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**Does the WTO Help Member States  
Clean Up?**

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# Does the WTO Help Member States Clean Up?

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**Susan Ariel Aaronson and M. Rodwan Abouharb**

**Abstract:**

The WTO says nothing about corruption. This paper uses qualitative and quantitative analysis to examine whether the GATT/WTO, without deliberate intent, helps nations improve governance and fight corruption. Under GATT/WTO rules, policymakers are obligated to act in an evenhanded manner, to facilitate transparent trade-related policymaking and to provide due process to such policymaking by allowing individuals to comment on and challenge trade related regulations before they are adopted. Evenhandedness, access to information, and due process are anticorruption counterweights. We hypothesized that we would see both qualitative and quantitative evidence of improvement in these government metrics among developing country WTO members, especially during the accession process. However, that is not what we found; instead our data shows members gradually improve governance.

## Does the WTO Help Member States Clean Up?

The GATT and the WTO comprise the international system of rules governing trade. Neither the GATT nor the WTO includes rules to address or reduce corruption per se.<sup>1</sup> However, member states have long used both the WTO and its predecessor agreement, the GATT, to improve governance in other countries.<sup>2</sup> They hold these states accountable with three mechanisms: the accession process, trade policy reviews, and ultimately, trade disputes.

Under WTO rules, policymakers are obligated to act in an evenhanded and predictable manner—so that all market actors are treated in an equivalent manner under trade rules. They also must provide market actors with access to information and to allow individuals to comment on and challenge trade related regulations before they are adopted (a form of due process). These obligations can be redefined as anticorruption counterweights<sup>3</sup> in that they bolster the ability of citizens to monitor their government and hold it accountable.<sup>4</sup> In attempting to improve governance for foreign market actors (the direct intent of WTO rules), membership in the WTO improves governance for domestic actors too.<sup>5</sup> In so doing, the WTO helps member states counter corruption (a spillover effect).

Corruption, which we define as the abuse of entrusted authority for illicit gain<sup>6</sup> is pervasive, hard to measure and damaging to economic growth.<sup>7</sup> Activists, scholars and policymakers now recognize that corruption is an outcome of inadequate governance. Thus, development practitioners increasingly focus their efforts on improving governance.<sup>8</sup> Herein we define good governance as “mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights...and

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<sup>1</sup> Kenneth W. Abbott, “Rule making in the WTO: Lessons from the Case of Bribery and Corruption,” *Journal of International Economic Law* (2001) 275-296.

<sup>2</sup> Members of the GATT agreed to create the WTO; it came into existence in 1995.

<sup>3</sup> See Transparency International, “National Integrity Systems: Country Studies,” [www.transparency.org/activities/nat\\_integ\\_systems/country\\_studies.html](http://www.transparency.org/activities/nat_integ_systems/country_studies.html); and Marianne Camerer, “Measuring Public Integrity,” *Journal of Democracy* 17:1 (2006); International Council on Human Rights Policy and Transparency International, “Integrating Human rights in the Anti-Corruption Agenda: Challenges, Possibilities, Opportunities,” 2010, pp. 7-8; and Daniel Kaufmann, “Back to Basics: Ten Myths about Governance and Corruption,” *Finance and Development*, September 2005, 43, 3, <http://www.imf.org/external/Pubs/FT/fandd/2005/09/basics.htm>

<sup>4</sup> Daniel Kaufman, *Myths and Realities of Governance and Corruption* (2005) [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=829244](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=829244) (Accessed October 6 2011); Martin Skladany, “Buying Our Way Out of Corruption: Performance-Based Incentive Bonuses for Developing Country Politicians and Bureaucrats,” *Yale Human Rights & Development Law* 12 (2009) 160-204.

<sup>5</sup> Susan A. Aaronson and M. Rodwan Abouharb “Unexpected Bedfellows: The GATT, the WTO and Some Democratic Rights,” *International Studies Quarterly* 55 (2011) 379–408

<sup>6</sup> Norad “Anti-Corruption Approaches: A Literature Review, Study 2, 2008, 12, 40, <http://www.norad.no/en/Tools+and+publications/Publications/Publication+Page?key=119213>.

<sup>7</sup> Daniel Lederman et al, “Accountability and corruption: Political Institutions Matter,” *World Bank working Paper* 2708 November (2001); and Paulo Mauro, “Corruption and Growth,” *Quarterly Journal of Economics* 110:3 (August 1994) 681-712.

