

BRIDGES NETWORK

# BRIDGES AFRICA

Trade and Sustainable Development News and Analysis on Africa

VOLUME 3, ISSUE 10 – DECEMBER 2014



## EU, US going their own way: What does TTIP mean for Africa?

### REGIONAL TRADE AGREEMENTS

Have the TTIP negotiations progressed as expected?

### DOHA ROUND

Connecting the dots: The Doha round and mega-regionals

### NON-TARIFF BARRIERS

How do NTBs affect trade in sub-Saharan Africa?



International Centre for Trade  
and Sustainable Development

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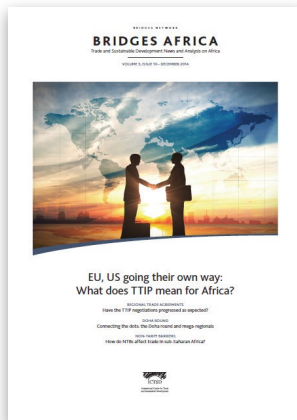
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## EU, US going their own way: What does TTIP mean for Africa?



*"We're talking about what could be the biggest bilateral trade deal in history, a deal that will have a greater impact than all the other trade deals on the table put together."*

*In June 2013, when hosting the G8-summit, British Prime Minister David Cameron used these words to announce the proposed free trade area between the US and the EU, known as the Transatlantic Trade and Investment Partnership (TTIP).*

*Given the economic weight of the transatlantic partners – the 28 EU member states and the US jointly account for nearly one third of world trade flows – and hence its systemic relevance, TTIP is commonly referred to as a mega-regional trade agreement.*

*In addition to its direct role as a market access enabler, the agreement is envisaged as a tool to address a plethora of trade-related issues and improve compatibility among the different regulations and rules on both sides of the Atlantic. According to the EU's TTIP mandate released after the seventh round of negotiations in October 2014, the items on the agenda cover areas ranging from investment protection over public procurement to non-tariff barriers.*

*With this agenda, TTIP adds to existing multilateral commitments both in depth and breadth, a phenomenon similarly observed with other mega-regionals currently under discussion, notably the Trans-Pacific Partnership (TPP) and the Regional Comprehensive Economic Partnership (RCEP) in Asia-Oceania.*

*Beyond the debate about the economic rationale underpinning TTIP – the US and the EU are expecting a boost in their annual GDP growth of 0.3 percent and 0.7 percent respectively – questions have been raised over how third countries will be affected if the EU and the US leverage their agreement to set the standards in 21st century world trade.*

*In light of these considerations, the Bridges Africa team has chosen to feature various analyses on the impact of TTIP for Africa, guided by the following questions: Within the dynamic landscape of international trade regulation, what are the challenges and opportunities facing African countries in their bid to secure sustained economic growth? How realistic is a fully-fledged transatlantic deal with ramifications beyond the mega-regional trade poles? Finally, which design features of TTIP could be harnessed for African economies?*

*Also, this edition sheds light on the topic of non-tariff measures (NTMs): Which NTMs are the most burdensome for African countries and how can they tackle these hurdles more effectively?*

*As usual, we welcome your substantive feedback and contributions. Write to us at [bridgesafrica@ictsd.ch](mailto:bridgesafrica@ictsd.ch).*

## REGIONAL TRADE AGREEMENTS

# Sitting on the sidelines: How will mega-regionals affect African LDCs?

Peter Draper and Salim Ismail

*Sub-Saharan Africa does not have a seat at the mega-regional negotiating tables. Yet, the region has a stake. This article explores the potential impact of mega-regionals on African least developed countries (LDCs).*

**A**lthough the final substance and eventual ratification of Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (TTIP) negotiations remain uncertain, the ability of African nations to diversify market opportunities, integrate their economies in global value chains and attract sustainable investment could be affected. The long-term balance of benefits against risks will depend on the design of these agreements, supportive international policies and the strategic response of African policy-makers and firms. Four issues are relevant: new compliance measures, geopolitical dynamics, preference schemes and international production networks.

Transparency and monitoring will be an important basis on which sub-Saharan African nations can frame a proactive response.

### **New compliance measures**

The TTIP and TPP differ in their motivating factors and negotiating dynamics. However, beyond their geographical spread and respective weights in world economic output and trade, they hold in common the objective of reaching binding commitments on “21st century”, or “WTO-Plus”, trade-related issues.

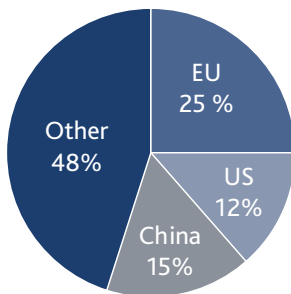
The TPP’s main focus is to reach agreement on disciplines configured to support the formation of transnational production networks, including intellectual property, investment, competition policy, services, customs procedures and investor-state dispute settlement. The TTIP builds on this with its core ambition of eroding non-tariff barriers to trade by agreeing to common standards and working towards regulatory convergence (through harmonisation or mutual recognition). Both sets of negotiations further include chapters on labour and environmental norms, financial services, public procurement practices and market access.

Should new regulatory standards and disciplines emerge from the TPP and TTIP negotiations, they will, in all probability, apply to trade and investment relations with the rest of the world, including sub-Saharan Africa. The ability of African nations to attract investment and gain reliable access to mega-regional markets, most importantly the EU and the US, will progressively depend on compliance with non-tariff measures – both technical and non-technical – that go beyond the realm of traditional trade policies.

In the case of standards, meeting higher thresholds will entail regulatory changes without which African producers could be shut out of the markets concerned. This raises the problem of resource constraints and the ability to strengthen regulatory capacities. In regard to compliance with disciplines covering investment or intellectual property rules, domestic policy changes will be expected. This raises the issue of the appropriateness of adopting “gold standard” policies in weak institutional settings.

The depth of these behind-the-border requirements will not be without controversy. Yet, they could be exploited by African nations as an impetus for reform in areas of domestic priority. Depending on the nature of institutional and supply-side constraints, as well as the capacity to conform to new standards and disciplines, targeted assistance under

## Sub-Saharan Africa's trade partners (2011)



the aegis of the Aid for Trade programme and broader capacity building efforts will be required.

### Geopolitical dynamics

The geopolitical foundations and possible implications of the mega-regionals on the international trading system should not be lost in the discussion on their potential impact on sub-Saharan Africa.

There is disagreement among analysts whether the mega-regionals represent "building blocks" towards multilateral convergence or "stumbling blocks" towards fragmentation. Systemic scenarios will hinge, to a great extent, on how China responds and whether one of the unstated objectives of the US-led mega-regional drive, that of not necessarily excluding China but rather compelling the world's second largest economic power towards accepting new norms and rules on pre-established terms, leads to gradual consent or contest – particularly in the context of a powerful Asia-Pacific coalition like the TPP where China is by design an outsider to negotiations.

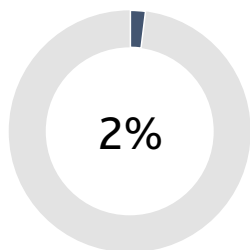
This geopolitical dimension is of relevance to sub-Saharan Africa at a time when the continent's trade and investment patterns are undergoing a profound and seemingly secular shift from traditional economic partners to intensified relations with fast-developing centres of world commerce.

The EU as a bloc remains sub-Saharan Africa's largest trading partner, yet its share of total African trade halved between 1989 and 2011 from 50 percent to 25 percent. In 2011, the US accounted for 12 percent while China had become sub-Saharan Africa's biggest bilateral trading partner with 15 percent of the region's total trade. The speed and scale of China's engagement with the continent has been a game-changer.

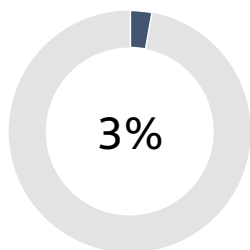
The backdrop to the mega-regional effort is one in which sub-Saharan African nations are concurrently engaged in discussions with major partners over institutional arrangements of long-term developmental and strategic importance. The African Growth and Opportunity Act (AGOA) – the centrepiece of US economic relations with the region since 2000 – is up for renewal in 2015 with a fair degree of uncertainty regarding the terms of any new agreement. AGOA has been characterised by its unilateral and non-reciprocal nature, features that are up for discussion, specifically with regards to sub-Saharan Africa's biggest economies and most dynamic markets. An important factor behind this reasoning is that the EU is hoping to finalise arduous negotiations on regional Economic Partnership Agreements – the foundation since 2008 of Europe's economic integration with sub-Saharan Africa, which (with the exception of least developed countries) is built on reciprocity, hence preferential access to African markets for European firms.

Since 2000, the Forum on China-Africa Cooperation has served as the main stage for Sino-African bilateral relations. Recently, there have been moves to formalise trade and investment arrangements with African regional groupings through initial Framework Agreements with the East African Community (EAC) and the Economic Community of West African States (ECOWAS). China, too, may start to demand reciprocity with certain partners.

A question that arises is how sub-Saharan African nations and regions will react should mega-regional agreements fail to reach coherence and lead to fragmented governance structures within the international trading system. The immediate tendency may be to gravitate towards European and US partners – especially if existing preference schemes are strengthened and the EU makes African economic development a strategic priority. However, the emerging centres of growth, trade and investment are largely to the east. While the future velocity of this shift in world economic gravity can be debated, the expectation is that Asia will continue to experience significant economic convergence and that South-South trade and investment dynamics with Africa will amplify. A discussion on the region's double-edged economic relationship with China, including the possibility of future regulatory demands, would seem to be a priority.



Sub-Saharan Africa accounted for 2 percent of world trade in 2013.



