

The System of Non-Tariff Regulation in Russia: Specificity, Problems and Prospects of Development

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Abstract — The simplification of the system of foreign trade relations and the provision of preferences to specific states allows increasing the volumes of foreign trade turnover and transforming most efficiently the structure of exports and imports of the country taking into account its international specialization and competitive advantages. An inseparable part of the process of the liberalization is the strengthening of the competitive fight between national and foreign producers which often result in the manifestation of the unfair competition from the part of foreign counterparts in the form of price discrimination of domestic goods. Under such conditions an important challenge for the national economy is the achievement of a definite balance between the protectionist measures and the tools of free trade. The mentioned problems have acquired an additional relevance after the joining the World Trade Organization by Russia and after the growth of integration processes in the post soviet space within the Eurasian partnership. In the current situation the optimal mechanism which allows on the one hand to observe the national economic interests of Russia and on the other not to violate international agreements is the system of non-tariff barriers. The changing realities of regional and international trade influence the used measures of non-tariff restrictions. This situation requires the search of the most efficient and optimal measures of non-tariff regulation with the account of foreign economic and foreign trade priorities of the country and the interests of national economic agents.

Keywords — *trade restrictions, non-tariff regulation, prohibitions and restrictions, economic and administrative measures, non-tariff measures, Eurasian Economic Union*

I. INTRODUCTION

The contemporary conditions of the development of integration processes are characterized by the establishment of the unions between countries and the formation of alliances directed on the expansion of the economic cooperation of different countries. As a result the problem of the protection of national interests, intellectual property and economic security of the participants of foreign trade activity arises. Herewith the contemporary policy of the liberalization of the trade pushes the states to reduce the tariff barriers making their market more open for foreign goods what in its turn encourages the participants of the foreign trade to use other methods of the domestic market protection or more specifically non-tariff

barriers. The non-tariff restrictions present a considerably wide range of mechanisms of foreign trade regulation. The relevance of the given problem consists in the fact that non-tariff measures of foreign trade regulation play an important role in trade and political tools of the state. Their use has a constrained character due to the fact that there exists the necessity of the fulfillment of the obligations of the state according to the concluded international agreements. Besides the application of such measures provides the preservation and the protectability of the state, protection of domestic producers of goods and services from unfair competition, protection of life and health of the population, cultural assets of the state, life environment and also plants and animals [1].

In the current moment in the domestic and foreign science the problem of the protection of national economic and political interests became even more important due to the increasing tendencies of globalization and regionalization. This problem is reflected in the papers devoted to the encouragement of foreign trade activity concerning the use of selective instruments which are used on multilateral base between specific countries or integration associations. A significant interest for researchers has the challenge of the protection of the domestic market with the help of non-tariff barriers. It is worth mentioning that all these tools of the government regulation of foreign trade activity in domestic research are presented insufficiently.

In this respect the main goal of the present research is the identification of the most efficient strategies of the development of the national system of non-tariff regulation which allows encouraging the foreign trade taking into account qualitative changes of the foreign trade nomenclature of goods and also the measures ensuring the protection of national interest of Russia under the conditions of the acceleration of the processes of globalization and regionalization.

II. MATERIALS AND METHODS

The substantiation of modern tendencies of the process of foreign trade liberalization and its positive and negative impact on the economy of the Russian Federation and the economic systems of its economic partners in the Eurasian Economic Union is carried out by means of use of the methods of analysis and synthesis and also by means of the study of

monographs. The statistical, economic and mathematical methods of research were used for the assessment of the foreign trade potential of Russia, quantitative and qualitative structure of the trade nomenclature of the foreign trade activity, the level of administrative and economic restrictions, tariff classification of the existing non-tariff barriers and also the level of the costs of the foreign trade liberalization. The choice and the substantiation of the most efficient measures of non-tariff regulation of foreign trade activity and the measures of protection of the national market under the conditions of the foreign trade liberalization is achieved by means of the use of expert assessments and macroeconomic analysis. During the research the principle of the objectivity was used for a more complete characterization of the process of use of the measures of non-tariff regulation taking into account their positive and negative impact on the priority spheres of the national economy. The objective picture of consequences of foreign trade liberalization for the Russian Federation and the minimization of possible losses of domestic industries is ensured by the use of the consistency method. The development of efficient directions of non-tariff regulation of foreign trade taking into account the national interests of the Russian Federation and the interests of its main foreign political and foreign trade partners is achieved due to the principle of alternativeness and the principle of actualization.

