Sanctions under GATT Article XIX versus Voluntary Export Restraints

Voluntary export restraints play a substantial part in international trade today. This article compares the effects such restraints have upon certain exporting countries with the effect of sanctions applied under Article XIX of the GATT. It is shown that the microeconomic protectionism analysis used as a basis for the current debate on the reform of the GATT is unable to provide a conclusive answer as to which variant of protectionism would be preferable from the exporting economies' point of view. The article also indicates the direction in which existing research shortcomings can be reduced.

One of the key points characterized by the popular term "neo-protectionism" is the remarkable numerical increase in protectionist measures during the more recent history of world trade. These include all types of measure, whether tariff or non-tariff: compensatory tariffs, variable import levies, direct or indirect export subsidies, import and export quotas, administrative obstacles via regulations on dimensions and specifications, delays in arranging finance or granting customs clearance, etc. This trend towards impeding free trade is described as "the quantitative aspect of neo-protectionism". It constitutes the most conspicuous motive for efforts to reform the General Agreement on Tariffs and Trade (GATT).

Among the most important economic causes of the escalation in protectionism named in the reform debate are the increasing "competitive pressure" on world markets from newly industrialising countries, the diminished flexibility of highly developed industrial countries in adapting to changes in the structures of world trade (inability to adjust to the product cycle), and the now urgent need to reduce the USA's excessive imports as a consequence of its high budget deficit (adjustment of the balance of payments, and the international debt problem). Is should be noted that the above trend is occurring partly within the framework of the GATT via the increased use of tariffs, but also increasingly outside the ambit of the GATT or indeed by undermining GATT regulations using measures not dealt with by the treaty.

The much-discussed Article XIX of the GATT provides for what are termed "compensatory tariffs" to be placed on imports as a protective measure if a GATT member country experiences severe disadvantages for its import-competing industries as a result of the free-trading relations presided over by the GATT. However, a precondition for taking such protective measures is that agreements are reached and compensation agreed to the benefit of the exporting countries affected by the measures, and that this is done in accordance with strict rules (on publicity, declaration periods, etc.). In the event, the negotiations involved often prove difficult and success in reaching an agreement is by no means guaranteed.

If negotiations fail and the sanctions under Article XIX are eventually imposed, there is then a danger that the exporting countries discriminated against will resort to retaliatory action. Despite this, increasing use is nevertheless being made of discriminatory defensive tariffs under GATT rules, especially by member countries such as the USA whose export dependence is low.


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Because negotiations in the cases covered by Article XIX are so long drawn out and may end in failure, and because even if they are successful it will become clear in the process to those parts of the importing country’s domestic economy not directly benefiting from protectionist measures that these also generate unfavourable effects, there is quite an incentive for importing countries which have had enough of free trade to agree to “voluntary export restraints” by the exporting countries.

To cite an example, the number of voluntary export restraints undergone in the USA’s favour during the period 1970-1985 was three times as high as the number of defensive tariffs declared by the USA under Article XIX. In the case of the EC and its member countries, the number of cases of self-restraint in their favour actually exceeds the number of measures taken under Article XIX by a factor of nine. In 1984, approximately 40% of the EC’s imports from Japan and 33% of American imports from that country were subject to voluntary self-restraint.3

The growing use of such voluntary export restraints is the “qualitative aspect of neo-protectionism”.4 This will be the area of concern for the considerations which follow.

Voluntary Export Restraints

A “voluntary export restraint” is a measure by which a government or branch of industry in an importing country comes to an agreement with the government or the competing industry in an exporting country upon quantitative export restrictions for one or more products.5 However, such restraints are also frequently declared unilaterally by an exporting country without establishing any bilateral agreement or, in other words, without the considerable negotiating efforts otherwise required. This may enable it to preempt potential defensive tariffs by depriving them of the justification they need under the terms of the GATT.

This flexible and discrete approach clearly represents a substantial advantage on the part of this “classical” instrument of neo-protectionism when set against sanctions under the terms of Article XIX. Moreover, in such a “voluntary” form a quantitative export restraint is not controlled by the GATT’s statutes, which only prohibit discriminatory, sovereign measures involving tariffs, duties or taxes.6 Another factor is that voluntary export restraints are beneficial to the popularity of the exporting country and its products in the importing country. This increases its readiness to undertake voluntary export restraints. Quite apart from the aspects already mentioned, however, the exporting industries concerned also see major economic advantages in voluntary export restraints.

Traditional Comparison

If a compensatory tariff under the terms of Article XIX is imposed, the price on the protected market rises as a result. This generates the familiar protective effects for import-competing industries. These effects will not be considered here.7

The price in the protected market will rise particularly strongly if the price elasticity on either side of the market is low (low responsiveness). Conversely, if either side of the market reacts strongly in quantity terms to changes in price (high responsiveness), the rise in price will be relatively slight. Either of these constellations is possible in situations where Article XIX is resorted to.

In the former case, for example, the intention might be to use protection as an aid to expanding the capacity of domestic suppliers over the long term—too low a level of capacity is one possible cause of the low supply elasticity of import substitutes. This motive for protectionism is especially prevalent in the developing countries (infant-industry protectionism).

In the second case where price elasticity is high, there is generally a sufficient reserve of capacity but this is unused because of better-priced import competition. Using protective measures to eliminate this competition from imports then allows capacity to be used at the desired higher level. If domestic suppliers are displaced by price competition this usually results from an unfavourable cost structure when compared internationally. The resulting limited international competitiveness is a motive for protectionism primarily in the industrial countries.

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3 Ibid., pp. 6 ff.
4 In addition, there is a growing number of countries (especially in the Eastern bloc) which are carrying out trade but are not GATT members and hence not obliged to abide by its rules. To the extent that they take protectionist measures the direct effects on their own economy are much more important to them than having regard, whether contractually or morally, to free trade agreements.
6 Cf. C.F.J. Boonekamp, op.cit., p.3; C. Hamilton, op.cit., p. 112.
7 The use to which the tariff income is put could give rise to effects which would differentiate the compulsory tariff option from voluntary export restraints. These are largely ignored in political discussions, however. On this, cf. M. Frankel: Makroökonomik des Protektionismus bei festen und flexiblen Wechselkursen, Hamburg 1985; by the same author: Gesamtwirtschaftliche Effekte globaler protektionistischer Maßnahmen, in: Jahrbuch für Sozialwissenschaft, 37, 1986, pp. 290 ff.