In the same year, the region attracted less than 3 percent of global FDI flows, with extractive industries drawing the lion's share.

## *A question that arises is how sub-Saharan African nations and regions will react should mega-regional agreements fail to reach coherence (...)*

### **Preference schemes**

The TTIP could provide an opportunity for the EU and the US to jointly revisit trade preference schemes to support the development objectives of sub-Saharan African low-income countries. The transatlantic partners apply distinct non-reciprocal arrangements that offer special access to African nations and least developed countries – the most comprehensive of which are AGOA and the Everything but Arms (EBA) regime of the EU.

In 2013, sub-Saharan Africa accounted for 2 percent of world trade and less than 3 percent of global foreign direct investment (FDI) flows, with extractive industries drawing the lion's share. Liberal access to developed markets, as envisioned by the policy thinking behind AGOA and EBA, could help stimulate investment and job creation in agricultural, manufacturing and service export sectors. However, despite their successes, both schemes suffer from limitations that curtail their utilisation and effectiveness.

To cite some of the most commonly echoed weaknesses: AGOA excludes and applies tariff quotas to key products that the region can produce competitively, not least agricultural products; EBA provides full duty-free, quota-free coverage but only to countries classified as LDCs, thereby driving an arbitrary wedge within the region; the administrative costs of compliance to complex local content requirements can be prohibitive to firms operating in LDCs; the rules of origin required for product eligibility are seen as ill-adapted to the development of value chains; and AGOA's annual review mechanism added to the uncertainty of the scheme's renewal post-2015 reduces security of access.

There is as yet no evidence that the harmonisation of preference schemes is on the agenda of the TTIP. However, short of integrating their preferential arrangements, the EU and the US could send a strong message to their African partners that the agreement is about coherence and inclusion by mutually recognising requirements covering rules of origin. This not only would reduce information costs and ease compliance procedures for African exporting firms, it also, in principle, would allow imported products from African countries covered by preferences to be granted reciprocal access to EU and US markets.

### **International production networks**

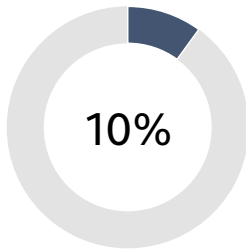
The fight for relevance in 21st century trade is increasingly being conducted via global value chains (GVCs). Despite the developmental potential that disaggregated production networks hold for low-income economies in Africa by allowing for the formation of capabilities and clusters in a narrow set of specialised tasks, the region has essentially been bypassed.

Most models predict that the mega-regionals will not lead to significant trade diversion and that any loss could be compensated by the efficiency gains to the global economy.

This prognosis will depend on how the agreements are designed (e.g. an approach based on open regionalism with accession clauses or "docking stations") and the manner in which the EU and the US decide to integrate the many trade agreements they hold with third countries and regions (e.g. mechanisms covering the cumulation of rules of origin).

The TTIP, TPP and the Regional Comprehensive Economic Partnership (RCEP) incorporate all three GVC hubs: Europe, North America and East Asia. There is a risk that these agreements could have negative spillover effects on the incentive to invest and stimulate actual and potential production in sub-Saharan Africa.





Intra-regional trade in sub-Saharan Africa is the lowest in the world standing at 10 percent.

As discussed, generous preference schemes in developed markets with rules adapted to the realities of modern trade could spur African export diversification. The operationalisation of the LDC Services Waiver and the implementation of the Trade Facilitation Agreement as agreed at the WTO Ministerial in Bali, may also form part of a supportive international policy environment, which will need to be complemented by national and regional policies.

Although many economies in sub-Saharan Africa have consistently grown faster than other regions of the world in recent years, primary commodities have driven a large share of this growth. Most African nations need to implement reforms that improve their business environment and attractiveness as investment destinations so they can develop their potential in manufacturing activity and agricultural productivity. Modernised infrastructure and backbone services (logistics, telecommunications and transportation) are further preconditions to competitiveness and the ability to tap into sophisticated production networks.

Securing greater depth and coherence to existing regional integration efforts will also be an important strand in sub-Saharan Africa's effort at creating an environment conducive to the expansion of value chains. Official intra-regional trade between African nations stands at around 10 percent (compared to 30 percent for ASEAN nations). This weak integration is partly driven by the lack of complementarities between the region's economies, but also by the prevalence of high barriers to trade: The cost and complexity of conducting business across borders severely restricts the ability to form regional value chains. Given the low level of intra-African trade, Africa will remain dependent on external forces for a long time, and these forces will require the greatest adjustments in the near term. However, initiatives at the regional level could be used as laboratories for reform and for building regional value chains with an eye on graduation into global production networks.

A recent initiative of note that underscores the awareness of the need to better integrate and harmonise regional economic communities is the Tripartite Free Trade Area spanning the EAC, the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA). The agreement is to be based on three pillars (market integration, infrastructure and industrial development) with an agenda in two phases that includes trade in goods (tariffs, non-tariff measures, rules of origin, customs cooperation, dispute resolution) followed by services, intellectual property, competition policy and investment – all of which were until recently rarely considered in African regional trade agreements and could better prepare Africa for the post mega-regional environment.

### Conclusion

One of the consequences of mega-regional activity is that the influence of sub-Saharan Africa on the global trade and investment agenda will diminish – the region relies on the World Trade Organization to be heard and has very little bargaining power to push its interests forward outside of the organisation. Nevertheless, sub-Saharan African policy-makers can devise strategies aimed at building on the opportunities and curtailing the risks occasioned by the mega-regionals. This entails closely monitoring the negotiating chapters, working with partners to ensure that the potential for discrimination is minimised and creating a domestic and regional economic environment that invites confidence.

*This article is an adaptation of a longer article which appeared in Mega-regional Trade Agreements: Game-Changers or Costly Distractions for the World Trading System?, World Economic Forum, July 2014.*



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## DOHA ROUND

# Mega-regionals and the Doha negotiations: Implications for developing countries

Miguel Rodriguez Mendoza

*What are the connections between mega-regionals and Doha negotiations and the what do they mean for developing countries?*

During the first “wave” of Regional Trade Agreements (RTAs) bilateral agreements were the norm; most of the 300 plus agreements notified to the WTO are bilateral agreements although there are some exceptions – for example, the North American Free Trade Agreement (NAFTA) and some economic integration agreements among developing countries in Africa, Asia and Latin America.

This is no longer the case. We are now in presence of a new “wave” of RTAs where the emphasis is being placed on the negotiation of mega-regional agreements. In some cases these agreements are designed to foster convergence among existing RTAs and/or involve countries representing a large share of global trade, GDP and population.

When we refer to mega-regionals, we usually refer to three arrangements the Trans-Pacific Partnership (TPP), the Transatlantic Trade and Investment Partnership (TTIP), and the Pacific Alliance.

Among these only the latter, the Pacific Alliance, has been completed and signed. The TPP and the TTIP are still under negotiation with deadlines being systematically postponed. The TPP, for instance, was supposed to be finalised by November 2011, but there is still no end in sight for the negotiations; the situation is not different for the TTIP, but the formal deadline – end of 2014 – is almost there.

In general, the negotiations are conducted in confidentiality, not to say secrecy, as most trade negotiations are. Thus we do not know yet the precise content of these agreements (even though the EU recently released its TTIP negotiating mandate), or the depth of the commitments made. Therefore, when we look at the impact of these agreements on the Doha negotiations, we need to necessarily make a series of assumptions regarding their content and the likelihood of their completion.

We know however two key facts: the economic weight of the participants and the list of subjects under negotiation. Both are important for our analysis. The more important, economically speaking, the partners to these agreements, the more significant their impact on Doha and the multilateral trading system would be. By the same token, the wider the subjects under negotiation – including a number of WTO-plus issues or issues not currently within the WTO purview –, the more complex the analysis will become.

## **Economic weight**

Both the TPP and the TTIP involve countries representing a very large share of the world's population, economic activity and trade.

The TPP countries are both economically and demographically diverse as they include developed and developing countries, big countries such as the United States and small ones such as Singapore. Roughly, the TPP countries include 40 per cent of the world's population, are responsible for some 60 per cent of global GDP, and trade among TPP partners was more than US\$ 2 trillion in 2012.



## US\$ 2 trillion

trade among the TPP partners in 2012

## US\$ 1 trillion

trade and investment among the TTIP partners in 2012

The TTIP involves 29 developed countries (the US and 28 EU member countries) and is the world's largest economic relationship, with reciprocal trade (goods and services) and investment flows that amounted to more than US\$ 1 trillion in 2012. The negotiating parties are also the source of most trade preferences in favour of developing countries.

The economic weight of countries participating in mega-regional negotiations, particularly the TPP and the TTIP, will certainly influence the capacity of these agreements to impact both the Doha negotiations and the multilateral trading system, and the elimination of tariffs among them will have an undeniable effect on tariff preferences through preference erosion (although some studies see preference erosion as a relatively minor effect). These agreements may also have, as most preferential trade agreements, trade diversion effects. However, the latter are difficult to quantify.

### Regulatory issues

It is in the area of trade regulation that mega-regionals may have a more lasting effect, and it is in this area that the impact on Doha and in the multilateral trading system at large will be felt more dramatically especially if mega-regionals are completed as scheduled and the Doha Round does not draw to a close soon.

What distinguishes mega-regionals from other free trade or preferential agreements is the inclusion in the negotiations of a number of regulatory issues, many of which are currently outside the scope of the WTO and subject to domestic regulations, but are nevertheless considered essential for today's global commercial relations.