III. RESULTS AND DISCUSSION

The use of foreign trade prohibitions and restrictions is carried out in accordance with the supra national and national legislation. Within the national legislation the legal acts of the Eurasian Economic Union work in respect of the imported goods. The national level of the legislation is presented by the sublaws of the Russian Federation in the sphere of non-tariff regulation whose action is connected with the export of goods. The legal acts at both levels are presented by a wide range of documents presenting the basis for non-tariff regulation in the Russian Federation. The Russian Federation actively uses the measures of non-tariff regulation of both administrative and economic character in the trade with third countries. During the period from 2014 to 2016 Russia introduced a considerable number of non-tariff restrictions like sanitary, phytosanitary measures and technical barriers. The import of goods at artificially lowered prices became the reason for a number of anti dumping investigations and consequently for the introduction of corresponding duties for imported goods. Also under the conditions of the strengthening of the control of the state over the export and import the para tariff measures were actively used during that period the largest part of them accounts for the value added tax [2].

The system of non-tariff measures of Russia has a number of drawbacks which have a negative impact not only on the development of the foreign trade but also on the development of the whole national economy. The problems connected with the use of non-tariff regulation exist mainly in the form of different interpretations in the national and supra national legislation inside an integration association. For the provision of a corresponding protection level and security of the state and also of the needed level of the functioning of the Russian economy it is necessary to solve all the existing problems.

A. Problems of use of non-tariff regulation measures

The complex of the challenges connected with the use of non-tariff restrictions can be subdivided conditionally into two groups: problems of use of non-tariff barriers in the mutual trade of the Russian Federation with other members of the Eurasian Economic Union and the problems of non-tariff restrictions used by Russia in trade with third countries. In the first case it is spoken about the necessity of the unification and harmonization of supra national legislation of the Eurasian Economic Union and the national legislation of the countries participants of the association. In the case of the trade of Russia with third countries it is necessary to take specific measures for the elimination of an eventual damage to the national economy in the result of the unfair activity of trade partners of Russia.

One of significant challenges of the development of the modern international trade is the problem of the harmonization of the legislation at the international level. Within the Eurasian Economic Union it is manifested first of all in the obligatory harmonization of the national legislation of Russia and other member states with the supranational legislation of the Union in the spheres of non-tariff regulation. One of the main challenges in this sphere is the transfer of a considerable part of competences of non-tariff regulation of foreign trade activity to the authorities of supra national level and the necessity in connection with this to make corrections in the national system of the non-tariff regulation. The problem is that the supra national legislation does not take into account many particular problems of non-tariff policy which are regulated by every participant of the Eurasian Economic Union and they use only general statements. This in its turn creates discrepancies requiring the quickest elimination. In a greater degree the differences are manifested during the licensing of the medical equipment, military and dual use products. Thus there exists a mismatch of supra national legislation having the leading position and the national legislations of Russia and other countries participants of the Eurasian Economic Union which are being created. This legislation worked quite efficiently before the countries took the decision to create the union [3].

Currently there exists a number of reference rules in the supranational legislation to the national legislation of the member states of the Union. In first turn the problem consists in the definitions. In the Russian Federation and other member states of the Eurasian Economic Union their own normative and legal acts exist which regulate the hazardous waste management. The problem consists in the fact that the legal and normative acts of countries participants of the European Economic Union vary both in the definition of hazardous waste and in their classification into danger types. Due to the differences in the ecological legislation of member states of the European Economic Union the same types of goods in one state will be classified as waste and in another will not be. The solution of the given problem is important as the European Economic Union presents a common market what means that hazardous waste having appeared in the territory of a member state can freely move in the territories of other countries.

Also one of the key challenges of non-tariff regulation can be mentioned the absence of a common legislation in the sphere of the technical regulation within the Union. In the application of technical measures the Russian Federation and other participants of the Union decided to carry out further work in the liberalization of the domestic market by means of the development of the necessary international laws but the precise dates were not mentioned. The problem consists in the differences in technical guidelines of member governments of the European Economic Union. It is spoken about the absence of the harmonization of the national legislation in part of the responsibility for the violation of obligatory requirement to the production, rules and procedures of obligatory assessment of the conformity of the setting of excessive barriers for entrepreneurial activity. This in its turn leads to disagreements in the questions of the application of technical measures and slows the trade between Russia and other member states of the Union [4].

