
Did the protectionist dog bark?

Transparency, accountability, and the WTO during the global financial crisis

Robert Wolfe with preface by Mark Halle



BEWARE
OF
THE DOG



ABOUT THE AUTHORS



Robert Wolfe¹ is Professor in the School of Policy Studies at Queen's University in Kingston, Canada, and an IISD Associate in the Trade and Investment Program. He was a foreign service officer for many years, serving in Dhaka, Bangladesh and in the Canadian Delegation to the Organisation for Economic Co-operation and Development in Paris. In Ottawa, he worked in the National Security Section; the U.S. Trade and Economic Relations

Division; as Executive Assistant to the Ambassador for Multilateral Trade Negotiations and Prime Minister's Personal Representative, Economic Summit; and in the International Economic Relations Division. Since joining Queen's in 1995, where he teaches policy analysis and trade policy, Dr Wolfe has published widely on trade policy and institutions, and on public opinion about trade. He is the coordinator of Canadian participation in the Canada-UK Colloquium, and a member of the Canadian Agricultural Trade Policy and Competitiveness Research Network.

Mark Halle is Executive Director at the International Institute for Sustainable Development-Europe (IISD-Europe) and is also Director of IISD's global program on Trade and Investment. Born in the United States, Mark grew up in Switzerland, taking degrees from Tufts University (USA) and Cambridge University (UK). He began his career in the Diplomatic Secretariat of the Conference on Security and Cooperation in Europe. At the close of the conference, he joined the United Nations Environment Program (UNEP) where he worked on the cycle of "State of Environment" reports. He was one of two UNEP members of the team that drafted the World Conservation Strategy, launched in 1980. From UNEP he joined the World Wildlife Fund (WWF) from which he managed the new conservation program in China and served as conservation assistant to the WWF President, HRH The Prince Philip, Duke of Edinburgh. He then joined the International Union for Conservation of Nature (IUCN), working successively as Director of Field Operations, Director of Development and, finally, Director of Global Policy and Partnerships. He left IUCN in 1998 to establish the European office of IISD in Geneva.



Mark works and writes on a range of topics linking economic policy and sustainable development, in particular trade, investment and subsidy policy. He is currently setting up a new initiative on accountability, focused on the WTO and on the international environmental governance regime. He also works on the link between natural resources management, conflict and peace building.

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ENTWINED
Box 210 60
SE-100 31 Stockholm, Sweden
+46 (0)8 598 56 300
info@entwined.se
www.entwined.se

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P R E F A C E

The contribution of accountability to sustainable global governance

Preface by *Mark Halle*, Executive Director, IISD-Europe

When the World Trade Organization (WTO) was created in 1995, it struck a chord of fear in the environmental community. This seemingly powerful juggernaut with its binding dispute settlement system and its ability to impose economic sanctions on those who transgressed its draconian rules seemed it might prove unstoppable as it challenged every obstacle to neo-liberal commercial interests. Yet when the global financial crisis struck in 2008, other observers feared the WTO would be powerless against an anticipated wave of protectionism. We now know that the trading system performed well in the crisis, using transparency tools to hold Members accountable for their commitments. We also know that the WTO has not done much of anything for the environment, good or bad. This paper forms part of a project that asks how to use transparency to ensure that the WTO continues to do no harm to the environment, while holding Members more accountable for their commitments to sustainable development.

* * *

The environmentalist's initial fear was not groundless. Indeed, in the last years of the WTO's predecessor, the General Agreement on Tariffs and Trade (GATT), environmentalists watched with horror as it struck down a U.S. ban on import of tuna caught with methods that lead to massive death of dolphins. Green consumers who wished to use consumer pressure to force Mexican tuna fleets to adopt more dolphin-friendly capture methods learned that the trading system favoured the Mexicans simply because they were behind open trade while the U.S. was seeking to limit trade to tuna products that met their environmental criteria. Trade, it seemed, would always trump measures that sought to restrict it, whatever the reasons.

This widespread apprehension in the environmental community was partially assuaged when the WTO was established to replace the GATT. Two developments appeared to note the importance of the environment in managing world trade. The first was the fact that the Preamble to the Marrakesh Agreements that led to the creation of the WTO calls for international trade to be at the service of inter-country equity and sustainable development, and insists that trade must not contravene efforts by countries to look after their environment and natural resources. The second was the establishment of the WTO Committee on Trade and Environment as a

forum in which the links between trade and environment could be examined and any issues resolved.

As it turned out, the Tuna-Dolphin cases and other environmentally related challenges notwithstanding, the WTO's Dispute Settlement Body did not as a rule strike down environmental measures that restrict trade. Environmental laws, regulations, standards, labels and certification schemes have not been ruled against except where they are grossly more discriminatory than needed to meet the environmental objective. Indeed, the track record of the WTO Dispute Settlement Body shows that it deems relevant environmental legislation—and especially multilateral environmental agreements—as indicative of the intention of States, and gives it standing in resolving trade disputes.

However, while the trading system has not attacked environmental rules and norms per se, it has done little to make the preambular dedication to sustainable development a reality. This may be more a question of institutional design rather than any nefarious domination of trade interests in the debate. If the dispute settlement system has proved respectful of the environment, it has done little more than take it into account in interpreting the trade rules. Nor has multilateral negotiation done much to advance the environmental cause. The highly restricted environmental mandate of the current (Doha Round) negotiations has advanced little in a decade; even if it had been entirely resolved, it would have only a very limited influence on trade's overall impact on the environment, much less sustainable development.

This paper posits that a more promising approach to meeting the preambular goal is through improving transparency and accountability in the trading system.

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If there are doubts whether WTO has done an adequate job of addressing the wider purpose set out in its preamble, what can be done to bring it into line? In what way is the WTO accountable to its members—or to a wider community—for progress toward the preambular goal? Through what mechanisms is accountability exercised in the WTO, and are these accessible only to its members or is there a role for third parties and the wider stakeholder groups? The answers to these questions are central in determining how multilateral trade policy, through the actions of the WTO, can begin to serve the

wider purpose set out in the preamble and thereby pull itself out of the ditch in which the dual crisis has to some extent left it. They are central, too, to working out how we address policy coherence and policy hierarchy in the search for sustainable development.

IISD, through its work under the ENTWINED programme (<http://www.entwined.se/>), has been seeking answers to some of these questions. We began by looking at transparency mechanisms in the WTO: what measures exist, how well they function and what might be done to improve them. Transparency is, after all, the foundation of accountability. Access to accurate, timely and detailed information is necessary if judgments are to be reached on how well the mechanisms have worked, the impact of the actions, and the roles of the different players involved. A policy brief on the subject (<http://www.entwined.se/download/18.5004bd9712b572e3de6800018103/IssueBrief6-2010-09-14-low.pdf>) was published in 2010 and introduces the research questions that IISD is pursuing under the ENTWINED programme.

