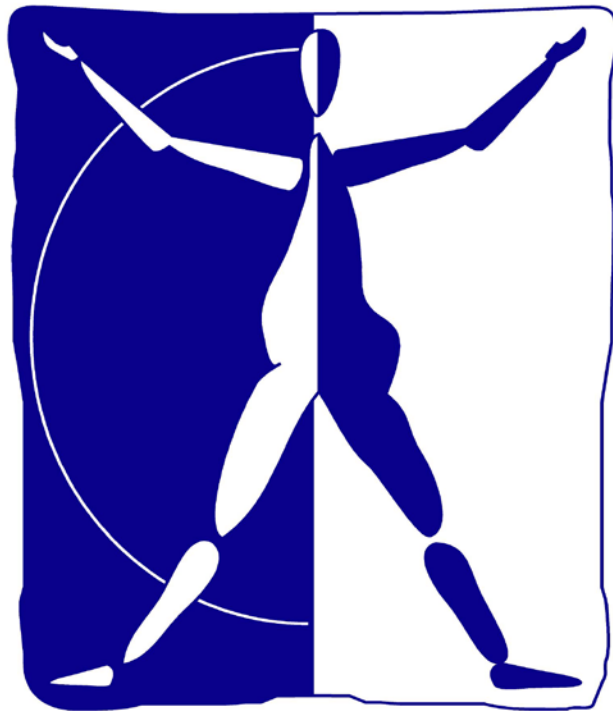


Development of Sector Strategies
for
South African Exporters
to overcome Non Tariff Barriers
in selected sectors and regions



BLUEPRINT

Prepared for the FRIDGE
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September 2006

Acronyms

Acronym	Explanation
APEC	Asia-Pacific Economic Cooperation
CTE	Committee on Trade and Environment
CTESS	Committee on Trade and Environment Special Session
DEAT	Department of Environmental Affairs and Tourism
DNA	Designated National Authority
DTI	Department of Trade and Industry
FRIDGE	Fund for Research into Industrial Development, Growth and Equity
HS	Harmonised Standard
MEA	Multilateral Environmental Agreement
MDG	Millennium Development Goal
NAMA	Non-Agricultural Market Access
NEDLAC	National Economic Development and Labour Council
NSSD	National Strategy for Sustainable Development
NTB	Non Tariff Barrier
OECD	Organisation for Economic Cooperation and Development
PPM	Process and Production Method
SDT	Special and Differential Treatment
UNCTAD	United Nations Conference on Trade and Development
GATT	The General Agreement on Tariffs and Trade
WTO	World Trade Organisation

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1. PROJECT OVERVIEW

FRIDGE wishes to develop specific strategies for South African exporters in particular sectors (Chemicals, Metals, Stainless Steel, TCLF and Automotive) to overcome non tariff barriers (NTBs) in particular regions (India, China, Mercosur, the USA and EFTA). In order to achieve this, FRIDGE wishes a review of the outcomes of the existing FRIDGE sector studies on non tariff barriers and then the preparation of a draft strategy to support South African exporters to overcome the identified barriers. This strategy is to be included in the implementation strategies to be developed for each trade agreement. Regions to be reviewed are Mercosur, India, China the US and EFTA. Sectors are Automotive, Stainless Steel, Other Metals, and Chemicals. This document deals with the Stainless Steel Sector and deals only with India and China as per the brief

2. INTRODUCTION

Non- tariff barriers (NTB's) to trade as the name implies, are restrictions to imports in countries which are not applied in the form of a tariff. Anti-dumping measures and countervailing duties are considered by some trade specialists to be non-tariff barriers even though they have the effect of tariffs because they are only imposed under certain conditions however others consider them as tariffs approved under the WTO and not as NTB's. The issue would appear to be the misapplication of the remedies as barriers to imports by many countries rather than as legitimate protection under the prescribed definitions of dumping or subsidisation of exports.

This study looks at the NTB's identified in the various trade studies reviewed for specific trade regions and/or countries and sectors. The studies were analysed and summarised into sector reports, which were reviewed with research material and sources to contextualise and understand the specific NTB's which are hindering the ability of South African exporters in the sectors under review to these countries and regions. What has become clear from this process is that it is the nature of NTB's that they need not be sector specific for non-agricultural sectors and in most cases are fairly generic in nature which allows for the development of an overarching strategy to deal with NTB's across sectors.

