DRAFT

# Did the protectionist dog bark?
# Transparency, accountability, and the WTO during the global crisis

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Gregory: "Is there any other point to which you would wish to draw my attention?"
Holmes: "To the curious incident of the dog in the night-time."
Gregory: "The dog did nothing in the night-time."
Holmes: "That was the curious incident."
- Arthur Conan Doyle, *Silver Blaze* (1892)

When the full force of the global financial crisis was first felt, the press on both sides of the Atlantic worried about an outbreak of protectionism. With trade falling off a cliff between the third quarter of 2008 and the first quarter of 2009, the fear was that as in the Great Depressions of the 1870s and the 1930s, beggar-thy-neighbour policies would inevitably spread. The bank bail outs increased the fears, as did the election of an American President from a party thought to be unfriendly to free trade. Buy-local provisions in many stimulus packages were also frightening harbingers. Yet in this dark night of the global economy, the protectionist dog did not bark.

Were the fears over-blown? After falling 12.2% in 2009, the WTO Secretariat expects trade to grow 9.5% in 2010. Economists are still debating the cause of the collapse in trade and the subsequent recovery, but none blame the trading system (Baldwin, 2009). In contrast, whether the curious incident of an absence of protectionism is due to the trading regime has received less attention. This part of the story is susceptible to institutional analysis.

At the outset of the crisis, WTO Director-General Pascal Lamy proposed what he called a “radar picture” of new trade measures. Better he thought to have an open discussion of all the new subsidies for factories and banks in the Trade Policy Review Body than risk a flurry of acrimonious disputes that would be a distraction for the WTO and damaging to public support for multilateral trade rules. G-20 leaders at their April 2009 Summit in London supported such efforts to use transparency as a tool to ward off the dangers of protectionism in any domestic policy actions (G-20, 2009). Leaders promised that “we will notify promptly the WTO of any such measures and we call on the WTO, together with other international bodies, within their respective mandates, to monitor and report publicly on our adherence to these undertakings on a quarterly basis.” This commitment first made in Washington in November 2008 was repeated in Pittsburg in September 2009.

These commitments notwithstanding, many economists and journalists have been listening hard for the dog, and some are certain that they have heard it barking. The international organizations charged by G20 leaders with monitoring protectionism admit that all they can hear has been a puppy whimpering, but they still worry that it could grow up into a big nasty beast. *Causal* explanation of a dog not barking is hard, as are predictions of what might happen if the global crisis deepens. It is *possible*, however, that the regime itself, and the high quality information about the actions of Members that it provided, may have contributed to a more benign response to the crisis than first feared.

In Section 2, I outline a theoretical context in which to place differing expectations about the political response to the economic crisis. Section 3 provides a context for transparency and accountability in the trade regime, while Section 4 describes the promises made by G20 Leaders. How the official mechanisms of the regime monitored these promises is described in Section 5, and Section 6 considers whether independent assessment might contribute to greater accountability for policy promises, using the example of the Global Trade Alert. Section 7 concludes by drawing the implications of the dog not barking.

*2. Theoretical expectations about protectionism in the crisis*

Hard times provoke fractious domestic politics, but are the international spillovers moderated by global institutions, or does global order come under pressure? The WTO should be most useful in hard times, but the people who expected least from the institutions of the trading system were the ones who were most worried about the protectionist dog. These worries about protectionism were based on expectations derived from implicit theoretical models about the political response to economic disruption. These models can be organized into three sets of expectations about the trading system. The first two attempt to be causal; the third is a "how possible" or constitutive argument about conditions that are necessary but not sufficient for action.[1]

In the first set of models are international relations approaches that stress the salience of power or material interests. If multilateral economic institutions are worthy of any attention, such analysts will look outside the process for an explanation of deadlock or agreement. Outcomes are then explained by such *exogenous* structural factors as the identifiable economic interests of participants or their domestic industries, or by the general political, security, or economic context. These models expect protectionism; they also expect that the institutions of the trading system are not effective.

Economists debate whether the increasing scope of trade institutions in the second half of the twentieth century made a difference to the simultaneous growth in trade (USITC, 2003). Some think that membership in the WTO does not make much difference (Rose, 2002; Rose, 2005). China and Vietnam have had extraordinary growth in trade, yet they were not formally bound by the law of the trading system, nor were others bound to apply it to them. Others conclude that the GATT/WTO has done a splendid job of promoting trade wherever it was designed to do so and correspondingly failed to promote trade where the design of rules militated against it. The WTO has served to increase industrial country imports substantially, but it has done a less good job of increasing the imports of developing countries because developing countries were essentially exempted from the system (Subramanian and Wei, 2003; see also Goldstein, Rivers and Tomz, 2007; for a review of the issues, see WTO, 2007). One side of this debate would expect that the global crisis would lead to a rise in protectionism that the institutions of the regime would be powerless to stop. The other side thought an important response to the crisis would be to accelerate efforts to close the lengthy Doha Development Agenda, the round of negotiations launched in 2001 and stalled since July 2008.