<sup>8</sup> World Bank, *World Development Report “Building Institutions for Markets”* <http://web.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTWDRS/0,contentMDK:22295291~pagePK:478093~piPK:477627~theSitePK:477624,00.html> (2002) 19; Kaufmann 2005 (n7).

mediate their differences.”<sup>9</sup> Anti-corruption counterweights such as due process, evenhandedness and transparency are important elements of good governance. They are also norms of the GATT/WTO.<sup>10</sup>

Some scholars have asserted that developing countries use membership in the WTO to improve their governance (policy anchoring). The accession process allows member states to signal investors and traders that they are adopting good governance practices and signal their citizens that the government is accountable.<sup>11</sup> Acceding states can't join unless they can convince existing WTO members that they have improved their governance strategies.<sup>12</sup> Scholars such as Francois 1996; Bachetta and Drabek 2002; and Basu 2008 have stressed that anchoring occurs during the year(s) of accession.<sup>13</sup> These scholars have relied on metrics of governance developed by widely respected sources such as the World Bank and Freedom House. These broad metrics are based on expert surveys of policymakers, human rights and governance activists and business leaders. Analysts ask these experts a wide range of questions and then aggregate the answers into one numerical assessment of governance, which they then describe as broadly reflective of good governance. Thus, some scholars call these indices mash-ups.<sup>14</sup>

However, we believe these governance metrics may be too broad to examine how the WTO may influence governance. We argue that the WTO obligations members to adhere to three norms of good governance: even-handedness (nondiscrimination); access to information (transparency); and administrative due process (the ability to review, comment upon and challenge trade related policies).

We used metrics from Global Integrity (on due process and access to information), as well as statistics from the World Bank Doing Business Report (on evenhandedness- the degree to which individual states fairly and evenly enforce contracts within their borders). With these metrics, we can better explain **how membership affects governance as well as when** policy anchoring occurs.

We found that nations change their laws and policies to join the WTO, but they achieve measurable, albeit uneven governance improvements only **after** years of membership. Members reinforce both the norms and policies of good governance in the day to day workings of the WTO, although these mechanisms are not designed to monitor governance improvements per se. Moreover, because our data is not limited to governance in the trade regime but covers the polity as a whole, our empirical evidence provides partial support for our hypothesis that the norms of good governance promoted by the WTO transcend the trade sphere and affect the country's approach to governance in general.

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<sup>9</sup> United Nations Development Programme, “Governance for sustainable human development,” A UNDP policy document. <http://mirror.undp.org/magnet/policy/chapter1.htm> (1997)

<sup>10</sup> Krista Nadakavukaren Schefer, “Corruption and the WTO Legal System,” *Journal of World Trade* 43:4 (2009) 737-770; Ala'I, Padideh “The WTO and the Anti-Corruption Movement,” *Loyola University Chicago International Law Review* 6:1 (2008-2009) 259-278; Terry Collins-Williams and Robert Wolfe “Transparency as a trade policy tool: the WTO's cloudy windows,” *World Trade Review* 9 (2010) 551-581.

<sup>11</sup> Edward D. Mansfield, Helen V. Milner, and B. Peter Rosendorff “Why Democracies Cooperate More: Electoral Control and International Trade Agreements,” *International Organization* 56:3 (2002) 477-513.

<sup>12</sup> Marc Bacchetta, and Zdenek Drabek “Effects of WTO Accession on Policy-Making in Sovereign States: Preliminary lessons from the recent experience of transition countries,” *Staff Working Paper ERSD-2002-02*. Geneva: WTO (2002); Tang Man-Keung and Wei Shang-Jin (2006) “Is Bitter Medicine Good for You? The Economic Consequences of WTO/GATT Accessions,” IMF Conference on Trade Research Department, April 13. <http://www.imf.org/external/np/res/seminars/2006/trade04/tanwei.pdf> (Accessed February 2<sup>nd</sup> 2010)

<sup>13</sup> Peter Mandelson, “Russia, Its future and the WTO,” at the Joint Event Association of European Business (AEB) and the Russian Confederation of Business Industries (RSPP) [http://trade.ec.europa.eu/doclib/docs/2007/march/tradoc\\_133867.pdf](http://trade.ec.europa.eu/doclib/docs/2007/march/tradoc_133867.pdf)

<sup>14</sup> Martin Revaillon, “Mashup Indices of Development,” World Bank Policy Research Paper 5432, Sept. 2010, 10; and see Duncan Green, on the Oxfam GB web site, <http://www.oxfamblogs.org/fp2p/?p=3092>

We hypothesized that if policy anchoring is occurring when nations attempt to join the WTO, these acceding states should show dramatic improvements in good governance during the years of accession. However, if policy anchoring occurs during membership, we would see greater evidence of improvements in our metrics of governance for both new and longstanding members of the WTO.

