Helpdesk Report

Knowledge, evidence and learning for development

Institutions for trade: translating trade into development impact

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Question

- *Which institutions in developing countries tend to be the most important/effective for translating trade into development impact across society?*
- *Under what circumstances can donors contribute to reforming these institutions in order to achieve increased development impact from trade?*

Contents

1. Summary

The African Development Bank publication 'African Economic Outlook 2019', urges policy makers to implement the WTO's Trade Facilitation Agreement (TFA) to reduce the time it takes to cross borders and the transaction costs tied to non-tariff measures. When added to the removal of tariffs and non-tariff barriers, these measures could yield a cumulative income gain of 3.5% of Africa's GDP or just over US$100 billion.[i] Against this backdrop, this rapid literature review contends that the combination of economic opportunity, trade law commitment and government mindfulness of reputational standing will squeeze the space in which negative forces within political elites can in respect of self-interest, act to maintain the status quo and complacency towards reforms[1].

This convergence of opportunity is providing a set of circumstances under which development partners can engage with key private and public sector institutions coalescing around the imperatives of cooperation and collaboration as embodied in international and regional trade agreements. This review also highlights the potential for public and private sector collaborative bodies such as National Trade Facilitation Committees (NTFC) to become increasingly catalytic in leading government engagement with the vast informal cross-border trade sector in which marginalised groups such as woman traders and SMEs operate out of rural locations.

This review finds evidence of countries successfully translating the trade liberalisation narrative into national action where it has been anchored to strong political will, empowered institutions, an enabling legal framework, and a well-defined and sufficiently financed national development strategy. In this regard, the study cites Rwanda as a positive reference point for progress where as a post conflict nation, its achievements in trade reform (notwithstanding concerns over cases of restriction of free speech and political activity[ii]) are evident in the rise in global rankings across a range of performance indices (where it is significantly outpacing its regional partners in the East African Communities).

As a counterpoint to the situation in Rwanda, the case of Nigeria is also considered where the political economy until now has been reticent to the signing of the African Continental Free Trade Agreement (AfCFTA). This is suggestive of the complex and difficult environment in which to achieve trade related reforms and an equally difficult entry point for donors to navigate and operate in.[iii]

The circumstances of these two countries may be considered as representative of two ends of a complex political economy spectrum in Africa that nevertheless has some value as a benchmark for determining the evolving Political Economy at play within the region more broadly. In this respect, the value of referencing international performance indicators remains relevant for framing the current national political economy vectors and for gauging the extent of the potential impact that key institutions involved in trade could have on the reform agenda in the future.

The limited extent of available open source literature makes it difficult to draw firm conclusions, as to the precise nature of the interplay between the key institutions in government and the private sector in the trade space. However, the examples provided in this review point not only to

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[1] Adeolu (2016:30) considers how the preference of political elites for special status and power translates to an institutional structure that not only maximises their relative share of social wealth through predation but ensure they keep as wide as possible the gap between actual development and potential development.

valuable lessons already learned, but also those yet to be learned as government agencies transition to new working modalities and as economies open up to new possibilities. For example, the growth of e-Commerce and the gig economy such as in Kenya, where new opportunities for small and informal traders are being driven from the bottom up by entrepreneurs using Apps and smartphone technologies that has the potential to facilitate inter regional trade.[iv] [v]. A key example is the M-PESA mobile payment system currently active in Kenya and Tanzania. The system is helping to meet the needs of the rapid growth of cross border trade relations and the remittance industry in East Africa allowing access to finance opportunities and a cost effective and convenient channel of international money transfer[vi].

The need for developing countries' institutions to be responsive to change is essential to ensure the so called 'digital divide' does not turn into a gulf of inequality in developing countries. This recognises that the process of regional economic integration in Africa will involve expanding access to e-Government services in trade e.g. national Electronic Single Window and Trade Information Portals, to ensure technology does not in itself become a barrier to trade i.e. restricted to well-educated elites and large businesses based in metropolitan areas.