3. WTO/GATT : HISTORICAL PERSPECTIVE

From 1948 with the introduction of the General Agreement on Tariffs and Trade (GATT) leading to Uruguay Round of negotiations in 1994 and the formation of the WTO tariff barriers have been a major focus. The focus of participating countries through several rounds of negotiations leading up to the Uruguay Round was the reduction of tariffs on manufactured goods. It was however at the Uruguay Round that the focus of negotiations on international trade in agricultural products began, and although it is not the subject of this paper the focus on NTB'S and their effect on trade began in the negotiations on agricultural products.

In the Uruguay Round member countries agreed to drop the use of import quotas and other non-tariff barriers in favour of a tariff-rate quota or TRQ, combining tariffs and quotas with a lower tariff applied to a set quantity of imports and then a higher tariff applied to imports above that quantity. Countries then agreed to lower the tariffs and increase the quantities over time to facilitate trade flows in agricultural products.

For this study the important point is that it was a critical objective of the Uruguay Round of GATT/WTO negotiations (and shared by the USA) to eliminate the use of non-tariff barriers to trade in agricultural commodities (the tariffication of agricultural products through the introduction of the TRQ). Since the Uruguay Round, and leading up to the Doha Round of negotiations, agricultural commodities continue to be a key focus of WTO negotiations between developing and developed countries for market access, in particular the distortions created by subsidisation in developed countries. The breakdown in these negotiations has recently led to the suspension of WTO negotiations and the Doha Round.

In the Non-Agricultural Market Access (NAMA) Negotiating Group negotiations since the Uruguay Round and leading up to the Doha Round of negotiations, NTB's have come under increased focus. In 2003 a section on non-tariff barriers was incorporated in the Draft Elements of Modalities for Negotiations on Non-Agricultural Products submitted by the Chairman of the WTO negotiating group on Market Access. South Africa submitted a report providing comment on the Draft Elements of Modalities¹ and took the position that a reduction in tariff barriers on its own would not provide genuine market access for developing countries, and that non-tariff barriers in developed countries can provide significant barriers to the exports of developing countries.

There is however still concern among trade specialists internationally that the objectives or intent within the WTO in the area of NTB's remain too restricted and/or vague and that all types of NTB's need to be addressed in the market access negotiations for non-agricultural products, including the implementation of existing rules and the lack of rules governing NTB's. Non-tariff (and tariff) barriers in developed countries still pose a significant obstacle to developing country exports. While developed countries generally maintain relatively low average trade barriers, their highest trade barriers tend to apply to goods that developing countries export. There is also recognition that NTB's are a barrier to trade between developing countries themselves.

4. COUNTRY//REGIONAL BILATERAL AND MULTILATERAL NEGOTIATIONS AND NTB'S

With the suspension of WTO talks the focus of Government trade negotiations, both globally and in South Africa, is expected to shift towards country/regional bilateral or multilateral negotiations until until WTO talks resume. In regard to NTB's, although work has been done internationally in

¹ "SA on Market Access for Non-Agricultural Products

identifying them in specific markets for specific products not much has been done to quantify them and determine their actual impact on trade in the specific markets nor on international and regional trade flows for manufactured goods generally. Increasingly though as tariffs have come down through the processes of international trade facilitation and up to the Doha Round of Negotiations, the concern with NTB's and their impact on trade has begun to surface as a more pressing consideration in the hindering of trade flows between countries and regions, and certain countries (Australia and New Zealand are active here especially in regard to Asian trade) have begun to actively undertake reviews of NTB's and other requirements in specific markets and in certain instances combine this with surveying of their own export industries to try and determine the impact on businesses. This information is then passed back to business.

5. NON-TARIFF BARRIERS IN SPECIFIC MARKETS BY SECTOR

The first step in the development of a strategy to counteract the impact of NTB's on trade in export markets is to identify the NTB's which are being applied in those markets for specific products or product groups. Various general trade studies have been undertaken in South Africa for specific regions/countries for key sectors which also contain reviews of NTB's in those markets. These studies have gone a long way towards identifying the NTB's being applied in the specific country or regional markets and the reports have been analysed and summarised into sector reports together with other research material to understand what is the sum of information we have in South Africa on NTB's in these markets from the broader trade research undertaken. These markets are; Mercosur, China, India, EFTA and the USA and the sectors are TCFL, Automotive, Metals, Stainless Steel and Chemicals. The matrix in Figure 1 below outlines in what sectors research has been undertaken on NTB's, and reviewed.

