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The G20 and Green Protectionism: Will We Pay the Price at Copenhagen?*

Simon J. Evenett and John Whalley

This year was supposed to see breakthroughs in global environmental policy making, and that may still come to pass. However, the severity of the global economic downturn is intensifying protectionist pressures and fears of green protectionism.

Green protectionism could undermine the collaborative spirit needed to find solutions to systemic environmental threats, such as climate change. Policy makers and opinion leaders in industrialized countries need to appreciate that their ambitions for global environmental reform will be frustrated if they do not successfully resist green protectionism during the crisis. Trading partners in the rest of the world will hardly believe that the discretion abused in existing national environmental regulation will not be abused again when industrialized countries implement border tax adjustments, carbon taxes, or permit allocation schemes to mitigate climate change.

Policies vulnerable to such abuse are described in this policy brief as "murky" - because improper uses of government authority are difficult to observe in the context of legitimate exercises of policy makers' discretion. The much-vaunted goals of Western policy makers for climate change will be jeopardized if they indulge in murky, green protectionism now.

The 2009 Environmental Agenda

The election of President Obama has seen a new US Administration come into office that is keen on multilateral approaches to addressing climate change. This major shift in American policy stance effectively isolates the few remaining industrialized countries holding out against bold climate change measures. Since taking office there have been no signs that the Obama Administration is backing away from its campaign pledges; indeed, newspaper articles confirm the White House's intention to press ahead.

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These US developments are particularly significant given the scheduled December 2009 Copenhagen negotiation on a replacement for the Kyoto Protocol on climate change – an accord that could come into effect in 2012. Even before the current global economic downturn, negotiations on climate change-related emissions caps have proved contentious. Unlike the Kyoto Protocol, where developing countries did not make emission-related commitments, the assumption in the current negotiation is that all countries – in particular the rapidly emerging large markets – need to make binding commitments if there is any hope of limiting long-term climate change.

While the principle of “common but differentiated responsibilities” has been accepted in the current climate change negotiations, implying that developing countries would shoulder less of the burden associated with mitigating climate change, the precise quantum of commitment remains unsettled. Many leading developing countries have taken a very tough line on the acceptable level of emissions caps, if any, arguing that they would constitute an unacceptable restriction on the development of their economies and effectively confine millions to permanent poverty if green sources of growth cannot be found. Furthermore, the point has been made that the current stock of climate change-inducing gases in the Earth’s atmosphere was produced almost entirely by rich, industrialized countries for which they alone, so the argument goes, bear responsibility. Despite these difficulties, much commentary just after the US presidential election of 2008 expressed the view that a negotiating breakthrough could be reached this year.

Carbon Border Taxes vs. Global Solutions

Some Western governments have not waited for the climate change negotiations to start before taking or proposing measures. Regional (EU-wide) and unilateral moves by industrialized countries have been mooted and their consequences have caused consternation in governmental and business circles in developing countries; indeed, such concerns are prevalent in some Western countries too. As described below, the fear is that measures falling short of global reach will generate substantial pressures to restrict imports from countries whose governments are less aggressively taxing carbon use.

Even though a consumption tax applied to the carbon content of goods and services is probably ideal, difficulties in calculating content arise, especially as many goods are produced in supply chains involving many different stages of manufacturing and assembly. As a result, directly taxing producers’ use of carbon is seen as the more practical option. However, such taxes effectively increase the price of carbon – and with it the prices of many energy sources. This, in turn, will increase the costs of production of goods and services and worsen the competitiveness of domestic firms vis-à-vis certain rivals located abroad.

To offset this adverse effect on competitiveness some proponents – including Senators Joseph Lieberman (Independent-Connecticut) and John Warner (Republican-Virginia), who introduced a high-profile bill that recently failed in the US Congress – have argued for the introduction of taxes on imports from those jurisdictions with lower carbon taxes. Ultimately, it is feared that unilateral and regional measures will induce defensive protectionist pressures that will manifest themselves in measures to limit imports to the detriment of trading partners. Poorer countries, which to date have expressed less interest in reducing carbon usage, are considered particularly vulnerable. These con-

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cerns are exacerbated once account is taken of the potential for protectionist abuses of the discretion given to officials responsible for implementing future carbon taxes and associated border tax adjustments. Developing countries do not want to see low tariffs replaced over time by new border barriers that keep their products out of industrialized countries' markets.