Besides there remain problems in which the member states have reached consent about the necessity of their elimination but due to their specific complicated character only the intentions about their removal without setting specific measures and terms were written into the Treaty on the Union. Thus currently the Russian Federation together with other members of the alliance have an independent tax policy which is based on the interests of separate countries and as a result imbalances appear in the markets. The main problem consists in the fact that within the Treaty on the Eurasian Economic Union the states assume responsibilities in the application of tax conditions for all types of taxes. According to them none of the member states can have the tax regimes in respect of goods imported and sold in other members of the Eurasian Economic Union less favourable than the tax regimes to similar goods found in its territory.

The opportunity of the realization by the countries of an independent tax policy and the absence of common rates of the excise tax violate this principle and create motives for an abuse. The convergence of the existing tax rates and the coordination of the actions in the tax policy within an integration association have a significant role in the creation of equal competitive conditions within a common market for the producers of goods of the Eurasian Economic Union [5].

The challenges of the non-tariff regulation in the mutual trade of countries participants include the absence of necessary simplification of restrictive norms, administrative formalities and procedures for the participants of the foreign trade. The point is that the absence of the mentioned simplifications leads to additional costs for the participants of the foreign trade what has a negative impact on the competitiveness of goods both in the domestic market of Russia and in the corresponding markets of other countries participants of the Union. The solution of this problem remains important for the provision of rights and legal interests of participants in foreign trade and for the increase of the customs cooperation of the states in mutual trade.

Another crucial challenge which face the participants in foreign trade is the absence of mutual acceptance of electronic documents necessary for the foreign trade in the member

states of the Eurasian Economic Union. This problem also complicates the mutual trade inside the association and leads to additional costs of material and temporal character. Their removal will allow accelerating the customs formalities and also reducing the number of the documents necessary for the conclusion of a trade deal.

Besides the problems of non-tariff regulation in the mutual trade of Russia and other participants of the association include the opportunity of the member states to introduce additional non-tariff barriers at the national level when such measures already exist within the Union. As a result there can arise various discrepancies. The domestic market allows the conservation of a number of restrictions which are desirable and indispensable for the provision of a normal functioning of the national economy. Such measures are connected with the challenges of an extreme reaction to various problems such as approval and the introduction of veterinary requirements and measures on a unilateral basis in case of the worsening of the epizootic situation in the territory of the third countries or member states. Also the regulations connected with the competitiveness and state purchases such as the opportunity of the introduction of the price regulation of socially important goods, national security can be introduced. For instance, Russia as all the member states has the right to use specific subsidies impeding trade if such subsidies are introduced in exceptional circumstances and if their introduction is determined by the necessity of the protection of public moral, public order and government security. The problem consists in the fact that the introduction of additional limitations gives the opportunity to member states to influence the conditions of the competition or to pile political pressure what makes the free trade inside the integration association more difficult.

When the Russian Federation has foreign trade relations with third countries the main problem in the sphere of non-tariff regulation is the opportunity of exporters who benefit from the dumping to import their goods into the territory of the Russian Federation during the period of the antidumping investigation. If during the anti dumping investigation a preliminary conclusion is made about the dumped import and about the moral damage determined by this to an industry, so a provisional anti dumping tax is introduced. The problem consists in the fact that a provisional anti dumping tax cannot be introduced earlier than 60 days from the beginning of the investigation. This means that during this two month period the exporters can deliver their goods at the dumping price without suffering from an anti dumping tax. The solution of this problem is extremely important for the protection of domestic producers.

Besides there exists a challenge of the lack of the cooperation and collectivity between Russia and other member states of the Eurasian Economic Union when introducing specific measures of non-tariff regulation in respect to third countries. It consists in the fact that in case of the introduction by Russia of restrictions on the import of specific goods from the territory of third countries other members of the Eurasian Economic Union are not obliged to introduce similar measures. I.e. the given type of non-tariff restrictions is introduced in Russia on a unilateral basis. In this respect the countries against which the restrictions were introduced get

the opportunity to import their goods into Russia across the territories of member states of the Union what leads to the development of an illegal (unofficial) reexport and illegal transit. The necessity of the solution of this challenge is determined by the fact that the import of the goods by third countries bypassing the non-tariff barrier disrupts the functioning of the national economy of Russia and reduces the efficiency of the restrictions [6].

