



# The understated threat called NON-TARIFF BARRIERS

*KG NARENDRANATH*

AS CUSTOMS TARIFFS ARE BROUGHT DOWN AS a matter of policy through the tools of WTO rules, regional trade blocs and bilateral free-trade pacts, the surge in non-tariff barriers (NTBs) is keeping apace, somewhat foiling the object of tariff reduction viz. free trade. NTBs take various forms, some of which truly apocryphal. Quite a few NTBs are obviously in defiance of the relevant global norms, yet one can't be sure if there would be an effective means to question and nullify them. Despite the low profile they have in global trade talks, NTBs have the potential to scupper all efforts for inter-country trade liberalisation through multilateral and other means.

Anti-dumping measures, countervailing duties and subsidies provided by sovereign national governments are effectively tariff barriers only but are regarded as NTBs. There are multilateral agreements to govern and calibrate these measures. These agreements not only define how and to what extent such measures are justified but also set the norms for the determination of these levies and doles. To that extent the abuse of these tools is frustrated. But that is not the case with a plethora of other NTBs the ingenuity of which would always leave regulations far behind. The global rule is that NTBs can be used if necessary, but judiciously, to protect health, safety, or sanitation, or to conserve depletable natural resources. However, what we have today is a large set of measures that highly impedes market access, of developing countries in particular.

A recent study by the Centre for WTO studies at Indian Institute of Foreign Trade chronicled the NTBs being employed by a few developed countries. Some of the measures cited are so bizarre that no amount of explanation would bail them out. The study, "Review of Trade Policies of India's Major Trading Partners" by Shashank Priya and Reji K Joseph revealed that the EU maintains as many as 15 NTBs in relation to goods and 10 for services. The barriers are multifarious: market access problems for fisheries products, meat and meat products, egg products, issues related to milk products; differing norms for microbial standards; highly protectionist rapid alert systems for food and animal feed. In the service sector, differential tax regime for foreign and domestic service providers is an issue while another sore point is lack of mutually recognised agreements for professional services. In financial services, the EU market is fragmented because member countries keep disparate regulatory standards.

The NTBs that Indian exporters face in the US market include multiple technical regulations regarding consumer protection including health and safety; lack of transparent framework for regulation of biogenerics; elaborate labelling needs; burdensome customs formalities for products of export interest to India like textiles, clothing and footwear. Further, Indian banks face access barriers in the US market. Once a bank obtains branch licence in the US, the activities of the foreign bank in that country known as bank holding company are restricted only to closely related banking activities such as selling of insurance, mutual funds etc., a restriction which is absent even developing countries like India. There are also such artificial barriers for insurance and telecom service companies and steel exports. The US' tariff rate quota is an impediment to Indian tobacco exporters. There are a total of 13 NTBs for goods and nine for services in the US market. For Indian manufacturing companies to enter the Japanese market, partnering with Japanese companies is mandatory under their local-content norm.

ETrecently reported said India is planning to lodge a complaint with the WTO asking it to bring EU Customs Union regulations in line with "globally accepted norms." What has enraged the Indian government is the European customs authorities' frequent impounding of India's drug exports meant for Africa and Latin America, alleging they are counterfeit.

There is a dire need to have an institutional mechanism and clearly defined rules to demolish NTBs that have little rationale and forestall creation of newer NTBs. There is now a module for discussing NTBs under the non-agriculture market access (NAMA) framework, but it is not exhaustive enough. India should insist on having a formal agreement on NTBs. Discussions

should take place along with the ongoing talks on Doha Development Agenda. Leaving such a crucial matter for the next round of multilateral trade talks would have disastrous consequences for us.

