

More recently, attention has focussed on the spread of "voluntary" export restraints in situations in which even the criteria of Article XIX of the GATT could have been met. All this has given rise to an extensive literature on the "New Protectionism".

However, there has also been a minority view, to the effect that what has been happening has been not so much trade liberalization, but rather a widespread recourse to discrimination in trade policy and, in parallel, a shift from reliance on the tariff, (in the fashion of the early 1950s) to reliance on an armory of other measures, which we have lumped together under the heading of "contingency protection". It would require extensive research to establish when this view began to be expressed; certainly for a long period, certainly up to the early years of the Kennedy Round (1962-63) the prevailing view was that what had been happening was "liberalization", by and large, and that the growth of world trade could be assumed to be, in part at least, the result of this process. However, it is doubtful whether the practitioners; that is, trade policy officials and members of the trade bar, ever uncritically shared the majority view; for practitioners the stated majority view was merely part of the political presentation of the case for further trade negotiations, which were conceived as being necessary to contain protectionism.²¹ A number of informed commentators have, over the years, taken the view that trade liberalization and non-discrimination were not what was happening. For example, in 1971 Mr. Bruce Clubb, then a commissioner of the U.S. Tariff Commission, expressed his "belief that there has been a widespread misunderstanding of the foreign trade policy the United States has been pursuing in recent years. We have believed that it was a liberal policy, leading toward a time of free trade. In fact, it has been a rather neutral policy; a pragmatic policy where restrictions have been removed from some goods and imposed on others, on a case by case basis. Although we like to talk only about the restrictions we remove, the evidence suggests that in trade terms these are almost equaled by the restrictions we have imposed, with the result that we are probably no nearer free trade now than we were forty years ago."²²

Since the Tokyo Round, there has been much more attention given to the detailed and ingenious protectionism to be found in the contingency system. Criticism of the anti-dumping system, and of the anti-competitive aspects of trade policy (which we shall note in the next chapter) has played a part in this; at more general level, looking at the trade policy system in the round, as a system, a number of trade policy practitioners have directed attention to the restrictive and discriminatory feature of trade policy, rather than being content with merely re-stating the long-established case for reducing tariffs. For example, in a series of articles during and since the Tokyo Round, Jan Tumlir, the late GATT director of research, drew attention to and noted the policy implications of the movement toward a non-tariff centered and protectionist trade policy system. He expressed his concern, in a series of articles, as to the implications of the decline in the "international order" related to the increase in the use of government-negotiated export restraints and to government encouraged cartelization (e.g. in steel).²³ He made a persuasive case that the major conflict between competition policy or policies and trade policy is in the official encouragement and sponsorship of cartel-like activity, including that by exporters. In quantitative terms, and, more importantly, in terms of the threat to the international order, this is of greater importance than the differences in standards as between legislation on domestic price discrimination and anti-dumping policy.

Present focus
generally
for minority
majority
view.

For a
greater
understanding
of the
view.

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Very
strong
view
argued
in
book