Thus currently in the non-tariff regulation of the foreign trade activity in the Russian Federation there exist a number of serious challenges which require their elimination in the nearest future. Essentially the mentioned problems deal with the supranational level of administration of the integration association. The legislation at this level has a number of discrepancies and weaknesses in comparison with the legislation of member states in the sphere of non-tariff regulation which has already shown its efficiency.

B. Directions of improvement of the system of non-tariff regulation of the Russian Federation

The main direction of the development of the system of non-tariff regulation of the foreign trade activity of the Russian Federation is the creation of the system of non-tariff measures balanced in supranational and national competences. It is expected to be based on a transparent and efficient mechanism of the decision making corresponding to the best foreign practice and efficiently encouraging the international economic cooperation taking into account the national interests of the Russian Federation for the acceleration of its social and economic development. For these goals the growth of the efficiency of non-tariff regulation of foreign trade taking into account the activity of the Eurasian Economic Union and international obligations of the Russian Federation is needed.

Within the non-tariff regulation there exists the necessity in the simplification of administrative guidelines and procedures for the participants of foreign trade. It is expected to include the rationalization of licensing functions and the issuing of permits for export and import operations with specific types of goods and for the reexport in order to remove excessive barriers for the participants of foreign trade. The solution of the given problem consists in the development of the "one window" mechanism in the system of foreign trade activity.

For the development of national mechanisms of "one window" it is indispensable to provide the consolidation of the efforts of government authorities which administrate the foreign trade activity, business community and the participants of foreign trade activity.

In order to do this in the Russian Federation and other member states of the Union it is necessary to choose the administrative body responsible for the implementation of the national mechanism of "one window" by giving it the corresponding authorities and to take into account the suggestions of business communities and the participants of foreign trade activity approved by the state and to optimize their cooperation.

Besides within the common market of the Eurasian Economic Union for the recognition and use in any member states of the electronic documents for the realization of foreign trade activity when they are used in other member states and not in the country where they are issued it is indispensable to standardize the structure of the information included into the electronic documents required for the foreign trade activity. Also it is required to provide the formation of legal, organizational and technical basis for reciprocal recognition and use of the electronic documents necessary for the foreign trade activity by the authorized authorities of member states.

The available operation mechanism of the interaction with the entrepreneurs will contribute to an efficient adaptation to new conditions and to the maximal benefit from integration processes. Such a mechanism is expected to be provided for the monitoring of challenges connected with doing business within the Eurasian Economic Union and the provision of information and practical support for their solution. One of the limitations which the Russian Federation faces within the work of the removal of non-tariff barriers is the absence of sufficient authorities. A perspective way of solving this problem can be the introduction of the SOLVIT in the territory of the Eurasian Economic Union. This recommender system consists in a vast net of coordination centers which are located in all member states of the Eurasian Economic Union and in the largest part of the countries of the European Free Trade Association and it is used for the settlement of the arising problems without court proceedings. This system works efficiently in the European Union and it has proved to be an efficient ground for the identification of the existing non-tariff barriers most of which later were removed by means of the correction of the corresponding national or supranational legal acts [7].

The problem of the standardization of the technical legislation within the Union is expected to be solved by means of the acceptance of a specific international agreement between Russia and other members of the association. The agreement is expected to contain the provisions in which common approaches to the realization of the activity in the sphere of control over the implementation of the requirements of technical guidelines of the Union. It will include the development and application of common technical norms and requirements for the goods being the object of mutual trade. This will allow increasing the operating efficiency of foreign trade activity and will simplify the processes of the movement of the goods within the Union. The setting of common obligatory requirements for the production within technical guidelines of the Eurasian Economic Union is a top priority task and when it is solved it is possible to provide one of the main conditions for a free movement of goods.

The problem of the introduction of additional non-tariff restrictions at the national level when similar measures exist within the Union is possible to solve by means of signing a specific international agreement. The agreement is expected to include provisions which will regulate the order of the introduction and the use of the mechanism of non-tariff regulation in mutual trade at supra national level taking into account the interests of both of the Russian Federation and other member states of the Eurasian Economic Union. It is

expected to contain the conditions of the conservation and support of a normal competitive environment in the common market at the introduction of non-tariff barriers by member states of the Eurasian Economic Union for the provision of the national security and the obligations in the application of joint operations in case of the worsening of the epizootic situation in the world. The harmonization and minimization of non-tariff barriers used in the Russian Federation and other member states of the Eurasian Economic Union in the mutual trade on a unilateral basis in cases when such an order is admissible in compliance with the legislation of the Union will be an index of the development of integration processes, movement forwards.