Our analysis proceeds as follows. We begin by delineating the specific GATT/WTO norms of due process, evenhandedness and transparency. We next examine qualitative evidence of accession and trade policy reviews to see if member states alter their approaches to governance to foster due process, evenhandedness, and transparency. We then briefly summarize our quantitative findings, and conclude with a discussion of the implications of this research. This chapter is a shortened version of an upcoming article on the WTO and improved governance.

### **How does the WTO Improve Governance?**

The WTO Secretariat has long embraced the idea that good governance is a spillover of its efforts to promote open trade. WTO rules “reduce opportunities for corruption,” by regulating how and when governments can protect and by requiring transparency in trade regulation.<sup>15</sup> The section below delineates the specific WTO obligations that influence both the behavior of member states and market actors. We see these obligations as good governance norms. Specifically, the WTO requires that governments promote:

- ***Evenhandedness (also known as Nondiscrimination):*** Governments must not discriminate between foreign and domestic market actors (GATT’s MFN and national treatment obligations). Article III requires non-discrimination both in the letter of the law and in the manner in which laws are applied.<sup>16</sup> The WTO describes this as “treating other people equally.”<sup>17</sup>
- ***Transparency and access to information.*** The WTO says that transparency is essential to the functioning of the global trading system, and a means of enhancing legitimacy.<sup>18</sup> The WTO defines transparency as the ‘degree to which trade policies and practices, and the process by which they are established, are open and predictable.’ Transparency and access to information help make the WTO’s rules and processes accountable both to member states and their citizens. Governments must make trade related policies in a transparent manner and ensure market actors can be made aware of such provisions.<sup>19</sup> Transparency checks arbitrary or discriminatory policies or practices and provides market actors with the information they need to challenge trade related policies and decisions.
- ***Due Process:*** Governments must accord due process rights to market actors. GATT Article X: 3(b) requires each party to maintain “judicial, arbitral or administrative tribunals or procedures for the purpose...of the prompt review and correction of administrative action relating to customs matters. These tribunals must be independent...and allow importers to lodge appeals. Moreover, individuals with interests in investigations have a right to receive notice, to present written evidence...to

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<sup>15</sup> WTO, “Ten Benefits of the WTO,” 2008, [http://www.wto.org/english/res\\_e/doload\\_e/10b\\_e.pdf](http://www.wto.org/english/res_e/doload_e/10b_e.pdf)

<sup>16</sup> OECD, “Potential Anticorruption Effects of WTO Disciplines,” TD/TC (2000)3 Final, 2000, p. 6. r.

<sup>17</sup> [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact2\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm)

<sup>18</sup> Trade Policy Reviews, Ensuring Transparency,

[http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm11\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm11_e.htm); and “Lamy calls on global cooperation for the smooth flow of Trade,” [http://www.wto.org/english/news\\_e/sppl\\_e/sppl182\\_e.htm](http://www.wto.org/english/news_e/sppl_e/sppl182_e.htm)

<sup>19</sup> Article X.

challenge decisions and to seek judicial review.<sup>20</sup> These provisions set limits on what bureaucrats can do and how they do.<sup>21</sup>

If WTO members do not adhere to these three norms, other members are likely to name and shame them at their trade policy reviews. But public exposure may not change a member state's practices. Members of the WTO can challenge the behavior of another member state in a trade dispute if they can show that country is distorting trade. Trade disputes are costly, and thus they are rare. However, because they are binding, they are effective means to hold countries to account.