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[1] Constructivists are found on both sides of this fluid distinction—see (Klotz and Lynch, 2007), 13, as are the varieties of new institutionalist approaches—see (Schmidt, 2010). This section is based on (Wolfe, 2010a).

When Jagdish Bhagwati sounded the alarm in the Financial Times (January 8, 2009) about the trade policy inclinations of the new team in Washington, he claimed that history shows that the freeing of trade is nearly impossible to achieve in times of macroeconomic crisis. This familiar claim faces empirical and analytic difficulties, however, because history shows no such thing, at least in the global trading system. The Kennedy Round was conducted during the dollar crisis of the 1960s, the Tokyo Round was framed by the two oil shocks of the 1970s, and the Uruguay Round carried on despite the recession of the early 1990s. If one were to model the claim, one would have to show how say unemployment, GDP growth, or inflation affected individuals, and how that affected their support for policies or politicians. Many authors show that macroeconomic conditions—exchange rates and unemployment—affect the propensity to initiate an antidumping investigation (Knetter and Prusa, 2003; Feinberg, 1989; Irwin, 2005), and some work correlates unemployment and inflation with movements in a tariff time series, but no formal theories of endogenous protection feature unemployment or the business cycle (Gawande and Krishna, 2003; see also Bohara and Kaempfer, 1991; Lohmann and O'Halloran, 1994; Grossman and Helpman, 1995b; Grossman and Helpman, 1995a; and Balistreri, 1994). The worries about a rise in protectionism, therefore, were based more on pessimism about institutions and on memories of the 1930s than on robust economic models.

The second set of models attributes outcomes to factors inside or *endogenous* to the system. In these *bargaining* models, something about the process is significant to the outcome. The WTO matters in these models, but it is often seen as little more than a set of “enforceable” agreements with a coercive dispute settlement system. The mutual obligations of WTO Members to each other are often understood as “binding” and “legal” in themselves, as if calling something “law” ensures that life will follow the prescribed course. Public administration is rarely so simple, and trade policy never is. In these models the system only has bite if Members launch disputes. The response to the crisis ought to be puzzling, therefore, because only 14 new complaints were filed in the WTO dispute settlement system in 2009, many concerning the operation of trade remedy, bringing the total since the inception of the WTO to 402 (Leitner and Lester, 2010). But perhaps the dispute settlement system is a poor indicator for these models, since it might be less useful for one-off breaches of the rules (measures in response to the crisis) than for long standing violations (Ripinsky, 2009) or because developing countries lack the information and analytic capacity to use dispute settlement to challenge discriminatory measures (Bown, 2010). When we look at the other ways in which the WTO manages conflict in the system, however, we see that all the usual WTO discussion of notifications continued during the crisis, and committees were able to have explicit discussions of crisis measures. For example, on many occasions during 2009, the U.S. faced questions about the Buy America provisions of its stimulus package in the Committee on Government Procurement—provisions, incidentally, that were explicitly designed to be consistent with the limited obligations imposed by the Agreement.

This observation is consistent with a third set of models, based on endogenous process. In these models, courts are one of many social institutions for making collective decisions, not a uniquely authoritative site for determining what is legal (Wolfe, 2005). In these models, something happens within the process that alters either the understanding of themselves and their interests or preferences that participants brought to the table; or how they understand the nature of social reality in the domain. Such *arguing* models privilege agency over structure and assume that regardless of conditions in the world economy, or the wax and wane of domestic coalitions, the "outcome" of any multilateral process is neither inevitable nor necessarily as salient as the continuous process of policy and institutional change influenced (if not necessarily determined) by endogenous interaction and deliberation. Basing myself on such models, I argue that the Doha Round stalled before the crisis was fully apparent, for reasons that have more to do with factors internal to the negotiations—see (Wolfe, 2010a; Wolfe, 2010b). This set of models would expect that the institutions of the trading system would help to moderate or prevent the possibility of a response to the crisis inconsistent with the norms and practices of the regime. That the dog did not bark would be attributed to efforts to strengthen the system with additional transparency and accountability.

*3. Transparency and accountability in the trade regime*

The G20 leaders as described more fully below promised to refrain from protectionism, consistent with regime norms. In order to hold themselves accountable, a new development, they promised to notify all measures taken in response to the crisis, to have their actions monitored by international organizations, and to publish the results. This sense of accountability as closing the gap between commitments and action depends on transparency.

One reason international regimes are said to exist is to supply the demand for high-quality information about the parties to an international bargain. Regimes are said to collect information either to evaluate their own performance or to evaluate the performance of individual parties (Mitchell, 1998, 113). One way in which trade agreements make a difference to economic activity is by reducing uncertainty about policy both for trading partners and economic actors. Under conditions of "imperfect information", everybody would be better off if partners reduce their asymmetrical information about each other: transparency can provide reassurance for governments about what trading partners are doing. The crisis monitoring exercise had a number of novel elements, but it was rooted in two aspects of WTO transparency: notification, the basis of providing information, or "first generation" transparency; and the possibilities to affect behavioural change through the use made of the information, or "second generation" transparency.[2] Table 1 shows the great variety of notification requirements in the WTO.

