Non-Tariff Barriers to Trade

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Over the past three decades the non-tariff barriers to trade have grown in importance inversely to the import duties which have been lowered under GATT auspices. In the current GATT negotiations — the Tokyo round in which the contracting parties have been at work since the autumn of 1973 to solve the acute trade-political problems — non-tariff trade barriers are for the first time playing a major role.

Non-tariff barriers to trade are not a new phenomenon of our time — new is only the term. State authorities have been attempting to intervene in exchange relations by protectionist means ever since they embarked on a modern trade policy involving deliberate intervention in the economic process. The term "non-tariff trade barriers" made its first appearance in the early sixties. It has been used increasingly since in economic literature and in the press so that it is by now a common technical term.

It is not always clear, especially outside the English-speaking countries, to what particular trade obstacles the appellation "non-tariff" should be applied. The English-speaking reader understands at once that the term comprises all trade barriers other than customs tariffs. For him the only question is: What is a trade barrier? To give just one example: Are the different languages of two countries trading with one another — certainly a natural barrier par excellence — to be regarded as non-tariff barriers to trade in the meaning of the term? In the present article the term "trade barriers" will be used for any act of intervention in the economic process by which foreigners are consciously discriminated against. ¹

Definitions

This wide definition of the term "trade barrier" covers a multitude of highly heterogenous measures. To apprehend to what an extensive range of measures the term is applicable one should call to mind a scale which at one end comes up against the trade obstacles in the nature of a customs tariff — i.e. including all types of customs duties (import duties, anti-dumping duties, countervailing duties, etc.) and at the other end barriers on the antipole of the autonomous private sphere in which non-official economic subjects or organizations engage in discriminating trade practices. Between these two termini are to be found all those trade barriers which are not customs duties (the limit at the left end of the scale) but derive from deliberate intervention by the state or are at any rate operated with the consent or acquiescence of the state (the limit at the right end of the scale).

The entire scale of non-tariff trade barriers can be divided into three major sections according to the degree of state influence — the spheres of the legislative, of the executive and of private groups and organizations. The influence of the state is greatest and most immediate where its intervention is based on legislation, as is the case with import duties. The general designation for non-tariff trade barriers which presuppose a will by the executive to take political action and originate within the administrative sphere is "administrative protectionism". When private groups and organizations such as trade associations, trade unions or certain industries resort to discriminatory practices against foreigners, the collaboration by the state does not as a rule go beyond approval for or acquiescence in such actions. Private intervention is usually directed at working on the chauvinistic instincts of the populace. The common term for such appeals to national sentiment in literature is "emotional protectionism".

¹ A detailed account of the origin of the term, its content and the manifold forms in which non-tariff trade barriers present themselves can be found in: L. Quambusch, Nicht-tarifäre Handelshemmnisse. Ein Beitrag zu ihrer Systematisierung, Anwendung und Beseitigung (Non-tariff trade barriers — A contribution to their systematization, application and elimination), Untersuchungen des Instituts für Wirtschaftspolitik, Cologne University, No. 35, Cologne 1976.
The grading of non-tariff trade barriers according to the agents who are exercising political will and influence makes it possible to draw certain conclusions about dissimilarities between protective devices. Protectionist intervention is seen to occur with the greatest regularity in the sphere of legislative protectionism whereas administrative obstacles and obstruction of trade by private groups pertain to particular instances. The forms of protection associated with the various agents exerting influence can be sub-divided according to their comparability with import duties.

**Legislative Protectionism**

The term "legislative protectionism" comprises all enactments made for the direct purpose of bringing a protectionist influence to bear on the foreign trade, viz. (1) measures which affect prices, (2) trade barriers involving quantitative restrictions, and (3) regulations prescribing the use of domestic products in preference to foreign ones. Most important among the non-tariff trade barriers with an influence on prices are the special impositions on imports and exports, subsidies for domestic industries and measures for the promotion of exports. The trade barriers involving quantitative restrictions include import embargoes, export quotas, voluntary self-restraint agreements for exports, export embargoes and export quotas. Amongst the regulations for the furtherance of the use of domestic products are for instance computative additions to the import value of foreign products, the utilisation of foreign goods in quantitative dependence on domestic products, limits on profit margins, other forms of price control which impede the sale of foreign products, and discriminatory taxes and fees.

**Administrative Protectionism**

The measures of protection on a legislative basis include regulations originally or allegedly issued for other than protectionist purposes which the administration can, if they so wish, misuse for the restriction of trade. They are to be regarded only indirectly as protectionist laws; in fact they are part of the administrative protectionism. Under this heading fall protective regulations providing safeguards for the consumer (compulsory labelling, marketing regulations), protection of human, animal and plant life and health, copyright protection, standard specifications and safety regulations. To this group belong also various rules of procedure for the issue of import and export licences, customs clearance (import and export formalities, tariff classification, customs value determination, customs complaints procedure) and regulations on the levying of anti-dumping and countervailing duties.

Equivocation, concealment and inconsistency are frequently the mark of a third group of instruments which range from purely discretionary decisions and secret government directives to arbitrary acts by the executive and even administrative chicanery. These are the classic instruments of administrative protectionism.

**Emotional Protectionism**

Appeals to national sentiments form a fourth group. They may emanate from organs of the state; but they may also be elicited by private groups and organizations. The measures encompassed by this group of discriminatory appeals and practices are of virtually unlimited versatility in the light of changing requirements for protection. Most important amongst them are discriminatory practices in connection with public tenders and appeals to the buyers' patriotism.

Appeals and actions for the boycotting of foreign products are the fifth group of protectionist instruments. Measures of this kind are mostly initiated by private groups; frequently they are an expression of overt xenophobia and often go beyond