



Asia-Pacific Research and Training Network on Trade

Working Paper Series, No. 83, September 2010

## **A Snapshot of contemporary protectionism:**

### **How important are the murkier forms of trade discrimination?**

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## *Executive Summary*

This paper provides a snapshot of current protectionist dynamics making extensive use of the GTA database. Two methods of estimating the trade covered by crisis-era protectionism are also examined. Although the method used in recent WTO report may use a more appropriate level of tariff line disaggregation for some discriminatory measures, overall, it is argued that GTA's estimates provide a better estimate of the amount of global commerce affected by global era protectionism.

This paper also confirms the contemporary importance of “murky” protectionism. The overview of the crisis-era protectionist landscape shows that in each quarter of the past 18 months more than half of discriminatory measures are not tariffs or trade defense measures and tend to fall under weaker or no WTO rules. The harm inflicted by and the discrimination against the Asia-Pacific region is rather similar to global tendencies; although tariff-related measures are slightly more prevalent in this region. For the jurisdiction harmed by the greatest number of foreign discriminatory measures, China, it is shown that at least 10 percent of its exports are harmed and more than 50 percent of which are affected by “murky” forms of protectionism, notably, local content requirements and bailouts.

In interpreting the performance of WTO rules, the evidence presented raises further questions. Some heart might be taken from the fact that governments have not chosen to raise tariffs above bound rates. However, the widespread resort to subsidies and bail outs raises concerns that WTO rules were circumvented (or at least, loopholes and weaknesses exploited) rather than strictly adhered to. This matter will require further attention, with the proper specification of counterfactuals in frameworks that allow for the substitution between discriminatory policy instruments.

At a minimum two implications for policymaking follow. Given the cumulative damage done to the world economy from crisis-era protectionism, if the world economy continues to recover the national policymakers should not only resist any temptations for future protectionism but also start to unwind those discriminatory measures in place. Both national ministries and international organizations, such as the WTO, could identify the most harmful crisis-era interventions and start talks on how such measures can be withdrawn. The list of “jumbo” measures identified by GTA and those affecting Chinese commerce identified here could be a starting point for such discussions. In addition, the WTO and other international organizations should assist small and poor countries to obtain, where possible, exemptions from discrimination of their trading partners.

In the middle to longer run, governments leaders should rethink the role of the WTO in the light of contemporary experience. If a consensus emerges that current multilateral trade rules were not strong enough to resist from protectionist temptations during the global economic crisis, then policymakers may wish to initiate negotiations on new rules on subsidies, public procurement, export taxes and incentives, and the other measures used frequently in recent years. Such negotiations would go well beyond the Doha Round mandate and it is an open question as to whether that mandate--if unmodified--best serves the interests of the world trading system.

# 1. Introduction

Policymakers and academics around the globe have been concerned about the threat of rising protectionism during the recent Global Financial Crisis and its aftermath. The G20 Heads of State and Government pledged to eschew protectionism in earlier summit meetings, at latter meetings they pledged to fight protectionism. In the Declaration of the summit in Toronto in June 2010, G20 leaders praised themselves for having chosen “to keep markets open to the opportunities that trade and investment offer.” Also, they renewed the pledge “to refrain from raising barriers or imposing new barriers to investment or trade in goods and services” (G20, 2010). On the face of it, these statements are supported by the joint report of the WTO, OECD, and UNCTAD, dated 14 June 2010, which served as background information for the G20 talks in Toronto (WTO-OECD-UNCTAD, 2010). In particular, the WTO estimated that new “import restricting measures” introduced since November 2009 covered only 0.4 percent of total world imports (WTO, 2010).

In contrast to this optimistic perspective, certain trade experts warned early in the crisis that this time around, in contrast to the Great Depression in the 1930s, protectionism is likely to be “murky” (Baldwin and Evenett, 2009). Murky protectionism need not involve a direct violation of WTO obligation, but represents an abuse of the legitimate discretion given to state to discriminate against foreign goods, companies, workers and investors. Examples include clauses in stimulus packages that confine spending to domestic producers (“buy local” provisions); “green” policies that subsidize the manufacturing of environmental friendly goods but again only for local producers (Evenett and Whalley, 2009; Aggarwal and Evenett 2010); or the bailout packages for selected domestic firms in tradeable sectors, which effectively alter the conditions of competition and international commerce. Interestingly, the WTO-OECD-UNCTAD report also admits that such policy measures may be more significant in terms of their potential impact on trade, investment and competition than the traditional trade and investment restrictions (WTO-OECD-UNCTAD, 2010). However, the latter report makes no attempt to compare the magnitude of trade affected by murkier forms of protection with the easier-to-measure tariffs and trade defense instruments.

