



THE WTO TRADE POLICY REVIEW MECHANISM: ACHIEVEMENTS, STRUCTURAL LIMITATIONS, AND REFORM PROSPECTS

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Uzbekistan's Accession to the WTO: Legal Reforms and Challenges

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Abstract. The Trade Policy Review Mechanism (TPRM) represents one of the central transparency pillars of the World Trade Organization (WTO). Established under Annex 3 of the Marrakesh Agreement Establishing the WTO, the TPRM was designed to enhance transparency, strengthen adherence to multilateral rules, and contribute to smoother functioning of the multilateral trading system. Unlike the Dispute Settlement Mechanism (DSM), however, the TPRM lacks enforcement authority and operates through peer review and reputational pressure. This article critically evaluates the institutional design, legal foundation, empirical performance, and systemic limitations of the TPRM. Drawing on WTO primary documents, Secretariat reports, and academic scholarship, the paper assesses whether the mechanism effectively promotes compliance and transparency in global trade governance. It argues that while the TPRM has significantly improved information symmetry and policy monitoring, its soft-law nature and political constraints limit its capacity to discipline protectionist behavior. The article concludes by proposing structural reforms aimed at strengthening transparency obligations, digital monitoring integration, and institutional linkage with dispute settlement processes.



Keywords: WTO, Trade Policy Review Mechanism, transparency, compliance, soft law, global trade governance.

I. Introduction.

Transparency constitutes a foundational principle of the multilateral trading system. Since the creation of the General Agreement on Tariffs and Trade (GATT) in 1947, information exchange and notification obligations have been viewed as essential to reducing uncertainty in international trade relations. The establishment of the WTO in 1995 institutionalized this principle through the Trade Policy Review Mechanism (TPRM), codified in Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization.¹

The TPRM was designed to serve three core objectives: (1) enhance transparency of members' trade policies, (2) improve adherence to WTO rules, and (3) contribute to the smooth functioning of the multilateral trading system.² Unlike the WTO's Dispute Settlement Mechanism (DSM), which operates through binding adjudication, the TPRM functions as a monitoring and peer-review mechanism without direct enforcement powers.

Nearly three decades after its formalization, the question arises: Has the TPRM succeeded in strengthening compliance and transparency in global trade governance? Or does its soft-law character render it institutionally weak in an era marked by resurgent protectionism and geopolitical fragmentation? This article critically evaluates the achievements and limitations of the TPRM through doctrinal analysis, institutional assessment, and empirical observation. It argues that while the TPRM has become a central transparency instrument covering the overwhelming majority of global trade, its structural limitations prevent it from exerting meaningful corrective influence on protectionist policies.

II. Legal and Institutional Foundations of the TPRM

A. Legal Basis: Annex 3 of the Marrakesh Agreement.



The TPRM derives its legal authority from Annex 3 of the Marrakesh Agreement Establishing the WTO.³ Unlike many WTO agreements that impose substantive trade obligations, Annex 3 establishes a procedural mechanism focused on transparency and review rather than dispute adjudication.

Paragraph A of Annex 3 sets forth the objective of achieving “greater transparency in, and understanding of, the trade policies and practices of Members.”⁴ Importantly, the text clarifies that the TPRM is not intended to serve as a basis for enforcement or dispute settlement.⁵

This design choice reflects the political compromise underlying the WTO’s institutional architecture: members accepted transparency-based scrutiny but resisted the creation of additional binding oversight mechanisms beyond the DSM.

B. Trade Policy Review Body (TPRB). The Trade Policy Review Body (TPRB), composed of all WTO members, administers the mechanism.⁶ It operates under the authority of the General Council. Reviews are conducted on the basis of:

1. A policy statement submitted by the reviewed member.
2. An independent report prepared by the WTO Secretariat.

The Secretariat report provides detailed economic data, analysis of trade measures, and evaluation of consistency with WTO commitments. Although not legally binding, these reports often contain critical assessments of policy trends.

B. Review Frequency and Coverage

The review frequency is determined by a member’s share in world trade:⁷

- The four largest traders: every 2 years.
- Next 16 members: every 4 years.
- Other members: every 6 years.
- Least-developed countries (LDCs): longer intervals permitted.