These regulatory issues include but are not limited to regulatory coherence – for example on the safety of products and the methods of production – state-owned enterprises, professional services, customs, e-commerce, labour and environment issues, government procurement, investment issues, currency issues, temporary entry of business people as well as standards related to sanitary and phytosanitary measures and technical barriers to trade.

In other words, the mega-regionals have the potential, due to the sheer size of the countries involved in the negotiations and the nature of some of the issues under negotiation, to significantly expand the scope of the international trading system by setting up standards that would apply initially only among member countries but could eventually become global standards.

Once the mega-regionals are completed and new regulatory issues agreed upon by the participant countries, the newly agreed standards will not be easy to modify in WTO negotiations or elsewhere; they will fix TPP and/or TTIP countries' positions in future negotiations and form the basis for their negotiating positions. Therefore, there is the risk of a "fragmentation" of the multilateral trading system with different standards adopted by different sets of countries, a situation not very dissimilar to the one experienced after the Tokyo Round of negotiations and the adoption of "codes" on a number of non-tariff barriers by a group of mainly developed GATT members.

Thus, rather than based on traditional market access issues, tariffs, preference erosion and trade diversion, the mega-regionals' impact on Doha and the WTO should be analysed in terms of their "regulatory" impact, that is, in terms of the implications for the multilateral trading system of such a large group of countries, involving developed and developing countries, and representing such a large share of global trade, to set up new standards in areas not yet covered or insufficiently covered by the WTO.

Although mega-regionals are still under negotiation, for the purpose of this discussion and in light of the considerations above it is important to look at the possible alternative scenarios regarding mega-regionals and the Doha negotiations.

### The scenarios

#### *Mega-regionals are not completed and Doha is not brought to a close*

This is the current status quo, but it is highly unlikely this situation is kept indefinitely. As in recent years, the lack of progress in the Doha negotiations would encourage mega-regional negotiations to intensify. In fact many observers consider that the push for mega-regionals started with the 2008 failure of the WTO to deliver on Doha.

#### *Mega-regionals are not completed, but Doha is completed*

This would imply that mega-regional negotiations would be discontinued in light of a Doha agreement; this would also be highly unlikely as it would presuppose that regulatory issues being dealt with in the TPP and TTIP negotiations – and not part of the Doha negotiations – would be set aside. Should the Doha negotiations end before the mega-regionals are completed, this will probably encourage participating countries to complete these agreements and prepare for a “high” standard, future WTO round of negotiations.

#### *Mega-regionals are completed and Doha is not brought to a close*

This is the worst case scenario, as given the sheer size and economic dimension of mega-regionals as well as their focus on WTO-plus regulatory issues, the multilateral trading system would be gradually rendered irrelevant. Moreover, the risk of “fragmentation” will materialise with countries aligning themselves along a two-tier trading system. Developing countries not participating in the mega-regionals will be left out, the “high” standards of the mega-regionals will be difficult to alter and the WTO would be unable to provide a forum to deal with them in a multilateral framework.

#### *Both mega-regionals and Doha are successful*

This would be perhaps the preferred and most likely scenario. The risk of “fragmentation” would still be present, but such an issue could be addressed once Doha is left behind and WTO members start discussing how to update the multilateral trading system by, among others, looking at regulatory issues and new standards which are now part of the mega-regional negotiations.

Reaching an agreement on these issues multilaterally will not be easy as by the time they are tackled multilaterally, some 40 plus countries (the 12 TPP plus the 28 EU countries participating in the current mega-regional negotiations) would have already agreed on how to deal with them in their mega-regionals. Still, refraining from updating the multilateral trading system will not be a viable proposition.

### Conclusion

Summing up, the current mega-regional negotiations, that is the TPP and the TTIP negotiations, offer both risks and opportunities to developing countries, the Doha negotiations and the multilateral trading system. Like any free trade agreement, these negotiations may have an impact on trade preferences and some trade diversion effects. However, these ramifications should not be overemphasised. If the experience with past free trade agreements offers any guidance, trade diversion and/or preference erosion are less significant than some academic analyses have suggested. More significant, particularly in the case of the current mega-regional negotiations, is the set of new standards and regulatory frameworks that could be incorporated into the agreements and, as a result, would fix the positions of participant countries on those standards, complicating thereby the multilateral examination of the latter.

Countries have moved to regional negotiations because of the long-lasting deadlock in the Doha Development Round. This may be changing now with the recent agreement between the US and India over the outstanding issues on the Bali package adopted during the Ninth Ministerial Conference of the WTO in December 2013. If these new understandings materialise and lead eventually to a conclusion of the long-standing Doha negotiations, there is a chance that the WTO will again become the preferred forum to deal with trade issues and set new standards for global commerce. This certainly should be the privileged approach for developing countries, most of which are outsiders to regional and/or bilateral trade deals, including the current mega-regional negotiations.



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## REGIONAL TRADE AGREEMENTS

# TTIP: What are the implications for emerging powers and the international order?

Daniel S. Hamilton

*What do free trade negotiations between the EU and the US mean for the emerging powers and the international order?*

The Transatlantic Trade and Investment Partnership (TTIP) currently under negotiation by the United States (US) and the European Union (EU) promises to unleash significant opportunities to generate jobs, trade and investment across the Atlantic. An independent study by the Centre for Economic Policy Research forecasts that an ambitious and comprehensive TTIP agreement could generate \$159 billion in annual economic gains for the EU, US\$127 billion a year for the US, and boost global income by almost US\$134 billion. TTIP would generate greater economic gains than would the deal on the table in the Doha Development Round.

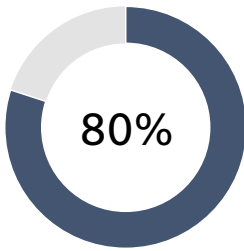
TTIP at its core is an economic negotiation seeking agreement in three pillars. The first pillar addresses such market access issues as tariffs and rules of origin. It could result in clearer, more straightforward and transparent rules of origin arrangements that could serve as the basis for future preferential rules of origin. Clear, simple and aligned rules of origin would facilitate global trade and thus serve as a public good.

The second pillar seeks to reduce, where feasible, non-tariff barriers and to find coherence, convergence or recognition of substantial equivalence between US and EU approaches to specific regulatory issues. It could pioneer new ways for countries to ensure high standards for consumers, workers, companies and the environment while sustaining the benefits of an open global economy. Mutual recognition of essentially equivalent norms and regulatory coherence across the transatlantic space not only promise economic benefits at home but could form the core of broader international norms and standards.

The third pillar seeks common agreement on a range of norms and standards regarding such issues as investment, intellectual property rights, discriminatory industrial policies and state-owned enterprises. Some of these standards are likely to extend prevailing WTO standards (WTO-plus); others could go beyond existing multilateral norms (WTO-extra). Agreement on such issues as intellectual property, services, discriminatory industrial policies or state-owned enterprises could strengthen the normative underpinnings of the multilateral system by creating benchmarks for possible future multilateral liberalisation in the WTO. US-EU agreement on such principles, and agreement to act together to advance such norms globally, could not only take the international trading system further but establish broader political principles regarding the rule of law, human rights, labour, environmental and consumer standards.

In addition, the TTIP will not necessarily be concluded with a final document; negotiators seek a "living agreement" that is likely to consist of new consultative mechanisms regarding regulatory and non-tariff issues that can anticipate or respond to evolving innovation, economic friction due to changing legislation, or other developments in trade and technology.

Taken together, these elements underscore that TTIP is not just another trade agreement, it is a new-generation negotiation aimed at repositioning the US and European economies for a more diffuse world of intensified global competition. TTIP is about creating a more strategic, dynamic and holistic US-EU relationship that can generate jobs and



Of the overall potential welfare gains resulting from TTIP, 80 percent will come from cutting costs imposed by bureaucracy and regulation, as well as from liberalising trade in services and public procurement.

growth, engage third countries more effectively, and strengthen the ground rules of the international order.

US and European governments would prefer a global agreement on more open trade, but the multilateral system administered by the WTO is under challenge, especially by a number of countries that show little interest in new market-opening initiatives and do not share the core principles or basic structures that underpin open rules-based commerce. In addition, even if the Doha Round were concluded tomorrow, it would still not address a host of non-tariff and regulatory issues related to the distinctive deep economic integration that binds the US and European economies. These non-tariff and regulatory issues, not trade, are at the heart of the TTIP. In short, TTIP is a means to energise the multilateral system while addressing issues particular to the transatlantic economy.

### TTIP and rising powers

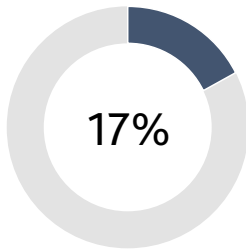
TTIP is important in terms of how the transatlantic partners together relate to rising powers, especially the emerging growth markets. Whether those powers choose to challenge the current international order and its rules or promote themselves within it depends significantly on how the United States and Europe engage, not only with them but also with each other. The stronger the bonds among core democratic market economies, the better their chances of being able to include rising partners as responsible stakeholders in the international system. The more united, integrated, interconnected and dynamic the international liberal order – shaped in large part by the United States and Europe, the greater the likelihood that emerging powers will rise within this order and adhere to its rules. The looser or weaker those bonds are, the greater the likelihood that rising powers will challenge this order.