## **Our Contribution**

We argue that the diffusion of good governance norms through the WTO is both direct and indirect. When countries accede, they are directly prodded by other member states to make changes to ensure that their policies accord with WTO norms. We believe that as trade related good governance practices such as providing access to information or allowing challenges to trade regulation becomes "learned," officials may then act in a similar manner in other aspects of policymaking.<sup>22</sup> But the diffusion of good governance also empowers citizens. With rights to information and due process rights related to trade policymaking a growing number of people are learning how to influence and challenge their country's trade related policies. Here too diffusion is direct. Moreover, because trade today encompasses so many areas of governance, from tax to food safety, these same citizens may gradually learn to transfer the skills learned from influencing trade-related policies to other public issues.<sup>23</sup> In this indirect manner, good governance spills into the polity as a whole. Table I below summarizes this process.

(Insert Table 1 about Here)

Member states directly monitor performance regarding WTO rules and principles during trade policy reviews.<sup>24</sup> They use this process to hold other governments to account—lauding them for good behavior, criticizing them for bad behavior. During these reviews, the diffusion of norms is circuitous and gradual. Members may reject criticism. But if they do, they may be challenged in a trade dispute.

## **Qualitative Evidence**

### **Diffusion of Good governance: Accessions**

Members of the WTO use the accession process to influence the behavior of possible new members.<sup>25</sup> The current members must agree on the terms of membership for a new member; these terms

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<sup>20</sup> Steve Charnovitz "The WTO and the Rights of the Individual," *Intereconomics Review of European Economic Policy* 36:2 (2001) 98-108.

<sup>21</sup> Sylvia Ostry "China And The WTO: Transparency Issue," *UCLA Journal of International Law And Foreign Affairs* 3:1 (1998) 1-22.

<sup>22</sup>Beth A Simmons "International Law and State Behavior: Commitment and compliance in International Monetary Affairs," *American Political Science Review* 94:4 (2000) 819-835; Emily Hafner-Burton "Trading Human Rights: How Preferential Trade Agreements Influence Government Repression," *International Organization* 59:3 (2005) 593-629.

<sup>23</sup> Aaronson and Abouharb 2011 (fn 8)

<sup>24</sup> Tang and Wei 2006 (fn 20)

<sup>25</sup> WTO, "Membership, Alliances and Bureaucracy,"

[www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org3\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org3_e.htm); and Anna Lanoszka (2001) "WTO Accession Process: Negotiating Participation in a Globalizing Economy," *Journal of World Trade* 35 (4): 575-602.

differ for each country.<sup>26</sup> If two thirds of the members approve, the acceding country can ratify the agreement and then join the WTO.

Current members use the accession process to prod the potential members to take steps that increase transparency, and advance the rule of law. Potential members must also ensure that their legal system is evenhanded and effective; they govern in a transparent manner, and allow traders to influence and challenge trade policies.<sup>27</sup>

We reviewed working party reports and accession protocols for more than 25 accessions that took place from 1995-2011; we found countries promise and make significant changes to their governance systems before accession is approved.<sup>28</sup> For example, China, Vietnam, and Russia, made, amended or adopted innumerable laws, decrees, orders, regulations, decisions, and other measures to weave the WTO rules and its specific commitments into its domestic legal regime.<sup>29</sup> Both countries developed procedures for judicial review, uniform administration of rules, and policies to nullify laws that are inconsistent with WTO norms. They also were obligated to update their legal system and develop procedures to make this system more evenhanded, transparent, and accountable in order to meet the needs of foreign as well as domestic investors.<sup>30</sup> Georgia also promised to changes its legal system to conform to WTO rules, including the right to appeal administrative rulings on matters subject to WTO provisions.<sup>31</sup> Saudi Arabia and Nepal agreed to increase provisions for transparency and public comment.<sup>32</sup> Cambodia agreed to remake its judicial and administrative law systems, adding an appeals process. Working party member governments also reminded Cambodia that it was obliged to develop “mechanisms for publication and dissemination of draft legislation and standards for public comment; {and} the establishment of a TBT (technical barriers to trade) Inquiry point, where foreign and domestic producers could learn how to meet Cambodian standards.”<sup>33</sup> The representative of Jordan said that from the date of accession all laws, regulations, decrees, judicial decisions and administrative rulings of general application related to trade would be published in a manner that fulfills the WTO requirements.<sup>34</sup>

WTO member states were perhaps hardest on China, demanding that China improve the rule of law as a condition of accession.<sup>35</sup> China’s Protocol calls on China to ‘apply and administer in a uniform, impartial and reasonable manner all its laws, regulations and other measures of the central government as well as local

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<sup>26</sup> “How to Join the WTO: The Accession Process,”

[http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org3\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org3_e.htm).