The Economic Crisis and Green Protectionism

If the working definition of green protectionism is "the deliberate use of environmental policy initiatives to discriminate against foreign commercial interests, including subsidiaries of companies owned or headquartered abroad," then there have been some very worrying developments in recent months.

These worries do not relate to environmental policy making per se, but rather to cases where the measures chosen and implemented to advance governmental environmental goals have in fact been influenced by the desire to shield domestic firms and workers from different types of foreign competition. Of course, not every example of green protectionism is stated explicitly (although an example follows in the next section). Green protectionism often involves abuse of the discretion required to make sound environmental policy choices. As such, some green protectionism is murky, the dangers of which are highlighted in this paper.

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Before discussing the impact of the global economic downturn on green protectionism and climate change initiatives, it is worth noting that the various inter-linkages between international trade, commercial policy, environmental policy, and environmental outcomes have long been a concern of policy makers and trade diplomats.

The climate change negotiations probably represent the widest-ranging negotiation on such matters. Still, significant advances were accomplished in the trade-and-environment nexus with the negotiation of various provisions of the WTO, the GATT, the GATS, the Agreement on Technical Barriers to Trade (TBT), and the Agreement on Sanitary and Phytosanitary Measures (SPS). These accords, reinforced by many similar provisions in regional trade agreements, disavow discriminatory intent in the implementation of environmental measures that have implications for international commerce. The TBT and SPS accords also require scientific evidence to be applied in determining technical, health and safety standards. None of this is to imply that these matters are settled and have not proved



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to be controversial; to the contrary, some very bitter international disputes have been taken to the WTO for adjudication. Even so, the principles of sound environmental policy making that are "least distorting" of international commerce have been established, and are particularly relevant when policy makers come under intense protectionist pressure.

Environmental Provisions in National Stimulus Packages

In order to offset falling private sector demand, many governments have announced and begun implementing substantial fiscal stimuli. Moreover, considerable emphasis has been placed on "green" spending, or public expenditures that promote national environmental policy goals. While there is nothing wrong in principle with the latter, it does not necessarily imply that all green spending in recent stimulus packages treats imports and domestically-produced goods on an equal footing. The following example, quoted verbatim from the recently enacted US stimulus legislation, appropriates funds for advanced batteries and components, but only for manufacturers in the US, thus banning foreign firms from benefiting from a multi-billion dollar opportunity:

[Provided further] [t]hat \$2,000,000,000 shall be available for grants for the manufacturing of advanced batteries and components and the Secretary shall provide facility funding awards under this section to manufacturers of advanced battery systems and vehicle batteries that are produced in the United States, including advanced lithium ion batteries, hybrid electrical systems, component manufacturers, and software designers (United States Congress, 2009).

Government procurement is one of the least liberalized areas of international trade; even when overt import bans are not included in national legislation, much environmental spending will be effectively incontestable from abroad. Provisions to keep state contracts for environmental products and services uncontested by foreign rivals, enacted under pressure from domestic constituencies, are a form of green protectionism. The opaque nature of government stimulus packages and procurement regulations makes green protectionism murky.

Stimulus packages may also contain environment-related subsidies to agricultural producers. These subsidies may not directly target higher output levels or exports and so directly distort international trade. However, they may prevent insolvency and thereby shift the burden of adjustment to farmers and their counterparts located abroad. Moreover, to the extent that discretion is used in the award of green subsidies to farmers in sectors where world prices for their crops or livestock have fallen furthest during the current crisis, this represents another form of murky protectionism.

Green Protectionism in the Guise of TBT and SPS Standards

As the global economic downturn has deepened, government officials and traders from developing countries have reiterated long-standing concerns that regulatory standards and testing are being skewed against importers. They fear a new wave of non-tariff barriers is being erected against their exports. Some observers have even recommended that their governments refuse to conclude the Doha Round until TBT and SPS standards, and other non-tariff barriers for that matter, erected during the crisis are removed. Retaliation, it seems, can take many forms.