TTIP clearly puts pressure on countries that choose to stand apart from international market-opening initiatives. According to Vera Thorstensen and Lucas Ferraz, a TTIP agreement that goes beyond simple tariff reductions could result in a 5-10 percent decline in Brazilian exports to the United States and the EU and a 4-8 percent decline in Brazilian imports from the United States and the EU. In addition, since a TTIP agreement is likely to boost US and EU competitiveness and spark additional US and EU exports, Brazil's overall share of world trade is likely to decline. In contrast, if Brazil adhered to TTIP provisions in a scenario of a 50 percent reduction of EU and US agricultural tariffs, a 50 percent reduction of Brazilian industrial tariffs and a 50 percent reduction of non-tariff barriers for all partners, Thorstensen and Ferraz calculate that Brazilian exports to the United States and the EU would increase by 67.6 percent, corresponding to US\$51.1 billion, and Brazilian imports from the United States and the EU would increase by 52.9 percent, a gain of US\$42.3 billion.

Additionally, North-South American commercial ties are burgeoning, and Europe's commercial ties to Latin America are substantial. Latin American and Caribbean countries export more than twice as much to their Atlantic partners as to the rest of the world. Latin American exports to the eurozone are 40 percent more than to China. Brazil is the single biggest exporter of agricultural products to the EU. Countries that decide to lift their standards to access the world's largest and richest market are likely to see significant increases in commercial interaction; those that do not are likely to encounter significant hurdles to growth and jobs.

There are already signs that TTIP is affecting third countries. TTIP was the elephant in the room at the 2013 EU-Brazil summit; it is causing Brazilian leaders to reframe how they think of their evolving role and position. Japan's decision to join the Trans-Pacific Partnership (TPP) arguably was due as much to the start of TTIP negotiations as to inner-Asian dynamics. With the EU now also negotiating a bilateral trade agreement with Japan, both the United States and the EU are in direct talks with Tokyo about opening the Japanese market – a goal that for decades seemed unattainable.

TTIP is lazily portrayed as an effort to confront and isolate China. Yet it is less about containing China than about the terms and principles guiding China's integration and



Under a transatlantic zero tariff agreement, US and EU exports would increase by 17 percent (prediction by the European Centre for International Political Economy).

participation in the global economy. China's burgeoning trade with both the United States and Europe attests to US and EU interest in engaging China, not isolating it. Yet Beijing has yet to embrace some basic tenets of the international rules-based order, and has sought to translate its economic clout into military, diplomatic and political influence, for instance by holding down the value of its currency to boost its companies, leveraging its near-monopoly on rare earths to advance its strategic objectives, or directing state-owned companies not just to generate profits but to wield power on its behalf. TTIP and related initiatives such as the TPP are important instruments to help frame Beijing's choices – by underscoring China's own interests in an open, stable international system as well as the types of norms and standards necessary for such a system to be sustained. China itself has changed its position and signalled a willingness to join plurilateral talks on services. Its motivations remain unclear, but there is no denying that TTIP and related initiatives are injecting new movement and energy into efforts to open markets and strengthen global rules.

Since TTIP is not just about achieving greater regulatory coherence across the Atlantic, but also about setting global benchmarks, it is more ambitious than TPP or ASEAN's Regional Comprehensive Economic Partnership, known as the RCEP. In fact, a successful TTIP would be a TPP-plus or RCEP-plus agreement with regard to regulatory coherence and potentially with regard to WTO-plus and WTO-extra norms. In this sense, TTIP is likely to have more impact on Asian economies than TPP or RCEP are likely to have on European economies.

Despite TTIP's inherent potential to leverage US-EU efforts to engage rising powers on the terms of their integration into the international rules-based order, governments have not stated whether and how the eventual TTIP agreement, once concluded, might be open to others willing and able to commit to similar goals and ground rules. Framing the TTIP as an element of 'open architecture' accessible to others could give the United States and the EU tremendous leverage in terms of ensuring ever broader commitments to the high standards and basic principles governing modern open economies.

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*Framing the TTIP as an element of 'open architecture' accessible to others could give the United States and the EU tremendous leverage (...)*

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#### **Long live the TTIP?**

Getting a TTIP deal will be tough. Remaining transatlantic tariff barriers, especially in agriculture, often reflect the most politically difficult cases. Long phase-in periods may be needed to eliminate tariff and quota barriers completely. Some of the most intense transatlantic disagreements have arisen over differences in regulatory policy. Issues such as food safety or environmental standards have strong public constituencies and are often extremely sensitive in the domestic political arena. Responsibility for regulation is split in the EU between Brussels and the member states, and in the United States between the federal and state governments. Investment barriers, especially in terms of infrastructure and transport sector ownership, will be very difficult to change. There is considerable debate how and whether to include financial services. Also, it is questionable whether either side is prepared to gore its sacred cows on the TTIP altar –for example the Jones Act on merchant marine for the United States. The EU has already taken audiovisual services off the negotiating table. Defense trade also seems off limits. Finally, investor-state dispute settlement mechanisms envisaged under TTIP are contentious.

Nonetheless, TTIP's potential payoff is high. The geostrategic impact of such an agreement could be as profound as the direct economic benefits. If leaders on both sides of the Atlantic grasp the moment, America's first 'Pacific President' and his EU partners may well become best known for having re-founded the Atlantic partnership. If they do not, then issues of failing trust and confidence, so visible today, will continue to eat away at the relationship like termites in the woodwork.



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## REGIONAL TRADE AGREEMENTS

# One year into the TTIP negotiations: Is the momentum gone?

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Simon Lester

*Have the TTIP negotiations progressed as expected? What are the major stumbling blocks in the process and what are the prospects for a final agreement between the US and the EU?*

In early 2013, the Transatlantic Trade and Investment Partnership (TTIP) negotiations were introduced with great fanfare in President Obama's State of the Union Address. The EU and the US as the world's two largest economic zones would be united in a trade and investment pact, which would generate new economic growth at a time when it was desperately needed. Negotiations began in July last year, with promises that they would not drag on endlessly, as other trade talks have.

We are now more than a year into the process, with the seventh round of talks having just taken place in early October. It is time for an evaluation of what has been achieved. Are the talks progressing as rapidly as hoped? Are the hurdles surmountable? Will this giant free trade zone actually come to fruition?

### The bold beginning

When the TTIP was announced, there was great excitement. Typically, US trade negotiations face domestic opposition from those worried about competition with cheap labor. But with Europe's high wages, that would not be an issue here. With good reason, then, many observers felt that the TTIP would have an easier time in the domestic political process than some other trade agreements.

Wary of trade initiatives that had dragged on for years, government officials on both sides proclaimed that this initiative would move quickly, to be completed on "one tank of gas". Given the common ground of the EU and US on many issues, it seemed plausible that the TTIP could avoid some of the more contentious points that had held up other talks. Projections were offered that the agreement could be finished before the end of 2014.

In terms of its substance, the report of the US-EU working group examining a potential agreement set out the following scope:

"A comprehensive agreement would include ambitious reciprocal market opening in goods, services, and investment, and would address the challenges and opportunities of modernising trade rules and enhancing the compatibility of regulatory regimes. An agreement of this kind could generate new business and employment by significantly expanding trade and investment opportunities in both economies; pioneer rules and disciplines that address challenges to global trade and investment that have grown in importance in recent years; and further strengthen the extraordinarily close strategic partnership between the United States and Europe."

As to its potential economic impact, according to UK Prime Minister David Cameron, the deal "could add as much as a £100 billion to the EU economy, £80 billion to the US economy, and as much as £85 billion to the rest of the world," as well as create "2 million extra jobs."

Beyond these specific economic gains, there was also a broader goal. As EU Trade Commissioner Karel de Gucht put it, the TTIP "will be an important way for us to shape regulations, norms, including on investment, and ultimately values that govern economic



## US\$ 158 billion

In a scenario where around 50 percent of non-tariff measures and regulatory divergences are dealt with in TTIP, EU GDP would increase by US\$ 158 billion or 0.7 percent in 2018. In the US, GDP would increase by US\$ 53 billion or 0.3 percent annually.

exchange worldwide." Thus, the TTIP was about laying out a framework for a new, modernised vision of the world trading system.

### Reality sets in

Not surprisingly, however, the reality of a US-EU trade negotiation is much more complex and difficult than the early cheerleading suggested. A number of problem areas quickly arose. Even before negotiations started, there were some issues where everyone knew that no progress would be made. For example, US food producers and government officials continued their efforts to attack strict EU rules on approval of genetically modified (GM) foods, but the EU made clear it would not change its stance and maintained its long-standing position that "cultural" products should be excluded from the negotiations. In addition, some important issues were excluded from the outset by mutual agreement, including agricultural and aircraft subsidies, which have been the source of long-running trade disputes.

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*The reality of a US-EU trade negotiation is much more complex and difficult than the early cheerleading suggested.*

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Other contentious issues arose after negotiations began:

- The EU pushed for the US to liberalise its financial services markets, but the US (led by the Department of Treasury) resisted, on the grounds that it needed to maintain strong domestic regulation.
- The EU argued for stronger protections for its geographical indications (GIs), such as champagne, while US groups objected to the EU demands.
- US efforts to contest EU data privacy protections were undermined by the National Security Agency (NSA) spying scandals, which caused resentment throughout the EU and threatened to derail the talks entirely.
- The investor-state dispute settlement (ISDS) mechanism caught fire as an issue in the EU, forcing the Commission to begin an internal public consultations process.
- EU efforts to convince the US to allow exports of energy resources have been controversial in the US, and some US businesses and law-makers are trying to restrict access to new sources of US energy to domestic producers.

### Regulatory hurdles

Beyond these specific disputes, the major issue everyone talked about in the TTIP was its effort to address "regulatory" or "non-tariff" trade barriers. This, people said, was where the real gains from a US-EU trade deal lie. One widely cited study suggests that in a scenario where around 50 percent of non-tariff measures and regulatory divergences were dealt with, EU GDP could be 0.7 percent higher in 2018, representing an annual potential gain of €122 billion (\$158 billion); and US GDP could see a 0.3 percent gain per year in 2018, representing an annual potential gain of €41 billion (US\$53 billion).