<sup>27</sup> Bacchetta and Drabek 2002: 11 (fn 20)

<sup>28</sup> [http://www.wto.org/english/thewto\\_e/acc\\_e/completeacc\\_e.htm#sau](http://www.wto.org/english/thewto_e/acc_e/completeacc_e.htm#sau).

<sup>29</sup> On Russia, [http://www.ustr.gov/webfm\\_send/3482](http://www.ustr.gov/webfm_send/3482). On China, see

[http://www.ustr.gov/sites/default/files/uploads/reports/2010/NTE/2010\\_NTE\\_China\\_final.pdf](http://www.ustr.gov/sites/default/files/uploads/reports/2010/NTE/2010_NTE_China_final.pdf); On Vietnam,

[http://www.ustr.gov/archive/assets/Document\\_Library/Fact\\_Sheets/2006/asset\\_upload\\_file521\\_9445.pdf](http://www.ustr.gov/archive/assets/Document_Library/Fact_Sheets/2006/asset_upload_file521_9445.pdf)

<sup>30</sup> Julia Qa-Qin, “WTO Plus Obligations and their Implications for the World Trade Organization Legal system,” *Journal of World Trade* 37 (3), 2003, 483-522; and William P. Lane, “Trade in China’s Shadow? Intellectual Property Protection in Post-WTO Accession Russia,” 36 *Boston College International and Comparative Legal Review* 183 (2013),

<http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1694&context=iclr>

<sup>31</sup> WTO/ACC/GEO31, p. 8 (on due process) and 34 on transparency.

<sup>32</sup> Working Party on the Accession of Nepal, WT/ACC/NPL16.DOC , and Working Party on the Accession of Saudi Arabia, WT/ACC/SA-U/61.

<sup>33</sup> Working Party on the Accession of Cambodia, WT/ACC/KHM/21, 15 August 2003, p 25, #124

<sup>34</sup> WT/ACC/JOR/33WT/MIN (99)/9, 3 December 1999, on transparency; p. 238-240 and 10, 41 #40-41.

<sup>35</sup> Susan A. Aaronson “Seeping in Slowly: How Human Rights concerns are Penetrating the WTO,” *World Trade Review* 6:3 (2007) 413-449.

regulations, rules and other measures pertaining to or affecting trade.”<sup>36</sup> The agreement calls on China to ensure that “those laws, regulations and other measures pertaining to and affecting trade shall be enforced”<sup>37</sup>

Other member states and business leaders monitor China’s adherence to its WTO obligations.<sup>38</sup> While the US Government generally lauded China for meeting its obligations, it also concluded that parts of the Chinese government “had not yet fully embraced the key WTO principles of market access, non-discrimination and transparency, or the carefully negotiated conditions for China’s WTO accession designed to lead to significantly reduced levels of trade-distorting government policies.”<sup>39</sup> In 2011, the US China Business Council (USCBC) examined China’s adherence to its transparency commitments. It concluded China had “complied reasonably well,” but inconsistently.”<sup>40</sup>

Taken in sum, the accession process is forcing major changes not only in the laws of new member states, but also how nations govern. These changes include measures that enhance access to information, improve evenhandedness, and provide due process regarding trade related policymaking.<sup>41</sup> Over time, these reforms may give citizens in weak democracies or authoritarian regimes more opportunities to influence trade related policymaking.<sup>42</sup> In so doing, the WTO is helping countries create a feedback loop between the government and the governed on trade and trade related policies. Feedback loops can also promote greater accountability, a key anticorruption counterweight. The WTO actually argues this is a spillover effect of membership in the WTO.<sup>43</sup>

### **Indirect Diffusion: The Trade Policy Review Mechanism: TPRM**

Since 1989 (under GATT), member states have formally and publicly reviewed each other’s trade policies in trade policy reviews. The US, EU, China, and Japan are reviewed every 2 years, the next sixteen largest trade nations are reviewed every four years; and the remaining countries are reviewed every six years.<sup>44</sup>

Member states can use the review to name and shame countries that fail to meet their obligations for transparency, participatory governance and due process. The review meetings are not open to the public but they are made public on the WTO’s web site some six weeks after they occur. Therefore, citizens of WTO member states can use the review to gain broader insights into a country’s policies and circumstances, and they provide feedback to the reviewed country on its performance in the system.<sup>45</sup> Zahrnt argues that the

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<sup>36</sup> WTO, “Accession of the People’s Republic of China, Decision of 10 November 2001,” WT/L/432, (A), 1, 2.

