

# SAFTA: Time to tackle NTBs in Earnest

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As tariff barriers fall, the relative importance of non-tariff measures (NTMs) in restricting trade has increased the world over. NTMs can be applied to address public policy concerns—for example, food safety and environmental protection—as well as for protectionist purpose. Disentangling the two motives is difficult. Technical barriers to trade (TBT) and sanitary and phytosanitary (SPS) measures are the most frequently encountered NTMs and also considered among the most relevant impediments to exports, says the World Trade Organization's World Trade Report 2012 (WTR 2012), whose thematic focus is NTMs. The report states that NTMs, and TBT/SPS measures in particular, vary across sectors but are especially prevalent in agriculture. It also presents evidence suggesting that procedural obstacles are the main source of difficulties for exporting firms from developing countries.

For South Asian countries, NTMs are a concern for both intra-regional and extra-regional trade. Since late last year, there have been encouraging advances in, among others, the area of tariff liberalization among South Asian countries. The urgency to tackle NTMs that are non-tariff barriers (NTBs) within the region has increased with the positive developments on the tariff liberalization front. Pakistan agreed in November 2011 to grant India most-favoured-nation (MFN) status in trade matters and take major steps to achieve that by 2012-end, and switch to a negative list from a positive list in its trade with India. Under SAFTA, India announced in the 17th SAARC Summit, held in November 2012 in the Maldives, its decision to unilaterally reduce its sensitive list for LDCs by 95 percent such that only 25 items—alcohol items, tobacco and tobacco products—would remain in the list with effect from 1 January 2012. Most other SAFTA members also reduced the items on their sensitive lists by at least 20 percent under second phase of sensitive list reduction with effect from the beginning of this year. Commerce secretary-level talks between Bangladesh and Nepal in July 2012 saw Bangladesh agreeing in principle to provide duty-free access to agriculture products exported by Nepal.

Fear of policy substitution—using NTMs to offset or dilute market opening resulting from tariff liberalization—is not unwarranted, given the track record

of non-transparency of NTMs and their arbitrary implementation hurting intra-regional trade. NTBs take the form of SPS and TBT mostly. Pakistan wants India to remove NTBs in exchange for its granting of MFN status. Bangladesh pointed to NTBs in India for its inability to fully utilize the tariff-rate-quota facility for garments granted by India whereby up to eight million pieces of garments from Bangladesh could be eligible for zero-duty access to the Indian market without any sourcing conditionality. One of the reasons Nepal has been unable to fully translate duty-free market access under the Nepal-India trade agreement into market entry has been the array of NTBs faced by Nepali products in India. Besides the slow pace of tariff liberalization until recently, there was no progress in eliminating or reducing NTBs as envisaged by SAFTA. Trade facilitation measures were not taken to the desired extent. Inadequate trade facilitation, including in the areas of transit and transport, adversely affects extra-regional trade also. The bilateral trade agreements among South Asian

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countries have made hardly any progress in the elimination or reduction of para-tariff barriers and NTBs.

The current institutional mechanism under SAFTA to deal with NTMs is fairly weak. Under the existing rules, the member states notify the SAARC Secretariat the non-tariff and para-tariff measures they face on their exports on an annual basis. The notified measures are reviewed by the Committee of Experts (CoE), established under Article 10, in its regular meetings to examine their compatibility with relevant WTO provisions. The CoE recommends the elimination or implementation of the measure in the least trade restrictive manner in order to facilitate intra-SAARC trade. A majority of notifications and complaints are being dealt through bilateral negotiations. The CoE acts as the dispute settlement body under SAFTA, but its role in settling disputes related to NTBs has not been satisfactory. There is a need

for an independent and effective dispute settlement body. Monitoring of NTMs/NTBs and their compilation into a readily accessible database are also essential.

There is evidence from global experience, as noted in WTR 2012, that negative effects on trade are mitigated by a reduction in policy divergence, whether through convergence to international standards, harmonization or mutual recognition. SAARC recently started making efforts in that direction. In the 17th SAARC Summit, the SAARC Agreement on Multilateral Arrangement on Recognition of Conformity Assessment, and the SAARC Agreement on Implementation of Regional Standards were signed. Just prior to the 17th Summit, the Agreement on the Establishment of South Asian Regional Standards Organization (SARSO) had been ratified by all member states and entered into force. Work on the harmonization of standards in 12 identified products has commenced. The actual impact on NTMs and their trade restrictiveness will depend upon the pace of the implementation of the mutual recognition and harmonization arrangements and their product coverage. This should be complemented by programmes/initiatives to help needy countries to upgrade their capabilities—infrastructural and human resource—to meet standards associated with NTMs, since in the context of weak domestic capacities and certain NTMs being non-negotiable, the only feasible and appropriate way to deal with such NTMs will be by easing the relevant domestic supply-side constraints in the exporting country. The Aid for Trade initiative under the World Trade Organization ought to be leveraged to address such constraints under a regional programme. Likewise, the creation of an LDC Integration Fund under SAARC could be an option for investing in programmes and projects to help alleviate the supply-side constraints facing South Asian LDCs. While going for harmonization and mutual recognition of standards at the regional level, caution must be taken against the possibility of significant trade-diverting effects on outsiders and regulatory lock-in, as well as the implications for extra-regional exports that have to meet different standards.

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