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Book Review: *CUTS International, Reforming Non-tariff Barriers—Case for a Participatory Approach in South Asia*

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CUTS International, *Reforming Non-tariff Barriers—Case for a Participatory Approach in South Asia*, Jaipur, India: CUTS International, 2013, pp. xli + 209, ₹250, US\$ 25, ISBN: 978-81-8257-195-2.

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This publication is the result of a year-long project on ‘Promoting Participatory Approaches to Remove/Harmonize Non-tariff Barriers in South Asia’, supported by the Asia Foundation. A diverse set of stakeholders, having deep interest on issues of regional economic cooperation in South Asia, have contributed to this work. The study also benefitted from four CUTS partner organizations from across the region.

The volume is divided into three sections covering South Asian countries. Section I brings out a case for participatory approach for reforming non-tariff barriers. Section II brings out the incidence of non-tariff barriers with reference to sectoral case studies in five South Asian countries. Section III draws a blueprint for a business plan for reforming non-tariff barriers.

Chapter 1 in Section I brings out the need for addressing non-tariff barriers (NTBs) to trade in South Asia. The chapter rightly argues that while legal instruments under GATT (1947) and WTO (1995) have been fairly successful in tackling the first and directly visible set of trade barriers, namely, import taxes or tariffs faced by exporters, addressing the next set of trade distorting less transparent barriers, generally grouped together and known as NTBs, has proven to be a formidable challenge for them (p. 5). With the declining role of tariff barriers, NTBs are today at the centre stage of negotiations in international trade.

Chapter 2 in this section attempts to provide a fresh approach to NTB reforms. The study argues that the distinction between non-tariff measures (NTMs) and NTBs are not well compartmentalized. NTBs are often used to refer to a wide variety of conditions that affect trade adversely. Some of these shortcomings felt by the traders relate to inadequate infrastructure at the borders, lack of transit arrangements, testing and compliance requirements, to name a few. These inefficiencies are not a direct outcome of a deliberate policy adopted by any state (which this study terms as ‘incidental NTBs’), even though their occurrence may have been reduced/modified by the usage of public funds to address the same (p. 10). Trade facilitation (TF) measures are designed to address such concerns, but in the absence of any legally binding agreement on TF, governments are unwilling to undertake the required investments either owing to their incapacity or due to lack of incentives (*ibid.*). A point to be noted in this context is that an Agreement on Trade Facilitation has already been negotiated in the Ninth WTO Ministerial Conference held in Bali in December 2013.

Drawing from Cadot, Malouche and Saez (2012) the study further clarifies:

While a part of the entire universe of NTBs is subsumed in the discourse on TF (Trade Facilitation), the other part—constituted by NTBs which are a direct outcome of policies—is no longer addressed as NTBs *per se*, but primarily as non-tariff measures

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(NTMs). The basic premise for considering policies affecting trade as measures instead of barriers is that there are several diverse sets of policies affecting trade and all of them need not be trade distortive. A measure cannot be called a barrier until it is proven beyond doubt that it is distortive and discriminatory. Thus, NTBs are a subset of NTMs. (p. 11)

The study thus argues; ‘the first step towards reforms, fundamentally relies more on whether it meets a set of accepted criteria of policy legitimacy rather than its crude trade distortionary effects’ (ibid.). In any case, NTMs raise the cost of compliance and hence the cost of trading. Further down the line, inadequate development of trade infrastructure adds further to costs, which discourages trading across the border.

Put in a different form, the study proposes a fresh approach to NTBs based on ‘a comparative principle that compares current trade conditions that may be barriers, both policy induced and other to possible cheaper alternatives’. It adopts a simple dictum to identify barriers: ‘if it can be found that there is a cheaper alternative(s) to a particular condition which influences trade, that condition may be judged as a barrier to trade’ (p. 71). Here too, I feel a further distinction could be made depending on the motives behind the barriers. To illustrate, limiting imports through the Wagah border to only 137 products, the banning of imports of yarn from India by Bangladesh through the land route, India imposing restrictions on ports of entry for Sri Lankan tea (now removed), are illustrations of protectionist motives behind these actions. However, unintended restrictions arising from inadequate land port infrastructure, such as, deficient approach roads and lack of warehousing and banking facilities, are another category of ‘incidental’ barriers requiring significant public funding to facilitate trade.

In order to effectively contain and restrict the use of NTBs in the South Asian region, the study very persuasively argues for a formal and well-defined participatory approach by designing and building an effective institutional set-up (p. 27). An institutional body can address and resolve the NTB issue more effectively with laws that bind member states rather than the present inadequate mechanism that is in existence under SAFTA’s provisions (p. 28). The study suggests that the industry stakeholders should be encouraged, informed and facilitated to raise NTB issues through their own national focus level channels of apex business organizations rather than depend on governmental bodies for notifying their NTB-related grievances. When properly scrutinized and found to merit attention, the same can be sent to SAARC Chambers of Commerce and Industry (SCCI) with supporting documents. SCCI carries legitimacy to scrutinize such complaints under Article 2(h) of its constitution that empowers it ‘to provide for Arbitration in the settlements of disputes arising out of commercial and industrial transactions between parties who are willing to abide by the judgment of the SAARC CCI’. The SCCI can then review it again at their end and the genuine cases can be duly notified to the Committee of Experts (COE) of SAFTA, who under provisions of Article 10(6) of SAFTA, can monitor, review and recommend their comments and report the same to the SAFTA Ministerial Council (SMC), which is the highest

decision making body of SAFTA (p. 28). The question that arises in this context is that how so many small traders would be willing to take their disputes up to the level of SMC? In my opinion, an attempt has to be made to resolve most of the disputes at the level of SCCI/COE. Better still, for cross-border trade using a land route, a border liaison committee involving stakeholders from both the partner countries could be set up to monitor day-to-day disputes involving small traders.

