



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

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How was this possible?

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)

Dog barking?

- Why was anybody worried about the dog?
- Why didn't it bark?
- How do we know?
- What inferences can be drawn?
- The story:
 - Institutional theory
 - Transparency and accountability

Models behind the worries

- Trading system promotes growth, or does it? (Rose and critics)
 - Do institutions affect policy?
 - Stalled Doha Round a bad sign?
- Hard times bad for negotiations (Bhagwati)
 - WTO no bulwark against protectionism?
- Dispute settlement system a court for coercive “enforcement”?
 - Only 14 new complaints filed in 2009

Does process matter?

1. Cause of “cooperation” outside or **exogenous**
 - ❑ Structure and coercion
 - ❑ Until domestic coalitions in major players align, agreement impossible.
2. Cause inside or **endogenous**
 - ❑ Bargaining and institutional design models
3. Possibility of agreement in consensual understanding
 - ❑ Arguing models privilege agency over structure

Social learning: bargaining **and** arguing

- “Learning” = an *argumentative* or *deliberative* process in which an actor’s understanding of self and others can change.
- “Arguing” = exchange of reasons by actors who are oriented to reaching consensus and who remain open to changing their minds if faced with better reasons.
- “Consensus” = nobody present objects

Consensual understanding

- Shared understanding of cause and effect relations
 - interpretation of events must be shared but need not be true
 - Negotiators learn from academics (or fail to learn) but more important is what they learn from each other.
- Neither a causal mechanism nor a sufficient condition for success
- Explanation not “why this happened” but “how it was possible”

Endogenous process

- Agreement in the trading system recognized, encouraged, codified through
 - discussion in a regular Committee
 - dispute settlement proceedings
 - Negotiations
- Reality has to be understood in WTO terms.
 - Path dependent: what has to be learned at one moment becomes constitutive at the next

Two claims

- In collective life, consensual understanding precedes bargaining
 - Consensual understanding necessarily emerges in an endogenous process of arguing or learning
- Lots of arguing in the crisis

G-20 Pittsburgh 9/09

We will keep markets open and free and reaffirm the commitments made in [Washington \[11/08\]](#) and [London \[4/09\]](#): to **refrain from raising barriers or imposing new barriers** to investment or to trade in goods and services.... We will notify promptly the WTO of any relevant trade measures. We welcome the latest joint report ... and ask them to **continue to monitor the situation** within their respective mandates, reporting publicly on these commitments on a quarterly basis.

G8 l'Aquila 07/09

We are determined to fully take on our responsibilities, and are committed to **implementing our decisions**, and to adopting a full and comprehensive **accountability mechanism** by 2010 to **monitor** progress and strengthen the effectiveness of our actions.

- ❑ especially important concept for Canada's PM

Accountability

- Ability to know what an actor is doing and to make that actor do something else?
- Close the gap between what is committed or promised, and what is actually accomplished
- Both depend on transparency

Transparency as a policy tool

- “degree to which trade policies and practices, and the process by which they are established, are open and predictable.”
- Highlight:
 1. types of notification (1st generation)
 2. behavioural change through information (2nd generation)

Types of WTO notifications

A. Self-reporting	information provided by an actor on its own behavior
1. One time only	Notification of laws, regulations or other measures implementing WTO obligations at a time specified in the agreement
2. Ad hoc	Some notifications are required when Members take or propose to take certain actions e.g. SPS, TBT
3. 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
4. Cross-notification	Many agreements allow Members to notify measures that they think a trading partner should have notified, which then creates the basis for peer review
5. Dispute settlement	The formal complaint that launches a dispute is a form of notification
6. 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

Principal WTO monitoring and surveillance provisions

Principle	Examples	Behavioral assumption
1. General clarity in domestic trade policy	Trade Policy Review Mechanism	<p>Illumination can change policy:</p> <ul style="list-style-type: none"> • economic actors make alternative decisions; • government changes policy to maintain benefits of investment
2. Peer review (Active transparency)	Review of notifications in the relevant Committee; Specific trade concerns in SPS and TBT	<p>Trade ministers may:</p> <ul style="list-style-type: none"> • provide more information • change policy • pressure other units of government
3. Third party adjudication	Dispute settlement system	Decisions are legally binding