The second aspect of WTO transparency is monitoring and surveillance—the principles are described in Table 2. The first principle is general clarity in domestic trade policy, the purpose of the Trade Policy Review Mechanism (TPRM), which aims at "achieving greater transparency in, and understanding of, the trade policies and practices of Members." The behavioral assumption is that illumination can change policy. If they understand the obstacles in a given market, economic actors can make alternative decisions, which might induce the government to change policy to maintain the benefits of investment. Illumination might also generate political pressure for change. Discussion in the Trade Policy Review Body (TPRB) is based on major reports written by the Secretariat and the Member (Ghosh, 2010). The Director-General also reports once a year on the state of the trading system (WTO, 2009a). The TPRM is not meant to be part of the dispute settlement system: the reports provide a commentary, but the TPRM is explicitly

[2] This distinction is based on (Fung, Graham and Weil, 2007: 25). This section draws on (Collins-Williams and Wolfe, 2010).

not allowed to interpret the rules. The crisis monitoring mechanism was rooted in the TPRB, with limited capacity for discussion, or peer review.

*Table 1 Types of WTO notifications*[3]

| **A. Self-reporting** | **information provided by an actor on its own behavior** |
|---|---|
| a. "one time only" | Notification of laws, regulations or other measures implementing WTO obligations at a time specified in the agreement |
| b. Ad hoc | Some notifications are required when Members take or propose to take certain actions—e.g. SPS, TBT |
| c. regular or periodic | Many agreements have semi-annual, annual, biennial, or triennial reporting requirements |
| **B. Other-reporting** | **information provided by an actor on other actors' behavior** |
| d. Cross-notification | Many agreements allow Members to notify measures that they think a trading partner should have notified |
| e. Dispute settlement | The formal complaint that launches a dispute is a form of notification |
| f. Third parties | Limited provisions for the Secretariat to notify a measure that comes to its attention through third parties—e.g. from press reports, NGOs, or think tanks |

*Table 2 Principal WTO monitoring and surveillance provisions*

| **Principle** | **Examples** | **Behavioral assumption** |
|---|---|---|
| 1. General clarity in domestic trade policy | Trade Policy Review Mechanism | Illumination can change policy:<br>• economic actors make alternative decisions;<br>• government changes policy to maintain benefits of investment |
| 2. Peer review ("active transparency") | Review of notifications in a Committee; "specific trade concerns" in SPS/TBT | Trade ministers may:<br>• provide more information<br>• change policy<br>• pressure other units of government |
| 3. Third party adjudication | Dispute settlement system | Decisions are "legally binding" |

An important dimension of transparency and accountability is being clear on the nature of the promise. Aspirational targets (a commitment to finishing the Doha Round) are harder to assess than commitments to provide a specified dollar amount of development assistance. Accountability to mandate is also harder to assess than accountability to commitment. Even so, compliance with formal WTO notification obligations varies between agreements, with notification and surveillance of subsidies in the *Agreement on Subsidies and Countervailing*

[3] Adapted from (WTO, 1996; Mitchell, 1998: 116).

*Measures* (ASCM) notoriously weaker than is the case for technical standards. Notification is more complete, and more useful for accountability, when the requirement is based not on the needs of sound policy but on precise provisions with well-understood trade effects, as is the case in the *Agreement on Agriculture*. The "Aggregate Measurement of Support" (AMS) is not based on the expansive definition of subsidies in the OECD's "Producer Subsidy Equivalent" (PSE), which captures all forms of officially sanctioned or provided support to agriculture, although both make use of the same underlying national data. The WTO obligation is aimed at disciplining production and trade distorting support through the AMS commitment, rather than analyzing total support to agriculture, as in the PSE. Members can only be accountable for promises to notify and reduce their AMS, on which they do a reasonable job; they have implicitly refused to be accountable for the trade distortions captured in the PSE.