<sup>37</sup> Wt/L/432, Sections (B), (C),3.

<sup>38</sup> For the EU see <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/countries/china/>; for the US see <http://www.ustr.gov/countries-regions/china>. [http://www.ustr.gov/webfm\\_send/2596](http://www.ustr.gov/webfm_send/2596)

<sup>39</sup> USTR, ,2010 Report to Congress on China’s compliance with its WTO Commitments, December 2010, pp. 1-5, [http://www.ustr.gov/webfm\\_send/2596](http://www.ustr.gov/webfm_send/2596)

<sup>40</sup> The US China Business Council, “PRC Transparency Tracking” April 2011, pp. 1-3, at [https://www.uschina.org/public/documents/2011/04/transparency\\_tracking.pdf](https://www.uschina.org/public/documents/2011/04/transparency_tracking.pdf)

<sup>41</sup> WTO Case Studies 30, 43, 44, at

[http://www.wto.org/english/res\\_e/booksp\\_e/casestudies\\_e/casestudies\\_e.htm](http://www.wto.org/english/res_e/booksp_e/casestudies_e/casestudies_e.htm)

<sup>42</sup> Aaronson and Abouharb 2011; Aaronson 2011)

<sup>43</sup> WTO Case Studies 30, 43, 44, at

[http://www.wto.org/english/res\\_e/booksp\\_e/casestudies\\_e/casestudies\\_e.htm](http://www.wto.org/english/res_e/booksp_e/casestudies_e/casestudies_e.htm)

<sup>44</sup> [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm11\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm11_e.htm).

<sup>45</sup> [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm11\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm11_e.htm).



TPR teaches the habits of good governance, because it “accustoms governments to tolerate reviews, stakeholders to contribute to the review process and the media to use the results.”<sup>46</sup>

We examined trade policy review documents for 24 countries. Our sample included a range of countries both developing and middle income countries that were relatively new members.<sup>47</sup> Costa Rica was the only country in our sample where these issues never came up. For these other countries, corruption and good governance issues came up frequently. The questioning did not only come from the behemoths of global trade—the US, the EU and China. Countries such as Colombia, Turkey and Chile also challenged how member states behaved under WTO rules.

In general, countries were asked how they made regulations transparent, how they encouraged foreign understanding of relevant policies, and how they responded to public comment.<sup>48</sup> Some countries such as Kyrgyzstan and Georgia were chided for unpredictable enforcement and unclear public policies.<sup>49</sup> Members often asked about policy transparency and evenhandedness, they less frequently mentioned the rule of law and judicial independence. Members sometimes disagreed on performance. Turkey was lauded by some countries for its openness and improved governance, although China and Japan said that Turkey was not transparent enough.<sup>50</sup> Not surprisingly, China received the most criticism and questioning. In its 2008 and 2010 TPR, members acknowledged that China had become more accountable, but most countries made it clear that they thought China remained complex, opaque and inadequately governed.<sup>51</sup>

Member states directly mentioned problems of corruption and strengthening the rule of law during the trade policy reviews of Ghana, Bangladesh, Philippines, Pakistan, Thailand, Kyrgyz Republic, Sri Lanka, Georgia, and the joint review of Tanzania, Kenya, and Uganda.<sup>52</sup> Jordan was also asked to discuss how it

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<sup>46</sup> Valentin Zahrnt “The WTO’s Trade Policy Review Mechanism: How to Create Political Will for Liberalization?” *ECIPE Working Paper No. 11* Brussels, Belgium (2009) 6.