What they did not say, though, was how these barriers could be addressed. As it turned out, the US and EU negotiators seemed to have different ideas in mind. For the EU, this was mostly about "regulatory cooperation," in which existing and new regulations are made more compatible. For example, car producers in both countries could be subject to the same safety tests, rather than different tests for each market. The EU proposed an institutional mechanism to address these issues. By contrast, the US negotiators focused more on improvements to the regulatory process, such as having the EU adopting a "notice and comment" procedure for draft regulations, as used in the US

This clash of visions has left some doubt as to whether anything can actually be achieved. It is no doubt true that there are large possible economic gains from addressing regulatory trade barriers. But before any progress can be made, both sides need to agree on a focus and assess what can realistically be achieved. The EU is right to point out inefficiencies from regulatory divergence, and to propose institutions to address these problems going forward. But certain US regulators have voiced objections, and not all may be willing to go along. And the US makes strong arguments for more transparency in the EU system. But expecting one-sided change from the EU in this area may be too much. As a result, a middle ground is hard to find in all of this. Nonetheless, the potential gains are there, and negotiators should strive for a solution.

### **Prospects for the future of the TTIP and the world trading system**

Focusing on the narrow issue of whether the TTIP will be completed, the process is certainly going to take longer than originally predicted. Current projections are now for the end of 2015. Experienced trade observers may see such an extension of the deadline as similar to the delays in the WTO's Doha Round. But despite the longer timeframe, we should not consider the TTIP a failure at this point. There are substantial hurdles, but they can be resolved. On some issues, compromise might be in order. Other issues may need to be excluded in order for the TTIP to be completed. For example, on ISDS, supporters may need to face the reality that a TTIP with ISDS in it might not make it through the EU process. Also, for both GM foods and geographical indications, the two sides are so far apart that there may be no acceptable middle ground. Finally, if the highly touted area of regulation is to see any success, regulators in each country need to get on board with the idea of cooperating with their foreign counterparts. At this point, it is not clear that they are.

But the TTIP is not just about US-EU trade issues. It is also about the functioning of the world trading system as a whole. If the US and EU go their own way, what are the implications for everyone else? If the US and EU set the new standard, what happens to the existing standard?

Developing countries in particular might be nervous about their prospects in a new system shaped by the US and EU, who may not always take development interests into account. The developing world may find itself on the sidelines as the US and the EU shape the field of global trade policy. Efforts by developing countries to construct an alternative system, or to influence the existing system, would come up against many obstacles.

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*The developing world may find itself on the sidelines as the US and the EU shape the field of global trade policy.*

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More generally, one view is that a successful TTIP might be bad for multilateralism, as it would lead to trade diversion and fragmentation. In this view, bilateral trade liberalisation undermines the multilateral system. To illustrate this point, we need to look no further than the complex rules of origin chapters that are developed to restrict liberalisation benefits to the signatories of any free trade agreement (FTA). Agreements that are ostensibly about free trade will result in new restrictions that divert trade from its natural patterns.

Conversely, a TTIP failure might provide a jump-start for governments to take WTO talks more seriously. Having looked for an easy way out with bilateral and regional talks, and not finding one, governments might be forced to turn back to the WTO and make tough choices, such as cutting agriculture subsidies.

Another view, though, is that success in the TTIP could pave the way for expanding this model beyond the US and the EU. In this way, it could provide the impetus for multilateral

trade liberalisation, as the TTIP and other FTAs get folded into the WTO system. FTAs can serve as a testing ground for new rules, with the best and most successful rules eventually incorporated into the WTO.

Ultimately, the impact of the TTIP on the WTO is hard to predict, but it is something the negotiations need to take into account. The WTO provides a solid framework for global, non-discriminatory trade rules, and that should not be undermined. No doubt developing countries are watching the process carefully, and considering their own options as the two biggest economies try to push their own agenda forward.

### Conclusion

In the trade community, many people are looking at the US trade agenda, and prospects for trade liberalisation generally, with a good deal of skepticism these days. After the recent mid-term elections, Congress could now act on Trade Promotion Authority, i.e. the authority for the executive to negotiate international trade agreements that Congress can vote up or down but cannot amend or filibuster. However, there are doubts about how serious the Obama administration is with regard to trade policy. It is conceivable that trade negotiations of all types will mostly stagnate until the next administration.

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*US and EU trade negotiators need to identify a reasonable agenda and push hard to conclude it. This means making choices about what can and cannot be accomplished;*

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To avoid such a fate for the TTIP, US and EU trade negotiators need to identify a reasonable agenda and push hard to conclude it. This means making choices about what can and cannot be accomplished; and for those issues that will be addressed, making concessions and finding a middle ground. This could include removing ISDS from the agenda; the EU scaling back its ambitions on GIs; and setting smaller, more realistic goals for dealing with regulatory trade barriers.

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- ① The seventh round of TTIP negotiations held from 29 September to 3 October in Chevy Chase, Maryland focused primarily on making technical advances in areas such as regulatory coherence, sanitary and phytosanitary standards, and technical barriers to trade. The EU and the US also worked to advance their understanding of each side's respective services proposal, with discussions regarding the [EU's submission](#) now over halfway complete. Energy and raw materials, as well as intellectual property rights and small- and medium-sized enterprises, were also discussed during the recent talks. Other topics under discussion reportedly included agreement language on both agricultural and industrial product regulations and standards (Bridges Weekly, ICTSD).



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## NON-TARIFF BARRIERS

# Beyond tariff walls: Non-tariff hurdles in sub-Saharan Africa

Poonam Mohun

*How do burdensome non-tariff measures affect trade in sub-Saharan African (SSA) countries?*

It is often said that international trade is no longer a game of tariffs but rather a game of quality, standards, and compliance with the requirements of the global market. Exporters, more specifically those from developing countries, feel this the most as they struggle with what is known as non-tariff measures (NTMs) in their daily quest for international competitiveness.

NTMs are officially defined as “policy measures on export and import, other than ordinary customs tariffs, that can potentially have an effect on international trade in goods. They are mandatory requirements, rules or regulations legally set by the government of the exporting, importing or transit country.” NTMs become an obstacle to trade for exporters and importers when they are perceived to be “burdensome” by the latter. Since 2010, the International Trade Centre (ITC) has been working with the private sector from developing countries, collecting information on the various obstacles to trade faced by the business community in these countries. This project was initiated in order to increase transparency about NTMs by disseminating relevant information and by analysing the non-tariff obstacles to trade. The ultimate goal is to reduce or eliminate those barriers, thus improving the business environment. In sub-Saharan Africa (SSA), the ITC NTM Surveys have already been conducted in Burkina Faso, Côte D'Ivoire, Guinea, Kenya, Madagascar, Malawi, Mauritius, Senegal, Rwanda, and Tanzania.

Beneficiary countries are already using the findings of the ITC NTM Surveys to remove impediments to trade. To mention but a few: In 2013, Mauritian customs authorities eliminated the need for imports of rooibos tea to be cleared by the Tea Board; the Senegalese export promotion agency is considering the NTM Survey findings and recommendations in its export development strategic plan for 2014–2017; and similarly the government of Madagascar intends to integrate some of the findings into its trade policy and trade negotiations. The ITC NTM Surveys are also extensively used to inform the work of other development partners, such as in the framework of diagnostic trade integration studies, for example in Malawi.

### **Which are the most burdensome NTMs for African exporters?**

The results of the surveys done in the ten SSA countries show that the top three NTMs identified by exporters as most burdensome are conformity assessments, technical requirements as well as rules of origin and the related certificates of origin. Other identified barriers include pre-shipment inspections and further entry formalities, charges, taxes and other para-tariff measures, including licensing or permits to export. Overall, 64 percent of the interviewed companies in SSA were reported being affected by NTMs. The figure of 64 percent found in SSA is above the average (50 percent) obtained from the total number of countries surveyed by the ITC so far. This would imply therefore that exporters and importers in this region seem to be more affected by burdensome NTMs.

In the agricultural sector, “technical requirements”, which include sanitary and phytosanitary measures (SPS) implemented to protect human, animal and plant life (e.g. requirements such as tolerance limits for residues and measures for labelling and packaging), and “conformity assessments” are perceived as the most challenging by SSA exporters. Conformity assessments refer to control, inspection and approval procedures

## Top 3 NTMs for sub-Saharan countries

- conformity assessments
- technical requirements
- rules of origin and related certificates of origin

(such as testing) which confirm that a product fulfils the technical requirements and mandatory standards imposed by the importing country. These two categories are known as SPS measures and Technical Barriers to Trade (TBT) in the NTM classification. They are inevitable for most agricultural products since they are put in place to meet public policy objectives, such as consumer protection. These product-specific, legally binding requirements are challenging predominantly in developed markets like the EU. Exporters usually complain that such regulations are particularly burdensome in their implementation process because of associated delays and high fees.

This result comes as no surprise, as the globally most widespread NTMs relate to technical factors like SPS measures. Most developed nations have strict quality and food safety standards and are increasingly introducing stringent food safety regulations. The EU, for instance, has a whole raft of regulations that require exporters from outside the EU to meet the same standards as EU members when it comes to foodstuffs. Moreover, new rules are increasingly being introduced, for example for labelling. The United States, through its own Food Safety Modernization Act (FSMA), also places extensive requirements on imports.

With TBTs increasing globally, they leave SSA exporters (including those concerned with conformity assessments) vulnerable especially due to the lack of the necessary infrastructure in their respective home countries. Furthermore, delays experienced with the home administration (e.g. at customs) have dire consequences for exports, particularly of perishable agricultural products (e.g. fresh food).

