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Perth USAsia Centre

Responding to trade coercion:

A growing threat to the global trading system

A POLICY OPTIONS PAPER

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Introduction

As geopolitical tensions have increased in recent years, international trading relationships have become more politicised. Coercive trade practices have emerged as one of the nascent, and more concerning, expressions of this trend.

Trade coercion involves the arbitrary application of trade measures – such as quotas, anti-dumping measures and/or phyto-sanitary barriers – with the deliberate intent of economically harming a trade partner. It differs from other restrictive trade measures in that the objective is not to address a legitimiate trade concern, nor to protect domestic industry. Rather, the goal is to impose economic costs and thus apply political pressure on a trade partner as part of a broader diplomatic dispute.

Trade coercion is a serious threat to the global trading system. It breaches the core WTO principles of non-discrimination and transparency. It asymmetrically affects small and medium countries, who lack the size to respond effectively to larger players. It also undermines confidence in rules-based approaches to trade, at a time when the global trading system is under enormous stress.

The 'grey-zone' nature of trade coercion makes it difficult to identify, let alone quantify, the practice. Few governments admit to breaching international trade rules to politically pressure others, and in some instances it can be challenging to differentiate between coercive and protectionist trade policies. While many instances of trade coercion go unreported, experts agree the practice has become much more common in recent years, and is being driven by some of the largest players in the global trading system.

Unfortunately, existing trade instruments are not fit-for-purpose to address trade coercion. The WTO dispute settlement process is too slow to provide timely responses, and cannot function effectively while the Appellate Body is inquorate. Dispute settlement provisions in plurilateral and bilateral agreements depend on goodwill and comity, which is usually absent when trade coercion occurs. Domestic trade tools are not designed to address restrictions which involve broader political considerations.

Many governments are now exploring how to effectively address the growing challenge presented by trade coercion.

This paper outlines ten policy options – at the national, like-minded coalition and WTO levels – which can help governments design effective strategies. Developed by an international group of eminent trade policy thought leaders, these policy options offer credible and effective responses that governments can implement individually and in concert with others. The ten policy options are complementary, and governments may choose from the menu combinations which work best for them given their particular circumstances. Most importantly, if implemented, they can go a long way in supporting the integrity of the global trading system, which enables all countries to enjoy the economic benefits of transparent, non-discriminatory and rules-based trade.

National-level responses:

1. **Diversify trade relationships based on risk assessments.** Sectors or products which are highly-dependent on trade with a small number of partners are the most susceptible to trade coercion. Concentrated trade ties are a challenge both for export sectors (those with a small number of major markets) as well as import-using industries (where critical raw materials and components are sourced from a monopoly producer). Sectors which are dependent on few markets are more likely to be targeted by coercive trade practices, and will suffer greater economic harms when it occurs.

   Diversity in trade relationships is the single most effective defence against trade coercion. Governments can promote trade diversification in two ways. First, they should identify which sectors – on both the export and import sides – have highly concentrated trade relationships, particularly those where political risk is present. Second, they should prioritise resources towards assisting those at-risk sectors to develop more diverse trade links. This can be achieved through the activities of trade promotion authorities, bilateral and plurilateral negotiations, and other domestic policies such as the promotion of digital tools, to help firms expand into new markets.

2. **Improve information gathering practices and government-stakeholder coordination.** Coercive trade practices can be difficult to distinguish from routine disputes. They are sometimes deployed in a 'grey-zone' manner – where governments apply, but fail to disclose the true intent of, trade barriers – complicating identification. A lack of reliable information on trade coercion inhibits timely and effective policy or diplomatic responses.

   Governments should invest in greater information-gathering initiatives to investigate, identify and respond to suspected cases of trade coercion. This will require expanded and deeper coordination between the government and stakeholders, particularly trade-active businesses which often have the earliest awareness and most detailed experience with coercive barriers. Governments should encourage and facilitate coordination between stakeholder groups of partner countries to solidify opposition to trade coercion. Effective national strategies also require an 'all of government approach' with close coordination between numerous agencies, including trade, industry, foreign affairs and security.

3. **Provide assistance to coercion-affected businesses and workers.** Trade coercion is not a normal or easily-anticipated risk. Strong business-to-business relationships cannot insure against or manage cases of trade coercion, particularly when it occurs due to exogenous diplomatic disputes. Coercion-affected businesses and workers must rely on governments to respond to what is a political, rather than commercial, risk.

   Governments can support affected businesses and workers in a variety of means, calibrated to the specific coercive practice in question. In some contexts, diplomatic representations may be the appropriate step, potentially moving to stronger enforcement actions over time. In other contexts, governments should invoke domestic tools – such as providing compensatory support for affected industries and workers, proportionate and time-limited to the duration of the case.

Like-minded coalition responses:

4. **Seek opportunities for sharing information.** Sharing information with other governments can help identify, understand and respond to coercion. This is important for restrictive practices that might initially be considered routine technical disputes, where identifying a political rather than trade policy motive can prove challenging. For smaller countries with fewer trade policy resources, this information is an especially important aid to consider what pre-emptive steps to take, which practices and products to monitor, and which responses are likely be effective.

