

Role of international trade rules in the current economic crisis

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Abstract

The current financial and economic crisis leads governments to a stronger regulation of all areas of economy, including the trade, with a goal to protect domestic industries from the foreign competition, to support production and export and to maintain a high level of employment. Almost all countries of the world trade among themselves on the basis of the WTO international trade rules and commitments. This multilateral trading system disposes of some features, principles and rules that do not open the room for a wide and wild protectionism and subsidization, as it was the case in the crises of the last centuries. Rules for subsidies, countervailing measures, anti-dumping, safeguard, import licences and other safeguard are clearly drafted. The system has, however, some gaps that were used by many countries in the current crisis. Some concrete examples of actual protectionist measures and trade liberalization are interesting to be compared. The trading system has a potential to help in overcoming the economic crisis and the depression, if a status quo is respected. If negotiations of the further trade liberalization are successfully concluded, it can bring a large stimulus package for enhancing consumption.

Introduction

As a consequence of the financial and economic crisis, the world economy and the world trade tend to contract in 2009 and it is much more probable that the decline will continue even after this deadline. In March 2009, the IMF forecasted that the **global economy would contract** by between -0.5 and -1 per cent in 2009.¹ The WTO estimated the volume of **world merchandise exports to fall** by -9 per cent in 2009.² For the world economy and the world trade, these expectations represent the deepest declines in 60 years. The contraction of export is estimated to be deeper in developed countries (fall by -10 per cent) than in developing countries (shrinkage -2 to -3 per cent).

The development of the world economy and the world trade in the current crisis is compared very often with the Great Depression of the last century, when the spiral of the world trade was sharply contracting – the world trade declined by two thirds in three years. It had been a consequence of **trade protectionist policies**, which started in the USA with the Smoot-Hawley Tariff Act aiming to protect US businesses and farmers and lead to a trade war, as US trade partners responded in similar ways. This had very severe impacts on the growth of national economies and the whole world economy as well and it was a catalyst that turned the depression into the Great Depression, even if at that time the ratio of international trade of goods (and services) to global GDP did not achieve the current level of one third³.

Since the World War II, the **growth of international trade** was much **faster than the world GDP**, what was due to significant continual declines in trade barriers and transaction costs. Tariff and non-tariff barriers to trade were reduced in the context of the General Agreement on Trade and Tariffs from 1947 with its eight negotiation rounds and the establishment of the World Trade Organization, complemented by regional integrations and free trade agreements. Harmonization of some trade procedures and the harmonized customs tariff under the World Customs Organization, development of transportation means followed by falling transportation and

¹ G20 Meeting of Ministers of Finance and Central Bank Governors, 13-14 March 2009.

² WTO Press Release, 23 March 2009, *WTO sees 9% global trade decline in 2009 as recession strikes*, available at www.wto.org.

³ 2007, approx.: world trade volume in USD to GDP in USD based on WTO Trade Statistics and World Development Indicators database of the World Bank

communication costs, rapid progress in telecommunications and information technology, the growth of the financial sector and development of new financial instruments also stimulated trade (and investment) expansion.

Today, nobody questions the dependence of the **world economic welfare and growth on trade**. International trade contributes to efficient specialization across countries (according to comparative advantages), which allows also to benefit from economics of scale. Trade increases the choice of goods and services for consumers, enhances competition and stimulates international skills and technology transfer bringing in return positive dynamic effects. Empirical studies show significant differences in the growth performance between open and closed economies. Sachs and Warner (1995), for example, find that annual growth in open economies exceeds that of more closed countries by 2-2.5 per cent.

Despite the general positive effects of a liberal trade exchange on economy, governments around the world are considering not only the **long-run economic prosperity**, but deal also with other goals and face pressures, **political and social, in short and medium terms** as well. Among others, they are lobbied to retreat from the rules-based trading system. It is why, even with lessons learned from the Great Depression, governments tend to respond the current financial and economic crisis with protectionist trade policies and financial stimulations that hidden the protectionism in order to protect industries and jobs under threat.