This paper goes a step further; it focuses on the relative performance of the WTO and a parallel third-party mechanism in monitoring and reporting on protectionist trade measures that countries might take in responding to the global economic crisis that began in 2008. In times of economic stress, and especially when governments are called upon to provide economic stimulus, the temptation to ensure that domestic economic actors benefit especially is very great. And yet it is precisely at such times that the non-discrimination obligations set out in the WTO rules are most essential.

This paper examines the monitoring and reporting on protectionist measures conducted by the WTO secretariat, and contrasts it with an independent monitoring scheme known as the Global Trade Alert. It reviews both the functioning of existing transparency and accountability measures and the interplay between the two monitoring efforts. In doing so, it reflects on the many challenges of accountability in a multilateral system, the many levels at which it plays out, and the relative roles of members, secretariat, the wider trade policy community and the general public.

If accountability (and in particular accountability to a wider public good-related goal) is to be strengthened in the WTO, it is essential to understand the mechanisms that are available, how well they function and what new mechanism might be required. Only then can recommendations be made on how accountability in and of the WTO may be improved and its ability to contribute to its longer-term preambular goal strengthened.

Central to this is the question of how the WTO interacts with other policy areas relevant to trade and where there is a potential for a clash? And can those interactions be confined to the world of trade policy or do they require a new form of common analysis and decision-making between policy areas? A good example is found in the issue of fossil fuel subsidy reform. The WTO Agreement on Subsidies and Countervailing Measures (ASCM) gives the WTO a mandate to discipline certain specific subsidies that can be demonstrated to cause adverse effects for foreign producers. However, this agreement has proved to be singularly ineffective; members either fail to notify, notify only sporadically and often very late, and provide information from which it is difficult to build a comprehensive picture of subsidies and their use.

At the same time, at a time of economic crisis, fossil fuel subsidies divert precious resources from other pressing needs and add colossal

sums to the national debt. They provide a strong price incentive to prefer carbon-based fuels to the alternatives, and tilt the playing field in ways that are unfavourable to other, cleaner forms of energy. However, subsidies are domestic policy *par excellence*, and international interference in domestic policy is not appreciated. The WTO ASCM agreement is one of the few instruments that exist. How, then, to make it effective?

This question raises many of the points relevant to any reflection on WTO accountability. Here is a trade-related matter of deep significance to the WTO's broader goal of sustainable development. The WTO possesses an instrument with which to address the matter, but it is ineffective. As a result, perverse subsidies continue to undermine sustainable development and the WTO's overall goal remains distant, or even recedes. How might this situation be improved?

This study suggests two lines of enquiry. First, the "verification" procedure might be applied to fossil fuel subsidies; rather than waiting for Members' subsidy notifications, the Secretariat could ask them to verify information received from third parties.

The second route, again reflecting on the comparison between the WTO and a third party, is to draw lessons from the international environment regime. Here, parties to Multilateral Environment Agreements (MEAs) make use of third-party mechanisms both to strengthen the scientific basis for policy making and to pull together the information needed to enforce the provisions of the MEA. The Intergovernmental Panel on Climate Change (IPCC) is a good example of the former; though it remains within the confines of intergovernmental structures, it is nevertheless independent of the United Nations Framework Convention on Climate Change (UNFCCC) secretariat and of the negotiations that take place within the ambit of the convention.

As an example of the latter, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) uses two such mechanisms—the International Union for Conservation of Nature (IUCN) monitors the status of species in trade and provides the scientific basis for how to determine the extent to which any given species is endangered by trade. And the Trade Records Analysis of Fauna and Flora in Commerce (TRAFFIC) network provides independent monitoring of wildlife trade that goes beyond the official reporting by governments. Both are independent of the State parties to the convention and both are essential to the convention doing its job properly.

Perhaps the WTO, in order to address the urgent task of subsidy reform, should link with the key sources of expertise—IISD's Global Subsidies Initiative, the International Energy Agency, the International Monetary Fund, and others—and with existing political initiatives on subsidy reform in the G20, APEC, and others so that, together, they can deploy the full array of accountability mechanisms at their disposal so as to move with optimal speed toward the preambular goal.

The implications of this are deep, but policy coherence cannot be built unless there is dialogue between the different policy areas; and these will continue to be in conflict unless some agreed way to address areas of disharmony exists. However, unless the WTO moves boldly in this direction, it is unlikely that their presence "behind the border" will ever be a comfortable one.

IISD'S ROLE WITHIN THE ENTWINED CONSORTIUM

The purpose of the ENTWINED research program is to advance environmental goals in the context of the multilateral trading system. The research conducted under the ENTWINED program aims to go beyond the fairly jejune debate on trade and environment in the WTO's regular work program and even the negotiations conducted under the environment sections of the Doha mandate. These are now fairly well understood, and a solution to remaining differences depends now on political will rather than a more robust research base.

ENTWINED aims to go further: it aims to identify ways in which environmental values—and more broadly sustainable development—might be advanced not simply through negotiating new trade rules, but through the functioning of the WTO itself—whether the regular work of WTO's established mechanisms, its dispute settlement body or the negotiations. It aims to produce research that is both academically rigorous and of immediate practical value in making the WTO a force for environmental progress. In this, it is unique.

IISD, as one of the ENTWINED research partners, has a broad set of interests within the program, with three research projects underway. The first, described above, is aimed at improving accountability—and in particular accountability to the preambular goal of the multilateral trading system—through strengthening and expanding the transparency mechanisms at play.

The second—which looks at the interplay between the trade and climate change regimes—responds to a similar logic. Both the WTO and the regime established under the United Nations Framework for Climate Change represent complex and effective sets of rules governing a crucial sector of public interest. The further expansion of both regimes is needed if we are going to reach the goals set for both regimes. Yet the two regimes are not fully compatible. The trade rules may, for example, prevent the use of measures that are needed if irreversible climate change is to be avoided, and the climate regime may wish to use trade measures to punish or reward states for their action to combat climate change. Once again the issue of policy coherence and policy hierarchy rears its head.

IISD's project under ENTWINED looks closely at one measure whose use is commonly threatened—border carbon adjustments to “level the playing field” when one trading party appears to derive competitive advantage from failing to take climate action. There is, in principle, no reason why border carbon adjustment measures need run afoul of the trade rules provided they are transparent and non-discriminatory. And the issues of competitiveness and carbon leakage that they seek to address are in some instances all too real, although they are commonly exaggerated.

IISD is not proposing to campaign for border carbon measures to be abandoned. Instead, we are seeking to examine two things: first, what are the available alternatives to border carbon adjustment that address competitiveness and leakage concerns? And, second, if border carbon adjustment measures are to be used, how can they be designed in such a way as to minimize the chances for conflict between the trade and climate regimes and, further, can they be designed in such a way as to advance the goals of each?

The third IISD project under the ENTWINED program also focuses on the issue of policy coherence and policy hierarchy. It

looks at the rapidly expanding world of voluntary environmental standards and the impact of these on trade. Environmental standards—for example standards governing organic vegetables—govern an increasing proportion of world trade. Broader sustainability standards cover such issues as child-free production, fair trade, human rights and labour standards. Taken together, voluntary standards represent a significant factor in the way trade is governed.

