

Political and Economic Justifications for Conditional Trade Barriers: Anti-Dumping Duty, Safeguard Measure and National Security Exception

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Abstract

Long-term economic and trade cooperation. For the next stage, OKI is expected to lead to higher economic development, such as cooperation in the financial sector. This paper will discussed the possibility of OIC member countries work together to form a common currency area. They use the VAR method approach to test the possibility of a common currency area among OIC member countries. Starting with countries in the Middle East region such as Iran, Iraq, Kuwait, Qatar, Saudi Arabia, and the United Arab Emirates, data analysis from 1975-2011 shows that it is possible to establish a common currency area before finally being used as a reference for the formation of the region. Common currency within the scope of OIC members. The study results show that demand and supply fluctuations align with structural fluctuations in five countries (Iran, Iraq, Qatar, Saudi Arabia, and the United Arab Emirates). This indicates a standard exchange rate system pegged to a particular currency, namely the US Dollar. There is an opportunity for economic integration at a higher level. However, for Kuwait, which is opposite to the other five countries, it can be caused by various factors such as differences in the monetary system to patterns of economic growth and macro policies in the local country. So that these factors can also be an inhibiting factor for the occurrence of a common currency area between companies OIC members.

Keywords

political economic; trade barriers; security



I. Introduction

Following the end of the second world war, countries have actively engaged in trade agreements to liberalize trade and prevent protectionist policies (Baldwin, 2012a; Baldwin, 2012b). Through these arrangements, countries create reciprocal liberalization commitments to lower import duties and eliminate quantitative restrictions (Wilkinson, 2005). These liberalization commitments shall be applied in line with the non-discrimination principles, which require countries to treat products from or to any countries similarly to like products from or to all other countries (Most-Favoured-Nation principle) and similarly to like domestic products (National Treatment principle) (Lanoszka, 2009).

However, despite its objectives to reduce fees and other trade barriers, virtually all trade agreements contain provisions permitting governments under specific circumstances to withdraw from their everyday obligations (Messerlin & Woolcock, 2012). In other words, these provisions allow countries to impose trade restrictions that may breach their initial commitments and the non-discrimination principles. These exceptions take many forms (anti-dumping and countervailing duties, as well as general, economic emergency, balance-of-payment, and security exceptions), with each form has different purposes to be included in trade agreements (Hoekam & Kostecki, 2009).

This essay aims to critically review political and economic reasons used to justify the inclusion of three exceptions – anti-dumping duty, emergency measure, and national security exception – in trade agreements. In doing so, it will provide a brief map of political-economic justifications of these exceptions. Martinelli et al (2019) stated that A serious problem facing the world today is the distribution of economic wealth fairly and equally. Economic growth is still an important goal in a country's economy, especially for developing countries like Indonesia (Magdalena and Suhatman, 2020).

This paper will be divided into four sections. The first, second, and third sections will explain each of the three exceptions and their political and economic justifications. The final section will compare and contrast the justifications of each exception. Subsequently, this paper will conclude by arguing that these exceptions are economically irrational but are politically sensitive.

Before starting, it is essential to note that this essay focuses primarily on the exception provisions in multilateral trade agreements, namely the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS). While data show that most plurilateral and bilateral trade agreements mirror these multilateral agreements, we acknowledge that, in few instances, the exceptions in non-multilateral agreements may be regulated differently (Manger, 2012).

II. Research Methods

2.1. Anti-Dumping Duties

Current multilateral trade law on dumping and anti-dumping duty is mainly set out in Article VI of the GATT (and further regulated under an agreement of the implementation of this Article) as the GATS does not have any dumping-related provisions. The Article defines dumping as the introduction of products of one country into the market of another country at less than the average value of the products (World Trade Organization, 1994a). Furthermore, the Article states an importing country may levy an anti-dumping duty to the dumped products if dumping causes or threatens to cause material injury to a domestic industry, in an amount not more significant than the margin of dumping (World Trade Organization, 1994c). It is important to note that WTO law does not directly prevent dumping (Van den Bossche, 2005).

