Non-Tariff Measures: The Bigger Picture for South and Southern Africa

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Ron Sandrey[1], economic research co-ordinator at the New Zealand Ministry of Foreign Affairs and Trade, argues that reduced tariff barriers are not enough to provide true market access for developing countries while non-tariff measures still create considerable barriers to exports to developed countries.

As tariff barriers are reduced around the world, increasing attention has been paid to non-tariff measures. Although differing definitions exist of exactly what these NTMs are, let alone how their quantitative impacts are measured, they can basically be defined as government measures other than tariffs that restrict trade flows.

The effect of NTMs is generally recognised, with the Permanent Mission of SA recently pointing out their impact on trade flows to the World Trade Organisation (WTO):

> *Reducing tariff barriers alone will not succeed in providing genuine market access for developing countries. Non-tariff barriers such as anti-dumping, technical barriers to trade and import licensing in developed countries, often pose significant barriers to developed country exports."*[2]

Ideally, a quantitative analysis of NTMs would be desirable, but given the difficulties associated with quantification, a strong qualitative assessment is useful in that it provides policy-makers and trade negotiators with valuable information on where to direct their efforts for maximum gain.

It is important to note that identifying NTMs can be very subjective. For instance, many NTMs, such as most sanitary and phytosanitary (SPS) measures, are in place to protect human, animal and plant life. But when these measures are applied inconsistently with international agreements, they can become insurmountable barriers.

Categories of non-tariff measures

A useful means of examining NTMs is to place them into three broad – admittedly arbitrary – groupings. The first is those measures that are put in place to protect the health, safety and environment, which include import and export bans, SPS requirements, and standards and conformance requirements.

The second comprises a wide range of trade policy regulations: broader policy measures including export assistance, export taxes, import licences, import quotas, production subsidies, state trading and import monopolies, tax concessions and trade remedies practices (anti-dumping, safeguard and countervailing duty measures).

The third group is not generally regulations *per se*, but rather a wide grouping of administrative disincentives to export – customs clearance delays, lack of transparency and consistency in

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[1] The opinions expressed in this report are solely the responsibility of the author and do not necessarily reflect the views of TIPS or the New Zealand Ministry of Foreign Affairs and Trade.

[2] "SA on Market Access for Non-agricultural Products". SA's comments on the Draft Elements of Modalities for Negotiations on Non-Agricultural Products. Dated 12 August 2003, this is an excerpt from a report the WTO received from the Permanent Mission of South Africa.

customs procedures, overly bureaucratic or arbitrary processing and documentation requirements for consignments, high freight transport charges and services that are not user friendly.

Export trade summary

The NTMs a country faces critically depend upon both its major trading partners and the composition of exports to those markets. Within the South and southern African region, exports from the Southern African Customs Union (SACU[3]) countries completely dominate exports, with an 86% share in 2001. With less than 5% of exports, Zimbabwe, at least until recently, has been next in line. The EU is the major export destination, followed by the US and Japan.

Precious metals and stones (diamonds), mostly to the EU, form the main trade flow from SACU. Coal, pig iron and petroleum products round off the top five commodities, with automobiles and their associated parts, iron and steel products and aluminium products following. Agricultural products (wine, sugar and fruits) also figure, as do forestry products.

From Zimbabwe, tobacco and tobacco products dominate exports, while Mauritian exports are dominated by clothing and sugar. The EU is the main destination for exports from both countries. Elsewhere in the region, copper and copper products lead exports from Zambia, while tobacco is the main export product from Malawi. Clearly, the trade from SACU dominates exports, so in aggregate the main products from these countries will be of most interest. However, several individual products are important to other smaller countries in the region, and NTMs facing these exports should also be considered.

Trade policy regimes in export markets

As the EU is the world's second-largest importer of merchandise goods and the leading importer of southern African goods, its trade policies are crucial. The WTO reports that, with the exception of textiles and agriculture, the EU market is largely open. Both of these exports are important to southern Africa.

Most imports either enter the US duty free or subject to low tariffs. The highest tariffs apply mainly to imports of agri-food and tobacco products, clothing, textiles and footwear, again important products from the region. The US extends tariff preferences unilaterally to many Andean, African (AGOA) and Caribbean countries, as well as under its Generalised System of Preferences. It continues to make active use of anti-dumping, countervailing and safeguard measures, has quantitative import restrictions imposed under the provisions of the Agreement on Textiles and Clothing, and has recently tightened its borders for national security and foreign policy reasons. This is a source of concern for some trading partners.

Japan has few visible non-tariff border measures. Those currently applied involve some import prohibitions, import licensing and quantitative import restrictions, for example, on certain fish products. Some imports are subject to licensing requirements, and both tariff quotas and certain aspects of the import quota system can be complicated. The support received by farmers and the consumer prices of agricultural products in Japan remain above the OECD average, with consumers paying on average more than twice as much as they would have paid in the absence of market-price support to producers.

The big picture on NTMs: minerals and mineral products

The mining sector remains at the heart of South Africa's economy. There are few barriers to precious metals and diamond exports. Coal is heavily subsidised in some EU countries, and exporting to a market where the traded price is about one-third of the subsidy level to a large

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[3] Botswana, Lesotho, Namibia, South Africa and Swaziland

component of the domestic production certainly constitutes an NTM. There is little evidence of problems in the copper and aluminium sectors.

Manufactures

The main sectors of South African manufacturing are automobiles and their associated parts, textiles and clothing, food processing and beverages, mineral-based industries, machinery and equipment, and pulp and paper.

