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Those root causes are the high farm-support prices in highly industrialised countries which, protected by import quotas and variable levies, stimulate increased production and thereby cut out low-cost foreign suppliers, or which go even further and generate substantial surpluses that have to be either stored or destroyed at high cost or dumped at subsidised prices on world markets. In this way the heavy costs incurred in maintaining a reasonable relationship between rural and urban incomes in industrial economies are passed on to traditional agricultural exporting coun-

tries and to developing countries that, as a result of the Green Revolution, could become major exporters of agricultural produce.

An international agreement among developed countries on the elimination of industrial tariffs could provide the framework for a process of more or less continuous consultation and negotiation on *inter alia* the expansion of commercial trade in temperate-zone farm commodities.<sup>13</sup>

<sup>13</sup> An analysis of trade problems in the agricultural sector by Dr T. E. Josling will soon be published in *INTERECONOMICS*.

## Non-tariff Barriers Are a Manageable Problem

by Dr Dieter Stentzel, Hamburg \*

**With the advancing general dismantlement of tariffs, it became progressively more obvious that, apart from import duties, there are a number of other obstacles for a free flow of international trade. There are numerous rules, regulations, and restrictive practices imposed and operated by government departments and semi-official bodies which exert a more or less strong influence on the volume, the directions, and the composition of foreign trade. Such measures designed to channel trade into desired directions are collectively known as non-tariff barriers (NTBs).**

NTBs, it is clear, are acting as distortions of competition, and if it is intended to establish fair competition, they ought to be done away with. If it should be possible to achieve such an ideal state in industrialised countries, this would set up important growth impulses, not only for the industrial nations themselves but also for LDCs, which are in need of such aid. It is especially their export trade which is gravely hampered by NTBs, because it is much more difficult for them to obtain correct and detailed information about the complicated network of NTBs obtaining in individual industrialised countries. It is also the case that commodities and manufactured goods which form important parts of the LDCs' export trade often compete with the products of structurally weak sections of industrialised countries, e.g. farm produce, textiles, and leather goods, and industrial nations tend to grant these industries special protection.

### A Breakdown of NTBs

There are, thus, a number of important reasons why NTBs should be dismantled. How to achieve

this, however, is a much more difficult question than in the case of tariffs. In view of their great variety, it is impossible to arrange simply for linear annual cuts (which is possible with duty rates) to be operated by all the trading partners. It will therefore be necessary to look for different methods for reducing the impact of different NTB types. A breakdown of NTBs according to their method of operation shows the following types:<sup>1</sup>

□ Measures whose original purpose was to manipulate trade, including regulations concerning customs declaration and handling, import quotas, import taxes and excise duties, export subsidies;

□ Measures to regulate home production and/or distribution, including public health, standardisation, packing and labelling rules. True, such measures are generally not intended to manipulate imports or exports but there have been, and

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<sup>1</sup> J. Walter, J. W. Chung: The Pattern of Non-Tariff Obstacles to International Market Access, In: *Weltwirtschaftliches Archiv* (Archives of World Trade), Vol. 108, 1972, No. 1, p. 122.

still are, cases in which they serve clearly protectionist policies;

☐ Purely fiscal measures without the intention to regulate foreign trade, including taxes on consumption, state monopolies, structural and regional support programmes, which all may have a decisive influence on foreign trade.

To do away with NTBs, negotiations would have to aim at the following changes: All the regulations in the first group should be completely abolished. Regarding the second group it is highly desirable that these measures, describable generally as technical and administrative regulations, should be standardised, since their straightforward abolition is not possible in view of their importance for reasons of policy, e.g. in the fields of public health and of regulating competition. Certain standards, however, could, with profit, be dismantled. Fiscal policies, in the widest sense, should be harmonised, as between nations. On the other hand, harmonisation must not weaken the national governments' ability to pursue a definite economic policy. On the contrary, structural and economic policies of governments must be made more efficient, since structural crises ought no longer to be tackled with the tools of protectionism.