Figure 1- FRIDGE Research on NTBs to date

Sectors	TCFL/TCL	Automotive	Metals	Stainless Steel	Chemicals
Regions/Countries					
Mercosur	Yes	Yes	No	No	Yes
EFTA	No	No	No	No	Yes
USA	No	No	No	No	Yes
China	Yes	Yes	Yes	Yes	Yes
India	Yes	Yes	Yes	Yes	Yes
Plus the NAMA 11 Resolution of NTB's submission					

Source: FRIDGE, adapted by Blueprint 2006

From the detailed review of available trade research described above, sector assessments of NTB's applied in the relevant countries were developed into five individual sector reports which are included as part of this study as **Annexure 1** of the report. A summary of NTB's being confronted by South

African businesses and exporters for each of the TCFL, Automotive, Metals, Stainless Steel and Chemicals sectors in the respective markets (countries or regions) was developed and a broad overview is reflected in Figures 1 to 5 below.

A review of these NTB summaries for each sector in the different regions/countries indicates that there is significant overlap and that most of the NTB's are generic by nature and applied by most of the countries and regions in most of the sectors. This has been summarised in Figure 6 below and has the implication that a generic strategy for NTB's can be developed. It should however be stated that, to undertake a proper analysis of the impact of NTB's on exports in specific markets quantitative research and data is desirable. This is not an easy research process in export markets and has not been undertaken as part of the scope of work in the research presented and reviewed thus far for this report.

Figure 1 - Summary of NTB's for TCFL by Region

NTB	CHINA	INDIA	MERCOSUR
Additional Taxes	YES	YES	NO
Customs Procedures	YES	YES	YES
Rules of Origin	YES	YES	YES
Environmental Protection	NO	NO	NO
Trade Remedies	YES	YES	YES
Standards & Technical Requirements	YES	YES	NO
Regulatory System	YES	YES	YES
Product Approval and Control	YES	YES	YES
Labelling Requirements	YES	YES	YES
Government Procurement	YES	YES	YES
Intellectual Property Rights	NO	NO	NO
Licensing	YES	YES	NO
Health regulations	YES	NO	NO
Transportation	YES	YES	YES
Unstable Policies	YES	YES	YES
Inefficient Infrastructure	YES	YES	NO
Export Taxes	NO	YES	NO
Import Quotas	YES	YES	NO

Source: Blueprint © 2006

Figure 2 – Summary of NTB's for Automotive by Region

NTB	CHINA	INDIA	MERCOSUR
Additional Taxes	YES	YES	NO
Customs Procedures	YES	YES	YES
Rules of Origin/Local or Regional Content	YES	YES	YES
Environmental Protection	NO	NO	NO
Trade Remedies	YES	YES	YES
Standards & Technical Requirements	YES	YES	NO
Regulatory System	YES	YES	YES
Product Approval and Control	YES	YES	YES
Labelling Requirements	YES	YES	YES
Government Procurement	YES	YES	YES
Intellectual Property Rights	NO	NO	NO
Licensing	YES	YES	NO
Health regulations	YES	NO	NO
Transportation	YES	YES	YES
Unstable Policies	YES	YES	YES
Inefficient Infrastructure	YES	YES	NO
Export Taxes	NO	YES	NO
Import Quotas	YES	YES	NO

Source: Blueprint 2006

Figure 3- Summary of NTB's for Metals by Region

NTB	CHINA	INDIA
Additional Taxes	YES	YES
Customs Procedures	YES	YES
Rules of Origin	NO	NO
Environmental Protection	NO	NO
Trade Remedies	YES	YES
Standards & Technical Requirements	YES	YES
Regulatory System	YES	YES
Product Approval and Control	YES	YES
Labelling Requirements	YES	YES
Government Procurement	YES	YES
Intellectual Property Rights	NO	NO
Licensing	YES	YES

NTB	CHINA	INDIA
Health regulations	YES	NO
Transportation	YES	YES
Unstable Policies	YES	YES
Inefficient Infrastructure	YES	YES
Export Taxes	NO	YES
Import Quotas	YES	YES

Source: Blueprint 2006

Figure 4 – Summary of NTB's for Stainless Steel by Region

NTB	CHINA	INDIA
Additional Taxes	YES	YES
Customs Procedures	YES	YES
Rules of Origin	NO	NO
Environmental Protection	NO	NO
Trade Remedies	YES	YES
Standards & Technical Requirements	YES	YES
Regulatory System	YES	YES
Product Approval and Control	YES	YES
Labelling Requirements	YES	YES
Government Procurement	YES	YES
Intellectual Property Rights	NO	NO
Licensing	YES	YES
Health regulations	YES	NO
Transportation	YES	YES
Unstable Policies	YES	YES
Inefficient Infrastructure	YES	YES
Export Taxes	NO	YES
Import Quotas	YES	YES