Trade protection seems to be a mean that could raise the profitability of domestic producers, which can ensure the employment in the given branch and then indirectly help to strengthen services sectors including the financial system. "However, the adverse repercussions of protection are much more serious than the benefits. Protection raises the price of imports. If these are inputs for domestic producers competing in world markets, their competitiveness and financial position suffers. Furthermore, protection can hurt foreign producers if they lose export business for which they have incurred fixed costs or if they can only sell such products elsewhere at a loss. This undermines the financial health of foreign producers and, indirectly, financial stability abroad. Finally, protectionist retaliation is likely and this, in turn, will hurt domestic exporters. Therefore, the net effects of trade protection on the financial sector at home and abroad are likely to be negative."⁴

It is necessary to add, however, that in the context of the crisis, there are also governments which focus to stop the collapse of global trade, to improve surveillance over protectionist measures and new trade barriers, to ensure access to trade finance on advantageous terms and to finish the current negotiation round on trade liberalization and rules strengthening.

Almost all states of the world⁵ are bound by **international trading rules and commitments** embodied in the set of the WTO agreements signed in 1994. The set of agreements and commitments of individual WTO members established a multilateral trading system, which is functional on principles of non-discrimination, transparency, fair competition, negotiations and development. It is interesting to see, what are "safety fuses" of the system against protectionism, where weaknesses of it are and what the system allows to individual governments in their fight against decline of domestic production and employment, without breaking international trade rules and commitments. It would be also interesting to compare above mentioned prerequisites with the actual development of protectionist actions of countries.

1. Trade rules and commitments

As mentioned above, the multilateral trading system is based on some principles that are prerequisite for a fair trade. The basis of the system is non-discrimination. No member of the WTO can discriminate or preferred other member (**Most Favored Nation Clause, MFN**), all shall have the same market access and all goods, services and subjects from the partner country shall be treated as nationals (**national treatment**).

The system allows, however, exception from the MFN clause that is reserved for trade integration such as free trade agreements, customs unions or integration at higher level. In these agreements, bilateral preferences are included. Even if it seems to be advantageous for participating countries, it undermines the multilaterality of the system, distorts the competitiveness of non-participants and creates a room for protectionism.

Members of the WTO, when negotiated their **international commitments** during the Uruguay round of negotiations, committed themselves to a level of import tariffs, agricultural supports or services market access that allowed them to maintain certain **flexibility**. It means that the commitments are usually well over the tariffs or subsidies that are actually applied. It is "the water" in countries' schedules of commitments that allows raising tariffs if the government unilaterally decides. It happened in current crisis when some developing countries have raised tariffs, as well as established non-tariff import measures, including outright bans in some cases.

⁴ Fingerand, K.M., Schuknecht, L. : Trade, Finance and Financial Crisis, Special Studies 3, World trade Organization, Geneva, 1999

⁵ 153 WTO members

It is estimated that the average global rate of duty would double and the value of trade would be cut by almost 8 per cent if Members raise their applied tariff rates to the levels of their WTO bindings⁶. It should be added that the situation could be much worse, because bound tariffs covering the whole range of tariff lines were agreed only for agricultural goods. Industrial products import duties liberalization does not cover all tariff lines as under the GATT negotiation procedures countries were free to decide how many tariffs they bound. The outcome of the historical evaluation in the multilateral trading system is that in agriculture, the ceilings of bound tariffs are very high and the gap between bound and actually applied tariffs is very wide. As for industrial products, there are many developing countries, which did not bound majority of their tariffs and are free to consider their increase without breaking international commitments.

Another weakness of the multilateral trading system is that it addresses market access and trade distortion of the “import accepting” country. Nothing in the system prevents government to impose **export taxes or to limit the exportation by export licences**. These practices could harm the industries that are import dependent and could undermine their competitiveness.

2. Protection instruments

2.1 Subsidies

In the presence of crisis or market failures governments may feel justified in using subsidies to stimulate domestic industry and consumption, to facilitate adjustment, to promote export and/or to protect employment.