The main economic argument of imposing the anti-dumping duty is to protect domestic industries competing with dumped products by increasing their price. However, there are at least four economic issues concerning anti-dumping duty. First, dumping is not always intended to distort importing countries' economies (e.g., predatory dumping) but may also result from an ordinary course of business (Trebilcock, Howse, & Eliason, 2013). Consequently, dumping may not possess economic risks, and anti-dumping duty shall not be imposed broadly. Second, various empirical research has shown that anti-dumping duties create net welfare loss rather than welfare gains for countries imposing such duties (Gallaway, Bloningen, & Flynn, 1999). This happens because the anti-dumping duty generates costs to all consumers who otherwise can access low-price products (Hoekamn & Kostecki, 2009). Third, by limiting foreign competition, anti-dumping duties may result in a monopolistic market enjoyed by domestic firms (Bloningen & Pruca, 2003). As a monopoly enjoyed by foreign firms, monopoly by domestic firms also has detrimental effects on the economy. Finally, scholars have argued there are less-costly alternatives to current law on anti-dumping duty, such as by limiting its application to predatory dumping, directly preventing any measures causing dumping or harmonizing competition policy at

the international level (Lester, Mercurio, Davies, & Leitner, 2008; Voon, 2010). For these reasons, anti-dumping duty is economically unreasonable.

Although anti-dumping duty is irrational in an economic sense, it has non-economic justification. Dumping is perceived as unfair trade practice, mainly because it may result from exporting countries' policies, effectively require domestic industry to compete in an unlevel playing field (Messerlin & Woolcock, 2012). In this sense, scholars argue that anti-dumping duty is necessary to promote free trade by acting as a commitment device to ensure fair competition (Bhagwati, 1988; Sykes, 1996). Moreover, other less-costly alternatives to anti-dumping are politically difficult to achieve (Voon, 2010).

2.2. Safeguard Measures

Trade agreements may also provide an economic emergency exception that is also commonly referred to as safeguard measures. Article XIX of GATT allows any country to adopt restrictive import measures (i.e., increase tariffs or introduce import quota) in situations where, as a result of unforeseen developments and the effect of WTO obligations, a product imported into its territory in such increased quantities cause, or threatens to cause, serious injury to the domestic industry that produces like or directly competitive product (World Trade Organization, 1994a). It is essential to note. However, any country applying a safeguard measure must provide compensation for exporting countries affected by the measure. Otherwise, the affected exporting country may retaliate by suspending equivalent concessions it typically provides (World Trade Organization, 1994d).

The main economic argument of using safeguard measures is to protect domestic industry seriously injured by imports. However, there are two critical economic issues relating to safeguards. First, like anti-dumping duty, safeguards induce costs to consumers who otherwise can access low-price products due to increased supply. In addition, safeguards create additional costs as it requires countries to impose safeguards to provide compensation. Otherwise, the affected exporting country will retaliate, creating costs for export-oriented industries of the country using safeguards. Therefore, safeguard measure results in net welfare loss, even more than anti-dumping duty. Second, unlike anti-dumping duty, which helps the domestic industry compete with foreign firms benefitted from 'unfair' trade practices, safeguards deal with situations where domestic firms cannot cope with foreign competition in the ordinary course of free trade (Messerlin, 2000). Coupled with the legal requirement to only apply safeguards temporarily, the benefit of safeguards for the protected industry is merely to soften adjustment costs. Still, it would not be able to ensure its long-term competitiveness (Voon, 2010) directly. Considering minimum benefits but the high costs it generates, it is economically irrational to use safeguard measures.

Nevertheless, safeguard measure is politically essential for two reasons. First, safeguard is required to promote trade liberalization. It serves as an insurance mechanism for future uncertain consequences, encouraging cautious countries to enter into more outstanding trade liberalization commitments than would otherwise the case (Dam, 1970). The historical account shows that the inclusion of safeguard measures in GATT resulted from US Congress' demand, requesting US President to include an emergency exception clause in trade agreements as a prerequisite for its support in promoting multilateral trade liberalization (Sykes, 2006). Second, safeguards perform as a safety valve for protectionist pressure from the domestic import-competing industry, which is expected to significantly increase when the industry is seriously injured due to import surges (Bown, 2015). Thus, the safeguard measure sustains overall trade liberalization by preventing significant

backlash against it. For these reasons, the inclusion of economic emergency exceptions in trade agreements is politically rational.

2.3. National Security Exception

In addition to anti-dumping and safeguard measures, WTO law also provides exceptions relating to national security. Article XXI of the GATT and Article XIV***bis*** of the GATS state that “nothing in the Agreements shall be construed to prevent any members from taking *any action* which it considers necessary for the protection of its essential security interests, taken in time of war or other emergency in international relations” (World Trade Organization, 1994a; World Trade Organization, 1994b). A panel’s ruling of a dispute in GATT-era concerning US measures against Nicaragua emphasizes further that any forms of trade barriers can be justified under these Articles (GATT Panel, 1986).