#### **Scant Successes in the Past**

Surveying the present state of negotiations about NTBs, it must be admitted that the aims of the negotiators are too ambitious, and the solutions proposed have been found to be impracticable. The NTB problem had already been mooted during the Kennedy Round, but discussions only focussed upon certain special kinds of NTBs, e.g. the American Selling-Price-System (ASP). The conference was only moderately successful in this field, for ASP has survived. Progress was made in the area of antidumping measures: importing states are no longer permitted to fix arbitrary rates of anti-dumping duties. Their ceiling level is that of the actual damage done to inland industries by dumping. During the last GATT Round, it proved impossible to deal with NTBs comprehensively, as there was a lack of information about the types and the incidence of NTBs in different countries. The GATT Secretariat was charged with collecting such information. In 1969 a catalogue of more than 800 NTBs was submitted. In order to facilitate future negotiating successes, the Secretariat has drawn up a shortened list containing 30 of the most important barriers to trade.

Any new GATT Round ought to be in a position to take new and decisive steps. One of the decisive

measures in this direction would have to be the abolition of that GATT Article which permits members to keep in being NTBs.<sup>2</sup> The main justification for protectionist regulations is the "Grandfather Clause", i.e. an article which permits GATT members to retain those trade barriers which had been operative already before their joining GATT. Article 19, moreover, permits the introduction of new NTBs, e.g. of import quotas, though only for limited periods. Experience, however, has shown that GATT members interpret that Article with exaggerated "liberalism". Clear guiding lines for using these Articles are needed. Another bunch of NTBs is not affected at all by GATT rules, and a new GATT Conference would have to enlarge the Organisation's power and authority. Apart from such fundamental problems, GATT would also have to deal with diverse practical problems, fitting the method of approach individually as it suits the individual NTB.

It will presumably not be too difficult to circumscribe the aims at which negotiations about quantified restrictions should arrive — which can be described as import quotas and "voluntary" export quotas. The objective should be a general agreement about raising the quotas annually by a fixed linear percentage up to a final level that would be higher than actual import requirements, which makes their complete withdrawal possible.

#### **The Growing Importance of Structural Policies**

But getting to that point will be extremely difficult. Quantified import restrictions have been introduced by highly industrialised countries mainly for the protection of their farmers. The industrialised countries suffer from fantastic difficulties regarding their agriculture, which will compel GATT to deal with this sector separately, lest negotiations be deadlocked here. Protected industrial manufactures under the umbrella of import quotas are textiles, shoes, and leather goods, whereas the US steel is protected by voluntary export restrictions of other countries. All these industries are structurally weak and therefore attract this form of maintenance subsidies. Export quotas put shackles specifically on the most competitive rivals. The problem of quantified restrictions will remain insoluble without active structural policies of the importing countries,<sup>3</sup> and that is why the obligation to mount such policies should become one of the duties of GATT members under the General Agreement. Temporary import quotas might then be accepted as tools of a structural policy, but GATT should

<sup>2</sup> G. and V. Curzon, *Global Assault on Non-Tariff Trade Barriers*, London, 1972, pp. 6 et seq.

<sup>3</sup> *Ibid.*, pp. 121 et seq.

permit their introduction only on condition that the government which imposes such quotas submits, at the same time, an improvement plan. GATT ought also to examine the continued necessity of quotas in regular intervals. Import licensing is no longer a problem of great importance. Industrialised countries usually do not use licensing for reducing imports but for giving support to certain aims of interior policy (e.g. public health). Licensing applies to a few types of goods only, i.e. living animals and pharmaceutical products. As soon as certain minimum quality requirements are met, the issuing of licences has become automatic, and this obviates most of the problem.

Methods of customs valuation are made so elaborate by certain countries that they are, in their effect, NTBs. To do away with such NTBs, it is necessary to solve most difficult questions of valuation, by finding a mandatory definition of "true" value. As regards deliveries between foreign firms, it must be assumed that actual prices reflect the invoice values of goods and systems of national values, as applied under ASP in the US, should be made inadmissible. Notional value, however, might have to be used in the case of transfer prices between members of multinational corporations where it has been established that the actual transfer price is lower than the true value, because a concern wished to escape the full incidence of tariffs or of certain taxes. GATT will have to make basic regulations, applicable to all its members, to deal with such cases.

Most countries determine actual values under the rules of the Brussels Convention on Valuation (BCV), using cif values. However, the US, Canada, and Australia use fob values for this purpose, which works to the advantage of faraway, and to the disadvantage of neighbouring, countries. Should these three countries adopt the cif valuation basis, this would increase all duty payments proportionately, and to avoid this, they would have to reduce their entire tariffs slightly. However, it is doubtful whether Congress in the US would be prepared to consider such a step in its present, protectionist mood.