WTO provisions relating to subsidies contain disciplines aimed at “levelling the playing field”⁷, by recognizing the **right of Members to use subsidies as a policy instrument**, while at the same time restricting the use of subsidies that unduly distort trade or prejudice foreign producers. Multilateral trading system provides for rules for application of specific subsidization targeted at particular companies, sectors or regions, recognizing two categories of subsidies - actionable subsidies and prohibited subsidies. (After the establishment of the WTO, there existed third category of subsidies – non-actionable. All non-actionable subsidies were phased out until 2000.) Adjustment related government subsidies or benefits that are not specific and subsidies that are widely available within an economy are neither prohibited nor actionable. The presumption is that mentioned subsidies cause relatively little distortion in the allocation of resources and is therefore permissible

Prohibited subsidies include export subsidies and local content subsidies. Export subsidies are aimed at enhancing directly export performance (illustrative list of export subsidies is a part of the WTO agreements); local content subsidies are those which are contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods. The two types of subsidies are prohibited because WTO Members have accepted that they are specifically designed to distort international trade. There are, however, exceptions from prohibited export subsidies. It concerns export credits, guarantee or insurance programmes, which are applied according to an international undertaking on official export credits to which at least twelve original WTO members are parties, or if in practice a government applies the interest rates provisions of the relevant undertaking. An export credit practice that is in conformity with mentioned conditions is not considered a prohibited export subsidy. This exception fits perfectly to the OECD Arrangement on Officially Supported Export Credits that is a basis for governmental export credits practices of developed countries and which is widely used by very many governments in the current crisis.

Actionable subsidies are all specific subsidies that are not prohibited, with enterprise specificity, industry specificity and regional specificity. This subsidization could be subject to a challenge, either through the WTO dispute settlement, or the trading partner could impose a countervailing duty on the subsidized import.

Agricultural subsidies

Agricultural subsidies are covered by special rules, complementary to the general rule on subsidization. Agricultural subsidies have two basic forms: export subsidies and domestic support. Subsidies of both categories are subject to reduction commitments and to negotiation on further elimination. Domestic supports are divided into three groups, which are called amber box, blue box and green box. Amber box subsidies are those that distort international trade and shall be continually eliminated. The goal of blue box supports is to deal with overproduction and domestic supports within the green box are allowed (research, etc.).

Export subsidies

⁶ Antoine Bouet and David Laborde, International Food Policy Research Institute, Issue Brief 56, Washington D.C 2008

⁷ Adjusting to Trade Liberalization: The Role of Policy, Institutions and WTO Disciplines, Special Studies 7, World Trade Organization, Geneva, 2003

Export subsidisation, as other subsidies, are subject to rules of the Agreement on Subsidies and Countervailing Duties. In principle, export subsidies are prohibited in the international trade. According to the mentioned agreement, all subsidies had to be phased out within eight years period following the entry into force of the WTO Agreement that corresponded to the end of 2002. Developing countries were, however, eligible to ask for an extension of the implementation period provided that the request was based on the relevant economic, financial and development needs and the transparency requirements were fulfilled. About thirty countries⁸ were granted such an extension until the end of 2009. Least developed countries are exempted from the prohibition on export subsidies.

2.2 Trade Remedies

Trade remedies, which are allowed to be used by the WTO agreements under certain conditions and requirements, are **reactions to increasing imports or to the unfair competition** embodied in dumped or subsidized importation. These measures are, however, very often used for protection of the domestic industry, namely in crisis. Given the nature of these remedies, explained further, the most are used antidumping measures, while safeguard or countervailing measures are not so frequent. The main reason could be that anti-dumping is a targeted remedy which imposes no compensation while safeguards are multilateral instruments which restricts imports from all origins and which imposes compensation. It is interesting to note that the figure of approximately 73 safeguard investigations initiated over the period 1995 to 2001 compares to a total of 1845 antidumping investigations launched during the same period.⁹

Safeguard measures

Safeguard measure offer the possibility to **react ex post to problems caused by unforeseen import surges**. Such measures include temporary tariff increases or quantitative restrictions¹⁰. Without a possibility to apply any safeguard measure, the governments would be reluctant to liberalize import in sectors where the domestic industry is established. Various WTO provisions correspond to the definition of a safeguard measure.

GATT agreement provides for rules on the use of safeguard measures, re-establishes multilateral control over safeguards including obligatory notification to all WTO members (through the respective WTO body). Safeguard measures shall be applied only to the extent necessary to prevent or remedy injury and to facilitate adjustment, in compliance with requirements fulfilled before a safeguard measure can be applied and through its application. Implementation of a safeguard measures is also a subject to the elimination of pre-existing grey area measures related to the industry concerned and the ban on their future use.