This structure ensures that countries accounting for the majority of global trade are subject to more frequent scrutiny. According to WTO data, TPR reviews collectively cover more than 90% of global merchandise trade flows.⁸

The systematic nature of these reviews makes the TPRM one of the most comprehensive transparency exercises in international economic law. >
Humoyunmirzo: III. Functional Architecture of the Trade Policy Review Mechanism: Transparency, Surveillance and Norm Diffusion

A. Transparency as an Instrument of Governance. Transparency within the WTO framework is not merely procedural; it constitutes a structural governance technique designed to reduce informational asymmetries among sovereign actors. Annex 3 of the Marrakesh Agreement conceptualizes transparency as a mechanism to “achieve greater understanding” of members’ trade policies.¹⁷ This formulation reflects the economic theory of information asymmetry: uncertainty regarding regulatory frameworks increases transaction costs, deters investment, and distorts trade flows.

In practice, TPR Secretariat reports provide extensive quantitative and qualitative data, including:

- Applied and bound tariff averages (simple and trade-weighted),
- Frequency indices of non-tariff measures (NTMs),
- Subsidy structures (agricultural AMS levels, industrial support schemes),
- Trade remedy usage statistics,
- Services regulatory regimes,
- State-owned enterprise (SOE) activities.

For example, TPR reports for major economies regularly quantify average MFN tariff levels and compare them with bound commitments, enabling observers to assess “binding overhang” and potential protectionist space.¹⁸ This systematic disclosure reduces policy opacity and permits market actors to evaluate regulatory predictability.



Robert Wolfe argues that transparency in the WTO functions as both an information instrument and a socialization mechanism that shapes expectations of acceptable conduct.¹⁹ In this sense, the TPRM contributes to norm diffusion rather than direct coercion.

However, transparency does not equate to compliance. Information may expose policy deviations without necessarily inducing correction. The effectiveness of transparency thus depends on secondary mechanisms—reputational pressure, domestic political accountability, and market discipline.

B. Surveillance and Ongoing Monitoring. The TPRM operates as a continuous surveillance mechanism distinct from ad hoc notification obligations under individual WTO agreements. While agreements such as the Agreement on Subsidies and Countervailing Measures (SCM) require formal notification of specific measures, the TPRM allows the Secretariat to assess broader policy trajectories. This distinction is critical. Notification regimes are member-driven and often incomplete; surveillance under the TPRM incorporates independent economic analysis. The frequency of reviews reflects trade share: the four largest traders are reviewed biennially, next 16 every four years, others every six years, with flexibility for least-developed countries.²⁰ Given that the largest traders account for a dominant portion of global trade, this tiered system ensures that the majority of world trade flows are scrutinized regularly.

Empirical observation indicates that since 1995, hundreds of individual country reviews have been conducted, generating thousands of pages of analytical documentation.²¹ The cumulative dataset has become one of the most comprehensive public repositories of national trade policy information globally. Nevertheless, surveillance effectiveness depends on member engagement. The TPRB process includes advance written questions submitted by other members. The quality and depth of these questions vary significantly. In reviews of major economies, dozens—



sometimes hundreds—of written questions are submitted, suggesting higher engagement and political interest.²² In contrast, reviews of smaller economies often generate limited discussion.

C. Peer Review and Reputational Accountability. The TPRM's compliance logic is reputational rather than coercive. As Gregory Shaffer observes, soft-law mechanisms rely on social and reputational incentives rather than formal sanctions.²³

Reputational accountability operates through several channels:

1. Intergovernmental reputation: States seek to maintain credibility as reliable trading partners.
2. > Humoyunmirzo: Market perception: Negative transparency outcomes may influence investor confidence.
3. Domestic political scrutiny: Publicly available reports can empower domestic stakeholders.