*4. Leaders make promises*

One of the early response to the crisis was to convene a meeting of the established G20 Finance Ministers at the level of Leaders. The origin matters, because it meant that the preparatory process and communiqué drafting was done by treasury officials not trade negotiators. As a result, one paragraph of 132 words is devoted to trade in a document of 3,629 words on what was seen as a financial not a trade crisis, and that paragraph is hard to parse. In the Washington declaration (November 2008) Leaders said:

> 13. We underscore the critical importance of rejecting protectionism and not turning inward in times of financial uncertainty. In this regard, within the next 12 months, *we will refrain from raising **new** barriers to investment or to trade in goods and services, imposing **new** export restrictions, or implementing World Trade Organization (WTO) inconsistent measures to stimulate exports.* Further, we shall **strive** to reach agreement this year on modalities that leads to a successful conclusion to the WTO's Doha Development Agenda with an ambitious and balanced outcome. (G20, 2008)

The language at their second meeting in London (April 2009) goes further:

> We will not repeat the historic mistakes of protectionism of previous eras. To this end:
> - we reaffirm the commitment made in Washington: to refrain from raising new barriers to investment or to trade in goods and services, imposing new export restrictions, or implementing World Trade Organisation (WTO) inconsistent measures to stimulate exports. In addition we will rectify promptly any such measures. We extend this pledge to the end of 2010;
> - *we will minimise any negative impact* on trade and investment *of our domestic policy actions* including fiscal policy and action in support of the financial sector. We will not retreat into financial protectionism, particularly measures that constrain worldwide capital flows, especially to developing countries;
> - *we will notify promptly the WTO* of any such measures and we call on the WTO, together with other international bodies, within their respective mandates, *to monitor and report publicly on our adherence to these undertakings* on a quarterly basis… (G-20, 2009).

These promises to be good are a re-commitment to regime norms, with a call for new transparency mechanisms allowing accountability in the sense of closing the gap between what is committed or promised, and what is actually accomplished. The trade accountability test for the G-20 countries therefore seems to be, did they:

1. resist protectionism and strive to finish the Doha Round
2. refrain from new barriers, export restrictions, or WTO-inconsistent measures
3. minimize negative impact on trade and investment of stimulus measures
4. notify promptly
5. let international organizations monitor
6. report publicly

As we will see, this accountability test is not so simple. The first commitment is aspirational, with success in the eye of the beholder. The second lacks precision, and only WTO Members can decide in the relevant Committee or in the dispute settlement system if a measure is inconsistent with a Member's obligations. The third lacks consensual understanding among WTO Members on the analytic techniques to be used, and economic models are not conclusive on whether domestic spending is good for trade, overall. The fourth as we will see below is also ambiguous—how much notification is enough? And have governments provided sufficient information to let the international organizations monitor effectively? Only the last is unambiguous: the international organizations have published the requested reports.

*5. What the monitoring reports found*

The first accountability question is, did the G20 countries keep their promise to notify? The WTO Secretariat has so far prepared five crisis monitoring reports, three on its own in 2009 on the authority of the Director-General, and two joint reports in response to the G20 request, the last in March 2010 (WTO, 2010). The reports draw on the routine self-reporting described in Table 1 above, but also on a novel notification flowing from the G20 commitment to notify policy responses to the crisis. The reports also draw on other-reporting, with the novelty of a Secretariat process of verification—the reports are explicit on the source for every reported measure, and on whether it had been verified by the Member concerned.

Tables 3 and 5 amalgamate the findings of four of these reports. The sources for verified items have been broken down into three main categories: items notified directly to the WTO Secretariat by a country's Permanent Delegation; items the Secretariat has extracted from regular WTO notification documents; and measures that the Secretariat has identified through other sources such as government orders and resolutions, press reports and council and commission decisions from the EU.

*Table 3 Trade and trade-related measures during the crisis*[4]

| | TPRB (Apr 09) | TPRB (Jul 09) | Joint Report (Aug 09) | Joint Report (Mar 10) | Total |
|---|---|---|---|---|---|
| **Verified measures by Source** | | | | | |
| Permanent Delegation to WTO | 58 | 49 | 59 | 68 | 234 |
| *Unique Delegations notifying (G20)* | 18 | 18 | 12 | 10 | 25 (13) |
| WTO Notification Documents Total | 11 | 14 | 12 | 20 | 57 |
| *Unique Members notifying (G20)* | 9 | 7 | 5 | 6 | 16 (8) |
| Other sources | 21 | 9 | 22 | 46 | 98 |
| **Total** | **90** | **72** | **93** | **134** | **389** |
| **WTO Notification Documents (57) by Topic** | | | | | |
| *Anti-dumping* | 1 | 0 | 0 | 3 | 4 |
| *Balance of Payments* | 2 | 1 | 0 | 0 | 3 |
| *Import Licensing* | 0 | 1 | 1 | 1 | 3 |
| *Market Access* | 1 | 0 | 0 | 0 | 1 |
| *Safeguards* | 5 | 12 | 11 | 16 | 44 |
| *SCM* | 0 | 0 | 0 | 0 | 0 |
| *Services* | 0 | 0 | 0 | 0 | 0 |
| *SPS/TBT* | 1 | 0 | 0 | 0 | 1 |
| *Trade Remedy* | 0 | 0 | 0 | 0 | 0 |
| *WGTDF* | 1 | 0 | 0 | 0 | 1 |
| | | | | | |
| **Non-Verified Items** | | | | | |
| Press sources | 13 | 38 | 12 | 1 | 64 |

[4] This table was compiled by Andrew Grosvenor from Annex 1 of the TBRB and Joint Reports prepared by the WTO secretariat.