In order to be entitled to implement a safeguard measure, a country should determine that increased quantities of imports are causing or threatening to cause serious injury to the domestic industry producing like or directly competitive products. An increase of imports should be the result of unforeseen developments. Serious injury is defined to mean “significant overall impairment” of the domestic industry’s position and a “domestic industry” is defined as “the producers as a whole of the like or directly competitive products operating within the territory of a Member, or those whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of those products.”¹¹ The threat should be proved through investigation based on published procedures.

Remedies should be applied to an imported product irrespective of its source, and only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment. Some limits regarding the allocation of quotas among suppliers are defined, but limited departure from MFN in the form of quota modulation is allowed. The standard limit on duration is four years (six years for developing countries), which may be extended to a maximum of eight years. If the safeguard measure is applied for more than one year, it must be progressively liberalized and review with the aim of its withdrawal.

Specific **safeguard clauses for agriculture** are permitted in addition to general emergency actions. Governments can impose additional duties if either the volume of imports of that product increases above a certain threshold, or the price of imports of that product falls below a trigger price. Agricultural safeguard does not require the complainant to show that imports caused injury

Other “safeguard”

⁸ Antigua and Barbuda, Barbados, Belize, Bolivia, Colombia, Costa-Rica, Dominica, Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Honduras, Jamaica, Jordan, Kenya, Mauritius, Panama, Papua New Guinea, Sri Lanka, St Kitts and Nevis, St Lucia, St Vincent & Grenadines, Suriname, Thailand, Uruguay

⁹ Adjusting to Trade Liberalization: The Role of Policy, Institutions and WTO Disciplines, Special Studies 7, World Trade Organization, Geneva, 2003

¹⁰ It is limited to surges in merchandise imports. Concerning services, under the GATS Agreement, negotiations are undertaken on the question of emergency safeguard, measures based on the principle of non-discrimination.

¹¹ Agreement on Safeguards, WTO legal texts, www.wto.org

There exists a possibility to impose restrictions to **safeguard the balance of payments** in both developed and developing countries. These provisions can only be used, however, in reaction to an unsustainable deterioration in a country's external financial position, and not in reaction to sector-specific problems. Additional (new) import restrictions could be imposed if there is an imminent threat or a serious decline in reserves and price-based instruments instead of quantitative restrictions should be used. Developing countries could implement the **provision for "infant industry" protection** that has not been of a frequent use as developing countries enjoy the specific and differential treatment, which ensures their need in this area. Governments have also a possibility to **renegotiate tariffs**, but this is not the most appropriate response to problems related to crisis, as it is a permanent measure.

Antidumping measures

Governments dispose instruments for an effective response to **an unfair practice that is called dumping**. Anti-dumping measures are aimed at a protection of domestic industries against injury caused by imports at prices below the price of the goods in the market of the exporter or below production costs. Anti-dumping measures, usually in a form of customs duty, are intended to eliminate an unfair price advantage.

A difference between antidumping measures and safeguards lies in the **target** of these actions: anti-dumping tariffs are applied only for the import that is found as dumped, it means only against a specific importer of individual producer. Safeguard measures enhance customs tariffs of all products of the same classification that surge of import could cause an injury to the domestic industry. In other words, antidumping action is justified on the ground that dumping is an "unfair" practice that results in "unfair" trade while safeguards are justified for imports that are perfectly "fair". Based on these differences, there are some other different aspects.

With the use of antidumping, there is **no compensation requirement** associated with. It is given by the principle that it is a response to unfair practices. Unlike safeguards which must be applied on a non-discriminatory basis, anti-dumping actions must be targeted not only at imports from particular countries but at imports from individual firms. In the anti-dumping case, the investigation must determine that imports are being dumped, and that this dumping causes or threatens to cause injury to the domestic industry. The procedure for the determination of dumping is clearly sets out – the domestic producers of the like product have to begin the process. If the presence of dumping can be shown, the conditions regarding the injury are less stringent than in the safeguard case. Anti-dumping duties can be maintained as long as it can be shown that the expiry of the duty would be likely to lead to the continuation or recurrence of dumping and injury.