The mechanism thus functions analogously to peer-review systems in other international organizations (e.g., OECD economic surveys). However, reputational pressure varies by political system and economic structure. Highly centralized economies or states prioritizing strategic autonomy may exhibit lower sensitivity to reputational costs. Furthermore, diplomatic norms within the TPRB often temper criticism. While Secretariat reports may contain analytical observations, member interventions tend to be framed in neutral or technical language. This diplomatic moderation reduces confrontational scrutiny but preserves institutional cohesion.

IV. Empirical and Systemic Achievements of the TPRM

A. Institutionalization of Predictability. Predictability is a central objective of the WTO system. Trade predictability depends not only on binding tariff commitments but also on transparency of applied measures.



The TPRM contributes to predictability in at least three measurable ways:

1. Disclosure of tariff dispersion and applied rates, allowing assessment of tariff escalation patterns.
2. Identification of regulatory reforms, including customs modernization and trade facilitation measures.
3. Monitoring of subsidy reforms and agricultural support adjustments.

For example, Secretariat reports frequently provide quantitative indicators such as the share of tariff lines subject to non-ad valorem duties or the percentage of imports covered by NTMs.²⁴ These indicators allow cross-country comparison over time.

The regular publication cycle has reduced informational volatility in global trade governance. Compared with the GATT era—where transparency relied heavily on voluntary notifications—the WTO period demonstrates significantly higher institutionalization of reporting.

B. Crisis Monitoring and Adaptive Capacity. During the 2008–2009 financial crisis, concerns arose regarding potential protectionist backlash. The WTO responded by intensifying monitoring activities and issuing periodic trade monitoring reports.²⁵ While formally distinct from regular TPR cycles, these reports relied on the same institutional infrastructure and analytical methodologies. They tracked trade-restrictive measures, including tariff increases, export restrictions, and safeguard measures. A similar monitoring expansion occurred during the COVID-19 pandemic, when export restrictions on medical goods proliferated. The Secretariat documented these measures, enhancing global awareness of crisis-induced trade distortions.²⁶ These episodes illustrate that the transparency framework built around the TPRM can adapt to systemic shocks. However, monitoring did not prevent the adoption of restrictive measures. Instead, it functioned as a recording and signaling mechanism.

C. Contribution to Domestic Institutional Reform. Participation in TPR exercises often necessitates internal policy coordination across ministries



(**trade, agriculture, finance, industry**). For developing countries, this process can strengthen bureaucratic capacity and data collection systems. In several instances, TPR discussions have highlighted inconsistencies between applied practices and WTO commitments, prompting administrative clarification or reform.²⁷ This indirect reform effect reflects the pedagogical dimension of peer review. However, empirical measurement of reform causality remains methodologically complex.

V. Structural Constraints and Systemic Weaknesses.

A. Soft-Law Design and Absence of Enforcement. Annex 3 explicitly states that the TPRM “is not intended to serve as a basis for enforcement of specific obligations.”²⁸ This textual limitation defines its structural ceiling. In contrast to the DSM, which may authorize retaliatory measures in cases of non-compliance, the TPRM lacks coercive instruments. Consequently, identification of WTO-inconsistent measures does not compel policy modification. From an institutional design perspective, this reflects a deliberate balance: members accepted transparency oversight but rejected supranational review authority. However, in periods of rising economic nationalism, transparency without enforcement may have diminishing marginal impact.

B. Persistent Notification Deficiencies. Incomplete subsidy notifications remain a systemic challenge in WTO governance.²⁹ Where members under-report industrial subsidies or state support programs, the Secretariat must rely on secondary data sources. Data asymmetry undermines analytical precision and may generate political sensitivity. The proliferation of industrial policy measures—particularly in sectors such as semiconductors, renewable energy, and strategic manufacturing—has intensified scrutiny of subsidy transparency. Without reliable notification data, TPR analysis risks informational gaps.

C. Diplomatic Culture and Limited Confrontation. The TPRB operates within diplomatic norms emphasizing constructive dialogue. While this preserves institutional harmony, it constrains adversarial scrutiny. Unlike litigation settings,



the peer-review forum lacks procedural incentives for rigorous cross-examination. Members may avoid aggressive questioning to preserve reciprocal goodwill. This culture limits the deterrent capacity of the mechanism.

