs and

   Currently, there are 12 SAGITs representing various industry sectors:
   ▪ Agriculture, Food and Beverage
   ▪ Appeal and Footwear
   ▪ Cultural Industries
   ▪ Energy, Chemicals and Plastics
   ▪ Environmental
   ▪ Fish and Sea Products
   ▪ Forest Products
   ▪ Information Technologies
   ▪ Medical and Health Care Products and Services
   ▪ Mining, Metals and Minerals
   ▪ Services
   ▪ Textiles, Fur and Leather

“Canada’s experience has shown that consultations, whether at the domestic or the multilateral level, greatly reinforce public awareness and understanding of the importance of trade, and ensure that citizens' priorities and interests are reflected in the development of trade policy objectives, policies and positions. By mobilizing popular opinion and keeping people fully informed of the issues and the direction of trade negotiations, transparency and engagement combine to establish the legitimacy, consistency and the durability of policy decisions and outcomes.” Department of Foreign
The scheduling of public consultations:

“[…] Experience has demonstrated that properly constituted consultations which engage appropriate participation can make useful contributions throughout the negotiating process. At the end of negotiations, public support for implementation is likely to be higher because various interests have developed both the necessary knowledge and a stake in the outcome to be able to speak positively about both the process and the outcome”, in Dymond, W. A. and L. Ritchie, “The Consultative Process in the Formulation of Canadian Trade Policy”, INTAL-ITD-STA Occasional

INFORMAL CONSULTATIVE MECHANISMS

The informal consultative process covers a wide range of stakeholders and is held together by a structure that allows for a number of points of contact. Several organizations exist to facilitate the discussion and evaluation of relevant trade policy issues within the broader context of Canadian foreign and domestic policy. They include the Standing Committee on Foreign Affairs and International Trade (SCFAIT), made up of elected members from all political parties, which holds regular hearings and report to the government on trade policy issues, trade negotiations and trade relations. Important as well is the Parliamentary Centre, a not-for-profit organization that assists the federal government to redefine its roles, to improve performance and to develop new relations with civil society and the economic marketplace. Ad hoc consultations occur between interest groups, companies, organizations and government officials from a broad range of government departments.

Finally, the Canadian government devotes considerable resources to communications in order to develop and maintain public support for trade policy initiatives from their inception to their implementation. These communications take place through several channels:

CANADA GAZETTE - the official journal of the Canadian government. In addition to serving as the official notice on the government's laws and regulations, the Canada Gazette works as a consultative tool by allowing Canadians to be informed so that they can provide their comments on proposed regulations.

INTERNET COMMUNICATIONS - this type of communication has significantly opened up the process of information dissemination and dialogue with Canadians. Through a regularly updated website entitled It's Your Turn, the government solicits the views of any Canadian on a range of trade policy issues and provides access to most unclassified documents, briefings, and discussion papers. The page can be accessed at http://www.dfait-maeci.gc.ca/tnac/consult-en.asp#Other

PUBLIC OPINION RESEARCH THROUGH PUBLIC OPINION SURVEYS AND POLLS – Information derived through public opinion research is essential for decisionmakers. It is the most direct evidence of voter preference and predictor of future voting behaviour. Thus while vocal or well-organized interest groups may be able to
capture public and/or media attention for short periods of time, it is input gleaned directly from citizens through public opinion polling that helps decision makers to set agendas and identify policy priorities.

**WHEN DO THEY PARTICIPATE?**

It is the government’s understanding that engaging Canadians in the whole policymaking process contributes to higher public support for the final outcome and its implementation. Therefore, Canadians are engaged throughout the entire policymaking cycle, from the inception of the policy to the final outcome, implementation and later amendments.
WHO PARTICIPATES IN THE PROCESS?

The U.S. trade policymaking process provides for the participation of a broad range of interests from inside and outside the government. In addition to the federal, state and municipal governments, participants from outside the government such as agricultural and industry associations, labour, environmental and consumer organizations, academics, media, civic groups and individual citizen also take part in the consultations.

HOW DOES PARTICIPATION TAKE PLACE?

The U.S. consultative process in trade policymaking can be divided in three main spheres of consultation:

- The Executive Branch
- The Legislative Branch
- The Official Advisory Committee

1. THE EXECUTIVE BRANCH CONSULTATIVE PROCESS

The Executive Branch process involves an extensive deliberative process that includes consultation with numerous agencies from both within and outside the federal administration. At the head of this process is the Office of the United States Trade Representative (USTR), located within the Executive Office of the President of the U.S. The USTR is the main body responsible for developing and coordinating U.S. international trade, commodity, and direct investment, and leading or directing negotiations with other countries on such matters. Such coordination is accomplished through the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC). These groups, administered and chaired by the USTR, make up the sub-cabinet-level mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.
Within the USTR, coordination goes on at four levels:

- **U.S. Trade Representative (USTR)**
  - The USTR is responsible for interagency coordination on trade policy matters.