Table 3 is based on the measures reported in Annex 1 of the joint reports, involving Trade and Trade-related Measures that would seem to cover the commitment "to refrain from raising new barriers to investment or to trade in goods and services, imposing new export restrictions, or implementing World Trade Organisation (WTO) inconsistent measures to stimulate exports." This table is based on notifications from 25 unique Permanent Delegations, 13 of which were G20 countries, including the EU reporting on behalf of all its Members. Japan and Saudi Arabia did not report. The Secretariat also drew on notifications in WTO documents from 16 unique Members, 8 of which were G20 countries. Table 3 also notes the number of unique Permanent Delegations that appear in each report and the total number of Permanent Delegations appearing in all four reports. The regular non-crisis related notification documents have been broken down according to the trade topic at issue. The Table also notes the total number of non-verified items in each report, and the cumulative total.

Many but not all G20 countries seem to have met their commitment to notify trade measures, and to have the international organizations publish the results, but does the information fully address the commitment to "refrain" from new such measures? The measures covered in Table 3 include tariff increases, but usually not in excess of a Members' bound ceiling. New anti-dumping investigations, usually initiated in response to a private complaint, can be an indicator of protectionism, but the Secretariat found that they declined from 193 in 2008 to 152 in 2009. Some research suggests that trade institutions helped to restrain resort to antidumping (VanGrasstek, 2009). New countervailing duty and safeguard investigations are also an indicator. While they increased in 2009 (from 8 to 26 for countervail, and from 5 to 12 for safeguards), the numbers are still low. The report also notes that 75 "specific trade concerns" were raised in the Technical Barriers to Trade committee, up from 57 in 2008, but that may be due normal operation of the agreement. The Secretariat narrative reports some trade policy "slippage", meaning an increase in measures that could be judged protectionist, including by most of the G20 countries. But overall the response to the crisis has been muted. As Table 4 shows, overall the measures taken seem to have covered a small portion of trade, and may have had an even smaller effect on trade flows.

*Table 4 Joint Report assessment: Share of trade covered by G20 import-restricting measures*[5]
(Per cent)

| | **10/2008 to 10/2009** | **9/2009 to 2/2010** |
|---|---|---|
| Share in total world imports | 0.8 | 0.4 |
| Share in total G20 imports | 1.3 | 0.7 |

What then of the commitment to "minimise any negative impact on trade and investment of our domestic policy actions". Table 5 summarizes items from Annexes 2 and 3 involving Stimulus Measures, and Measures for Financial Institutions respectively. Here the record of notification is weaker. On stimulus measures only 12 G20 countries reported—France, Germany, Italy, Mexico, Saudi Arabia, South Africa, and the United Kingdom did not report. Only 10 G20 countries reported measures taken in favor of financial institutions—Argentina, France,

[5] (WTO, 2010)

*Table 5 Stimulus measures and support to financial institutions*[6]

| | TPRB (Apr 09) | TPRB (Jul 09) | Joint Report (Aug 09) | Joint Report (Mar 10) | Total |
|---|---|---|---|---|---|
| **General Economic Stimulus Measures** | | | | | |
| **Verified Items by Source** | | | | | |
| Permanent Delegation to WTO | 27 | 24 | 20 | 11 | 82 |
| *Unique Delegations notifying (G20)* | 17 | 14 | 8 | 7 | 26 (12) |
| Other sources | 16 | 19 | 39 | 23 | 97 |
| **Total** | **43** | **43** | **59** | **34** | **179** |
| **Non-Verified Items** | | | | | |
| Press sources | 10 | 20 | 3 | 3 | 36 |
| | | | | | |
| **Measures for Financial Institutions** | | | | | |
| **Verified Items by Source** | | | | | |
| Permanent Delegation to WTO | 20 | 29 | 2 | 2 | 53 |
| *Unique Delegations notifying (G20)* | 13 | 13 | 2 | 2 | 20 (10) |
| WTO Notification Documents Total | 0 | 5 | 0 | 0 | 5 |
| *Unique Countries notifying (G20)* | 0 | 4 | 0 | 0 | 4 (1) |
| Other sources | 43 | 23 | 32 | 38 | 136 |
| **Total** | **63** | **57** | **34** | **40** | **194** |
| | | | | | |
| **Non-Verified Items** | | | | | |
| Press sources | 0 | 5 | 0 | 0 | 5 |

[6] This table was compiled by Andrew Grosvenor from Annexes 2 and 3 of the TBRB and Joint Reports prepared by the WTO secretariat.