D. Limited Deterrence of Protectionist Trends. Empirical research following the global financial crisis indicates that non-tariff measures expanded despite ongoing transparency processes.³⁰ Transparency revealed the proliferation of regulatory barriers but did not systematically reverse them. This suggests that political economy drivers—domestic interest groups, industrial policy strategies—often outweigh reputational costs. Thus, while the TPRM enhances visibility, its behavioral impact is contingent rather than deterministic.

VI. Comparative Institutional Analysis: TPRM and the Dispute Settlement Mechanism.

A. Ex Ante Surveillance vs Ex Post Adjudication. The TPRM operates on a cyclical, ex ante basis; the DSM functions reactively, adjudicating specific legal disputes.**B. Impact of Appellate Body Paralysis.** Since December 2019, the WTO Appellate Body has been non-operational due to appointment deadlock.³¹ This paralysis weakens the enforcement pillar of the WTO. In this context, transparency mechanisms assume greater relative importance. However, increased reliance on transparency without adjudicative enforcement may shift the WTO toward a more managerial model of governance rather than rule-based adjudication.

C. Complementarity and Institutional Gaps. Ideally, TPR findings could inform dispute settlement by highlighting systemic risk areas. Yet no formal procedural linkage exists between the two mechanisms. Institutional reform proposals frequently suggest enhanced coordination—without transforming the TPRM into a judicial body—to preserve its cooperative character while improving systemic coherence.



VII. Reforming the Trade Policy Review Mechanism: Structural Strengthening in a Fragmenting Trade Order. The effectiveness of the Trade Policy Review Mechanism (TPRM) must be assessed against contemporary challenges confronting the multilateral trading system: the resurgence of industrial policy, subsidy competition among major economies, geopolitical trade fragmentation, supply chain securitization, and the paralysis of the WTO Appellate Body. In this altered systemic environment, transparency alone is insufficient unless institutionally reinforced. Reform of the TPRM should therefore focus not on transforming it into a quasi-adjudicatory body—an outcome politically implausible—but on strengthening its monitoring precision, procedural discipline, and institutional connectivity.

A. Recalibrating Notification Discipline and Data Integrity. A persistent structural weakness in WTO governance is incomplete or delayed notification of trade measures, particularly in the area of subsidies and state support. The effectiveness of the TPRM is inherently dependent on the quality and completeness of information submitted by members. Annex 3 presupposes good-faith transparency; however, empirical experience demonstrates uneven compliance.¹⁷ In recent years, concerns have intensified regarding under-notification of industrial subsidies, especially those involving state-owned enterprises (SOEs), preferential financing, tax incentives, and opaque support schemes.¹⁸ Without reliable notification, Secretariat reports must rely on secondary data, limiting analytical depth.

Reform options include:

1. **Procedural Incentives for Timely Notification**
Members that systematically fail to notify could face procedural consequences within WTO committees—such as restrictions on chairmanship eligibility or formal listing of non-compliance in annual transparency reports. Such reputational measures would remain consistent with the non-punitive nature of the TPRM while



increasing institutional pressure.

2. Standardized Quantitative Reporting Templates

Introducing harmonized digital templates for reporting subsidies, NTMs, and regulatory measures would improve comparability across jurisdictions. Currently, variation in reporting methodologies hinders meaningful cross-country analysis.

3. Independent Data Verification Mechanisms

The Secretariat could be granted expanded authority to reference third-party databases (e.g., customs data, UN Comtrade, Global Trade Alert datasets) when discrepancies arise. While politically sensitive, triangulated data verification would strengthen credibility. Transparency without data integrity risks transforming the TPRM into a descriptive rather than evaluative mechanism. Strengthening notification discipline is therefore foundational.