As far as manufacturing exports are concerned, technical requirements are often less important than in the agricultural sector. However, challenges from conformity assessment still stand out at 44 percent and concerns about rules of origin, i.e. the criteria used by importing countries to assess whether a product is eligible for preferential treatment, are also quite pronounced (17 percent of total NTMs reported for SSA countries). For instance, burdensome NTMs related to rules of origin were commonly reported by exporters in Côte d'Ivoire.

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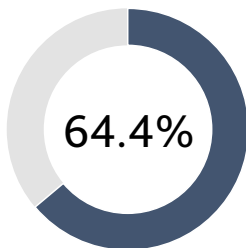
*The national and local authorities [in sub-Saharan Africa] need to address the obstacles to trade linked to NTMs occurring at home (...)*

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### **Who applies NTMs?**

The ITC NTM Surveys suggest that, among the challenging NTMs reported by exporting companies, on average around 70 percent are applied by the partner countries and 30 percent happen at home. Comparatively, in SSA, nearly 40 percent of NTMs are reported to be applied by the home country, while about 60 percent are reported to be applied by partner countries. Therefore, if SSA countries want to boost their competitiveness and establish themselves on the main stage of international trade, their national and local authorities need to address the obstacles to trade linked to NTMs occurring at home, although it is also clear that domestic efforts need to be complemented with a continued engagement with international trading partners.

The findings also show that many burdensome NTM cases are associated with partner countries with which SSA countries already have free trade agreements (FTAs) or regional trade agreements (RTAs). For example, in Guinea there were reports about customs surcharges (e.g. surtax or additional duty) imposed by Mali and Côte d'Ivoire, all of whom are members of the Economic Community of West African States (ECOWAS). 64 percent of NTM reports from Guinea concern neighbouring ECOWAS countries. We see similar results for other regions: In Tanzania, for example, an overwhelming majority (64.4 percent) of the reported cases of NTMs are applied by partners from within regional frameworks, i.e. the East African Community (32.9 percent), followed by the Southern



In Tanzania, 64.4 percent and hence a majority of the reported cases of NTMs are applied by partners from within regional frameworks.

African Development Community (31.5 percent). This indicates that there is still room for the elimination of non-tariff barriers by RTA/FTA counterparts. Tackling these obstacles could help achieve better trade integration among SSA countries.

### The way forward

Problems linked with NTMs are often exacerbated for landlocked countries (such as Rwanda), where obstacles associated with transit countries are particularly severe, including in terms of weighbridge charges and delays before goods can be delivered. One significant intervention to consider is to establish a results-oriented dialogue and negotiation with regional partners or bilaterally with neighbours.

In addition to government requirements, SSA exporters sometimes face onerous standards imposed by private clients. For example, the Rwandans particularly reported Fair Trade certificates demanded by clients in the European Union, especially for Rwanda's important coffee and tea products. The costs and delays associated with these certificates are said to cause serious hindrances for exporters.

Taken together, SSA exporters and importers report a large amount of NTMs faced in their efforts to engage in the global trading system. There seems to be consensus that technical measures, conformity assessments, different charges, rules of origin and customs procedures are among some of the most burdensome restrictions traders encounter.

Hence, a number of initiatives are being launched to address these measures both internationally and domestically, but more work is needed to alleviate such constraints. For instance, there is scope for improved engagement between policy makers and their exporters and importers. Better dialogue between the different stakeholders from both private and public sectors can prepare the ground to develop effective and sustainable policies to remedy some of the concerns, as well as to clarify those instances where lack of awareness may be also one of the obstacles. Traders from a number of SSA countries indicated their desire for a one-stop shop or single window to process documentation. Others highlighted the need for a single enquiry point to obtain all the necessary documents required in destination and home markets to qualify for certifications.

Tackling such obstacles could help SSA countries take giant leaps towards improving their trade environment.

The debate surrounding NTMs is ongoing and numerous questions about their legitimacy are being raised. Even though it is generally accepted that NTMs may have the best policy intentions in terms of public health, their frequency and complexity negatively affect the trade flows of more vulnerable countries, such as those from the SSA region. Furthermore, they are sometimes perceived as protectionist measures used by governments. Regardless of their underlying motives, NTMs actually impose costs that have negative impacts on trade competitiveness, particularly for small and medium-sized enterprises (SMEs) in emerging and developing countries. Often NTMs themselves are not barriers per se, but the procedural obstacles associated with them have negative consequences for trade. The problems found impacting industries in SSA take an even more burdensome toll on trade and are more surprising at a time when individual governments and the international community are mobilizing all efforts to alleviate poverty and promote engines of growth.



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*The views expressed herein are those of the author and do not necessarily reflect the views of the International Trade Centre or of the United Nations.*



## NON-TARIFF BARRIERS

# How can quality infrastructure help West Africa overcome NTBs?

Bernardo Calzadilla-Sarmiento and Christophe Marianne

*West Africa's inability to comply with technical requirements has hindered its participation in international trade and potential for regional integration. The creation of a regional quality infrastructure of international standards could help step up its trade performance.*

**W**est Africa's participation in international trade merely topped a 1 percent share over the past 10 years according to UN COMTRADE 2014 statistics, even though the region has been a major beneficiary of Aid for Trade. On one hand, economic growth has been relatively strong as a result of the rise in commodity prices, increased macroeconomic stability and official development assistance. But on the other hand, major concerns related to sensitive commodities have revealed the fragility of the West African economy.

For instance, an analysis of border rejections by the European Union (EU) and the United States (US) markets of fish and fishery products, fruit and vegetables, nuts and seeds from West African countries reveals that these products have all suffered medium to high rejection rates over the past years. This is illustrated in table 1 on the next page.

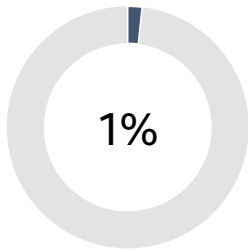
These rejection rates created an urgent need to set up a proper quality policy and infrastructure framework, supported by political commitment and consumer awareness for safe products because low quality products do not only mean poor export performance but more worryingly accrued risks to local consumers. These are the considerations that constituted the rationale behind the West Africa Quality Programme (WAQP).

Implemented by the United Nations Industrial Development Organization (UNIDO) and funded by the EU, the WAQP has been supporting the West African Economic and Monetary Union (WAEMU) and the Economic Community of West African States (ECOWAS) for the harmonisation of quality infrastructure and standards, building of capacity of inspection services, accreditation of testing and calibration services, certification of companies, protection of consumers and building of a global quality culture in the region. This long-term commitment has endured for more than 10 years, covering today 16 West African states.

### **The challenge of meeting technical requirements and regional integration**

The uneven trade pattern in the region, largely dominated by exports of primary commodities (81 percent of merchandise exports) is consistent with the observation made in most developing countries. The major characteristic of trade in primary commodities is the burden of technical requirements. These technical requirements are set criteria that relate to intrinsic attributes of a product (size and calibre, nutrients, ingredients, microbiological quality, maximum residue limits, etc.) or the way a product is produced and provided to its consumers (hygienic practices, packaging, labelling, shelf life, mandatory testing and certification, etc.).

Increased concerns for health and security on international markets on one side and greater consumer awareness for labour rights and environmental protection on the other have considerably strengthened standards and increased the number of requirements exporters have to comply with. Among these, the impact on agricultural and food products is the highest: In some cases, regulations, standards and labelling have been reported to account for as much as 87 percent of retail prices of processed food.



West Africa's participation in international trade merely topped a 1 percent share over the past 10 years.

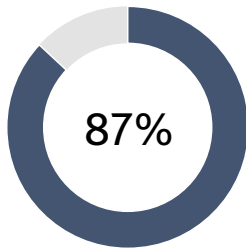
**Table 1. Relative rejection rate for food imports to the EU and the US by country, 2002-2008**

Country	European Union				
	Total	Fish and fish. pro.	Fruit and veg.	Nuts and seeds	Herbs and spices
Benin	Medium	High	None	None	None
Burkina Faso	Medium	None	None	High	None
Cape Verde	Medium	Medium	---	None	---
Cote d'Ivoire	Low	Medium	Low	Low	None
Gambia	High	High	None	Medium	None
Ghana	Medium	Medium	Medium	High	High
Guinea	Medium	Low	None	Medium	None
Guinea Bissau	None	None	None	None	---
Liberia	None	None	None	---	---
Mali	Medium	None	None	High	None
Mauritania	Low	Low	None	None	None
Niger	None	None	None	None	None
Nigeria	High	Medium	High	High	Medium
Senegal	Medium	Medium	Medium	Medium	None
Sierra Leone	High	None	None	High	High
Togo	Medium	None	None	High	None
Country	United States				
	Total	Fish and fish. pro.	Fruit and veg.	Nuts and seeds	Herbs and spices
Benin	High	---	High	High	---
Burkina Faso	High	None	High	None	None
Cape Verde	High	High	---	---	---
Cote d'Ivoire	Low	High	High	None	None
Gambia	High	High	High	High	---
Ghana	High	High	Medium	High	High
Guinea	High	High	None	None	High
Guinea Bissau	None	---	---	None	---
Liberia	High	High	---	High	---
Mali	High	---	None	---	---
Mauritania	High	None	High	---	---
Niger	High	High	---	---	---
Nigeria	Medium	High	High	Medium	Medium
Senegal	High	High	High	High	High
Sierra Leone	High	High	Medium	---	None
Togo	Medium	High	High	---	None

Source: UNIDO (2011), [www.unido.org/tradestandardscompliance](http://www.unido.org/tradestandardscompliance)

Limited local capability and resources to fulfil these stringent technical requirements, especially when they require sophisticated testing instruments and methods, have contributed to hamper the participation of West African countries in international value chains and on markets that could help them upscale their production from primary to processed products.