<sup>47</sup> The sample of countries were the US, which joined in 1948 and is reviewed every two years (most recent 2010); Malaysia, which joined in 1947 and was reviewed in 2010; Jamaica, 1963, reviewed 2005; Turkey joined 1951, reviewed 2007; Slovenia, joined 1994, reviewed 2002; Costa Rica, joined 1990, reviewed 2007, Tanzania (1961), Kenya (1964), and Uganda (1962) reviewed in 2006; Brazil, joined 1948, reviewed 2007; China joined 2001, reviewed 2010; Bangladesh, joined 1972, reviewed 2006; Sri Lanka, joined 1948, reviewed 2010; Pakistan, joined 1948, reviewed 2008; Philippines, joined 1979, reviewed 2005; Argentina, joined 1967, reviewed 2007; Ghana joined 1957, reviewed 2008; Egypt joined 1970, reviewed 2005; Colombia joined 1981, reviewed 2006; Thailand, joined 1982, reviewed 2008; Mali, joined 1993; reviewed 2004; and Kyrgyz Republic, joined 1998, reviewed 2006.

<sup>48</sup> See Trade Policy Review Malaysia, WT/TPR/M/225/Add.1, pp. 13, 108, 137; Trade Policy Review, Jamaica, WT/TPR/M/139, Minutes of Meeting, p. 12, #47, Trade Policy Review, Turkey, “Minutes of Meeting, WT/TPR/M/192, #31, #47, 48; Trade Policy Review, Brazil, WT/TPR/M/212, # 113, p. 19; #125 and #128, p. 21; and Trade Policy Review, Bangladesh, WT/TPR/M/168

<sup>49</sup> Kyrgyz Republic, WT/TPR/M/170, #28, 29, p. 9; and Georgia, WT/TPR/M/206, 19 December 2008..

<sup>50</sup> WT/TPR/M/192, 32, 41, Japan, #47, China, #51; and Colombia, #285, p. 47.

<sup>51</sup> Trade Policy Review, China, Record of the Meeting, WT/TPR/M/230, quoting Secretariats’ report #124, p. 21, #66, p. 12 remarks of Brazil; #92, 16, Remarks of Norway; 187, p. 33, remarks of U.S.; Japan, #213, p. 37.

<sup>52</sup> As example, Bangladesh WT/TPR/M/168, #44, p. 11; Sri Lanka, Trade Policy Review, WT/TPR/M/237, #79, p. 17; and #187 and 188, p. 36; and Pakistan, WT/TPR/M/193, #68, 17; Georgia, WT/TPR/M/206, 19 December 2008, and Philippines, WT/TPR/M/149/Add.1, comments of Korea, Canada, #5, 6, pp. 6; and Ghana, Wt/TPR/M/194/Add.1., #19p. 30.

tackles corruption. The Jordanian representative responded that the Anti-Corruption Commission operates with neutrality, objectivity and independence.<sup>53</sup>

Taken in sum, members use the trade policy reviews to praise countries that have made governance progress and to name and shame countries that continue to have problems. They often discussed issues of transparency and evenhandedness and less frequently discussed due process. They chided some nations for corruption and inadequate governance and some countries even prodded other new members to encourage public participation. But trade policy reviews cannot force nations to live up to their accession or WTO agreement commitments. Hence while the trade policy review process is useful as a means of “outing” bad or inadequate behavior, it cannot stop such behavior. Moreover, members may talk about de jure policy changes, but such change may not yet result in facts on the ground—where citizens can consistently obtain information, challenge trade related policies, and monitor their government commitments. Nonetheless, our review of WTO documents showed some member states are pushing new member states to transmit WTO norms in areas of non-WTO competence—including advancing human rights or reducing corruption. As outlined in Table I, WTO norms are slowly diffusing into the polity as a whole in some countries some of the time. We see this slow and uneven diffusion in our qualitative results.

### **Brief Summary of our Quantative Results**

We do not have the space to fully delineate our research strategy and results, but readers can find our data at <http://www.ucl.ac.uk/spp/people/rodwan-abouharb>.

First we examined if the completed negotiating group of countries improved their performance on our narrow metrics of evenhandedness, nondiscrimination, and access to information in comparison to non members. We utilized feasible generalized least squares approach (StataCorp 2009: 154). In our second and third set of analyses we examine if new members as well as longstanding members in the GATT/WTO are associated with improved governance outcomes. In particular we examined if new members (those joining from 1996-2011)<sup>54</sup> showed improved performance on these metrics in comparison to all other states (including non-members and longstanding members). We then also examined if longstanding members of the GATT/WTO (those that joined before 1995) improved performance on these metrics in comparison to all other states (including non-members and new members). We utilized instrumental variables analysis to account for the possibility of an endogenous relationship between those countries are members of the GATT/WTO and better governance outcomes.