The WTO rules—and notably the agreements on Technical Barriers to Trade (TBT) and on Sanitary and Phytosanitary Measures (SPS)—focus on the use of product standards and food safety standards applied to traded goods. TBT even allows the WTO to challenge voluntary standards if these are deemed to be unfairly discriminatory. With both the number of voluntary standards and the proportion of traded goods covered by these standards expanding, it is important to understand what impact they have on trade and how their use can favour trade in environmentally preferable production of goods and services and thus help advance toward the WTO's preambular goal.

While much is known about voluntary standards in general, relatively little is known about them in detail—do they confer a trade advantage or disadvantage? Do they impact trade patterns and trade flows significantly? Do they in fact lead to improvement of environmental indicators? And what approach and strategy would most successfully advance both the goals of free and fair trade, and of environmental responsibility?

Understanding how trade objectives and environmental objectives interact is a matter not of navigation but of detail. It is not in the pilot's cabin but in the machine room that the interaction can properly be laid bare and the solution to any incompatibilities designed and installed. ENTWINED brings a complete toolbox to the engine room and is busy finding solutions that will work, that will run on the existing machinery with minor modifications. In this it is different from most of the research currently conducted on trade and environment.

ABSTRACT²

Leaders of the G20 promised repeatedly that they would refrain from trade restrictions in response to the global financial crisis that began in 2008 and that they would minimize the negative impact on trade and investment of stimulus measures. They also promised to hold themselves accountable for this commitment using a novel transparency mechanism based in the WTO. At the same time, the Global Trade Alert (GTA) set itself up on as an alternative accountability mechanism. A detailed comparison first of GTA and WTO data on the number of measures each found, and second, of their ability to offer robust interpretations of the measures, allows both a check on the official story and a consideration of how transparency can help to close the gap between commitment and action, thereby contributing to accountable global governance.

KEYWORDS

WTO, GTA, institutions, transparency, accountability, trade, protectionism, financial crisis.

Did the protectionist dog bark?

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By Robert Wolfe, Professor, School of Policy Studies, Queen's University, Kingston, Canada

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 in 2008, many governments and the financial press worried about an outbreak of "protectionism." The fear was that, as in the Great Depressions of the 1870s and the 1930s, beggar-thy-neighbour policies would inevitably spread. The bank bailouts 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. The strength of existing institutions and a novel accountability mechanism are part of the explanation. This intriguing episode illuminates the role of institutions in managing the global economy and the potential contribution of civil society to ensuring the accountability of international organizations and governments for their commitments.

Trade fell off a cliff between the third quarter of 2008 and the first quarter of 2009, provoking the initial worries about protectionism. Economists are still debating the cause of the collapse in trade and the subsequent recovery, but none blame the trading system (Baldwin, 2009; OECD, 2010). Just as the collapse in trade was a result of factors exogenous to the trading system, so too were the forces thought likely to be a source of protectionist pressure, notably increasing levels of unemployment in advanced economies. Hard times provoke fractious domestic politics, which can make it hard for politicians to resist protectionist pressure—but resist it they did.

In the face of these widespread fears for the global economy, the leaders of the world's largest economies, meeting as the then-new G20, promised (1) to refrain from new import barriers, export restrictions or WTO-inconsistent measures (G20, 2008). They subsequently promised (2) to minimize the negative impact on trade and investment of stimulus measures and (3) to hold themselves accountable for these commitments, promising 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" (G20, 2009). They kept their promise (although not all of them provided the relevant information "promptly"). Did international institutions help?

The WTO disciplines elaborated over decades of multilateral negotiation 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 both on memories of the 1930s (Madsen, 2001) and on expectations derived from implicit theoretical models about the political response to economic disruption. Analysts who explain outcomes by reference to the identifiable economic interests of domestic industries, or by the general political, security, or economic context expected that neither the institutions of the trading system nor the G20 commitments would be effective against the protectionism that they anticipated. If in the event protectionist measures were more limited than had been expected, the reason they then thought might be the ability of governments to use expansionary monetary and fiscal policy in ways not seen in the 1930s when trade took more of the policy burden. 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 (Evenett, Hoekman and Cattaneo, 2009, 3; OECD, 2010, 12). Some thought the warnings themselves may have helped to keep protectionist temptations at bay (Cali, 2009); or that the tough WTO dispute settlement system might discourage protectionism (Ruddy, 2010), although few new disputes were initiated during the crisis (Leitner and Lester, 2010).

In contrast, I think that institutions are consequential. While *causal* explanation of a dog not barking is hard, it is at least *possible* 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. G20 Members of the WTO faced a double requirement in the crisis: to act consistently with their long-standing regime obligations and to fulfil their specific crisis-related commitments. The case allows consideration of two novel accountability mechanisms, one run by international organizations and one run by civil society. The crisis monitoring exercise

run by the WTO with support from the Organisation for Economic Co-operation and Development (OECD) and United Nations Conference on Trade and Development (UNCTAD) ought to have been a source of high quality information. Discussion among officials in the WTO (and among Leaders in the G20) ought to have ensured accountability. The independent monitoring of Global Trade Alert (GTA) ought to allow a check on the rigour of the official story. The empirical contribution of this paper is a re-aggregation of the data provided in these two sets of reports in order to allow a detailed comparison of these assumptions in practice.

The global financial crisis created two familiar accountability challenges. On the one hand, governments are accountable to their citizens to mitigate the effects of any economic shock. On the other hand, consistent with multilateral principles, they ought not to pass the burden of adjustment on to other governments. Transnational forces can weaken accountability to the extent that they constrain the ability of a state to respond to the wishes of its own populace (Sperling, 2009), yet domestic processes cannot be determinative of the outcome of multilateral negotiations (Scharpf, 2000). Helping states mediate these conflicting domestic and international pressures is a traditional role for international organizations, but asking about accountability complicates the picture. International organizations are traditionally thought to derive their legitimacy in two ways—from the consent of participating governments and from their effectiveness in meeting their objectives. Ambivalence about globalization in the advanced economies, however, may well be due to worries about consequential decisions taken far away by organizations not subject to the domestic political process. Scholars and civil society organizations now argue that international organizations must be as accountable as governments (Koenig-Archibugi, 2004), yet how can citizens participate effectively in decisions that affect them when the decision may also affect hundreds of millions of people who are not organized in a recognizable polity? The standard principal-agent models of accountability as a constraint on abuse of power seem inappropriate. In the case of the global financial crisis, at a minimum governments ought to be accountable for the implementation of their commitments and not merely for their good intentions (Najam and Halle, 2010). And governments should provide sufficient information so that citizens can see for themselves whether their leaders are meeting their commitments. Whether those commitments are sensible is a different kind of accountability question that is beyond the scope of this paper.