The study states that a greater level of involvement of the private sector in the formal system of NTB reforms is necessary for the success of the approach. This is because business possesses data—quantitative as well as qualitative—on trade costs and they regularly undertake cost assessments, consider all potential alternatives and explore cost saving avenues and overcome the constraints of data deficiency (p. 24). However, international organizations have in recent years contributed considerably in generating data on trade costs to facilitate traders to obtain the relevant information as noted in Chapter 4. Many traders may not even be aware that this information is available.

Moving further, the study states that the proposed participatory approach solves issues relating to definition and fragmentation of NTB reforms as all trade distorting conditions can be raised as NTB complaints under one holistic framework (*ibid.*). As this approach is based on cost calculations and comparison with benefits of possible remedial measures, it also helps to overcome the constraints of data deficiency. The system will automatically ensure that all barriers worth reporting will get registered as it is in the self-interest of business to do so (p. 25).

Chapter 3 brings out the prevalence of NTBs in South Asia. The study finds South Asian countries to be far behind ASEAN and China, both in terms of time taken for export/import and costs associated with it.

Chapter 4 is devoted to analyzing the costs of NTBs in South Asia. For this purpose, the study uses the newly generated comprehensive trade cost indicators database developed by the World Bank and UNESCAP. The database allows the study to calculate the difference between current intra-regional trade costs and possible lower trade costs (p. 52). The lowest exhibited trade cost of each South Asian country from a pool of its different bilateral trade cases is taken as the benchmark or revealed 'cheaper alternative'. Thereafter, savings on trade costs, when South Asian countries adopt reforms so as to keep costs to the level of their respective benchmarks, are quantified (*ibid.*). The aggregate savings thus quantified, comes to US\$ 1.22 billion or 7.26 per cent of import value in 2011. When the benchmark for average trade costs of the 10 lowest trading partners (excluding countries in the European Union) are used as the benchmark from the global pool, the savings come to US\$ 4.63 billion or 27 per cent of total import value.

The problem with the aforementioned methodology is that most trade in the South Asian region is through the land route, whereas comparison with trade cost via sea route is likely to exaggerate the cost differential. To illustrate, the least cost trade of Bangladesh is with Hong Kong which uses the sea route whereas the former country's trade with India is primarily through the land route. Perhaps

comparison could have been made of the lowest cost land routes between pairs of countries in the Asian/global context.

The second section of the book deals with the incidence of trade barriers in sectorial case studies for a deeper examination of the undue influence of NTBs. The aim for this exercise is to examine the reasons for the absence of trade in highly promising sectors and to bring out views and concerns of the South Asian business community. This section carries out a micro-level analysis through sector-specific case studies for which firm level surveys were conducted in five South Asian countries aided by CUTS' four partner organizations which led the surveys in their respective countries. For the Bangladesh country study, the sectors include iron and steel, fruit juice and confectionery.

The general perception emerging from the survey is that bureaucracy responds to problems by introducing new procedures and documents which in turn, considerably increases the cost of doing business without having any significant effect on the origin of the difficulties (p. 127). Despite automation, the customs offices in eastern South Asia still necessitate excessive documentation, especially for imports (p. 128).

The Indian country study which takes case studies of tea, pharmaceutical products, iron and steel, provides useful sector-specific analyses for trade reform priorities. In the case of tea, iron and steel products, the study makes a strong case for the inclusion of these items to be traded through the Wagah–Attari land route. In case of pharmaceuticals it seeks in general, the ensuring of MFN treatment to drugs originating from India in all areas of market access. It suggests the opening of online trade portal for these products for dissemination of trade information.

The Nepalese case study makes an observation that Nepal is importing a number of textile products in negligible value from South Asian countries not because of the prevalence of NTBs, but because of lack of information—such as, product quality, price ranges, designs, trading route, trade-related services—among the Nepalese importers (p. 155).

The Pakistan case study includes leather, textiles, fruits and vegetables. The general perception among stakeholders is that trading relations between India and Pakistan were subject to political oscillations. While the respondents saw the recent government level talks between India and Pakistan as a bright sign, most were of the view and rightly so, that these talks could be halted at any moment, if any ugly incident occurred across the line of control. Besides, they felt that no serious homework was done by any country before coming to these meetings (p. 172).

Under the Sri Lanka country study, two products, namely, yarn of synthetic fibre and sausage products were the items for case studies. The main concern expressed by Sri Lankan exporters was delay in issuance of import licences by Indian authorities that leads to consignments being stranded in ports all over India. Another perception of Sri Lankan exporters is that Indian authorities do not accept third party testing and certification. Exporters also complained that labelling requirements were changed very frequently in India without giving adequate time for exporters to accommodate such changes (p. 180).

Section III provides a business plan for reforming non-tariff barriers in South Asia, to which a participatory and inclusive approach is central. It contains sector-specific policy recommendations targeting a selected group of products that have the highest trade potential.

It must be admitted that overall, CUTS has done commendable pioneering work in the field of NTBs in the South Asian region. As the basic institutional framework provided within SAFTA and the SCCI exists, there is a need to link them up in the nature of a healthy public-private partnership to enhance and exploit the potential in trade that currently exists in the region.

As the Secretary General of SCCI rightly points out in a Foreword to this volume, 'if regional cooperation is to be deepened through vertical integration and promoting cross border supply chains, NTBs in South Asia have to be addressed adequately with due importance' (p. vi). This volume makes a very valuable contribution in this direction.

Reference

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