In trade practice of last decades, anti-dumping has become the **favoured route of domestic firms that wish to benefit from protection** when foreign competition becomes more threatening. It is also why the anti-dumping actions proliferated and safeguard measures are applied very rarely. Given the protective and discriminatory (or non-discriminatory) nature of anti-dumping and safeguard measures, it is more understandable, why at the G20 meeting it has been suggested that safeguards measures are implemented when there is any "dangerous" surge of import, and anti-dumping duties are limited.

Countervailing duties

Countervailing duty, as well as antidumping measures, is in principle response to "unfair" trade practices and thus do not have the same objective as safeguards. Under the international trading rules, countries have the possibility to react to an injury or a threat of injury caused by subsidized imports to the domestic industry and to impose a countervailing duty that offsets the effect of the subsidy and removes the injury to the domestic industry. The countervailing duty procedure is much less used than the anti-dumping procedure.

3. Restrictions to trade as a consequence of the crisis

Multilateral trading system allows, as it has been explained above, legal trade remedy actions. These measures can be implemented under specific conditions only, with a procedural fairness and in a transparent and non-discriminatory manner. All WTO members shall be informed, through the official notification procedure, about trade remedies adopted in compliance with the international trading rules. WTO notifications are, therefore, a good basis for considering if there are in the current crisis trends to use more these measures in order to protect more deeply the domestic industry. From this point of view, we review import licensing, antidumping tariffs, import surcharges, technical norms and standards, sanitary and phytosanitary measures, state supports, subsidies, direct governmental management and other varieties of trade remedies to support industries that have faced difficulties.

Globally, the number of **state interventions and subsidies** into manufactured industry increases. These supports include also direct funding, special loans and guarantees and have a great potential to distort trade and to provoke trade retaliations. Similar measures have been used by some countries to provide support to their

financial services industries. Using public finance is not – it should be noted – an option for countries whose fiscal situation does not allow such spending.

The use of **non-tariff measures with trade impacts**, such as technical norms and sanitary standards, is more frequent, or these rules are more strictly applied. It is the case of US Omnibus Appropriations Act (a clause inscribed in sections 727 of the federal budget) that in 2009 “prohibits the use of federal funds to establish or implement a rule allowing poultry products to be imported into the USA from China”, what should allow the US Administration to formulate new principles of food safety. The Act prohibits also allocating funds necessary for maintaining an inspection programme on cross-border trucking services from Mexico. Mexico, in response, suspended the NAFTA preferential tariffs of almost 90 goods imported from the USA.

In the context of crisis, the number of **antidumping** procedures and antidumping tariffs has risen. New antidumping investigation increased in 2008 by 27% (from 2007) and their main targets were China, the European Communities and the United States. Countries that mostly used antidumping measures in their trade policies in second half of 2008 were India (42), Brazil (16), Argentina (11), China (11), Turkey (10) and EC (9). For example EC imposed anti-dumping duties on Chinese screws, fasteners, candles, silicon, hand pallet trucks and their essential parts and steel wire products, on Moldovian steel, Korean silicon, certain plastics sacks and bags originating in China and Thailand, sodium cyclamate from China and Indonesia and on US biodiesel. It is quite surprising, that antidumping measures were implemented after the G20 summit in April 2009 in nine members of the group: Argentina, Brazil, EC, India, Russia, USA, despite the proclamations of the group about the necessity to challenge protectionism. We can estimate that the use of antidumping and safeguard measures will increase in 2009 as there is a certain time delay between initiation and legal implementation.

Some governments, in order to protect their domestic industry, **increased tariffs**, as for example Ecuador (940 products concerned), India, Russia and Mexico. **Non-tariff barriers** have been newly implemented in Indonesia – it limited the number of ports and airports serving as entry points for certain imports, Argentina – it imposed licensing requirements on goods ranging from auto parts, textiles, TVs, toys, shoes and leather products. Moreover, India has banned Chinese toy imports for certain period; China has prohibited imports of Irish pork and rejected Belgian chocolate, Italian brandy, British sauce, Dutch eggs and Spanish dairy products.

As one of the trade protectionism goals is to maintain employment, **labor-related measures** are applied: For example, the support of car industry in France, Italy and Spain is conditional on the maintenance of domestic jobs to detriment of production in other EU countries. Malaysia has prohibited factories, stores and restaurants from hiring foreign workers. USA excluded from stimulus tax breaks those US companies that moved jobs overseas.