Therefore, unlike anti-dumping duty and safeguards that only allow specific forms of trade barriers, the national security exception can be applied broadly. Van den Bossche (2005) argues that three types of measures relate to this exception. First, states restrict the import of particular products to protect strategic domestic industries. For example, Sweden imposed import quotas on footwear in 1975, arguing Sweden needed to establish a domestic footwear industry to guarantee the country would have an adequate supply of army boots in time of war (Alford, 2011). Second, states prohibit the export of arms and other military products to countries with no friendly relations. For example, the European Union imposed an arms embargo against Russia following the latter’s military action in Ukraine (Council of the European Union, 2014). Third, states restrict the export to and import from countries that arguably have violated international law and threatened international order. For example, the US imposed trade sanctions against Iran, arguing it was necessary to deter Iran’s nuclear weapons (Katzman, 2016).

Considering the three types of measures relating to this exception, the economic justification for including the exception in trade agreements has a minimal role. The economic rationale may only be used to justify the first type of measure, particularly when states aspire to define ‘strategic industries’ broadly. Nevertheless, empirically, in determining which industries deserve to be qualified as strategically important, states do not use economic rationales but merely political and security considerations (Van den Bossche, 2005). Moreover, as in anti-dumping duty and safeguards, protecting domestic industry will result in net welfare loss as the costs created for consumers will be higher than the benefits provided for the protected domestic industry. For a similar reason, empirical research has also found that economic sanction creates welfare losses for countries imposing those sanctions (Golliard, 2013). Therefore, having the national security exception in trade agreements is economically irrational.

Nonetheless, the inclusion of national security exceptions in trade agreements is politically justified. Building upon the Realist paradigm in international politics, the principal goal of every state is to survive (Waltz, 1954). Thus, national security takes precedence against all interests because, without security, states would cease to exist and unable to pursue other national objectives (Mearsheimer, 2009). Hence, it is politically sensible to allow countries to prioritize security and peace at the expense of trade.

III. Results and Discussion

One of the main features of the post-war economic order is trade liberalization achieved through trade agreements. While such agreements remove trade barriers, it provides numerous provisions enabling countries to withdraw from its normal obligations.

As each of these exceptions has different purposes to be included in trade agreements, the essay aims to explore political and economic justifications for the inclusion of three exceptions – anti-dumping duty, safeguard measure, and national security exception – in trade agreements.

Table 1. Compares the Three Exceptions and Its Political and Economic Justifications

	Anti-Dumping	Safeguards	National Security
Measure	Additional import duty	Increased import tariff + import quota	Import and export restrictions
Purpose	Protect domestic industry competing with dumped products	Protect domestic industry producing goods experience import surges	Protect national security, including to protect domestic strategic industry
Economic Justification	N/A	N/A	N/A
Political Justification	Promote trade liberalization by serving as commitment device to ensure fair competition	Promote and sustain trade liberalization by serving as an insurance mechanism and a safety valve	National security supersedes all national objectives, including trade gains

Table 1 SCRIPT Concludes All Exceptions Do Not Have Any Economic Justifications As It Results In Net Welfare Loss for Countries Using Any of These Measures. One May Counter This Conclusion, Arguing The Negative National Effect Can Be Economically Justified Due To Distributional Considerations. However, Empirical Research Disproves Such Argument (Trebilcock, Howse, & Eliason, 2013). Nonetheless, This Paper Concludes All Exceptions Are Politically Justified To Be Included In Trade Agreements, Although Each For Different Reasons.

IV. Conclusion

In general, it can be concluded that the six countries in the gulf region can start to become a currency area together except Kuwait, which has demand and supply fluctuations that are not in line with the structural changes and fluctuations that occur in the other five countries. This can occur due to different macroeconomic policy factors, especially in determining the monetary regime system used. However, this is not the only reason, differences in growth patterns and stochastic factors from the data itself need to be considered. The implication for Indonesia is that the existence of a common currency area in some OIC countries will provide easier market access for trading activities with other countries. Unionized, and the ease of regulation applied in countries with monetary unions; it is hoped that the benefits obtained by Indonesia with the existence of monetary unions in the OIC countries can increase national income and public welfare.

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