Source: Blueprint 2006

Figure 5 – Summary of NTB's for Chemicals by Region

NTB	CHINA	EFTA	INDIA	MERCOSUR	USA
Additional Taxes	YES	NO	YES	NO	YES
Customs Procedures	YES	NO	YES	YES	YES
Rules of Origin	NO	Limited	NO	NO	YES
Environmental Protection	NO	YES	NO	NO	YES
Trade Remedies	YES	NO	YES	YES	YES
Standards & Technical	YES	YES	YES	NO	YES

NTB	CHINA	EFTA	INDIA	MERCOSUR	USA
Requirements					
Regulatory System	YES	NO	YES	YES	YES
Product Approval and Control	YES	YES	YES	YES	YES
Labelling Requirements	YES	Limited	YES	YES	YES
Government Procurement	YES	YES	YES	YES	YES
Intellectual Property Rights	NO	YES	NO	NO	YES
Licensing	YES	YES	YES	NO	YES
Health regulations	YES	YES	NO	NO	YES
Transportation	YES	NO	YES	YES	NO
Unstable Policies	YES	NO	YES	YES	NO
Inefficient Infrastructure	YES	NO	YES	NO	NO
Export Taxes	NO	NO	YES	NO	NO
Import Quotas	YES	NO	YES	NO	YES

Source: Blueprint 2006

Figure 6 below is a summary or consolidation of the NTB's identified in the research undertaken in previous studies for all the sectors under review and as mentioned above, illustrates the generic nature of NTB's across the different countries and regions. The application of NTB's, especially with regard to the administrative barriers to trade, can differ in the respective countries depending on the culture of bureaucracy or the administrative systems or levels thereof where applied. This however relates to quantification of the NTB's in the specific countries and this information is not available in the reports analysed.

Figure 6 - Summary NTB Status Quo - All Countries and Sectors

NTB	CHINA	EFTA	INDIA	MERCOSUR	USA
Additional Taxes	YES	NO	YES	NO	YES
Customs Procedures	YES	NO	YES	YES	YES
Rules of Origin	NO	Limited	NO	NO	YES
Environmental Protection	NO	YES	NO	NO	YES
Trade Remedies	YES	NO	YES	YES	YES
Standards & Technical	YES	YES	YES	NO	YES

NTB	CHINA	EFTA	INDIA	MERCOSUR	USA
Requirements					
Regulatory System	YES	NO	YES	YES	YES
Product Approval and Control	YES	YES	YES	YES	YES
Labelling Requirements	YES	Limited	YES	YES	YES
Government Procurement	YES	YES	YES	YES	YES
Intellectual Property Rights	NO	YES	NO	NO	YES
Licensing	YES	YES	YES	NO	YES
Health regulations	YES	YES	NO	NO	YES
Transportation	YES	NO	YES	YES	NO
Unstable Policies	YES	NO	YES	YES	NO
Inefficient Infrastructure	YES	NO	YES	NO	NO
Export Taxes	NO	NO	YES	NO	NO
Import Quotas	YES	NO	YES	NO	YES

Source: Blueprint 2006

6. CATEGORISATION OF NON-TARIFF BARRIERS

NTB's can, for the purpose of analysis and strategy development, be divided into three broader groups, namely:

- *Measures put in place to protect health, safety and the environment* and these include standards and conformance requirements, sanitary and phytosanitary (SPS) requirements, and import and export bans and restrictions.
- *A range of trade policy regulations* including export assistance, export taxes, import licences, import quotas, production subsidies, state trading and import monopolies, tax concessions and trade remedies (such as anti-dumping and countervailing measures).
- *Administrative hindrances to trade* such as customs clearance delays and a lack of transparency or consistency in customs procedures, bureaucratic or arbitrary processing of products, bureaucratic documentation requirements for export shipments, un-user friendly services, and high freight costs or poor transport services.