This paper proceeds as follows in asking first if the actions of G20 Members met their commitments and second whether the actions of WTO Members were consistent with the general objectives of the trading system. Mashaw (2006, 152) argues that “any accountability regime will offer an answer to at least six basic questions: (A) who is accountable to (B) whom; about (C) what; through what (D) processes; in accordance with what (E) criteria; and with what (F) effects?” The two accountability mechanisms described in this paper offer different answers to those questions. Sections 2 and 3 begin by describing the answers given, if only implicitly, by each mechanism, and then reporting what each found. Since the two mechanisms reach startlingly different conclusions, the fourth section is a detailed comparison of WTO and GTA data. The last section concludes by drawing the implications for accountability in global governance.

2. THE OFFICIAL CRISIS MONITORING MECHANISM

When WTO Director-General Pascal Lamy decided in October 2008 that the WTO should provide a “radar picture” of measures taken in response to the crisis that had recently become evident, he asserted that the Trade Policy Review Mechanism (TPRM) provided the authority for the exercise.³ Such an activist and public role for the Secretariat made many Members uncomfortable, however. The TPRM aims at “achieving greater transparency in, and understanding of, the trade policies and practices of Members.” The TPRM works with two aspects of WTO transparency: notification, the basis of providing information, or “first generation” transparency which is essential for vertical accountability; and the possibilities to affect behavioural change through the use made of the information, or “second generation” transparency, which is essential for horizontal accountability when agencies can hold each other to account in a peer review process of some sort.⁴ Peer pressure might lead directly to a change in policy, and it might create indirect pressure on governments when the results are published. Discussion in the Trade Policy Review Body (TPRB) is based on major reports written by the WTO Secretariat and the Member under review. The reports, and a record of the discussion, are subsequently published, as is the Director-General’s annual report to the TPRB, an overview of developments in the international trading environment. The TPRM is not meant to be part of the dispute settlement system: the reports provide a commentary, but the TPRM is explicitly not allowed to interpret the rules, nor to make judgments on the compatibility of measures with WTO obligations. The TPRM can contribute to accountability through transparency, but it cannot otherwise constrain the ability of governments to act as each deems appropriate.

Three factors contributed to legitimizing the novel extension of the TPRM. The first was the request made of the WTO by the G20. The second was simply experience with the mechanism. Members discovered that the Secretariat reports (listed in the Appendix) were factual and useful, rather than dangerous, and that the Secretariat was not trying to build a new form of dispute settlement through the back door. Smaller Members (a majority of the membership) could not begin to generate such data on their own, and everybody benefited from the peer review dimension. At the April 2009 TPRB meeting, Members were generally more comfortable with the reports than they had been at the February 2009 meeting. The consensus seemed to be that the second report (R2 in the Appendix) was more balanced and comprehensive, and the July 2009 report was thought to be even better. The third factor, discussed in Section 4, was a civil society effort to assess the accountability of governments. GTA reports by being more extreme enlarged the policy space making it easier for the Secretariat to engage in the novel monitoring exercise, and to publish the results. Comparison to the GTA reports helped increase confidence that the WTO reports were fair.

What then is the WTO answer to the six basic questions about any accountability regime? Taking (C) first, for *what* actions or non-actions are governments accountable in their response to the financial crisis, regardless of the effect of those actions? WTO Members are accountable first for their general WTO obligations to manage the trading system so as to avoid conflict between states, to ensure transparency, and to promote global prosperity (accountability to mandate). G20 Members are also specifically accountable for three things

1. To refrain from new barriers, export restrictions, or WTO-inconsistent measures.
2. To minimize the negative impact on trade and investment of stimulus measures.
3. To notify promptly, let international organizations monitor, and report publicly.

The criterion (E) presents an interesting problem. Accountability for **outcomes** is always harder to assess than accountability for **actions**. 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, and economic models are not conclusive on whether domestic spending is good for trade overall. Nevertheless, the WTO Secretariat does offer an interpretation of the measures identified in its report.

Next, (A) *Who* is accountable, and (B) *to whom?* In the case of the G20 commitments, only those Members are accountable, but others were implicitly expected to join the exercise. They are explicitly accountable to each other, and then implicitly to their citizens. The *process* (D) is one that Grant and Keohane (2005) would call a delegation model, not a participatory model, i.e. the actors are states, not citizens. The mechanism is transparency, and accountability is *ex post* not *ex ante*, in that Members report only what they have done rather than what they intend to do, but the anticipation of reporting was expected to have *ex ante* effects (F) by limiting the resort to protectionist measures through added transparency in trade policy, and providing WTO Members with an international mechanism to resist protectionist pressures at home.

The WTO Secretariat has so far prepared nine crisis monitoring reports either on its own or jointly with the OECD and UNCTAD in response to the G20 request, the last in November 2010. This analysis is based on the April 2009 and June 2010 reports (R2 and R8 in the Appendix), which allows good coverage from the beginning of the process until mid-May 2010, while avoiding over-counting. The reports draw both on routine self-reporting and 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 other-reported measure—a press story, and sometimes an entry in the GTA database—and on whether it had been verified by the Member concerned. These reports provide a basis for counting new "measures" taken in the context of the crisis, for observing whether Members met the G20 commitment to notify such measures and for assessing their effects.

The first accountability indicator is simply how many measures have been notified, and whether every G20 Member has notified or verified, without assigning any significance to the nature of the measures. The Secretariat narrative is a careful analysis of the measures, but the reports do not offer a count of measures, although the annexes of the reports list all of the identified measures by country. Annex 1 of the reports, involving "Trade and Trade-related Measures," although it includes both trade restricting and trade facilitating measures, 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 WTO inconsistent measures to stimulate exports." The first row of Table 1 is based on notifications from 69 individual Members, 16 of which were G20 countries, including the EU reporting on behalf of all its Members. Among G20 countries, Japan and Saudi Arabia did not report. Annexes 2 and 3, involving "Stimulus Measures" and "Measures for Financial Institutions" respectively, cover the commitment to "minimise any negative impact on trade and investment of our domestic policy actions." 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 favour of financial institutions—Argentina, France, Germany, India, Indonesia, Italy, Saudi Arabia, South Africa, and the United Kingdom did not report. The fifth column of Table 1 also notes the number of individual Members that appear in each report and the total number appearing in all reports.

TABLE 1: MEASURES IN WTO MONITORING REPORTS⁵

	Regular or Special Notification	Other Sources	Total Verified Measures	Individual Delegations	G20 Members
ANNEX 1	576	135	711	69	16
ANNEX 2	82	103	185	55	17
ANNEX 3	35	64	99	35	12
TOTAL	693	302	995	101	20

Table 1 might suggest that WTO Members have taken a great many restrictive measures, contrary to the G20 commitment, but simple aggregation of disparate measures may not signify much. 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. The measures covered in the first row of Table 1 includes tariff increases, but usually not in excess of a Members’ bound ceiling. Most of the policy changes affecting services policies have been in the direction of further openness. 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, and fewer still in 2010. New countervailing duty and safeguard investigations are also an indicator. While they increased in 2009 (to an historic high of 30 for countervailing duties, and from an average of 14 a year to 28 for safeguards), the numbers are still low, and they fell back in 2010. The report also notes that 75 “specific trade concerns” were raised in the Technical Barriers to Trade committee in 2009, up from 57 in 2008, but that may be due to normal operation of the agreement. Using the flexibilities built in to existing WTO obligations is consistent with the G20 commitments and is not protectionist. (Whether it would be bad for world trade if everyone raised their applied tariffs up to their bound rates is another matter—see Bouet and Laborde, 2010).