The latest results from the Global Trade Alert (GTA), an independent monitoring initiative providing information of state measures (including “murky” measures) that are likely to affect foreign commerce, show little let up in the number of discriminatory measures being implemented since the G20 summit in September 2009 (Evenett, 2010). Worldwide, governments have imposed 357 state measures that discriminate against foreign commercial interests since the Pittsburgh summit. The total number of crisis-era discrimination measures almost trebled to 554. Moreover Evenett and Fritz (2010) used a conservative methodology to identify 16 (out of the 554) state measures from the GTA database that are likely to adversely affect both a large number of trading partners and a sizeable amount of international trade. The total estimate of trade covered by these “jumbo” measures is at least 10 percent of the total value of world imports in 2008.

One might ask why the conclusions of the WTO and the GTA are so different. Does the omission of the “murkier” forms of state discrimination against foreign commercial interests in the WTOs calculations bias downwards their estimates of the trade affected by contemporary protectionism? Ultimately, is the issue what forms of state discrimination legitimately fall within the purview of any monitoring exercise? Section 2 provides compares the methods used by the WTO and the GTA for their estimates of trade coverage of crisis-era protectionism. Section 3 gives a snapshot of the current level of protectionism and the protectionism that is in the pipeline. In particular, it identifies which forms of discrimination are the most prevalent forms of crisis-era protectionism.

The remainder of the paper focuses on the Asia and Pacific region and assesses whether contemporary protectionism in this region is similar to general tendencies (Section 4). In Section 5 special focus is given to China, which is found by the GTA to be the most frequently hurt jurisdiction by other nations' protectionist measures. Estimates are provided of the amount of Chinese exports affected by certain foreign crisis-era measures; the first time the impact on an Asian-Pacific nation's total exports have been calculated. Section 6 concludes and discusses the implications for policymaking.

This paper uses extensively the GTA database, which at the time of writing (July 2010) consisted of 1052 investigations of state measures that had been announced or implemented since November 2008. The publicly available dataset goes beyond its competitors in terms of coverage of countries, policy instruments, and other information such the identification of trading partners likely to be harmed by a specific measure. Details about the construction of this dataset can be found in Evenett (2009).

## *2. Comparison of WTO and GTA<sup>1</sup> estimates for trade coverage of crisis-era protectionism*

It is a challenge to provide a precise estimate of the total value of world trade covered by protectionist measures implemented during the global economic downturn and thereafter. Still, recent reports by the WTO and the GTA have attempted to shed light on this matter. The WTO report takes into consideration only those import restricting measures implemented during previous six months and estimates that 0.44% of world trade is affected by protectionism<sup>2</sup>. The WTO report notes that strictly speaking this estimate may be too high, for the WTO uses HS 6-digit data to make its calculations when in fact the measures are targeted at the 8-digit level (WTO, 2010, p. 16). In contrast, researchers associated with the GTA have estimated that US\$1.6 trillion of world trade, equivalent to more than 10 percent of world imports in 2010, provides a minimum level of the trade affected by crisis-era protectionism. The authors in question contend their estimate is "conservative," not least because it is based on 16 out of the 554 implemented and discriminatory measures in the GTA database<sup>3</sup>.

Why are the reported coverage ratios so different? Firstly, the WTO estimate includes only standard trade policy instruments, principally trade defense measures. The most often used of these measures are designed so that they can target not just specific nations that export a good, but certain exporting firms without those nations. While safeguard measures affect imports of a good from all foreign sources, unless the good and importer in question are significant in size the magnitude of trade affected will almost certainly pale compared to the totals from world trade. It is therefore not surprising that the total amount of trade affected by trade defense measures in a given six month period is small<sup>4</sup>. Similar findings are already well established in the literature on antidumping, for

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<sup>1</sup> In this section, the GTA estimate corresponds to the calculations of Evenett and Fritz (2010), who are both members of the GTA team.

<sup>2</sup> This is the estimate for import-restricting measures implemented since November 2009. If measures between October 2008 and October 2009 are added, the comparable estimate of world trade affected is 1.41 percent.

<sup>3</sup> See Evenett and Fritz (2010) for more details.

<sup>4</sup> This statement is almost certainly the case irrespective of any undercounting by the WTO secretariat. Potential undercounting cannot be ruled out in the measures listed in the WTO reports, not least because the WTO secretariat is in many cases reliant on its member governments to honestly report in short order the measures taken against foreign commercial interests. Overcounting is unlikely in the WTO reports because the same member governments would quickly point out any errors made. The bias is on reporting less protectionism than has actually occurred, a point readers should bear in mind when interpreting the press statements and speeches that accompany the publication of WTO reports.

example<sup>5</sup>. Short of an explosion of trade defense measures being introduced, computing the total amount of trade affected by such interventions is tantamount to trawling for minnows. To continue the metaphor, the real question is whether there are any bigger fish in the (protectionist) sea?