The costs of meeting new standards or new implementation regulations for existing standards (including conformity assessments) are said to constitute a particular burden for exporters from poorer countries. To the extent that these standards (and associated implementation regulations) are influenced by the desire to favour domestic producers, these changes represent a form of murky protectionism. The associated changes are misrepresented as being solely motivated by benign considerations. It is important to appreciate that each nation can play this “game” against every other nation, and the resulting retaliation will limit the contribution of exports to national economic recovery.

Assessing the empirical impact of this form of murky protectionism is particularly difficult, precisely because there are perfectly legitimate rationales for some TBT and SPS. Still, legitimate or not, disputes over these measures can add to the pressure for retaliatory measures. WTO records show that, in 2008,

“Murky” forms of “green” protectionism will endanger a strong climate change deal

90 more TBT notifications were made to the WTO than the trend increases over the previous three years would have suggested. These 90 notifications amounted to a 9 percent increase over trend. However, there were 90 fewer SPS notifications in 2008 than expected from trend growth. Of course, these numbers only refer to new standards. The implementation of existing standards may well have been affected by crisis-related protectionist pressures.

A counter-argument that any crisis-induced violations of the TBT and SPS agreements can be taken care of through WTO dispute settlement is not convincing; the time lags are too great. Any green protectionism undertaken now would not, should the perpetrator wish to drag out the WTO proceedings for as long as possible, need to be removed until the end of 2010. The damage to trade would, of course, be done by then and trading partners may not be able to resist the temptation to retaliate.

These considerations may well call for reforms to the WTO’s Dispute Settlement Understanding, including potentially expanding the scope of sanctions and the speed of investigations; however, securing agreement on such reforms would take time and the middle of a global economic downturn may not be the most auspicious time to launch such an initiative

Climate Change Negotiations and Unilateral Measures

The impact of the global economic downturn on firm viability is also reducing the momentum behind both the climate change negotiations and the implementation of unilateral measures to reduce carbon content, precisely because of fears about the impact on the costs of firms that face competition from abroad. Looking forward two scenarios seem plausible:

- The prospects for a comprehensive deal at Copenhagen are seriously weakened by the ongoing crisis and declining corporate profitability; or,
- The pressure for a deal in December 2009 intensifies, and along with it the protectionist pressure to ensure that any resulting cost disadvantages are at least matched by steps to shield affected domestic firms from international competition.

As 2009 unfolds, G20 leaders should not become schizophrenic – opposing protectionist responses to the global economic downturn, and then embracing beggar-thy-neighbour measures to shore up support for a climate change deal. Indeed, policy makers should be particularly wary of traditionally protectionist industries being “helpful” in the run up to the Copenhagen conference.

Green Protectionism Endangers a Strong Climate Change Deal

Many G20 leaders say they want a climate change deal and expectations in some quarters are high for the Copenhagen summit in December 2009. A climate change deal would involve the introduction of complex new taxes and schemes with substantial discretion needed for proper implementation. It is very naïve to think that developing country governments – whose assent is needed to conclude a climate change deal – will cooperate if they feel that the discretion associated with existing environmental policies in industrialized countries was misused to shut out imports during the current global economic downturn. A developing country veto of a strong climate change deal may well be the price of crisis-induced green protectionism. G20 policy makers need to bear this in mind and instruct their government officials to implement environmental initiatives in a manner that not only puts foreign firms on an equal footing with domestic firms, but is also seen to do so. Just like other forms of murky protectionism, being seen to give equal treatment is almost as important as granting such treatment in the first place.

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Le CIGI a été fondé en 2002 par Jim Balsillie, co-chef de la direction de RIM (Research In Motion). Il collabore avec de nombreux partenaires stratégiques et exprime sa reconnaissance du soutien reçu de ceux-ci, notamment de l'appui reçu du gouvernement du Canada et de celui du gouvernement de l'Ontario. Le CIGI exprime sa reconnaissance envers le gouvernement du Canada pour sa contribution à son Fonds de dotation.

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