Germany, India, Indonesia, Italy, Saudi Arabia, South Africa, and the United Kingdom did not report. In its narrative, the Secretariat notes concerns about elements of stimulus packages, including subsidies and local content requirements, but it concludes that insufficient information about program design and implementation exists to be able to determine their potentially discriminatory impact on trade and investment. Nevertheless, the under-reporting shown in Table 5 troubles many developing countries, who believe bailouts can have an unfair protectionist effect by helping industries in states that can afford them. Developed countries have resisted further examination of such measures, with some support from the Secretariat, who observe

> … Many WTO Members have requested more in-depth analysis of the trade effects of these stimulus programmes. Very few of their details have been notified to the WTO so that there is limited reliable information available on how they are being implemented. Also, the exceptional economic circumstances in which the programmes were introduced mean that there is no general model to analyse the trade effects of their components parts in isolation from the broad macro-economic effects of the programmes themselves. If financial rescue packages had not been provided in Europe and North America, for example, it is not clear whether competing financial service suppliers in other countries would have been presented with profitable new investment opportunities in those markets that were suddenly left under-supplied, or whether they would have been submerged in a meltdown of the global financial system.

One would expect transparency and accountability for these novel subsidies to be worse than for those covered by the ASCM, and they are. This is an instance of the PSE problem alluded to above: economic models are limited in their analysis of the new fiscal activism, and many of the measures would seem to fall into areas beyond the scope of WTO rules. In the absence of agreement on something like the Aggregate Measurement of Support that would capture the totality of domestic support that might harm foreign commercial interests, data is hard to obtain, and to interpret. As has been seen in the Doha Round negotiations, until Members have reached a consensual understanding of cause and effect relations in a domain, action is impossible (Wolfe, 2010a).

*6. The problem of accountability*

The conclusion so far is that G20 countries have been accountable for their commitments in varying degree depending on how well understood the measures are, but we only know that because international organizations they control have told us so. The reports may miss many measures, especially in stimulus programs, and they gloss over the commitment to refrain from WTO-inconsistent measures. The paucity of new disputes, and of other indicators of conflict within the WTO, suggest that Members are not overly concerned on this last point. The official reports do not assess G20 accountability for this commitment, however, because they are written by the Secretariat, not Members, and because they are prepared under the auspices of the Trade Policy review Body. Consistent with the mandate of the TPRB, the reports carried the explicit caveat that they were issued under the responsibility of the Director-General, with no "legal implication with respect to the conformity of any measure noted in the report with any WTO

Agreement or any provision thereof.” At no point in the reports are measures explicitly labelled as protectionist, nor are any specific countries highlighted for taking action contrary to trade rules. This reticence might not matter if the data required were more objective, or if they had been collected for another purpose, as in the case of the OECD Development Assistance Committee (DAC) data used for the G8 accountability report to the Muskoka Summit. For these reasons, a role might exist for independent third party assessment of the accountability of governments, a role NGOs often assume for themselves. Such an entity did undertake to monitor G20 trade commitments, but its actions raise more questions about the models and the accountability of NGOs than about the actions of governments.

The Global Trade Alert (GTA) is an independent group of analysts whose well-financed and sophisticated website has an extensive and searchable database of measures taken in response to the crisis. GTA collects data from a variety of sources. Before posting to the database, its accuracy is verified by their small panel of experts. Their behavioral assumption, as articulated by the project leader, is that “the most practical approach to resisting protectionism is to combine peer pressure with high-quality, current information about state measures and their actual or potential effects on foreign commercial interests. Governments, the media, and civil society are the key sources of the former; the job of Global Trade Alert and other monitoring exercises is to provide the latter (Evenett, 2009c, 1).” In doing so, “GTA seeks to inform debate and will not engage in naming-and shaming; others can judge (Evenett, 2009d, 607).”

The group’s initial hypothesis was pessimistic, as evident in the titles of their reports summarized in Table 6. Consistent with the first set of models above, they expected the protectionist dog to bark, and what they found was wholesale “broken promises”. The tone is alarmist, with such section headings as “The protectionist juggernaut continues”, “The serial violation of the G20 pledge”, and “The harm done by discriminatory state measures is widespread.” The basis for these claims is the count of the number of measures found in the GTA database. The claims can only be justified by showing a) that the measures are inconsistent with the G20 promises, and b) that the measures cause harm. The GTA fails both tests. The reports even miss their own commitment to avoid “naming and shaming.” Unlike the WTO Secretariat, the GTA chose to categorize measures, with criteria based on their potential for discrimination. *Green alerts* are measures that because they increase liberalization, do not discriminate, or improve the transparency of a given country’s trade-policies are flagged as beneficial or at the least neutral for international trade. *Amber alerts* are either implemented measures that may involve discrimination against foreign trade, or announced measures that if implemented would be discriminatory. *Red alerts*, the most common, are measures that have been implemented and are known to discriminate against international trade (Evenett, 2009b).

The results summarized in Table 6 are impressive, at first glance. The GTA conclusion that protectionism increased during the crisis was widely reported in the world’s financial press. And yet, does the GTA increase the accountability of the WTO process, and is the GTA itself accountable? The GTA analysts chose to operationalize the G20 commitment as meaning simply a commitment to refrain from measures that discriminate against a foreign commercial interest, a defensible decision that might contribute to good policy, but a decision that is inconsistent with the actual G20 commitment as described in Section 4.