Furthermore, the move towards establishing highly collaborative border arrangements across agencies e.g. One Stop Border Posts, Joint Risk Management Committees and National Trade Facilitation Committees, offer a promising point of focus for international development to support inclusivity and optimise buy-in to the reform process. This particularly considers how such institutions, from the point at which they become established, can create new channels for collaboration with marginalised groups operating within the informal sector as well as Civil Society actors. The level of stakeholder inclusion in the Kenya NTFC arrangement (currently 59 stakeholders[vii]) points to this potential across other developing economies as Governments react to the meet their regional commitments (e.g. TFA and AfCFTA).

Yet, collaboration remains one of the most difficult of the TFA provisions to implement according to development notifications to the WTO by Least Developed Countries. In terms of how this might fit into a Theory of Change, the thinking goes that if pro-development elite factions – usually an educated middle class or entrepreneurial class - become more powerful and better organised, as has been the case in Asia, they are more likely to be brought into the political settlement and influence the direction of trade facilitation and institutional governance[viii].

In the first instance, the international development community can use its influence within the national political economy context to ensure national commitments on private and public sector collaboration can succeed over the long-term[2]. The potential pathways that would make national institutions more impactful are set out as a number of discreet, but inter-linked interventions in Section 2 of this review. This includes supporting the development of project management skills for senior and middle managers in Ministries of Trade, NTFCs and border agencies. This would increase the chances of implementing an ambitious programme of change management activities under the TFA.

As the TFA moves from ratification to implementation status, this review also suggests that there is currently space for raising levels of accountability in institutions for delivering positive

[2] *'the ability to influence the behaviour and thinking of others through the power of attraction and ideas'* Australian Government Foreign Policy White Paper 2017 see https://www.fpwhitepaper.gov.au/foreign-policy-white-paper

outcomes of trade reforms and to prevent capacity 'backsliding' i.e. slippage back to former opaque and bureaucratic practices. This considers that to a large extent, the TFA relies on member states undertaking a self-assessment process of national readiness for implementation of new best practices measures included in the agreement. Strengthening oversight functions of government agencies' internal audit branches as well as national audit offices, for example, through piloting the adoption of the UK law enforcement decision rationale methodology (e.g. SAFCORM[3]) in key government institutions in developing countries, provide a novel means of reducing arbitrary and unlawful actions. Introducing additional checks and balances on managers and staff exercising statutory would be applied as part of a proportionate and structure process e.g. as a management assurance check over the granting of tax exemptions as well as the detention/confiscation of goods, levying of fines and penalties.[ix]

2. Introduction

This rapid literature review addresses two related questions posed by DFID set in the context of exploring the relationship between governance, institutions and growth in the international development space:

1. *Which institutions in developing countries tend to be the most important/effective for translating trade into development impact across society?*
2. *Under what circumstances can donors contribute to reforming these institutions in order to achieve increased development impact from trade?*

DFID is striving to ensure its economic development work can better take into account the role of politics and power in determining economic development processes. This K4D helpdesk report should contribute to this understanding, specifically on DFID's economic development work focused on trade and he relationship between the private sector and the political settlement in partner countries.

The methodology was carried out by undertaking a desk-based review of existing open source literature. This literature is from a wide range of subject relevant reports, published by development partners and the outputs of other Non-Governmental and Civil Society Organisations. It also draws upon the author's own experience as a customs and trade facilitation expert supporting and mentoring border agency personnel at a strategic and operational level in developing countries. The report attempts to answer the questions by taking the long view of developments in international trade, but principally focusing on the Sub-Saharan African outlook given that this region is of keen focus of HMG's Aid-for-Trade (AfT) strategy.

Examined here is the evidence of non-uniform shifts in policy and behaviour at the national level in developing countries, which can be linked to the burgeoning global and regional narrative around the simplification and transparency of moving goods across international borders and how this represents a stimulus for inclusive economic growth and poverty alleviation. Now, the Africa region is witnessing a convergence of multiple external influencers of change. The significant multi-lateral WTO TFA, the African Continental Free Trade Agreement (AfCFTA), the Addis Ababa Action Agenda, the UN Sustainable Development Goals, the African Union's

[3] SAFCORM is a mnemonic that covers the key elements of the operational management decision making process. S=Situation; A=Aims; F=Factors; C=Choices; O=Options; R=Risks; M=Monitoring

Agenda 2063 and the G20 Compact with Africa are all initiatives that represent a combination of obligations, best endeavour commitments and external investment incentives.