A measure aimed at promoting exportation (and limiting importation), the **currency devaluation** is used. South Korea allowed the national currency to depreciate by 19 % against the USD, Armenia and Kazakhstan have devalued by 22 % and 18 % respectively. India, Malaysia and Taiwan abandoned interventions into their currencies. Switzerland announced interventions in order to prevent the franc from appreciating further against the Euro.

It is interesting to review, what kind of trade measures is used for protection of individual industry. The **footwear industry** is protected namely by antidumping tariffs (against importation from China and Vietnam – in Argentina, Brazil, Canada, Ecuador, EC), increase of import tariffs (Ukraine and non-members of the WTO – Russia and Kazakhstan) and safeguard measures in Turkey.

In the **steel industry**, the range of trade protectionism is quite wide: import licensing (Argentina, India), increase of import tariffs (India, Indonesia, Turkey, Russia, Vietnam), antidumping measures (new investigations in Philippines, Egypt, USA, EC), new technical norms and certification procedures (India, Malaysia, Indonesia). Philippines implemented export licensing; USA adopted the American Recovery and Reinvestment Act (2009) with the “buy American” clause. This clause is, however, in compliance with the international commitments of the USA, as it – same as the Buy American Act from 1933 – ensures national treatment for members of the WTO Government Procurement Agreement, for partners having signed a free trade agreement with the USA, for beneficiaries of the Caribbean Basin Initiative and the least-developed countries. Although in compliance with international agreements, implementation of the clause “buy American” into the stimulation package for the American industry means that the so called BRIC countries (Brazil, Russia, India, China) are shut out of the governmental procurement segment of the US market.

Supportive measures applied in **auto industries** have in developed countries usually form of financial instruments as governmental loans and guarantees, as it is the case of the USA (Chrysler and General Motors received USD 17.4 billion, US auto industry suppliers have been pledged USD 5 billion in guarantees of receivables), France (3 billion Euros lent to Renault and Peugeot), Italy, Germany, Spain, Sweden and the UK. Governmental loans, loans with lower interest rates or financial trust for maintaining liquidity of car seller are

used also by Brazil, Canada and Australia. China, South Korea and Turkey have reduced various taxes in order to promote car selling, Russia increased tariffs for import of cars, trucks and buses and reduced tariffs for automotive motors and further components. Russia helps its car producers directly as well.

4. Trade liberalization as a response to the crisis

The challenges of the current crisis provoked in trade policies of individual countries not only protectionism with a goal to protect domestic industries and employment, but also **trade liberalization** and implementation of **trade facilitation** measures. It includes the reduction or elimination of import tariffs and export taxes. The international trade has been supported also by the expansion of **trade finance facilities**, even if it is not, however, clear, if export credit should not be for its nature included in subsidies and be considered as a protectionist measure.

The trade liberalization, facilitation and finance facilities have various purposes. Irrespective of the purposes, these measures contribute positively to help reverse the contraction of global trade and to stimulate aggregate demand by reducing consumer prices and producer costs.

It is interesting to see that governments, which **implemented protectionist trade measures, adopted also their opposite**. For example, Argentina eliminated export taxes of many dairy products, Brazil increased the number of exporting companies with access to governments' export finance, Canada eliminated import tariffs on very many tariff lines of machinery and equipment, lowered obstacles to foreign investments and increased the limit of foreign ownership in Canadian airlines, China increased VAT rebate rates on exports, eliminated or reduces mere hundred export taxes, European Communities decided changes in the set of Commission State Aid guidelines increasing flexibility on export credits and increased access to trade finance for European exporters, Ecuador reduced more than three thousand tariffs on products not locally produced, Hong Kong established state owned Export Credit Insurance Corporation, India eliminated some export and import duties and implemented trade facilitation measures – simplification of some export licensing requirements or higher number of entities authorized to import directly metal. Indonesia and Kazakhstan reduced some import tariffs, Malaysia eliminated import duties and import licences for some imports, Mexico reduces tariffs for manufactured goods by 97 %, New Zealand facilitated access to trade finance, Philippines reduced some import tariffs, Russia reduces export taxes on wood products and oil and eliminated them on nickel and copper and reduced import tariffs on civil aircraft, ferrous scrap, motors and major components of motor vehicles, cement and natural rubber¹².

