

# **An issue-focused approach to NTB reduction: Ideas from the experiences of the EAC and SADC**

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This policy brief recommends focusing Non-Tariff Barrier (NTB) policy work on issues rather than on individual NTBs identified as being particularly large. Such issues could be food safety rules, plant health regulations or immigration procedures. In doing so, the brief contrasts two approaches to NTB work: the issue-focused approach and the identification approach. Following the identification approach, agencies tasked with reducing NTBs, like Monitoring Mechanisms, attempt to identify the most important NTBs and subsequently reduce them. However, while the identification approach has intuitive appeal, it meets severe problems of achieving NTB reduction, exemplified by the recent experiences in Eastern and Southern Africa. Therefore, this brief recommends the issue-focused approach: to generate knowledge about NTB reduction and collect best practice about government and donor-supported efforts to focus NTB-reduction work in high priority areas. The issue-focused approach needs not replace the identification approach but may be used to supplement and strengthen it.

## **The identification approach**

The identification approach has intuitive appeal: it consists in finding the biggest NTBs and getting rid of them first following the underlying logic that reducing the biggest obstacles will yield the largest return. However, deep analytical difficulties complicate the identification and measurement of NTBs. NTBs is a residual category consisting of a broad array of measures sharing only one key characteristic; that they impact trade. Comparing very different measures is notoriously difficult and requires deep and technical knowledge often beyond the trade economists likely to do the analytical background work essential to the identification approach. Consider, for example, two NTBs, one is a maximum limit of bacterial count in dairy products and another is time delays due to lengthy customs procedures. Both NTBs may be costly but the exact determination of the costliest NTBs require technical knowledge about dairy technology, knowledge about acceptable food safety protection levels, and knowledge about feasible custom reform alternatives.

The Tripartite Monitoring Mechanism (TMM) used in Southern Africa is an example of the identification approach. The website of the TMM<sup>1</sup> states that firms have made 386 complaints

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<sup>1</sup> See [www.tradebarriers.com](http://www.tradebarriers.com).

**Box 1. The size of NTBs: How large are they? Do we know?**

The answers are 'large' and 'not with any precision'! We have anecdotal case-study evidence of the existence and negative impact of NTBs. Monitoring Mechanisms generate huge volumes of business complaints about NTBs. Trends in global regulation exemplified by the reduction of tariffs and increased use of policies potentially misused for protectionist purposes like standards provide a strong rationale for increased use of NTBs. Therefore, analysts believe NTBs severely affect trade. This suspicion is supported by research on trade costs. Portugal-Perez and Wilson (2009) argue that African countries have the highest trade costs in the world. Trade costs are costs of moving goods across borders. NTBs are a subset of trade costs but methodological and data problems prevent the isolation of the costs of NTBs.

Yet, figures circulate. Carrère and De Melo (2009) estimate the average ad valorem equivalent of an NTB as 40%. This figure implies that the average NTB restricts trade as much as a 40% tariff. World Bank (2011) argues – referencing firm complaints reported to the Tripartite Monitoring Mechanism – that more than one-fifth of Southern Africa regional trade – equivalent of more than US\$ 3.3 billion – is affected by NTBs. This study uses Carrère and De Melo's figure of an average 40% ad valorem equivalence for NTB, to estimate the costs of the Southern Africa NTBs as 40% of US\$ 3.3 billion equal to US\$ 1.3 billion per year. This estimate is only an educated guess. The value of the data of the Tripartite Monitoring Mechanism is highly disputed and the Carrère and De Melo's 40% figure is an average based on data likely to be unrepresentative for Southern Africa.

of which the responsible country authorities have resolved 280 complaints, a success rate of 73 per cent. However, a study by the Southern Africa Trade Hub, a USAID-funded trade project, raises serious doubts about the status of resolved complaints. SATH (2011) finds that the TTM registers many complaints as resolved, yet no evidence is provided to support the TTM's claim. For example, a complaint was registered arguing that Mauritius refused to import Tanzanian beer on TBT grounds. The complaint is registered as resolved as the Mauritian authorities report that there were no specific import restrictions on Tanzanian beer. Another example is a complaint that the import of wheat into Namibia is prohibited. The complaint is registered as resolved as the Namibian authorities report that the measure is meant to protect the local milling industry and thus is not an NTB. The TTM appears to register complaints as resolved simply if the responsible authority provides any kind of response rather than resolving the constraint.