Although political engagement is strong for regional integration, which provides for an appropriate solution in boosting local trade and expanding industrial capacity, the region still reveals large disparities. From oil-rich countries (Nigeria and Ghana) to agricultural economies (Guinea Bissau and Sierra Leone), densely populated cities (16 million inhabitants in Lagos, Nigeria, the world's second largest city by population size after



87 percent of retail prices of processed food are accounted for by regulations, standards and labelling in the most extreme cases.

Shanghai) to nomadic Sahel regions (Mauritania, Mali and Niger), conflict-prone countries to stable political systems, the challenges are numerous and multi-layered.

The level of trade within the region remains low and lack of harmonised standards can partly be held responsible for this situation. In particular, trade disputes tend to concentrate on incoherent technical requirements between individual countries. In 2010, a resounding disagreement between Senegal and Côte d'Ivoire on the levels of saturated fats in edible oil disrupted trade in palm oil between the two countries. The use of draft standards initiated by the standardisation body of WAEMU (NORMCERQ) and facilitated by UNIDO was instrumental to settle the issue. In the future, the recently created ECOWAS Standards Harmonisation Model (ECOSHAM) will play a leading role in harmonising standards for the whole of West Africa.

The conclusion of the EPA negotiations and the expected ratifications in the forthcoming months are moreover already adding tremendous pressure on governments to comply with international trade standards and regulations in order to benefit from the free trade their respective free trade deal with the EU.

#### **Capacity building for a regional quality infrastructure**

Technical requirements initially alerted the WAEMU Commission to the dire need for a proper quality infrastructure that would ensure that West African exports comply with safety and quality requirements. Quality infrastructure refers to activities used to evaluate whether a product, process, or service fulfils specified technical requirements: laboratory testing, formal inspection by government officials, auditing, certification schemes, all supported by calibration, metrology, accreditation and standards organisations that ensure that the measurements and controls operated by the former are reliable.

However, building a quality infrastructure at the regional level takes on a whole new dimension, not simply because of opportunities for mutualisation and economies of scale, but also because of the potential drive by an extremely large demand base and emulation among countries. Building on existing national capacities and upscaling them to become regional centres of excellence reinforces cooperation and local mobilisation.

For instance, cotton grading was one of the issues the programme had to tackle at its start. Cotton is a major source of income for countries in the region. Cotton prices are naturally determined by the quality of cotton fibres. However, none of the countries in the region had efficient means to test fibre quality 10 years ago and all were dependent on tests results carried out in importing countries for their income.

In 2004, the WAQP supported the acquisition of high-speed automated measuring instruments (HVI) that were dispatched in Mali, Togo, Senegal and Côte d'Ivoire and provided subsequent training to related technicians. These instruments helped producers across the region to grade their cotton according to fibre quality prior to shipping. As a result, the quality of cotton exports from the region substantially rose, and so did market prices for West African cotton and revenue for producers. In addition, the programme developed the first African cotton standards, in association with the African Cotton Association (ACA).

#### **Promoting better and safer products for the welfare of consumers and local economies**

Many West African countries have or are on the verge of adopting a national quality policy, involving the establishment of a National Quality Infrastructure in compliance with international standards. National Quality Awards have been established in most countries, conducing to the emergence of a general quality consciousness among both consumers and producers.

With the help of the WAQP, over 100 regional laboratories have been upgraded and more than 25 have been accredited, creating thereby a growing accreditation need for other conformity assessment bodies. The accreditation of labs, sometimes in highly specialised technical areas, has granted them an international recognition status and provided the region with state-of-the-art services, for example the SOFITEL cotton laboratory and the CIRDES research centre for animal and livestock disease in Burkina Faso and medical laboratories in Senegal and Benin. More and more labs are today engaging in accreditation without the support of the programme, which provides one of the best impact indicators.

Both the government and the private sector are engaging to a greater extent in the quality process and the number of certified companies in recent years has been on the rise. The increasing development of quality infrastructure has helped to strengthen public-private partnerships now active within various technical committees created by the WAQP. For example, in the area of standardisation, the national standardisation body of Côte d'Ivoire (CODINORM), a partnership between the Ivorian State and its private sector, provides a role model for developing countries. The internationally accredited LABCAL metrology laboratory in Cape Verde is another case of a successful public-private partnership. West Africa is on its way towards achieving a unified quality infrastructure that will serve the trading system regionally and internationally.

Building on the momentum, the West African accreditation system (SOAC) now needs to become quickly operational so that regional accreditation certificates are delivered. This will add unparalleled weight to the regional industrial set-up, potentially attracting new investors, and boost the marketing value of goods and services made in West Africa.

Developing a sustainable domestic quality infrastructure that delivers credibility on foreign markets in compliance with multilateral trade agreements levels the playing field for all and promotes better and safer products for the welfare of consumers and local economies, thereby providing equal opportunities for all.

### Conclusion and recommendations

A sound quality policy, defining clear responsibilities for the harmonisation of standardisation, accreditation, calibration, testing, inspection and certification activities, in connection with regional and international institutions, favours efficiency and needs to be designed in relation to any trade and consumer protection policies in a given region.

Additionally, there is a need to support the development of regional quality infrastructures that build on strong institutions at the national level. The subsidiarity principle should prevail in policy choices, whereby regional institutions build on available national capacity. This rule has proven to be very efficient on the ground.

Infrastructure building does not go without proper linkages to the private sector and consumers which help to ensure that the needs for quality services are met. Building a quality culture is a long-haul journey that entails educational, cultural, social, political and economic considerations and the collaboration of all stakeholders.



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## RULES OF ORIGIN

## LDCs encourage WTO members to design more effective preferential Rules of Origin

*The Least Developed Countries Group at the WTO (LDCs Group) presented a report to the multilateral organization's Committee on Rules of Origin on 30 October, calling for a more effective design of preferential rules of origin.*

In the report, the LDCs Group encourages WTO members to allow for changes in their Rules of Origin (RoO) by taking into account the needs of low-income countries to source foreign inputs in today's global value chains and the trade challenges faced by landlocked and island developing countries.

RoO confer an economic nationality on products traded across borders, defining how much processing must take place locally before goods are considered to be the product of the exporting country and benefit from preferential treatment.

LDCs have repeatedly voiced concerns that these preferential RoO are often too restrictive and impose onerous compliance burdens, making it difficult for LDCs to take full advantage of existing preferential margins. Furthermore, they say, such rules are currently designed on a unilateral basis, without any harmonised standard.

In the report, the LDCs Group underscores that existing preferential RoO are old and have not followed evolutions in world trade.

The report also explains that preferential margins have been eroded as a result of the proliferation of trade agreements, whereas the costs of compliance with RoO have increased significantly. These two factors combined render "preferences unattractive."

In their paper, the LDCs use the examples of RoO reforms in Canada and the EU to illustrate how a shift towards more lenient and flexible RoO is conducive to development in preference-receiving countries. Consequentially, the paper calls upon WTO members, particularly the United States and Japan as major LDC trading partners, to review the substance and form of their RoO systems which "have not materially changed" since the 1970s.

In this context, the document states that "simple and transparent rules of origin for LDCs are those rules of origin permitting a full utilisation of trade preferences." In subsequent paragraphs, the report discusses how the EU and Canadian RoO reform efforts impacted trade with LDCs.

Concerning US preferential RoO, the report highlights that "the US rules of origin seem to have been so far unable to trigger a diversification of exports and the value of trade covered by the US GSP is abysmally low."

Among other proposals, and in light of the increasing global fragmentation of value chains, the report argues for greater flexibility for LDCs to source inputs from abroad.

Specifically, the group said that LDC exports should be conferred domestic origin by preference givers even when these exports feature a share of non-originating materials as high as 85 percent.

Sources familiar with the committee meeting indicated that when presented with the report, Brazil, India, Switzerland, Canada, and the EU were among those who welcomed the effort but asked for additional time to study the document in detail.

## TRIPARTITE FTA

## Africa's largest free trade area set to launch in December

*The three regional economic communities COMESA, EAC and SADC are expected to launch Africa's largest free trade area in about two weeks.*

The largest free trade area in Africa, known as the Tripartite FTA (TFTA), is set to launch in mid-December at the Tripartite Summit of Heads of State and Government in Cairo, Egypt.

The announcement of the projected launch was made at the end of a two-day meeting of the Tripartite Sectoral Committee of Ministers in Bujumbura, Burundi on 25 October.

The TFTA, once enacted, would bring together the East African Community (EAC), the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA).

In other words, it would cover 26 countries ranging from Egypt to South Africa with a combined population of 625 million people and an aggregate GDP of US\$1 trillion. These figures represent half of the African Union's membership and 58 percent of the continent's economic activity, according to COMESA.

The TFTA project, also known as the Grand FTA, was originally endorsed at the Tripartite Summit of Heads of State and Government in Johannesburg in June 2011. That endorsement came three years after another tripartite summit in Uganda, where the Heads of State and Government of the respective regional economic communities (RECs) agreed on a "programme of harmonisation of trading arrangements amongst the three regional economic communities."

According to COMESA Secretary General Sindiso Ngwenya, who chairs the Tripartite Task Force, the decision to operationalise the free trade area by the end of this year takes "into account the fact that the majority of the Tripartite Member /Partner States have made ambitious tariff offers" in the ongoing negotiations.