### Standardisation Rules

Given even the best will of the world of negotiating partners, it will only be slowly possible to reduce trade obstacles stemming from standardisation rules. No government can be asked to divest itself of the sovereign right to take its own measures for protecting its ecology, for its public health, for consumer protection, and for rationalisation. Unifying these measures would mean that all governments should pursue identical aims in

these fields, and to strive for this objective is utopian, under present-day conditions. However, it will be possible to work out identical standards in certain sectors, and agreement should be possible, for example, regarding safety regulations for steam boilers, and safety and reliability tests for motor vehicles.

Another possibility for smoothing the path of international trade is the mutual recognition of quality tests and certificates. Progress in this field could be achieved through bilateral and multilateral negotiations. It is a moot question whether the most-favoured nation clause is suitable for application to this problem: but it can easily be seen that this would be impracticable because there will hardly be a government prepared to recognise the tests of another one, if this means at the same time automatic recognition of the tests and test procedures of all other countries.

### Financial NTBs

Another great difficulty appears to be dismantling NTBs in the wider field of fiscal policies. Relatively simple may be the abolition of purely fiscal taxes: taxes on consumption which militate specifically against imported commodities (e.g. a tax on coffee) could easily be eliminated. On the other hand, it is almost impossible to get over the hump of government subsidies for individual sectors of the economy or for geographical regions. True, there is general consensus that, as soon as protectionism, pure and simple, disappears, structurally weak areas of the national economies are to be aided but that such aid must not take the form of subsidies which establish new distortions of competition. It will therefore be necessary to draw up a good behaviour code for structural aid to sections of the economy and for regions, but this code must not detract from the efficiency of such policies, because no government would otherwise adopt it. This policy could be negatively defined through finding a way of abolishing retaliatory customs duties. Such reprisal tariffs are similar to anti-dumping tariffs, but dumping rates of duties are applied to supplies originating with private enterprise, whilst retaliatory tariffs operate against exceptionally cheap goods which carry government subsidies. Should it be possible to agree on the kind and scope of subsidies that are to be made illegal, and which kind of government aid may be given to individual companies, branches of the economies, or regions under a future good-behaviour code, this would mean decisive progress.

Moreover, there is a great obstacle to the free flow of trade in the customary purchasing practice of government departments and nationalised

enterprises: in many cases, these give clear preference to national producers. Here two cases are to be distinguished. In the first, government itself acts as an entrepreneur who buys and sells. Article 17 of GATT provides that government, in such cases, has to act as a business concern which is not allowed to discriminate against foreign nationals, because of their nationality. However, if the government is itself the consumer, who does not resell the goods purchased, present GATT rules still permit unquestionable preference to be given to national suppliers. Within the OECD, negotiations have been conducted for doing away with such discrimination, but they have, so far, not resulted in firm agreements. Progress in this field will only be attainable when the purchasing policies of government agencies have been made wholly transparent. In the US there is a mandatory obligation to ask for public tenders and for publishing the most favourable bids, but many other countries, also in Europe, do not know such rules and regulations. Discrimination and its scope can only be shown up if and when tendering is made public.

GATT negotiations aim at investing GATT with more authority by making it the supreme arbiter not only over tariffs but also over a number of NTBs, which have so far not been codified anywhere. As soon as GATT's authority grows, there appears the question of how to give it greater powers of enforcement. So far, GATT is only empowered to investigate measures which are likely to establish a breach of the Agreement, but it cannot apply sanctions. The success of GATT negotiations will become doubtful if and when individual governments may claim exceptions and enforce them freely. In order to avoid such a breakdown, the most suitable machinery for sanctions might be a partial cancellation of the most-favoured nations clause,<sup>4</sup> thus divesting certain nations temporarily of the benefits contained in this clause. But cancelling the rigid and complete application of the most-favoured nations' clause would make it necessary to amend the GATT statutes fundamentally. Any determined policy of liberalising world trade through gradually dismantling NTBs therefore will make a fundamental reform of GATT indispensable.

<sup>4</sup> Ibid, pp. 9 et seq.

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