- **Trade Policy Review Group**
  - Chaired by the Deputy USTR and comprised of sub-cabinet representatives, the TPRG enters into action when agreement has not been reached at the TPSC or if particularly significant policy questions are being considered. The majority of important or politically-sensitive decisions are made here.

- **Trade Policy Staff Committee (TPSC)**
  - Composed by senior civil servants, this is the primary operating group of the trade policy process. This group handles most of the work for routine or non-controversial issues.

- **TPSC Subcommittees**
  - More than 60 subcommittees support the work of the TPSC. They are divided and focused by region, country, sector and function. Here is where most of the analysis and policy groundwork is done.

At the federal administration level, consultations take place with over 18 federal agencies, including the Departments of State, Defence, Treasury, Agriculture, Commerce, Labor, Interior, Energy, Health and Human Resources, Justice and Transportation, the Environmental Protection Agency, the Central Intelligence Agency, the Small Business Administration, the National Security Council, and the Council on Economic Advisors, among others.

Agencies independent of the federal administration also play an important role in the process. For instance, the USTR will usually request the advice of the U.S. International Trade Commission (ITC) before concluding a free trade or a major multilateral agreement.

The extension of trade to new areas has brought other entities to the trade policymaking process, such as the Federal Communications Commission, consulted for its input on telecommunications issues.

Deliberations at the executive level are usually closed to public input and agendas are not made public. However, the process leading up to this stage often results from either solicited, or unsolicited, information from interested stakeholders outside the government. The USTR often solicits the public’s views of the government’s trade policy initiatives through Federal Register Notices and/or public hearings. The information received via these consultations will be considered in the

**The U.S. Federal Register**
The Federal Register is the official US government newspaper that provides ready access to the official texts of government documents and descriptions of federal organizations, programs and activities. Through the Register, the public can submit their comments on government laws, regulations and initiatives. For an example of the USTR’s Federal Register Notices, see

**International Trade Commission (ITC)**
The ITC is a U.S. independent agency that provides trade expertise to both the legislative and executive branches of government, giving specific advice on the economic and industrial implications of trade policy initiatives. In its research and analysis, the ITC may hold public hearings and solicit written comments from interested parties that later reports to the USTR.
2. THE LEGISLATIVE BRANCH CONSULTATIVE PROCESS.

This process is undertaken by a number of congressional committees in both the House of Representatives and the Senate. The primary committees with jurisdiction on trade policy are the House of Ways and Means Committee and the Senate Finance Committee. The USTR maintains close consultations with these committees. In fact, five members from each House are formally appointed under the statute as official advisors to the Executive branch on trade matters, and additional members may be appointed as advisors on particular issues or negotiations.

Other Congressional committees may participate in the trade policy process, particularly those with responsibility for such issues as international relations and foreign affairs, banking and financial services, commerce, agriculture, the judiciary, rules, and the environment. As well, the congressional advisory system offers an opportunity for any citizen, organization, company or industry, to provide advice to the relevant committees and/or their respective congressional members. One of the most visible ways in which the legislative considers and deliberates on trade policy matters is through public hearings before its various committees.

The Legislative branch holds a great deal of influence over the direction of trade policy through its power to grant (or withhold) Trade Promotion Authority (formerly as Fast Track Authority) to the Executive for the negotiation of trade agreements.

3. THE OFFICIAL ADVISORY COMMITTEE SYSTEM

The committee system is designed to address the technical needs of U.S. negotiators who operate under the general instructions of the President and Congress. Under this system, the advisory committees provide information and advice to trade officials on a wide range of issues, from negotiating objectives and bargaining positions before and during a negotiation process, to the operation of any trade agreement once entered into force. They also assist on matters arising in connection with the development, implementation, and administration of trade policy.

These advisory committees routinely solicit information from the general public, their agenda is published in the Federal Register and portions of their meetings are open to public participation.

There are currently 33 advisory committees accounting for a total membership of up to 1,000
WHEN DO THEY PARTICIPATE?

The government obtains advice on the development and implementation of U.S. trade policy throughout the entire trade policymaking process. The consultative mechanisms outlined above, and particularly the official advisory committee system and the Federal Register Notices, provide the means through which the government routinely solicits written comments from the public, consults and briefs interested constituencies, holds public hearings, and meets with a broad spectrum of civil society groups in its making of trade policy. They also provide an opportunity for every citizen, firm, or organization to make representations on trade policy issues to the relevant committees or congressional members.