What of the G20 commitment to minimize the trade impact of their actions? As Table 2 shows, overall the verified measures taken seem to have covered a small portion of trade, and may have had an even smaller effect on trade flows. But the table shows the amount of trade that could be affected, not how much was affected. If the fall of trade cannot be attributed to policy actions, presumably the subsequent rebound can perhaps be taken as evidence that policy did no harm. In any event, if Members succeed in their aspirational goals, a successful Doha Round result would overwhelm these small effects.⁶

TABLE 2: SHARE OF TRADE COVERED BY G20 IMPORT-RESTRICTING MEASURES (PER CENT)

	October 08- October 09	November 2009- May 2010
Share in total world imports	1.01	0.4

Source: R7.

Economic models are limited in their analysis of the new fiscal activism. Moreover many of the measures counted in the second and third rows of Table 1 would seem to fall into areas beyond the scope of WTO rules, a problem that particularly affects the parts of stimulus programs (e.g. “buy local” requirements) that fall under the incomplete plurilateral rules on government procurement, where data are hard to obtain, and harder to interpret. The WTO Secretariat observed (R8, para 97) that “Almost all government support measures were aimed at achieving one, or all, of the following policy objectives: to increase global demand (through infrastructure projects), stabilize financial markets (through bail-outs of financial institutions), and to provide support to specific sectors heavily affected by the global crisis. In each one of these areas there are elements that potentially favour trade, and elements that poten-

tially distort trade.” Moreover, the size of some stimulus measures may make them more significant in terms of their potential impact on trade than direct trade policy measures (OECD, 2010, 7).

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.⁷ Nevertheless, the under-reporting shown in Table 1 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, and the Secretariat observes that in addition to the limited data available, “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” (R5 p. A-4). Nevertheless, in response to pressure from Argentina, Ecuador and India to develop better information and analysis of the range of non-traditional measures introduced during the crisis, Members agreed to hold a symposium during 2011 under the auspices of the TPRB on “The Financial and Economic Crisis and the Role of the WTO.”

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 official reports may miss many measures, especially in stimulus programs. Because they are prepared under the auspices 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. The Secretariat does not even highlight the Members who have been slow to notify, or resistant to verifying measures that the Secretariat found on its own.⁸ This reticence might not matter if the data required were more objective. For these reasons, a role might exist for independent third party assessment of the accountability of governments.

3. BROKEN PROMISES?

Many analysts have considered how civil society organizations can contribute to holding governments to account by acting in some way on behalf of those affected by decisions (Bexell, Tallberg and Uhlin, 2010; Scholte, 2011). Though still a delegation model—the civil society organizations represent citizens as principals assessing the actions of their agents in government—civil society organizations could assess state performance using the same criteria or could elaborate additional considerations. Civil society organizations can assess the official reports, provide additional information and provide alternative interpretations. They can, in other words, act as a corrective to the official story. They may find more or less information on the practices in question, and they may be able to offer compelling alternative interpretations. Such an entity did undertake to monitor G20 trade commitments.

The 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. The group's initial hypothesis was pessimistic, as evident in the titles of their reports listed in the Appendix. They expected the protectionist dog to bark, they were skeptical of the value of the G20 and what they found were wholesale "broken promises." At the outset (first GTA report in the Appendix) they asserted that "the initiative [will not] pronounce on the WTO-legality of a measure or whether a measure is 'protectionist'" but in fact the word appears literally hundreds of times in GTA reports. The tone of the reports 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." Perhaps not surprisingly, the well-publicized GTA reports that the sky is falling received much more press attention than the official story that, a few clouds notwithstanding, things do not look too bad.⁹

How does the GTA answer questions about who, to whom, and for what? The GTA sees governments as accountable (A) to economic actors (B) in their own and in other countries. The assumption is that the principal WTO objective is the promotion of prosperity, an objective only achieved through measures that are non-discriminatory, the fundamental norm of the trading system. They do not acknowledge that other goals (domestic social solidarity, or avoiding interstate conflict) sometimes conflict with non-discrimination. The GTA analysts chose to operationalize the G20 commitment (C) 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 (G-20, 2009). Indeed the GTA slides more toward an assessment of what their analysts think governments *ought* to have done in the crisis, as opposed to consideration of what governments *promised* to do. They choose to be agnostic on whether a given measure is consistent with a Member's obligations, allowing accountability to mandate—not accountability to commitment—to become the standard.

The GTA process assumption (D), 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). In pursuing the intended effect (F) of resisting protectionism, "GTA seeks to inform debate and will not engage in naming-and-shaming; others can judge" (Evenett, 2009d, 607). The GTA nevertheless chose to categorize measures, with criterion (E) based on a measure's potential for discrimination. In order to get the media's attention, the results were reported on a simple scorecard using a traffic light system. *Green Alerts* are measures that increase liberalization, do not discriminate, or improve the transparency of a given country's trade-policies and therefore are 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).

GTA published seven reports from June 2009 until November 2010. The first brief report serves as an overview of the project. The third, fourth and fifth reports focus on specific regions. Only the second report, *Broken Promises* (GTA2), and the sixth, *Unequal Compliance* (GTA6), cover all of the G20 Members. Each country is analysed individually and an account of the number of trade measures implemented by each is included. GTA collects data from a variety of sources. Before posting to the database, its accuracy is verified by their panel of experts.

The database rightly contains the details of every measure the team finds, but they could be more careful. Trade remedy investigations go through many phases, each of which might be counted as a separate measure in the database. (WTO counts only the initiation of an investigation because that is the best indicator of protectionist pressure.) GTA also counts some routine SPS and TBT measures as if they were protectionist, which is analytically difficult to justify. In their assessment of whether a measure is a "broken promise," for example, the GTA does not consider whether the measure was WTO-consistent, thereby including legal antidumping investigations and tariff increases within WTO bindings. GTA reports might usefully make a clear distinction between Red Alerts and the others, since only Red Alerts are both implemented and apparently discriminatory. The classification of "Amber" is misleading, because either the measure has not been and may never be implemented, or the GTA analysts have insufficient information to determine whether it is discriminatory. The GTA decided not to confine itself to measures covered by existing international obligations, since many of the measures appeared to be novel. The database groups measures in 23 categories, of which the top 10 are reported in Table 3. While the categories are not necessarily ones for which governments can or ought to be accountable, (since they do not correspond to international obligations or G20 commitments) the analysis would be easier to follow had the GTA at least defined its categories by reference to generally understood concepts in the academic literature and specified the attributes of measures in each category. Overall counts are also complicated when measures appear in more than one category.