The main goal for the Russian Federation in this direction is an efficient use and the combination of the national legislation with the provisions set in international and regional agreements and treaties, creation of foreign strategy and mechanisms of non-tariff regulation in this sphere [8].

The solution of the problem connected with the realization of an independent excise policy by the member states of the Eurasian Economic Union consists in the harmonization of the excise rates in the most sensible excised products and the toughening of the responsibility for the violation of the legislation in this sphere. Realizing the importance of the mentioned problems the member states anticipated the necessity of the determination of the directions, forms and order of the harmonization of the excise rates in the most sensible excisable products in Point 3 of the Article 71 of the Treaty on the Eurasian Economic Union.

The impediments in sensible groups of goods are set by member states for the protection of the national market. At the elimination of one of the impediments a country loses the possibility to protect the national market but at the same time the sensible production flow within the common market becomes freer what is necessary for a further development of the mutual trade within the Eurasian Economic Union. The solution of the mentioned problems for the elimination of the economic prerequisites for the growth of the cross border unofficial market of the most sensible production taking into account the principle of the tax sovereignty of Russia and other member states can become possible by means of the conclusion of a multilateral agreement on the harmonization of the tax rates. The agreement is expected to include the optimization of the rates in the countries with higher tax rates and also the toughening of administrative and criminal responsibility for the turnover of illegal production. Herewith it is necessary to foresee that the approximation of the growth of the excise tax in the most sensible goods should be realized by means of the acceleration of the growth of tax rates of the member states of the Eurasian Economic Union with lower growth rates and their deceleration in the countries with higher ones [9].

For the solution of the problems dealing with the dumped import of the goods into the Russian Federation from the territory of third countries for the protection of national producers and growth of the competitiveness of the Russian goods the most perspective direction for this can become the use of retroactive tariffs (duties). The retroactive measures

allow levying the duty from the good which was imported into the territory of the Russian Federation 90 days before the finish of a preliminary anti dumping research. The importance of the given measure consists in the fact that the retroactive duty is introduced retrospectively and by this it limits the opportunity of the countries to introduce their taxes within the obligatory sixty days period before the introduction of the provisional anti – dumping duty. The opportunity of a retroactive use of anti dumping and compensation measures is provisioned by the WTO rules and its members actively use this opportunity [10].

The problem of the absence of the collegiality between member states of the Eurasian Economic Union and the Russian Federation in the introduction of specific measures of non-tariff regulation in respect to third countries can be solved on the basis of the experience of the Western Countries. The legislation of the European Union says that the introduction of the restrictions in the foreign trade in respect of third countries is realized only in the case when a collegial voting of the largest part of the EU members approved their introduction. In case when the largest part of the countries vote against, so the restrictions are not applied by the countries participants. The conclusion of a specific agreement between the Russian Federation and other member states of the Eurasian Economic Unions or the development and inclusion of the corresponding provisions into the Treaty which will contain a similar collegial order of the restriction application would allow solving this problem. This will allow eliminating the opportunity of the appearance of the illegal reexport and illegal transit across the territory of member states of prohibited goods and will contribute to the strengthening of relations between Russia and other member states of the Union inside the integration association [11].

IV. CONCLUSION

Currently in the Russian Federation there exists a number of the problems connected with the use of non-tariff barriers in the foreign trade. Mainly the mentioned challenges affect interests of the Russian Federation at the supranational level inside an integration association. The development of the non-tariff regulation within the Eurasian Economic Union at this stage of development is directed on the smoothening of non-tariff barriers in foreign and mutual trade for the increase of the well being of member states of the association. The removal of the barriers in the mutual trade of the Russian Federation and other member states will become the index of the development of an integration association what is one of the main goals of its formation. But under the conditions of the liberalization of tariffs the conservation of non-tariff barriers in a country is an inseparable condition for the provision of the security and the interests of the Russian Federation and also the increase of the competitiveness of domestic production at the foreign trade activity with third countries.

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