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<sup>53</sup> WT/TPR/M/206, 10 and 12 November 2008, Add 1 p. 7 Paragraph 17, and p. 7, paragraph 22.

<sup>54</sup> These included Albania, Armenia, Bulgaria, Cambodia, Cape Verde, China, Croatia, Ecuador, Estonia, FYR Macedonia, Georgia, Jordan, Kyrgyz Republic, Lithuania, Latvia, Moldova, Mongolia, Nepal, Oman, Panama, Saudi Arabia, Chinese Taipei, Tonga, Ukraine, and Viet Nam. Please note this sample is not the same as the sample we used in our qualitative review. We focused on these countries because they had sufficient data.

With our first two models, we found new WTO members perform significantly worse than non-members or longstanding members on our narrow metrics of due process and access to information. However, the third model shows that new members perform better on our narrow metric of evenhandedness. We believe this qualitative evidence is strongly supportive of our thesis that the WTO gradually helps nations improve their governance.

## **Conclusion**

The WTO governs trade, and doesn't directly address corruption. Yet we found considerable qualitative evidence that it is helping member states clean up. Before they accede, countries make major changes to their laws, regulations and behavior related to a wide range of trade and trade related policies from tax and competition policies to health and safety standards. New member states are required to adopt trade related policies, laws and institutions based on transparency, due process, and evenhandedness. Member states monitor these changes at trade policy reviews. During these reviews, trade officials ask questions about compliance with WTO norms in trade policymaking. But they also ask new members about strategies to reduce corruption, involve the public, and ensure evenhandedness. The trade policy reviews provide evidence that as outlined in Table I, norms of good governance are slowly diffusing into the polity in some countries some of the time.

As noted above, our quantitative evidence did not fully prove our hypothesis. New member states did not dramatically improve governance. Moreover, we found little quantitative evidence for policy anchoring during the accession process. In fact, we found little difference in performance on our metrics among nations between new members and nonmembers. We found members improve governance gradually and unevenly over time.

Readers understandably will ask how we explain the dissonance between our strong qualitative and mixed quantitative results. Our data may have measurement errors. Alternatively, it may be a learning problem. Nations take time to anchor to the WTO and occasionally nations may drift. Policymakers may lack capacity, funds, or will to effectively implement reforms. Business and governmental elites may resist change.

We also emphasize that the WTO cannot directly compel improved governance in the trade or domestic spheres.

Our findings suggest some new areas of research. Although our metrics closely track WTO norms, we could not find statistics that covered all WTO members for our period of review. We hope other scholars will work on more exact metrics of governance. In addition, we found that membership in the WTO did not yield consistent improvements for all three norms. We hope other scholars will tackle the question of when and how does the WTO improve governance.

**Table 1: The Direct and Spillover Effects of GATT/WTO Norms at the National Level**

<b>GATT WTO provision and its purpose</b>	<b>Policymaker obligation</b>	<b>Spillover Effects on policymakers</b>	<b>Examples of policies that must be established or improved</b>	<b>Spillover Effects on Market Actors and Citizens</b>
MFN and national treatment Articles I, III. <i>Designed to Prevent discrimination among market actors-domestic and foreign actors.</i>	Act in an evenhanded manner.	Policymakers learn to act in an even-handed manner related to trade. Policymakers should avoid bribes or favoritism.	Taxation Customs Agriculture Industrial policies Health, environment and safety regulations Investment regime State ownership and pricing policies. Authority of sub-governments Legal system	Market actors learn to expect nondiscrimination and evenhandedness May lead to better market allocation. Citizens may perceive government as fairer, and more responsive.
Transparency and access to information Article X <i>Provide clarity and certainty to trade.</i>	Act in a transparent manner. Be responsive to public questions.	Policymakers learn to act in the sunshine. May create feedback loop and lead to better public policies.	Same as above	Citizens gain information to assess and influence government decisions and ensure greater responsiveness to public concerns. Citizens learn who to ask about decisions and how to seek redress. May lead to public questioning of policy directions.
Due process Article X. <i>Allows foreign and domestic market actors to comment on and trade related regulatory changes.</i>	Act in an accountable manner. Accept public challenge and questioning.	Policymakers learn to interact with and listen to constituents. Government learns to read markets.	Same as above and administrative/judicial review	Citizens gradually learn how to challenge government. Market actors may be more willing to take risk if they can challenge policy decisions.