In the first group standards and regulations play an important role in trade by ensuring the quality, safety, and technical compatibility of products and production processes, but they may at times be applied more stringently than is appropriate and abused by countries seeking to raise the costs of potential competition from imports. Annual notifications of new technical barriers to the

WTO and its predecessor, the General Agreement on Tariffs and Trade (GATT) have increased consistently since the early 1980's and increased from about 10-20 in the early 1980s to over 400 in 2000. Low- and middle-income countries have reported that were unable to meet sanitary and phyto-sanitary requirements on more than 50 percent of their potential exports of fresh and processed agricultural products into the EU (OECD, 2001a). In fact, these measures are in many cases still viewed as more important barriers than tariffs and quotas. The WTO Agreement on Technical Barriers to Trade and Agreement on the Application of Sanitary and Phyto-sanitary Measures are intended to strengthen international rules governing product standards to minimize their abuse, but they do contribute substantially to costs.

Policy-makers and private business in developing countries, have a growing concern about the proliferation and strengthening of standards and technical regulations and how this is impacting upon their competitiveness. This concern is multi-faceted and includes, the suspicion that important standards and technical regulations can and will be used as a trade protection measure and be applied in a discriminatory manner; that developing countries lack the administrative, technical and other capacities to comply with the emerging requirements, or that the costs incurred to attain compliance undermine comparative advantage, and that such institutional weaknesses and rising compliance costs will serve to marginalize weaker economic players, including small countries, small enterprises, and small-scale farmers. Essentially, technical standards and SPS measures are put in place to protect health, safety and animal and plant life, however when these measures are applied inconsistently with international agreements they can provide serious barriers to trade. They can and do also form barriers to trade through misapplication between developing countries, but tend to be a greater barrier to the exports from developing countries into developed countries' markets.

In the second group of trade policy regulations, which include export and production subsidies, import licences and quotas, state trading and import monopolies, tax concessions and trade remedies such as anti-dumping and countervailing measures, trade is either directly hindered or curtailed by quantitative measures, or through cost or price reduction on fair competition, monopolistic or restricted import trade in countries, and the misapplication of trade remedies raising the cost of exports into specific markets. These practices all directly impact on market access by exporters into these markets. They are prevalent in both developed and developing countries as a hindrance to export market access.

The third group of administrative disincentives to exports such as customs clearance delays and a lack of transparency or consistency in customs procedures, bureaucratic or arbitrary processing of products, bureaucratic documentation requirements for export shipments, user unfriendly services, and high freight costs or poor transport services. They are usually applied fairly arbitrarily and are difficult to quantify. These NTB's are often linked to historic bureaucratic and trade cultures in particular countries and occur at different levels of the administrative system which makes them more difficult

but not impossible, to deal with through normal bilateral and multilateral trade agreements or procedures. They also appear to be more prevalent in trade between developing countries or regions.

7. RECOMMENDATIONS

7.1 *Actively address Non-tariff barriers to trade at the level of trade policy with specific inclusions in Bilateral and Multilateral negotiations and Agreements.* South Africa's trade with China, India and Mercosur in particular faces a number of non-tariff barriers, which include restrictive tariffs in certain sectors, quotas and a range of non-tariff measures.

7.2 A key objective of the Trade Agreements with these countries/regions needs to be the *reduction or elimination of non-tariff restrictions alongside negotiations on bound tariffs*, to achieve bilateral and multilateral trade gains across the range of products under review for South African and SACU exporters to improve market access opportunities.

7.3 *The FTA/PTA agendas for these countries/regions need to be expanded* to include technical barriers to trade, standards and conformance, sanitary and phytosanitary issues, reciprocal recognition and certification, customs procedures, other non-tariff measures and intellectual property issues. As with tariff reduction, members can elect to exclude some areas from liberalisation.

7.4 *A timetable for the elimination of these non-tariff barriers should be established* and smaller countries granted a transition period to establish the commitments of mutual acknowledgement of the conformity evaluation system and standardization.

7.5 *Establish joint intergovernmental working groups within the FTA/PTA bilateral and multilateral negotiation forums*, on trade facilitation, with NTB's as a specific item on the agendas.

7.6 Establish a *specific mechanism of dispute settlement* within the trade agreements to deal with non-tariff barriers in international trade.

7.7 *Establish a mechanism for Government, Business, and Labour consultation (or use existing within NEDLAC), which provides specific information from exporters on non-tariff barriers experienced in trading with the countries and regions.* This moves into the realm of NTB quantification to inform policy and would entail continuous research and feedback from businesses both local and their export agents in these countries through them. The recommended instrument is the development of a Non-Tariff Barriers Questionnaire to include a profile of the business and trade with the particular region and the trade barriers encountered per product including impact where possible. This should ideally be a continuous process updated annually or bi-annually.