As Table 3 shows, GTA found a great many measures. Does that volume support the conclusion that protectionism is rampant? The GTA assumes harm by counting the number of measures, and the tariff lines, sectors and trading partners likely to be affected, but they decided not to conduct an economic analysis of the amount of commerce affected or potentially affected by each measure (Evenett, 2009e, note 10). As a result, the GTA is unable to reach conclusions comparable to those of the WTO in Table 2 on page 9. The rationale offered is plausible, but it undermines claims that the measures identified are significant. An expert conclusion that a 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. Simple aggregation of disparate measures is economically meaningless. Initiation of a dumping investigation, which may never result in a duty being imposed, is hardly equivalent either to a small but WTO-consistent tariff change or to a massive stimulus package.

TABLE 3: SUMMARY OF GLOBAL TRADE ALERT DATA ON MEASURES TAKEN DURING THE FINANCIAL CRISIS

All Measures	
G20 Countries	676
Green Alerts	110
Amber Alerts	229
Red Alerts	337
All Countries	775
TOTAL Green Alerts	135
TOTAL Amber Alerts	91
TOTAL Red Alerts	554
Items by Type	
AD/CVD/Safeguard	112
Bail out/state aid	183
Export Subsidy	19
Export Taxes	31
Import Ban	16
Migration Measure	24
Non-tariff Barrier	26
Public Procurement	28
Tariff Measure	75
Local content	15

Source: *Unequal Compliance: The 6th GTA Report* (June 2010). Data are cumulative beginning in November 2008. "Items by type" reflects the ten most used state measures to discriminate against foreign commercial interests since the first G20 crisis meeting.

Others have used the GTA data to estimate the impact of 185 GTA "Red Alert" measures on which sufficient data were available. The analysis confirms the view that the overall impact of trade restrictions has been limited, but individually the measures 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). Simple correlation of trade affected by a measure may hide the effect of a rich country measure on a small developing country and may hide the negative consequences of the lobbying that gave rise to the policy (Irwin, 2009, Chapter 3). The new measures should not be trivialized, therefore, even if their overall impact is limited.

Like the WTO reports, 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). 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).

While GTA data do not support the extravagant claims the group makes, the reports may nevertheless provide information or assessments that the WTO missed. To probe this possibility, a more detailed examination of selected aspects of GTA and WTO data was conducted.

4. COMPARISON OF GLOBAL TRADE ALERT AND WORLD TRADE ORGANIZATION FINANCIAL CRISIS MONITORING

The main logic of the WTO crisis monitoring exercise was horizontal accountability, allowing Members to hold each other to account for meeting their general WTO obligations and their specific G20 commitments. The GTA implicitly set itself up on a delegation model as an alternative accountability mechanism. In comparing the two approaches, therefore, we want to know which one does a better job on two G20 commitments: to refrain from new barriers, export restrictions, or WTO-inconsistent measures; and to minimize the negative impact on trade and investment of stimulus measures. The indicators are first, the number of measures each organization found and second, their ability to offer robust interpretations of the measures.

a) Comparing measures found

The WTO and the GTA do not report on the same basis, so the first task was to develop comparable data. Annex 1 of the WTO reports concerns traditional trade restrictions. A GTA equivalent to WTO Annex 1 was created using the GTA categories of trade remedy actions, import tariffs, non-tariff measures, government procurement practices, and SPS and TBT regulations. Table 4 shows the total number of measures each reports for G20, and for all Members. Overall, WTO reports more measures, for most G20 Members, but the G20 share (%) in the measures identified is similar.

The G20 commitment to minimizing the negative impact on trade and investment of stimulus measures is captured in the GTA category of "bail out/state aid" measures. A search of the online GTA database returned 189 Red Alerts for all countries, covering the period from October 2008 to May 15, 2010. In the absence of an online database, arriving at a comparable figure for the WTO was a challenge.

TABLE 4: COMPARISON OF GTA AND WTO DATA: TOTAL MEASURES

WTO Annex 1	711	
G20 in Annex 1	540	76%
GTA equivalent	559	
G20 in GTA equivalent	392	70%
G20 Members in Annex 1	16	
G20 Members in GTA equivalent	17	
WTO Annex 2/3	284	
G20 in Annex 2/3	136	48%
GTA equivalent	198	
G20 in GTA equivalent	93	47%
G20 Members Annex 2/3	17	
G20 Members in GTA equivalent	12	
Members included in WTO reports	58	+EC
Members included in GTA database	44	+EC

Each WTO report had three annexes at the start, two of which mirror the GTA bailout/state aid category: Annex 2 “General Economic Stimulus Measures” and Annex 3 “Measures For Financial Institutions.” (Annex 3 was dropped in the June 2010 report.) In order to create a basis for comparison, all of the information appearing in Annexes 2 and 3 from R5 and R8 was combined for the period from October 2008 to mid-May 2010. To ensure that no measures were being counted twice, it was necessary to go through the measures one by one to eliminate duplicates. This task proved challenging. First, the descriptions of measures are often worded slightly differently from one report to the next. One must probe the specifics of measures (monetary amounts, dates, firm and bank names, etc.) to confirm whether they are identical. Second, many of the measures that appear in the earlier reports had been extended or prolonged by the time of the more recent reports. The possibility of either discarding some measures accidentally or counting some measures twice is at least balanced between the two types of error. Using this method, it seems that WTO found 284 measures in Annexes 2 and 3. As with Annex 1, WTO found more measures overall and for more G20 Members. WTO also found more measures for most G20 Members, as shown in Table 5.

The differences in the count are hard to explain, not least because the WTO Secretariat systematically checked the GTA database looking for measures not identified in other sources. The sources for the measures in question are similar, but the ambiguity of the GTA category “bailout/state aid” may mean that WTO Annexes 2 and 3 count different measures. The first follow-up question, therefore, concerns the degree of overlap between the two lists.

Differences in how measures are described preclude a firm answer, but rough comparison of the lists suggests that over a third of the measures are unique to GTA. The next question is whether the measures unique to GTA are significant in some way. A systematic comparison of everything found by the two approaches being beyond the ambitions of this paper, I decided to conduct a qualitative probe of four sets of measures. Are the GTA Red Alerts that do not appear in WTO reports important? Conversely, since the WTO found more measures, did GTA miss significant measures?

TABLE 5: COMPARISON OF BAILOUT/STATE AID (ANNEX 2/3) MEASURES; TOP 30 IMPORTERS

	WTO	GTA (Red)	WTO>GTA	GTA>WTO
EC*	3	1	2	0
US*	10	3	7	0
China*	13	0	13	0
Germany*	28	18	10	0
France*	14	2	13	0
Japan*	5	3	2	0
UK*	10	14	0	4
Netherlands	9	7	2	0
Italy*	8	10	0	2
Hong Kong, China	3	0	3	0
Belgium	9	2	7	0
Canada*	7	0	7	0
Korea*	8	2	6	0
Spain	4	6	0	2
Singapore	5	0	5	0
India*	3	0	3	0
Mexico*	0	0	0	0
Russia*	7	22	0	15
Chinese Taipei	2	0	2	0
Australia*	5	3	2	0
Switzerland	2	1	1	0
Poland	6	5	1	0
Austria	9	8	1	0
Turkey*	4	0	4	0
UAE	0	0	0	0
Thailand	3	0	3	0
Brazil*	9	0	9	0
Malaysia	9	0	9	0
Sweden	6	4	2	0
Czech Rep.	2	1	1	0
Saudi Arabia*	0	0	0	0
Argentina*	0	6	0	6
Indonesia*	1	3	0	2
South Africa*	1	1	0	0
Total all Members	284	189	150	44
G20 Totals	136	88	76	34

Data: Oct. 1, 2008-May 15, 2010 based on R5 and R8, and GTA database.