Crisis monitoring reports

- Director-General to Trade Policy Review Body
 - January 2009 in JOB series
 - April 2009
 - July 2009
 - Annual Report, November 2009
- Joint OECD/WTO/UNCTAD
 - September 2009
 - March 2010

What did the reports find? (preliminary)

	TPRB (Apr 09)	TPRB (Jul 09)	Joint Report (Aug 09)	Joint Report (Mar 10)	Total
Verified Items					
Permanent Delegation	53	49	59	68	233
WTO Documents	7	14	12	20	53
Non-WTO sources	21	9	22	46	98
Total	85	72	93	134	384
Non-Verified Items					
Press sources	13	38	12	1	64

Measures?

- Mix of mostly new notification, with some third-party
- Tariff increases
- New AD investigations in 2009 (152) less than 2008 (193)
- New CVD and Safeguards higher (8--26; 5--12)
- 75 TBT “specific trade concerns” up from 57 in 2008
 - may be normal operation of the agreement
- Stimulus programs probably good for trade, except for discriminatory government procurement

Second OECD/WTO/UNCTAD Report

Share of trade covered by G20 import-restricting measures, %

	October 2008 to October 2009	September 2009 to February 2010
Share in total world imports	0.8	0.4
Share in total G20 imports	1.3	0.7

Trade effects probably much less

So that's alright then?

- Novel “verification” procedure
- Discussion in TPRB
- Meeting G20 commitment to resist protectionism and notify measures to WTO...
- Not so fast

Global Trade Alert (GTA) reports

- Flags measures based on ‘potential for discrimination’ and takes ‘no position on whether a state initiative is WTO-legal.’
- 850-plus measures, many more than WTO

70 Green alerts

- Measures that increase liberalization, do not discriminate, or improve the transparency of trade policies therefore beneficial or neutral for trade.
- Details in online GTA database.
 - #0300 France car scrappage scheme
 - #0624 Australia relaxation of investment restrictions on purchase residential real estate.
 - #0983, Mexico elimination of antidumping duties on US vinyl chloride.
- **Only the third example was notified at the WTO.**

244 Amber alerts

- Measures that may involve discrimination against foreign trade or announced measures that would be discriminatory.
 - #0784 Canada: Bill C-458 NDP private members bill in October 2009 would restrict oil tanker shipping routes off the coast of British Columbia.
 - #0425 Korea encourage public procurement towards small and medium-sized enterprises.
 - #0803 EU notice initiating antidumping investigation against a Chinese ironing board manufacturer.
- No reference to any of these three examples can be found in the WTO.

297 Red alerts

- Known to discriminate against international trade
 - #0829 Brazil tax incentive for agri-business exporters
 - #1107 India restriction of work visas for potential migrant workers.
 - #0776 USA 2.5% tariff on certain types of solar panels
- **First measure notified** at WTO and also appeared in the OECD-WTO-UN Joint Report.
- **Other measures were not notified.**

GTA vs Joint Report

- Better analysis? (transparency)
 - Indiscriminate posting; no capacity for verification, or discussion/interpretation
- Influence on governments? (accountability)
 - Widely reported in the press but did governments notice, or change policy?
- Is a measure protectionist?
 - GTA: Making up own definitions and interpretations as it went along.
 - WTO: A thing **is** what Members **say** it is.

The protectionist dog did not bark

- Social and economic factors that create pressures to favour “us” at the expense of “them”, are always present.
- Fears that the endemic virus would be unleashed in a pandemic have been overblown—so far.
- Whimpers, but the amount of trade affected, in relation to actual trade flows, was trivial.

Implications of this story

- How do we know?
- Constitutive basis for global governance shapes state action
- Endogenous process matters
- Effects of diffuse reciprocity

Future work

- Can transparency and accountability attain public policy goals more quickly and less expensively than the alternatives such as new negotiations or dispute settlement?