If the scope of regional trade negotiations and the Doha Round are any guide, and if the specifics of bilateral trade disputes since the 1980s offers any clues, for best part of three decades trade diplomats, trade ministers, and trade analysts have recognized that states can discriminate against foreign commercial interests in many ways. The chapters of any recent regional trade agreement signed by the United States, or for that matter any industrialized country, indicate that discrimination is possible far beyond the application of tariffs and trade measures. So as to provide as complete a picture of the contemporary realities of protectionism, the GTA is prepared to include any state measure that alters the treatment of foreign commercial interests relative to domestic rivals.<sup>6</sup>

Rather than restricting the analysis to traditional instruments, GTA used objective criteria to identify so-called “jumbo discriminatory measures”, which are likely to affect a large number of trading partners and a sizable amount of trade (more than US\$10 billion). The 16 “jumbo” measures that were used for the estimate include bailouts, export subsidies and competitive devaluations among other less traditional beggar-thy-neighbor policies. Together, these measures concern half of the estimated US\$ 1.6 trillion. The other half is harmed by more traditional policies, in particular export restrictions and tariff measures.

A second aspect that may contribute to the different results is GTA’s use of a lower level of disaggregation to identify the affected tariff lines compared to the WTO (HS 4-digits versus HS 6-digits). Surely it is more precise and therefore preferable to look at specific products rather than using the broad HS 4-digit category<sup>7</sup>, which will overestimate the trade coverage since they will include some products not actually affected by a measure? It is important to remember that many of the non-tariff measures are implemented by levels of government that do not identify the products affected using the standard HS classification. Any attempt at classification at the 8-digit level could (given the broad definitions of the product scope of many discriminatory policies) be arbitrary and undercount the amount of trade affected. For trade policy instruments where higher levels of disaggregation are publicly reported, then going beyond the 4-digit level may yield more precise estimates. But readers should be under no illusion that such information is available for all of the murkier, less transparent forms of protectionism.

Even though the right choice of disaggregation matters along with other steps in the proper calculation of trade affected<sup>8</sup>, the biggest difference between the two sets of estimates almost surely rests on the choice of policy instruments included. It may be the case that the historical resort to import-reducing measures in the 1930s provides a rationale for considering the impact of those measures now. However, it is difficult to see how that argument justifies ignoring other relevant discriminatory policy instruments. In short, if the forms of protectionism have evolved over time, so should trade policy monitoring exercises and the associated trade coverage calculations. For sure, measurement may not be perfect but rough orders of magnitude are probably what is needed for

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<sup>5</sup> More interesting is that the use (rather than the amount) of such measures may have changed during the crisis. See Bown (2010) and Fritz and Wermelinger (2009) for details.

<sup>6</sup> The use of the word “alters” is deliberate in this last sentence. Therefore, the GTA database also records liberalising measures that eliminate or narrow discrimination against foreign commercial interests.

<sup>7</sup> Some sense of perspective is needed here. Even at the 4-digit level there are over 1200 different types of product. Readers are encouraged to look over the 4-digit HS classification to see how fine grained it actually is.

<sup>8</sup> The computational steps in Evenett and Fritz (2010) almost certainly result in underestimates of the total amount of trade affected, for reasons given therein.

policymaking. Still, reports should specify what steps were taken in making calculations<sup>9</sup>, so that others can replicate their methodologies<sup>10</sup>.

### 3. Snapshot of contemporary resort to protectionism

The purpose of this section is to provide an overview of protectionist measures that have been announced or implemented after the first crisis-related G20 summit in November 2008. The prevalence of “behind the border” non-tariff measures that potentially affect foreign commercial interests--not just imports--is highlighted.

#### 3.1 Protectionism remains an issue of concern<sup>11</sup>

Given that the G20 leaders repeatedly pledged to eschew protectionism, the opportunity is taken here to assess what happened between the G20 summits in September 2009 and June 2010. Worldwide, governments have implemented 357 state measures that discriminate against foreign commercial interests, almost trebling the amount of observed discrimination (to 554 measures). Measures that harm commercial interests of its trading partners outnumber beneficial measures four to one, although it should be remembered that each measure may differ in scope and impact. The G20 governments are responsible for over 60 percent of all the discriminatory measures implemented worldwide. It should also be noted that 80 percent of the trade liberalizing measures implemented during the last eight months were introduced by G20 government.

These discriminatory measures hurt others. In fact, as shown in Table 1, many of the G20 members have suffered a substantial number of hits on their commercial interests. For example, China has suffered 282 hits to its commercial interest abroad (an increase of nearly 100 since the G20 in September last year). The question arises why governments (in particular large and powerful ones) continue to accept the damage to their commercial interests, especially when there is a lot of variation across countries in harm inflicted.

Another puzzling factor in the limited dissension among large nations is the recognition that some countries inflict harm far more often than others. Four indicators of the harm done by a nation's discriminatory policies are reported and The top 10 worst offenders on each metric are listed in Table 2. From the Asia and Pacific region China, India, Indonesia, Kazakhstan and the Russian Federation recur on the list (see Section 4 of this paper for a closer look at this region). The EU27 refers to the combined impact of all the actions taken by the European Commission and the 27 member states. Together, the EU27 appear as the top 5 worst offenders on all four metrics, a dubious distinction. However, most of the harm done by the EU27 grouping results from measures taken by the EU member states and not by the European Commission.

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