*Denotes G20 countries. Source for top 30 ranking: Appendix Table 3 *Merchandise trade: leading exporters and importers, 2009*. (WTO, 2010). The EC count refers to actions by the European Commission, not EU Member states. Argentina, Indonesia, and South Africa were added to the list as Members of the G20. “Total all Members” includes countries not shown in this table.

b) Comparing interpretations

Among the measures appearing in the WTO reports are 17 cases of car scrappage schemes, measures that give consumers a subsidy if they scrap a car of a specified age when buying a new car. Six appeared as entries in Annex 2 of the reports (and are thus included in the comparison above), three were mentioned in the text of the reports, and eight appeared in a special Car Scrappage Schemes table in the Director-General's Annual Report (R5). GTA has also taken account of car scrappage schemes, referring to them as *consumption subsidies* separately from *bailout/state aid* measures. The GTA's online database shows three such measures: Russia (Red Alert); Germany (Green Alert); and France (Green Alert). Three measures that are not explicitly called car scrappage schemes are similar: Egypt (Green Alert); Mexico (Amber Alert); and Japan (Red Alert). Of these six, the French, German, Japanese, and Russian measures are the same as those found in the various WTO sources.

Another shared measure is the local content dimension of a feed-in-tariff (FIT) in the electricity sector of the Canadian province of Ontario that requires local content in the equipment used for renewable energy production eligible for the subsidized FIT. GTA put the program in the Red Alert category on the basis of a story in *The Toronto Star* and a program synopsis from the Ontario government. The WTO report barely mentions the FIT as an "unverified" stimulus measure. What else do we know? Japan raised questions about the Ontario FIT in the Council for Trade in Goods concerning the possible compatibility with the Agreement on Trade-Related Investment Measures and the GATT itself. Canada said it would pass the questions to Ontario, which is probably why the delegation had so far not verified the Secretariat data. In September 2010, Japan filed a complaint about the measure in the dispute settlement system. WTO Members may well conclude that the measure is inconsistent with Canada's WTO commitments, but is it crisis-related protectionism, or garden-variety industrial policy?

Next, three "bailout/state aid" measures were chosen at random: an Italian assistance measure that was picked up by both GTA and WTO; a UK measure unique to GTA; and a Canadian measure unique to WTO. The GTA online database quotes extensively from EC documents on the shared measure, Italian support to the chemical industry, but the effect on exports is clear even from the limited information provided by the WTO. The unique WTO measure, Canadian injection of liquidity to the mortgage market, was based on an official notification and so had to be included. The data helps in a global assessment of how Members responded to the financial crisis but may have been skipped by GTA because, on the face of it, the measure is non-discriminatory. The measure unique to GTA, UK support for maritime transport, was classified as a Red Alert. This measure could only affect intra-EU trade, however, and the EC decided, according to the information provided by GTA, that the measure does not have an adverse effect on competition. The measure presumably does not appear in the WTO data, therefore, because the Member concerned, the EU, had not notified it, and the Secretariat likely accepted the Member's assessment.

Finally, GTA counts "migration measures", which consistently place between seventh and eighth in its list of "Top 10 implemented measures used to discriminate against foreign commercial interests." GTA has flagged 39 such measures (10 Green, 4 Amber, 25 Red). Of these, 20 were from G20 countries (4 Green, 3 Amber, 13 Red). The WTO, in contrast, has reported only nine migration-oriented measures. Migration measures are in a section on "Policy Developments in Trade in Services" (R8) since they are related to the movement of natural persons (Mode 4

of the General Agreement on Trade and Services (GATS)). Only four measures are shared by the WTO and GTA. As in the case of the other categories, GTA provides no definition of "migration measure," and offers no general discussion of how such measures might affect trade. The types of state actions that GTA includes in this category involve a wide range of immigration policy changes, many of which appear to be routine actions by immigration authorities that happened to be taken during the financial crisis. Others might well be inconsistent with WTO obligations, if the GATS rules were more robust.

In sum, the WTO reports appear to be more comprehensive, overall, finding many more measures than are listed in the GTA database. As Table 5 shows, the GTA data does include measures not identified by WTO. A small probe of the differences suggests, however, that the GTA does not have a robust basis for the inclusion of all these measures.

5. CONCLUSION: IMPLICATIONS OF THE DOG NOT BARKING

The curious incident of the protectionist dog not barking during the financial crisis is worthy of reflection. The great collapse of trade was not due to any failings of the trading system. We can be excited by the protectionist 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 overblown—so far.

Sceptics ask if this benign picture will change if the hard times return or get worse. Is protectionism only lagging behind unemployment or currency shocks? In the same vein, did the bailouts perhaps limit the threat of the protectionist dog, but when the stimulus programs are wound down, will the dog start barking? The sceptics in the GTA seem to dismiss all institutions. The rules of the WTO, they imply, are irrelevant and G20 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, 17). Canadians would certainly have been better off not spending a billion dollars on hosting the Toronto G20 summit if the GTA critique of Leaders was right, but it is surely misplaced, as is the incomplete account offered of why governments have largely so far resisted the protectionist impulse.

In contrast, I expect that the pattern observed to date will continue. Most observers agree that governments do not seem to have succumbed to temptation, at least not much more than in a normal year. We have no long term time series data on the sorts of measures that both GTA and WTO counted, but the totals do not seem far off trend. The novel transparency mechanism allowed the WTO to take note of many measures not covered directly by formal rules, which did not change the overall analysis. Domestic pressures notwithstanding, institutional factors seemed to have a dampening effect on all countries, even if countries have varying susceptibility to systemic norms. Considerable anecdotal evidence suggests that transparency and peer review in the TPRB contributed to accountability with respect to both general regime norms and specific G20 commitments.¹⁰ But further research is needed. 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 reports prepared for the G20 by the international organizations? Were trade officials able to use a G20 commitment made by the Leader as a lever in discussions with domestic departments or business? Did discussion in the TPRB foster

learning about the changing nature of discriminatory policy? Did the availability of detailed information from the Secretariat inspire confidence that trading partners were playing fair? Comparison to other peer review processes would also be worthwhile—are the Director-General’s reports more or less sanitized by pressure from Members in comparison, for example, to the country surveys produced by the Economic and Development Review Committee of the OECD?