   Governments should explore options to share policy and commercial intelligence on coercive trade practices. Emphasis should be placed on identifying targeted products and sectors, as well as the sequencing and types of trade restrictions imposed. Information sharing can be conducted either informally between trade policy bureaucracies on an ad-hoc basis, and/or through the establishment of formal mechanisms within broader economic partnership agreements or relevant groupings. Additionally, countries may consider adding provisions to their trade agreements to prohibit the use of trade coercive measures, either as a soft or hard obligation.

5. **Coordinate diplomatic responses to identified cases of coercion.** Size matters in trade diplomacy, and small and medium sized countries are at particular disadvantage when it comes to coercion. Diplomatic representations by small and medium countries addressed to larger players often fall on deaf ears. They also lack the ability to credibly threaten countermeasures that could deter coercion from occurring. Support from like-minded partners is a critical 'force multiplier' that enables small and medium countries to respond effectively.

   Like-minded countries should consider more coordinated diplomatic responses to positively-identified cases of trade coercion, either individually or as a group. At a minimum, public statements of solidarity help raise awareness of the issue and impose reputational costs for those undertakin coercion. Joint statements between a group of countries can also help build international norms against trade coercion. Like-minded groups can also lead advocacy on trade coercion issues in regional and global economic groupings.

6. **Put trade coercion on the agenda of major multilateral groupings, including the G20 in 2022.** In light of the serious threat to the rules-based system that trade coercion presents, there is a pressing need for multilateral economic organisations to address the issue. Like-minded countries should lead this effort. Next year's G20 meetings of trade ministers, foreign ministers, and leaders present an important and global-level opportunity to spotlight concerns with this practice.

   Given the technical complexity of coercive trade measures, there is also a need for detailed policy discussions on forms and possible responses. Both APEC and the OECD provide venues for this work, embedded within their existing trade policy programs and processes. Their mechansms for incorporating business input also provide an avenue to seek information and input from the private sector. Building understanding and consensus amongst trade officials engaged with these bodies will help develop a shared knowledge base for further action.

7. **Enlist the OECD to develop an inventory on coercive measures:** Transparency is critical to deepen international understanding on the use of coercive measures. Building on the OECD's past work on similar databases – such as its Digital Trade Inventory and Inventory of Export Restrictions on Raw Materials – it seems well positioned to catalogue these practices. An OECD-managed database could be established on coercive trade measures, containing data with respect to actions taken, affected products and sectors, outcomes, and impacts. It can do this through in-house expertise, but could also invite input from economies and stakeholders subject to trade coercion. Such a database should be regularly updated and shared widely with OECD members and non-members alike.

8. **Promote third country solidarity:** Third countries could demonstrate solidarity by taking steps to promote domestic consumer awareness of coercion-affected products, and supporting the trade promotion activities of affected partners. Moving beyond trade promotion activities becomes more complicated and politically difficult. However, third countries should consider the feasilibity of temporarily suspending import restrictions in an MFN-consistent way – including lifting tariffs, expanding quotas and easing tariff rate quotas – to products of economies facing trade coercion. Such actions could help those affected economies on a time-limited basis, as they seek to diversify their trading relationships.

WTO-level responses:

9. **Raise concerns in WTO Councils, Commitees and Trade Policy Review:** The WTO is facing major challenges in all pllars of its work – negotiation, monitoring and dispute settlement. Adding additional responsibilities and expectations for the WTO to address coercive trade practices is unrealistic. However, that does not mean the WTO – as the world's principal trade rule-making body – can ignore a systemic threat to the integrity of the global trade system.

   There are numerous opportunities for WTO members to raise concerns in Geneva, to pressure a coercing Member to explain its actions. In particular, like-minded countries can coordinate interventions at relevant WTO Councils and Committees. The Trade Policy Reviews process also offers an opportunity to call attention to coercive trade practices when they occur. Adding the topic to future WTO Public Forums could help bring broader attention beyond trade officials to this practice. With a chorus of countries requesting explanation of coercive practices, peer pressure can be put on those economies that are pursuing such measures.

10. **Pursue WTO dispute settlement procedures:** Formal WTO dispute settlement cases have recognised limits with respect to addressing trade coercive measures. These measures are often informal and subject to plausible deniability, making it difficult for the complainant to prove its allegations. The long time frames of dispute settlement cases also call into question the utility of pursuing this route, and in some situations it may be preferable to seek other political solutions. Nevertheless, formal dispute settlement – including during its consultation phase – can in appropriate cases be useful in calling out the practice and highlighting unacceptable or groundless explanations. Dispute settlement puts pressure on the Member to lift a coercive measure, and also functions as a deterrent to its future use.

    For small and medium sized countries, WTO disputes may be one of the only ways to respond when faced with coercive practices. However, they should not have to do so alone. Exercising third party rights by other WTO members during disputes, including through tabling written submissions during the panel stage, can offer support to the complainant. Governments may also consider offering information and assistance to partners in the preparation of legal briefs for WTO dispute settlement litigation.

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