*Table 6 Summary of Global Trade Alert data on measures taken during the financial crisis*[7]

| | GTA - Broken Promises (Sep 09) | GTA - Unrelenting Pressure of Protectionism (Dec 09) | GTA - Will Stabilisation Limit Protectionism? (Feb 10) |
|---|---|---|---|
| **Items Reported** | | | |
| G20 Countries | 172 | 253 | 306 |
| *Green Alerts* | 27 | 37 | 48 |
| *Amber Alerts* | 24 | 32 | 38 |
| *Red Alerts* | 121 | 184 | 220 |
| | | | |
| Other Countries | 108 | 152 | 187 |
| *Green Alerts* | 13 | 15 | 18 |
| *Amber Alerts* | 24 | 24 | 24 |
| *Red Alerts* | 71 | 113 | 85 |
| | | | |
| **Total** | **280** | **405** | **493** |
| *TOTAL Green Alerts* | **40** | **52** | **66** |
| *TOTAL Amber Alerts* | **48** | **56** | **62** |
| *TOTAL Red Alerts* | **192** | **297** | **305** |
| | | | |
| **Items by Type** | | | |
| *AD/CVD/Safeguard* | 50 | 87 | 98 |
| *Bail out* | 66 | 106 | 144 |
| *Export Subsidy* | 11 | 16 | 16 |
| *Export Taxes* | 14 | 16 | 18 |
| *Import Ban* | 6 | 8 | 9 |
| *Migration Measure* | 10 | 10 | 17 |
| *Non-tariff Barrier* | 17 | 20 | 22 |
| *Public Procurement* | 16 | 18 | 25 |
| *SPS* | 11 | 12 | 12 |
| *Tariff Measure* | 60 | 83 | 93 |

Indeed the GTA slides more toward an assessment of what their small group of analysts think governments ought to have done in the crisis, as opposed to consideration of what governments promised to do. In their categorization of whether a measure is a "broken promise", the GTA paid no attention to whether the measure was WTO-consistent, thereby including legal antidumping investigations and tariff increases within WTO bindings. Such measures may or may not be protectionist, but they are hardly inconsistent with G20 promises. The trade or trade-

[7] This table was compiled by Andrew Grosvenor. Data is cumulative across three GTA reports. The fifth report finds more measures, but the pattern is the same (Evenett, 2010).

related measures included in the reports are not specifically explained: to find data on measures and the source of the information, one must use the online GTA database. Cross-referencing the GTA reports is therefore difficult, but it seems many GTA measures are not found in the Joint Report. I am not sure how to assess whether the differences show the value of an independent body developing its own sources of information, or the weakness of an NGO lacking the resources of an international organization to verify its data.

The GTA also fails the second test of showing that the measures cause harm. The GTA assumes harm by counting the number of measures, and the tariff lines, sectors and trading partners affected, but they decided not to conduct an economic analysis of the amount of commerce affected or potentially affected by each state measure (Evenett, 2009e, note 10). As a result the GTA is unable to reach conclusions comparable to those of the Joint Report in Table 4 above. The rationale offered is plausible, but it undermines claims that the measures identified are significant. An expert conclusion that the measure discriminates against foreigners, and is therefore undesirable, is of less interest if small amounts of trade are affected and the overall harm is slight.

Others have used the GTA data to estimate the impact of 185 GTA "Read Alert" measures on which sufficient data was available. The analysis confirms the view that the overall impact of trade restrictions has been limited, but the measures individually have had a significant discriminatory impact on the trade affected (Gregory, et al., 2010). Similar results have been obtained using tariff profiles for WTO Members (Kee, Neagu and Nicita, 2010). The new measures should not be trivialized, therefore, even if their overall impact is limited.

Some analysts suggest that the trend line of protectionist trade measures is stable (Messerlin, 2009), but the GTA explicitly disagrees, arguing that what is found in the database shows that the largest traders "have undertaken above-trend levels of discrimination against foreign commercial interests." The GTA acknowledges that "Across-the-board tariff increases have been very rare; tariff increases themselves only account for one seventh of all discriminatory measures." As for how these measures should be interpreted, "Argentina and the Russian Federation have imposed far more discriminatory measures than their exposure to imports would suggest. In contrast, while China, Indonesia, Germany, the UK, and the USA impose a lot of discriminatory measures, the levels of such measures are not out of line with their propensity to import and their economic size (Evenett, 2009a, 42-3)." The alarmist rhetoric of the reports notwithstanding, the GTA evidence does not amount to proof that the dog was in fact barking.