B. Enhancing Analytical Depth Through Quantitative

Benchmarking. Current TPR reports provide descriptive and comparative analysis of tariff levels, trade flows, and regulatory changes. However, they rarely incorporate systematic benchmarking indicators that measure policy restrictiveness over time. A reform-oriented approach would introduce:

- Trade Restrictiveness Indices (TRI) integration
- Quantitative tracking of non-tariff measure proliferation
- Comparative subsidy intensity metrics (as percentage of GDP or sectoral output)

Embedding standardized metrics would allow for longitudinal analysis across review cycles, enabling clearer identification of policy drift toward protectionism. Such benchmarking would not create legal obligations but would enhance policy accountability through structured comparability. In governance theory terms, this represents a shift from narrative transparency to metric-based transparency.

C. Institutional Linkage Between TPRM and Dispute Settlement. Although



Annex 3 explicitly states that the TPRM is not intended to enforce obligations, the institutional separation between transparency and adjudication is increasingly problematic in a system where enforcement capacity is weakened.¹⁹ A pragmatic reform would involve:

1. Systemic Concern Referral Mechanism

Where Secretariat reports identify patterns of potentially WTO-inconsistent measures affecting multiple members, these could be formally transmitted to relevant WTO committees for structured discussion.

2. Issue-Specific Thematic Reviews

Beyond country-based reviews, the TPRB could conduct thematic analyses of cross-cutting issues—such as green subsidies, export restrictions on critical minerals, or digital trade measures—thus identifying systemic risks before disputes proliferate.

3. Enhanced Committee-Tied Follow-Up

A structured follow-up process one year after each review could evaluate whether identified transparency concerns were addressed. This would not impose sanctions but would create continuity and accountability. Such reforms would preserve the non-adjudicatory nature of the TPRM while strengthening its functional interaction with other WTO bodies.

D. Leveraging Digitalization and Real-Time Monitoring. The increasing digitalization of trade governance presents an opportunity to modernize the TPRM. A centralized digital dashboard—integrating notifications, trade flows, tariff databases, and regulatory updates—could provide real-time transparency rather than cyclical snapshots. In crisis periods, such as the COVID-19 pandemic, ad hoc monitoring reports proved valuable.²⁰ Institutionalizing such monitoring capacity within the TPRM framework would improve responsiveness to systemic shocks. Digital modernization would also facilitate broader access for researchers, investors, and civil society, thereby reinforcing the reputational dimension of compliance.



D. Reconsidering the Soft-Law Paradigm. The TPRM operates within a soft-law paradigm. Soft-law mechanisms rely on peer pressure, reputational effects, and iterative dialogue.²¹ While soft-law governance can be effective in cooperative environments, it becomes less impactful in periods of strategic rivalry. The rise of unilateral industrial policy measures—particularly in technologically sensitive sectors—illustrates the limits of reputational deterrence. However, transforming the TPRM into a hard-law instrument is politically unrealistic. The more viable reform trajectory lies in strengthening procedural rigor and transparency density rather than altering its legal status.

VIII. Conclusion: Transparency as Governance—Promise and Limits.

The Trade Policy Review Mechanism is one of the most institutionalized transparency frameworks in international economic law. Covering the overwhelming majority of global trade and operating on a systematic review cycle, it has generated nearly three decades of structured trade policy documentation. Its achievements are substantial:

- Institutionalization of periodic scrutiny of all WTO members;
- Enhanced information symmetry in complex regulatory environments;
- Support for policy predictability and investment confidence;
- Capacity-building for developing and least-developed countries;
- Complementary monitoring during global crises.

Yet the TPRM's limitations are equally structural:

- Absence of enforcement authority;
- Dependence on member-driven notification quality;
- Diplomatic moderation of peer criticism;
- Limited deterrent effect against major protectionist initiatives.



The TPRM embodies a fundamental tension within the WTO system: transparency without coercion. It assumes that information exposure and reputational accountability are sufficient to discipline trade policy behavior. In relatively cooperative multilateral contexts, this assumption holds. In fragmented geopolitical environments characterized by subsidy races and industrial strategy competition, it is less persuasive. Nevertheless, the erosion of dispute settlement effectiveness since 2019 has increased the relative importance of transparency institutions. If enforcement weakens, monitoring becomes more—not less—critical. The future of the TPRM should therefore not be conceptualized as a substitute for adjudication but as a reinforced transparency infrastructure that:

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