Duty drawback and similar schemes, export incentives, and international multinational transfer pricing and practices all combine to make the international automobile sector a complex one. In many countries, the sector has iconic status, but this is generally only possible behind high tariff and NTM walls. An examination of the data reveals that automobiles and their associated parts are protected by almost every known NTM and a few more ingenious ones as well.

Local content rules exist, either on their own or operating in tandem with programmes similar to the Motor Industry Development Programme (MIDP) in South Africa. Import charges over and above tariffs are common, and include sales taxes, luxury taxes, statistical fees, purchase/registration fees, investment restrictions and conditions such as joint-venture requirements.

The system of import quotas that has dominated trade in textiles and clothing since the early 1960s is being phased out, and by 1 January 2005 the use of quotas will come to an end, so that the major importing countries of the EU, US and Canada will no longer be able to discriminate between exporters. There are, however, special provisions for the use of trade remedies should imports surge, and it could be expected that these remedies will be enacted.

Overlaying this global picture is the African Growth and Opportunity Act that authorises preferential treatment for most qualifying apparel from southern African into the US until September 2008.

Over time it can also be expected that China will increase its share of world exports, although special short-term WTO safeguard and anti-dumping rules will slow this dominance. Given current preferences into the US in particular, it is not clear that the removal of this specific quota access measure will necessarily enhance export trade from the region.

Another very distorted market can be found in steel products. Despite WTO rules to the contrary, many countries provide subsidies to their domestic sectors. Consequently there is massive overproduction globally, anti-dumping cases are frequent and the US recently imposed safeguard measures involving tariffs of up to 30% over three years. South Africa initially escaped the chapter 201 safeguards for imports into the US, but local producers would become vulnerable should the US actively pursue anti-dumping and countervailing actions in combination with these safeguards.

Forestry products attract very few NTMs outside of North Asia.

Agricultural and food products

Many of the disciplines that have been applied to promote freer trade and more open production systems in the non-agricultural sector are not exercised in the agricultural sector. Measures such as import quotas, export subsidies and domestic supports act to distort agricultural trade in the developed OECD markets.

While South Africa is not a major exporter of agricultural products, exports would be higher if international trade were to be liberalised. SPS measures are the most contentious issue in agricultural access: consumers seek assurances that food is safe to eat, thus regulation is needed in this area and the removal of SPS standards and associated regulations might actually reduce trade. To prevent the creation of unnecessary trade barriers, the WTO SPS Agreement states that measures must be applied only to the extent that they are necessary to protect human, animal or plant life or health, must not arbitrarily or unjustly discriminate between countries where identical or similar conditions prevail, and must have scientific justification. Each country has the right to set standards within these criteria, and any challenge must be addressed to these criteria and not to the SPS measures as such[4].

In its July 2003 newsletter, the Common Market for Eastern and Southern Africa (Comesa)[5] explores whether SPS measures are trade enhancing or form a trade barrier for Eastern and Southern African (ESA) exports. It raises three crucial issues:

- Stringent regulations place small-scale producers at a disadvantage as they do not have the capacity to absorb extra costs;
- ESA countries do not generally have the monitoring, testing and certification structures in place to demonstrate compliance; and
- There is a growing concern that many SPS measures may be inconsistent with WTO rules.

The sugar, rice and dairy sectors are the most distorted markets internationally. Meanwhile, countries in the region benefit from preferential sugar access to the EU market, with Mauritius in particular obtaining economic rents as a direct result of NTMs. A more complete analysis would be needed before any judgement could be made on whether or not liberalisation would, in fact, benefit southern African exporters, but initial analysis suggests not. The major beneficiaries would be Brazil, Thailand, Australia and India. So again, NTMs can be seen as currently benefiting southern African producers.

For health reasons, tobacco products face very high excise taxes, often at levels that exceed the value of the product itself by a wide margin. Anti-smoking legislation, consumer boycotts and labelling requirements all constitute NTMs.

An initial analysis at TIPS suggests that many other NTMs operate to constrain agricultural exports from the region in different sectors. These include, for example, tariff quotas on fruit and vegetables in Norway – a potential free trade agreement (FTA) partner for South Africa – and barriers into Asian markets. Cotton emerged as a flash point at the recent aborted Cancun trade meetings, with the London *Guardian* observing:

> *"US cotton farmers can sleep easy. They will continue to receive $4-billion in subsidies and flood the world with cheap cotton for the foreseeable future. Meanwhile west African cotton growers will see no way out of their destitution"*[6].

The same applies to a lesser extent to cotton exports from the southern African region.

It is clear that NTMs are pervasive in international trade from southern Africa, although in some cases the region is offsetting these costs through preferential access to protected markets. However, this can be but a temporary situation. The region must plan on enhancing its competitiveness to continue exporting products such as sugar and clothing as markets inevitably

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[4] See "Agro-food Products and Technical Barriers to Trade: A Survey of Issues and Concerns in the WTO's TBT Committee", OECD, Paris, March 2003. Available at http://www.oecd.org/trade. This document contains a background on TBT-related activities before the WTO during the period 1995 to 2001. It provides some examples of how disputes have been settled and the background to several more of the contentious issues raised by WTO member countries during this period. These issues covered a wider area than only SPS measures, and included issues such as food labelling.

[5] Comesa Newsletter, Vol. 1, Issue 2, July 2003. "Market Access and the SPS Issues". Available at http://www.comesa.int. This newsletter draws upon the more comprehensive report "Market Access Constraints", available at the same website.

[6] *The Guardian,* London, 21 September 2003.

reform. It must also continue to combat NTMs elsewhere on international stages such as the WTO and in its regional FTA negotiations. These NTMs will ultimately be more important as barriers to exports than tariffs, and a comprehensive survey of businesses would benefit exporters.