It is not clear that this independent exercise has added to the data collected by international organizations either as a tool for analysis or as an influence on governments. Like the Joint Report, the GTA findings of discriminatory intervention are highly skewed to a minority of economic sectors that tended to receive higher levels of protection before the onset of the crisis (Evenett, 2009b). The GTA categories are not necessarily ones for which governments can or ought to be accountable (the PSE problem) nor are their criteria for assessment necessarily realistic. It has been an ambitious (and hugely expensive) undertaking, but one that may not make as great a contribution as might be hoped.

*Conclusion: implications of the dog not barking*

The curious incident of the protectionist dog not barking is worthy of reflection. The great collapse of trade was not due to any failings of the trading system, but the subsequent rebound may be an indicator that the system works as intended. We can get excited by the whimpers that were heard, but the amount of trade affected, in relation to actual trade flows, was trivial. The protectionist virus, the social and economic factors that create pressures to favour "us" at the expense of "them", are always present, but fears that the endemic virus would be unleashed in a pandemic have been over-blown—so far.

Skeptics influenced by the first set of models above ask if this benign picture will change if the hard times return, or get worse? Is protectionism only lagging behind unemployment? Could this be why protectionist tendencies have not prevailed so far? In the same vein, did the bailouts perhaps diffuse the threat of the protectionist dog, but when the stimulus programs are wound down, will the dog start barking? The skeptics in the GTA, firmly resting on the first set of models, seem to dismiss all institutions. The rules of the WTO, they say, are irrelevant and Leaders are powerless to constrain the domestic agencies responsible for trade policy. Or perhaps the rules only bite to the extent that protectionism has flowed into areas unconstrained by WTO rules, like financial assistance to troubled firms (Evenett, 2009e) 14-17. Canadians would certainly be better off not spending a billion dollars on hosting the Toronto G200 summit if the GTA critique were right, but it is surely misplaced, as is the incomplete account offered of why governments have largely resisted the protectionist impulse, so far. Indeed one might ask why the GTA bothers addressing itself to the G20, if such summits are assumed to be irrelevant?

In contrast, I expect that the pattern observed to date will continue. Institutions seem to be moderating the effects of the crisis, as intended. Governments do not seem to have succumbed to temptation, at least not much more than in a normal year. And when firms are part of global supply chains that pay no attention to borders, measures that restrict imported inputs can act to restrict a country's exports, knowledge of which also seems to have muted protectionist tendencies (Rios, 2009). Governments have many more policy tools to manage the pressures than they did in the 1930s, some of which are discriminatory towards foreigners, but transparency and accountability may be helping to reinforce trade regime norms. Leaders are able to hold each other to account because transparency makes it hard to hide, enabling diffuse reciprocity. Did governments notice the GTA, or was policy more likely to change because Leaders were aware that they might be exposed in front of their peers by the Joint Reports? Or because trade officials were able to use a G20 commitment made by the Leader as a lever in discussions with domestic departments?

I want to end with two implications of this story for further research. I assume that the constitutive basis for global governance shapes state action. The first possibility worthy of more investigation is that while hard times may provoke hard domestic politics, the international spillovers are constrained by the regime; indeed the regime may influence the domestic response to the crisis.[8] What we may be seeing are international pressures to contain protectionism being pushed back into domestic politics. The international system may be self righting.

[8] Speculation on the direction of influence is an old question in IPE—see (Gourevitch, 1978)

Second, if endogenous process matters, how can accountability for summit commitments and regime obligations be more systematic? Can transparency and accountability attain public policy goals more quickly and less expensively than the alternatives such as new negotiations or dispute settlement? The crisis monitoring exercise, which has been controversial within the WTO, is an excellent initiative that should continue, and be strengthened. When concerns about it were expressed in February 2009, the Chairperson of the General Council wrote to all Chairs of WTO bodies asking them to consult Members on ways to improve the timeliness and completeness of notifications. Not surprisingly, the most extensive discussions took place in bodies already committed to the notification process, notably the Agriculture, TBT and SPS Committees—the latter two regularly use the provisions of their respective Agreements to review their transparency procedures. The Director-General reported later that year that in general, "Members recognize the need to improve timely compliance with their notification obligations, the importance of enhancing institutional capacity to analyze notified information, and to improve access to information flows on trade measures." Discussion of proposals on how to improve compliance with notification obligations was expected to continue in 2010, with the possibility of creating common formats utilizing electronic means for handling, storing, and disseminating data and cooperation with other inter-governmental organizations. (SeeWTO, 2009a paras 144ff.)

On the last point, the WTO should follow the example of the GTA, by creating a publicly available online searchable database with sophisticated reporting tools. Members should also consider enhancing the capacity of the Secretariat to prepare analytic reports useful to governments and especially to the public so that citizens can use the information to hold their own governments to account. Consideration ought to be given to how the Trade Policy Review Body can have better discussions of new trade policy measures, such as some of the responses to the current crisis, not with respect to their consistency with the WTO, but with respect to the more important question of their effects on an open liberal multilateral trading system.

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