Zimbabwean trade official Chiratidzo Iris Mabuwa, who chaired the Burundi ministerial meeting, urged delegations to now engage in "expedite[d] negotiations on trade-related areas, including trade in services, intellectual property and competition policy."

Sources close to the negotiations indicated that immediately after the launch, a post-signature implementation plan will be introduced including, among other elements, the finalisation of negotiations on outstanding areas of the TFTA Agreement (most likely, rules of origin, trade remedies and dispute settlement), the ratification of the Agreement by the member states and the commencement of the implementation.

### Stepping stone for continental free trade

The proposed 26-country Tripartite FTA, together with other regional FTA processes, is meant to set the stage for a broader Continental FTA, or CFTA.

Upon their expected completion in 2014, these regional processes would be consolidated into the CFTA between 2015 and 2016, with the pan-African pact launching in 2017 and a continental customs union forming by 2019, according to a [roadmap](#) released by the African Union in 2011.



The roadmap also encourages the regional blocs of the TFTA “to ensure that the member states currently outside the three RECs FTA join and become part of the Tripartite FTA.”

The proposed CFTA would be a key component of the African Union's strategy to boost intra-African trade which currently stands at 12 percent of total trade, compared to 60 percent for Europe, 40 percent for North America, and 30 percent for ASEAN, according to statistics cited by the WTO.

According to the AU [Action Plan](#) for boosting intra-African trade, the projected CFTA would increase trade within the region by at least 25-30 percent in the next decade.

The Action Plan is a document produced during the AU trade ministers' meeting in December 2011 detailing priority action clusters to address obstacles to increasing intra-African trade. These include, among others, differences in trade regimes, restrictive customs procedures, administrative and technical barriers, limitations of productive capacity, and inadequacies of trade-related infrastructure.

### **Remaining challenges**

The TFTA negotiations are being conducted through the Tripartite Trade Negotiation Forum, with specific technical areas being dealt with by Technical Working Groups (TWGs).

The liberalisation exercise was initially divided into two negotiation sequences. In the first phase, discussions focused mainly on the issues of tariff liberalisation, rules of origin (RoO), trade remedies, and customs and transit procedures, among other elements. It was originally agreed that trade officials needed to clear these agenda items before entering the second phase, which addresses trade in services and other issues such as intellectual property, competition policy, and trade competitiveness.

Phase one will be officially concluded December 2014 after Heads of State and Government at the 3rd Tripartite Summit sign the Declaration on Conclusion of Negotiations on Phase one Trade in Goods. It is envisaged that phase two will begin immediately after phase one, while negotiations on outstanding areas from the latter will also continue towards finalisation based on an agreed timeframe.

Notwithstanding this ambitious integration agenda and the announced launch of the Grand FTA by the end of this year, concerns have been raised over the arduous nature of current TFTA negotiations.

Specifically, in phase one, the COMESA-EAC-SADC troika faces notable challenges in harmonising differential RoO, which have so far impeded inter-regional trade and the creation of regional value chains. Apart from RoO, the other difficult negotiating areas are related to trade remedies and the dispute settlement mechanism.

Observers familiar with the talks have said that one of the key challenges consists in finding an acceptable framework for RoO, as the EAC and COMESA regimes in this area are significantly different from the one used by SADC.

Experts such as Eckart Naumann from the Trade Law Centre in South Africa have pointed out that 56 percent of the RoO are dissimilar across the three regional economic communities. In these instances, the TFTA TWG on RoO has decided to adopt a line-by-line negotiation approach.

The enlarged FTA will include Libya, Djibouti, Eritrea, Sudan, Egypt, Ethiopia, Kenya, Uganda, Burundi, Rwanda, Tanzania, Malawi, Zambia, Zimbabwe, Angola, the Democratic Republic of the Congo, Mauritius, Madagascar, Comoros, Seychelles, Mozambique, Botswana, Lesotho, Namibia, South Africa, and Swaziland.

# The newsroom

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## India, US clinch deal on WTO food stocks

India and the US have announced that their stand-off over food stockholding at the WTO has been resolved – potentially paving the way for the implementation of a separate deal on trade facilitation, as well as progress on the broader negotiating agenda at the global trade body.

In July, India refused to approve the adoption of a Protocol of Amendment that would allow the WTO's new Trade Facilitation Agreement (TFA) to be integrated into the global trade body's legal framework.

The reason, New Delhi explained at the time, was the slow progress in devising a "permanent solution" to problems developing countries face under current farm subsidy rules in buying food at government-set prices to stock as part of their food security schemes.

The new US-India agreement clarifies that no trade dispute against developing countries' food stockholding schemes will be initiated "until a permanent solution regarding this issue has been agreed and adopted," according to a briefing on the US Trade Representative's website.

## EU refuses refunds of import duties to Kenya

The EU will not offer refunds to Kenya for the duties the African country pays on the European market in the interim phase until the ratification of the Economic Partnership Agreement (EPA) between the old continent and the East African Community (EAC).

"We cannot provide export tax refunds for the period Kenyan exporters will be paying duty as our laws do not provide for that," EU Trade Commissioner Karel De Gucht told reporters in Nairobi in October.

The EPA between the EU and the five East African countries Burundi, Kenya, Tanzania, Uganda and Rwanda was finalised on 16 October 2014. Because negotiators failed to meet a deadline on 1 October 2014, in the period until ratification, Kenya's exports to the EU attract higher tariffs than those of the four least developed country members of the EAC.

## UN conference adopts action plan for LLDCs

Government officials, business leaders, and representatives from civil society and international organisations adopted a new action programme on 5 November aimed at advancing economic growth and sustainable development in landlocked developing countries (LLDCs) over the coming decade.

The programme, inked during the Second UN Conference on LLDCs in Vienna, Austria, sketches out a strategic framework for 2014-2024 based on six priority areas: transit, trade, and infrastructure challenges, regional cooperation, structural transformation, and means of implementation.

Speaking at the Vienna Conference, WTO Director-General Roberto Azevêdo noted that the WTO's recently-adopted Trade Facilitation Agreement (TFA) could greatly benefit LLDCs.

"Transit measures would likely be put in place as soon as the agreement is implemented. This would be a crucial step for LLDCs," Azevêdo said.

## UN and AfDB discuss innovation in Africa

Knowledge and innovation are pivotal in Africa's quest for sustained and inclusive economic growth and should therefore be encouraged based on both targeted government policies and private sector participation. This was the conclusion from the 9th Annual African Economic Conference held from 1-3 November in Addis Ababa, Ethiopia, and jointly organised by the UN and the African Development Bank (AfDB).

"African countries are aware that their development hinges on how fast and how well their citizens acquire the skills and technological competencies needed to be competitive in today's global market," said Donald Kaberuka, President of the AfDB.

In addition to education policy, participants discussed the role the private sector can play in African economies.

# Publications and resources

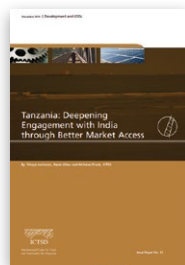
*Special series: Taking stock of India's duty-free market access scheme*



## **Deepening India's engagement with the LDCs: An in-depth analysis of India's Duty-Free Tariff Preference Scheme – ICTSD – November 2014**

This paper, which is part of a major research project undertaken by ICTSD, seeks to understand how India-Africa trade relations could be strengthened so as to maximize the developmental impact on Africa. In particular, it critically assesses the impact of India's preferential market access scheme on LDC exports to India, identifies potential impediments and provides recommendations for improving the scheme.

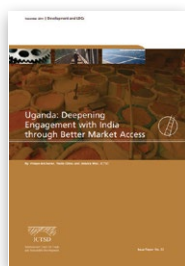
<http://bit.ly/1y4NDFP>



## **Tanzania: Deepening engagement with India through better market access – ICTSD – November 2014**

This paper investigates the impact of India's duty-free trade preference scheme for LDCs on Tanzania's exports to India. Exports of Tanzania's top 30 export products have increased over 5-fold following the launch of the scheme in 2008. Much of this change was driven by products that receive preferential duty treatment under the scheme. Nevertheless, a number of products of critical export interest to Tanzania are excluded.

<http://bit.ly/1rynvzv>



## **Uganda: Deepening engagement with India through better market access – ICTSD – November 2014**

This study examines the impact of India's duty-free trade preference scheme on Uganda's exports to India. Despite a long history of economic relations between the two countries, India remains an insignificant destination for Uganda's exports, absorbing less than 1 percent of Uganda's total exports in 2012. Six years after its launch, the duty-free trade preference scheme seems hardly to have made any impact on Uganda's exports to India.

<http://bit.ly/1rqZb4h>



## **Ethiopia: Deepening engagement with India through better market access – ICTSD – November 2014**

This paper investigates the impact of India's trade preference scheme for LDCs on Ethiopia's exports to India against the backdrop of broader Ethiopia-India economic relations. Ethiopia's exports to India have increased from a low base; but at US\$ 44.3 million in 2012, or about 1 percent of Ethiopia's global exports, India remains a marginal market for Ethiopian products.

<http://bit.ly/1Hlrczq>



## **A simulation analysis of India's Duty-Free Trade Preference Scheme: A focus on African LDCs – ICTSD – November 2014**

This study considers the potential welfare effects of an enhanced Indian preference scheme. It shows that the welfare change is positive for all African LDCs if India expands the duty-free coverage from to 94 percent while keeping the exclusion list intact (first scenario). Welfare increases if India establishes the proverbial 100 percent duty-free quota-free scheme (second scenario). India loses under both scenarios, with the loss increasing marginally under complete liberalisation. Even then, this loss is paltry compared to aggregate gains to African LDCs.

<http://bit.ly/1uLLsQ5>

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