7.8 Government at the same time should *undertake regular reviews on non-tariff barriers to trade in the respective markets* and feed back information to

industry. This is of particular relevance in the area of technical standards and sanitary and phyto-sanitary measures, which are changing and developing continuously, but also for other trade policy regulations and administrative hindrances to trade. This includes information on standardisation and technical regulations in the notification system of the WTO. Furthermore, in this regard consideration should be given to the creation or upgrading and support of organizations or programs in the countries including South Africa for the permanent interchange of technical information, such as forums for the discussion of the system for the harmonization of standards and for the harmonization and limitation of bureaucracy of technical regulations

7.9 *Priority should be given to the mutual recognition of conformity evaluation procedures between South Africa and the relevant countries/regions to support technical compliance* by exporters to improve access and reduce cost, through mutual agreements on standards. A mechanism for the acknowledgement of the conformity evaluation results should be adopted between the relevant countries in multilateral or bilateral negotiations and the harmonization of conformity evaluation procedures should be promoted

7.10 *Business sectors must ensure involvement and active co-operation with Government*, in the process of revising standards and certification processes and procedures.

7.11 At the more practical business level, particularly in the case of the application of administrative hindrances to trade impacting on export markets, *exporters need to have a presence in the market in the form of an influential (or connected) import agent* to facilitate the processing of exports through the various levels of logistical and government bureaucracy. Ideally this agent should also be influential in the market for the product as well. In large countries such as India a different import agent, would probably be required for different regions or states. The same applies for China and Mercosur. Government can also play a role through the trade sections of the foreign offices in supporting this process.

7.12 An approach when addressing the impact of NTB's on trade and exports is to differentiate NTB's into three different types of non-tariff measures namely:

- those which can be maintained as they are, because they do not affect trade (if applied correctly)
- those which affect trade but can be harmonized through common criteria in trade agreements and the effective use or further development of relevant institutions. These would include technical standards and regulations, and sanitary and phyto-sanitary regulations
- iii) those which should be eliminated because there is no technical nor scientific justification to maintain them.

8. CONCLUSIONS

Notwithstanding the reduction of tariffs under the trade facilitation processes of GATT/WTO in multilateral negotiation rounds since the Uruguay Round and leading up to the Doha Round of negotiations, there are a significant number of non-tariff protection measures that hinder trade between countries in general and between South Africa and the countries under review in this study in particular. These appear in the form of standards and technical regulations, trade policy regulations, and administrative hindrances to trade.

In the case of standards and technical regulations many contributions have been addressed in the WTO, and in this instance recommendations tend to converge to their harmonization, giving priority to voluntary standards, technical cooperation and mutual recognition of conformity agreements. This "category" of NTB's has tended to be used more by developed countries as a barrier to the import of products from developed countries. In this case the USA and EFTA for chemicals.

In the case of trade policy regulations, contributions to NTB's have tended to be in trade remedies such as anti-dumping and countervailing measures, import quotas and export assistance, and more work needs to be done on counteracting the misapplication or overuse of these measures to hinder access to markets. These remedies are used as NTB's by both, developed and developing countries alike, including India, China and Mercosur.

The use of administrative hindrances to trade tends to be more prevalent in developing countries. This paper has focussed on China, India and Mercosur which are all guilty and adept at these trade-hindering practices, applied as effective barriers to exports from South Africa and other countries alike.

In the case of all three categories of non-tariff barriers research has shown that the most effective means of addressing them is through government to government negotiations and a more aggressive approach to the inclusion of NTB's in bilateral and multilateral country and regional trade negotiations is recommended. Government and industry also need to work more closely to inform policy decisions.

There appear to be two positions in international multilateral trade negotiations in the WTO regarding the speed of actions adopted in dealing with the process of addressing NTB'S as barriers to trade. The first approach is a gradual one in favour of a slower process for introducing NTB's into the main negotiations, and the other is that it is necessary to accelerate it to make it simultaneous with main negotiations. South Africa should adopt the second more aggressive option as it is a smaller and relatively open economy by international standards and stands to lose more from barriers to entry for its exports applied by its much larger international trading partners. With the suspension of WTO talks Government should focus its efforts on the country and regional bilateral and multilateral negotiations in the case of this study with China, India and Mercosur in particular as well as with the USA and EFTA for the chemicals sector.

9. ANNEXURE 1 – SECTOR SUMMARIES OF NTB’S

- TCFL Sector – Review of Sector Studies report
- Automotive – Review of Sector Studies report
- Metals – Review of Sector Studies Report
- Stainless Steel – Review of Sector Studies Report
- Chemicals – Review of Sector Studies Report