Many explanations of a dog not barking are possible, but proving that something that might have happened did not happen, for the anticipated reason, is not easy. Nevertheless, it is safe to conclude that transparency contributed to governments being accountable for their commitments during the financial crisis. That said, international organizations and civil society organizations can do more to help. The comparison of the WTO and GTA reports above reveals weaknesses in both approaches.

First, the GTA. The website is superb, especially the online database. The traffic light metaphor made the reports easy to understand, albeit at the expense of covering measures that were non-discriminatory (Green) and some that were ambiguous (Amber). The very fact of the GTA with its vigorous reports increased the policy space available to the WTO Secretariat, ensuring that Members allowed it undertake a more ambitious and comprehensive transparency exercise than might otherwise have been possible. But GTA should not have tried to compete with WTO on coverage. Civil society organizations should seek to supplement official sources, to probe for gaps in the official data, while devoting the bulk of their resources to alternative interpretations of state action. Accountability mechanisms must use either agreed obligations or concepts on which there is a degree of consensual understanding. Groups that set themselves up as an explicit accountability mechanism weaken their persuasiveness when they base their analysis on undefined categories unsupported by the academic literature (Researchers often break new ground, but theirs is a different role.) More analysis is needed of things that do not look like traditional trade measures, but which might have pernicious effects. Instead of pressing the WTO to identify and analyze these new measures, GTA undermined itself by blanket denunciations of rampant protectionism. A more sober assessment of the new measures that escape existing disciplines would make a bigger contribution to transparency and accountability in the trading system.

Second, the WTO should follow the example of the GTA, by creating a publicly available searchable database with sophisticated reporting tools.¹¹ Members should also consider enhancing the capacity of the Secretariat to prepare analytic reports useful both to governments and to the public so that citizens can use the information to hold their own governments to account. For example, notification remains uneven. The WTO should reveal more about the recalcitrant, especially those Members reluctant to “verify” data found from other sources (including, to be fair, the GTA database). That said, the verification process was an excellent innovation, and might offer a model for a new approach to enhanced transparency with respect to sensitive topics, like industrial subsidies, where notification is especially weak. The WTO ought to consolidate and expand this enhanced role for the TPRM. With the interminable Doha Round negotiations as a precedent, nobody should expect that the codification of new rules could keep up with a fast-changing global trading system. But WTO Members have shown themselves willing to be accountable for informal mutual commitments. This novel means of closing the gap between commitment and action might be an example for other global governance situations where formal legal obligations do not (yet) exist.

¹ Robert Wolfe and Mark Halle are jointly conducting a research program on Transparency and Accountability in the WTO as part of the ENTWINED program, a research initiative funded by the MISTRA Foundation in Sweden

² Earlier versions of this paper were presented to the Canadian Agricultural Trade Policy and Competitiveness Research Network meeting, Toronto, May 15, 2010; the “G8 Accountability: Muskoka and Beyond” Civil Society Consultation, Winnipeg, May 25, 2010; the Canadian Political Science Association, Montreal, June 1, 2010; and the WTO Public Forum, Geneva, September 16, 2010. The paper draws without explicit attribution on confidential interviews in Geneva with senior WTO officials and government representatives in September 2010. I am grateful for the research assistance of Andrew Grosvenor, who did the analytic work to prepare all the tables. This project was supported by the Social Sciences and Humanities Research Council of Canada, and ENTWINED.

³ Members implicitly accepted this argument though their subsequent discussion of the reports (Pauwelyn and Berman, 2009).

⁴ This distinction, based on (Fung, Graham and Weil, 2007), is applied to the WTO in (Collins-Williams and Wolfe, 2010).

⁵ Judgments were needed on what to count since the Secretariat does not provide a count of its measures. First, the annexes of the WTO reports sometimes lump two or three actions together. Second, as indicated above, the reports draw on a variety of sources, including routine notifications, special crisis-related notifications, and “other sources,” both government statements and press articles. The table is based on counting multiple actions, but only one source per measure, and only “other sources” that were “verified” by the Member at the request of the Secretariat.

⁶ The November 2010 report (R9, para 43) noted that the new restrictive measures in the previous year had increased to cover around 1.2 per cent of world imports, although almost half of that was due to just three measures by the EU and China.

⁷ One reason for the complexity is that these measures affect trade in services. While the GATS has no subsidy disciplines, it does have general principles of nondiscrimination, but those provisions will be affected by the specific obligations a given Member has accepted in its Schedules. In the case of financial services, Members may claim an exemption on prudential grounds (See R3 para.26). The rules on services subsidies obviously need strengthening, but the crisis also raises doubts about the adequacy of the rules for goods subsidies, too (Horlick and Clarke, 2010).

⁸ The November 2010 joint report, which was outside the scope of this study, does identify the Members who did not cooperate.

⁹ They also got more attention than a report from the same publisher that concluded, on the basis of the same data, that “to date we have not observed large scale increases in the level of discrimination against foreign suppliers of goods and services by major trading states” (Evenett, Hoekman and Cattaneo, 2009, 3).

¹⁰ Interviews in Geneva, September 2010.

¹¹ The Director-General’s November 2010 Report (R9) has a lengthy section on efforts in eleven WTO subsidiary bodies to review and improve notification procedures. The section ends with an intriguing hint about the possible introduction of an electronic transparency system.

APPENDIX: WTO AND GTA MONITORING REPORTS

WTO and joint reports:

- R1. *Report to the TPRB from the Director-General on the financial and economic crisis and trade-related developments.* JOB(09)/2, January 23, 2009.
- R2. *Report to the TPRB from the Director-General on the financial and economic crisis and trade-related developments.* WT/TPR/OV/W/1, April 20, 2009.
- R3. *Report to the TPRB from the Director-General on the financial and economic crisis and trade-related developments.* WT/TPR/OV/W/2, July 15, 2009.
- R4. *Report on G20 trade and investment measures.* WTO, OECD, UNCTAD, Joint Report September 14, 2009.
- R5. *Overview of developments in the international trading environment: Annual report by the Director-General.* WT/TPR/OV/12, November 18, 2009.

- R6. *Report on G20 trade and investment measures*. WTO, OECD, UNCTAD, Joint Report, March 8, 2010.
- R7. *Report on G20 trade and investment measures (November 2009 to Mid-May 2010)*. WTO, OECD, UNCTAD, Joint Report, June 14, 2010.
- R8. *Report to the TPRB from the Director-General on the financial and economic crisis and trade-related developments*. WT/TPR/OV/W/3, June 14, 2010.
- R9. *Overview of Developments in the international trading environment: Annual report by the Director-General*. WT/TPR/OV/13, November 24, 2010.

The first six GTA reports, edited by Simon J. Evenett, (London: Centre for Economic Policy Research):

Global Trade Alert 1st Report, July 8, 2009

Broken promises: A G-20 summit report by Global Trade Alert, (2009)

The unrelenting pressure of protectionism: The 3rd GTA report; a focus on the Asia-Pacific region, (2009)

Africa resists the protectionist temptation: The 5th GTA report, (2010)

Will stabilisation limit protectionism? The 4th GTA report, (2010)

Unequal compliance: The 6th GTA report, (2010)

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