The identification approach, typified by the TTM, suffers from two weaknesses both linked to analytical difficulties. First, Monitoring Mechanisms and the NTB reporting firms lack analytical capacity. Many complaints are too vague to address. Often firms simply report the products experiencing problems due to some unspecified technical trade barrier. Neither the firm nor the Monitoring Mechanism has the analytical capacity to identify the binding constraint. The system is therefore vulnerable to subjective complaints and biased responses. Second, the demand for analytical capacities is heightened from the global trend to introduce complex regulation essentially targeting domestic issues yet with large trade implications. Food safety laws are such an example. Firms may perceive legitimate measures like food safety regulations as NTBs because the regulations constrain their market access, but the firms fail to see that the regulations serve a legitimate purpose of consumer protection. Similarly, responsible agencies may argue for the maintenance of existing NTBs using otherwise legitimate arguments such as food safety regulation as an excuse. In either case, the Monitoring Mechanism is poorly

**Box 2. Standards harmonisation as an imperfect trade facilitation tool**

Standards harmonisation may erect future NTBs. Jensen and Keyser (2012) show that newly harmonised EAC dairy standards are unlikely to improve food safety but could be used as future NTBs. The new standards follow standards initially developed for OECD countries. OECD standards do not take into account that African consumers boil milk prior to consumption. Boiling reduces the risks associated with high bacteria counts; nevertheless these new standards regulate bacteria counts as if consumers did not boil their milk because this practice is unknown in OECD countries. The new EAC standards may erect future NTBs because they set limits on bacterial counts that few EAC dairy processors can meet.

equipped to assess a dispute. Therefore, the Monitoring Mechanism is limited to simply reiterating the statements of both firms and authorities involved.

**The issue-focused approach**

The issue-focused approach abandons the search for the theoretically most harmful NTBs and adopts a more feasible approach focused on developing knowledge and collecting best practice in key issues universally agreed to be subject to important NTBs.

Customs modernization is an example of a successful application of the issue-focused approach. Previously, custom management was focused on maximizing revenue collection, but modern custom administration has introduced the minimization of transaction time as an equally important objective of customs management. Targeted work developing new and more efficient modes of customs management developed by international agencies like the World Bank and the dedicated organization for customs, the World Customs Organization, has successfully reduced transaction time in many developing countries. This success has been greatly influenced by the development of better models of customs management and the collection of best practices at the project level by the international agencies and organizations (McLinden et al. 2010).

The issue-focused approach brings together technical knowledge, policy practitioners and policy analysis. Technical people with long experiences and deep insight into the issue under study are coupled with analytical capacity to investigate the wider implications of policy initiatives. In the case of customs reform, in-country policy practitioners work with international agencies with the capacity to collect cross-country experiences and analyze these with a view to extracting international best practice.

Other trade agencies lack behind customs. The WTO SPS and TBT agreements, for example, encourage the use of trade facilitation instruments to reduce NTBs, namely harmonisation with international standards, mutual recognition and equivalence. However, neither the responsible international agencies nor developing country trade agencies have developed successful models of how to apply these trade facilitation instruments in developing countries.

Increased demand for regulation produces new sources for NTBs in developing countries. Such issues include food safety, plant health, animal health, quality and safety issues expressed through technical standards, and immigration. The regulation of these issues presents large problems for trade analysts as regulations may serve both legitimate protection purposes and

illegitimate purposes of protectionism. Using the identification approach to reduce NTBs resulting from the regulation of such issues suffer from high demands for specialized technical knowledge and the lack of commonly acknowledged models of how to create regulatory systems that meet legitimate regulatory objectives in a less trade restrictive manner.

International agencies, organizations and donors could develop an issue-focused approach to reducing NTBs for such issues. These actors have the capacity and the experience across many developing countries to work with developing country governments and firms to enhance the understanding of trade facilitation aspects of emerging regulatory issues and collect best practice experiences of what works and what does not.

### **The road ahead**

To operationalise the issue-focused approach, donors, international agencies and developing country governments should develop:

- An applied research program on regulation and trade facilitation in developing countries within areas agreed to give rise to NTBs focused on collecting best practice lessons;
- Establish a global task force of representatives of governments, international organizations and the private sector involved in trade-related management in the areas under scrutiny. The task force should use the inputs from the research program to develop regulatory models appropriate for developing countries;
- Implement pilot projects to test emerging recommendations and regulatory models.

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### **References**

Carrère, C. and De Melo, J. (2009): Notes on detecting the effects of non tariff measures. CERDI, Etudes et Documents, E2009.32. Centre d'études et de recherche sur le développement international. Université d'Auvergne.

Jensen, Michael, and J. Keyser (2012), "Standards harmonization and trade: The case of the East African dairy industry"; in O. Cadot and M. Malouche, eds., *Non-tariff measures: A fresh look at trade policy's new frontier*; Washington, DC/London: The World Bank/CEPR, 2012 (forthcoming).

Jensen, M.F. and Yu, W. (2012): Regional Economic Integration in Africa: Prospects and Status of Implementation. Policy study commissioned by the Ministry of Foreign Affairs of Denmark.

McLinden, G.; Fanta, E.; Widdowson, D.; and Doyle, T. (2010): Border Management Modernization: A Practical Guide for Reformers. Washington DC: The World Bank

Portugal-Perez, A. and Wilson, J. (2009): What trade facilitation matters to Africa. *World Trade Review* 8(3), pp. 379-416.

SATH (2011): 2011 Audit of the Implementation of the SADC Protocol on Trade. Report submitted by AECOM International Development to USAID. Southern African Trade Hub.

World Bank (2011): *Harnessing Regional Integration for Trade Growth in Southern Africa*. Africa Region, Poverty Reduction and Economic Management, the World Bank.