Conclusion

The current crisis leads to higher **governmental regulation including trade policies**. Protectionist reactions in trade policies of very many countries, both developed and developing, multiplied since the last quarter of the year 2008. Customs tariffs increase, new non-tariff barriers, subsidies, governmental direct management or more resort to trade defence instruments such as antidumping actions are measures that are implemented by governments in order to protect domestic vulnerable industries, employment and to support exportation. Even the financial and fiscal stimulus packages that have been introduced to tackle the crises and the decrease of the global trade contain state aids, subsidies, "buy national" condition or policies for sourcing labour that favour domestic goods and services and do not open the market for foreign competition. Although some governments have introduced measures to liberalize, support and facilitate imports and exports, the tendencies of governments to regulate more the trade, competition and markets are clear. The regulations and state interventions can prolong the operations of uncompetitive or insolvent firms, which denies market share to more efficient producers including foreign suppliers.

Strengthened governmental regulation in the direction of deeper trade protectionism could lead to **accumulation of new measures and retaliation from trade partners**. Measures taken only temporarily can as consequences create an uncompetitive enterprises and over capacity that will continue to generate protectionist pressures or will be too costly from the social point of view if eliminated.

Moreover, **industries are globally integrated, production and sourcing are international** and mergers and acquisitions do not allow recognizing what was originally the national company, brand, products, etc. It has become more difficult and more costly to try to target national problems of over-capacity or inefficiency by using trade restrictions or subsidies. It is not rare that foreign entities benefit national subsidies or incentives, as it has been the case of cash scrap car grants to consumers in Europe. In principle, subsidies targeted at consumption, if they do not restrict consumers' choice to buy internationally domestic or foreign products, are

¹² According to the WTO JOB (09) 30

much more correct as only consumers could prove what products are competitive. Impacts of these measures are however a proof that the national subsidy could result in both domestic or foreign imported production and the national government is not able to influence it effectively.

If we compare the current situation with the crises of 30ies or 70ties and early 80ties of the last century, when governments resorted heavily to trade restrictions and subsidization in order to support non effective industries, we find not only some similarities, but also some differences. In crises of the last century, the governmental **regulation slowed down structural adjustment** and the correction of problem of global over-capacity that led to attempts to manage closely trade flows. The governmental regulation was from the point of view of international commitments legal. In 30ties, no international trade agreements that could have prevented the implementation of high protectionist measures existed. Even if in 70ties and 80ties the situation was different because of the GATT agreement, the limits for protectionism were not strong enough.

Today, the existence of the multilateral trading system covering trade in goods and services and large areas of trade rules limits a free implementation of protectionist measures, at least at some instances. The system covers trade among **153 countries that represent about 96% of the world trade**. It composes of rules for certain subsidies and some of them prohibits. It prohibits as well some non-trade barriers. Members of the WTO committed themselves not to exceed limits in import customs duties, domestic agricultural supports and export subsidies, not to diminish import quotas. Even if there is less discipline over the extent to which state aid and subsidy measures can affect conditions of competition on international markets, or even if still keeping within formal WTO limits, the average global rate of duty could double if applied tariff rates are risen to the levels of binding tariff, the system as an international obligation is an “insurance” that governments – when managing their response to the crisis – take the rules (that they agreed on) into account and respect them.

The multilateral trading system is also promising for the future, as the current negotiations about the trade liberalization – if concluded successfully – could help to overcome consequences of the financial and economic crisis and depression. It is estimated that the market access package on industrial and agricultural goods that is on the table in the Doha round is equivalent to a **new stimulus package** for consumers of over US \$150 billion. This could be doubled by other elements of the round, such as the very important services sector, a new trade facilitation and harmonization agreement and by squeezing the room for trade restrictions and distortions. In the meantime, it is important that WTO members and observer governments do not use new trade restrictions and trade-distorting subsidies. Governments are quite sensitive to arguments explaining the need to avoid adverse trade effects and injury for the domestic and global economy that protectionism causes, so it is quite realistic that such an “agreement” could be achieved. If “**no-standards lowering clause**” is accepted and respected by the WTO members, the outlook of further trade and economic development – thanks to the multilateral trading system - should not be pessimistic.”

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