Increasingly, and to varying degrees, the narrative of opportunity these initiatives represent are being woven into the regional and national strategic thinking and policies on trade liberalisation in the African region. Furthermore, this review contends that political economies across Africa are shifting towards a reformist agenda is being demonstrated by the rate of take up of international and regional agreements. Not least of these is the AfCFTA, one of the most rapid inter-governmental agreements ever to come into force on the Continent.[x] This come with the knowledge that such agreements contain multiple references relating to partner agency and country collaboration, but also contain dispute clauses that potentially open countries up to unprecedented levels of external scrutiny and accountability over the implementation of more transparent and simplified processes in the facilitation of trade.

3. Impactful institutions in trade: an overview

This section considers research findings that are suggestive of the way in which a convergence of international and regional initiatives in trade, and the rising potential they have for increasing external scrutiny and oversight over the way they are being implemented, is impacting on the vectors of political economy evolution in developing countries. A key contention of this review is that key institutions within the private and public sector will inevitably be impacted by policy shifts aligned to a growing acceptance of the liberalised trade narrative at the governmental level (notwithstanding lingering concerns in some countries e.g. Nigeria, over protection of their internal markets and industries). This process of transition may be variously challenging for the institutions mention in this review which present opportunities for development partners to grow and sustain their influence through capacity building. The common entry point is through exploiting collaborative mechanisms inextricably build into regional and international agreements such as the WTO TFA (Article 8) and the African Continental Free Trade Agreement (Annex 4)[4].

This review accepts the view that the feasibility of different policy approaches will be determined by a country's political settlement. The concept of political settlement rests on the fact that institutions matter, and the way institutions work is shaped by non-institutional factors, especially the power distribution among major elements of the national elite. According to Parks and Cole (2010), political settlements are inherently difficult to evaluate and monitor where they are based on informal relationships and rules that are rarely written down often appearing opaque to most international actors. Many of the critical factors are complex and difficult to measure, such as perceptions and drivers of legitimacy, or the interest calculations of powerful elite actors[5].

Recognising the complex dynamics at play within the diverse political economies in which trade Agreements, such as the WTO TFA and the AfCTFA are being implemented, inevitably these forces will react and respond according to their own 'rules of the game' within the national, and local contexts. In some cases, depending on the culture of compliance, this involves 'breaking

[4] https://www.tralac.org/resources/our-resources/6730-continental-free-trade-area-cfta.html

[5] https://asiafoundation.org/resources/pdfs/PoliticalSettlementsFINAL.pdf page 43

the rules'. For example, in countries where there are high levels of corruption, and a culture of this rule breaking emerges, such as in Nigeria, the complexities of overcoming this informal institution of breaking the rules is highly detrimental to achieving inclusive development through trade and the ability to move towards FTA regulation implementation (ECDMP, 2019).

In contrast, Rwanda has arrived at a political settlement that is conducive to development where it has been possible for policy to evolve and play out as part of a coherent long-term strategic perspective based on an iterative, adaptive, problem solving way. One of the elements is a remarkable level of power-sharing among legally recognised parties. The Oversees Development Institute (ODI) allude to this type of political settlement as being at the high end of the governance spectrum being anchored to an *inclusive, coordinated, impersonal* arrangement[6].

DFID (2017) notes that a capable state and committed political leadership can drive economic transformation and manage the tensions it presents. This includes providing predictability and transparency; the right business environment and economic infrastructure; and clear direction over trade and investment policies[7]. This posit may be used as a benchmark against which the proactive and reactive stances taken by different developing country governments towards trade facilitation and liberalisation can be measured, informing potential entry points for development partner engagement with institutions in the trade space.

This paper contends that the closer regional integration brought about through governments' committing to implementing trade agreements[8] in combination with the array of global performance benchmark indices and the associated mechanisms of oversight, means that the space for playing the rules of the game as they once were played i.e. without challenge, is being squeezed. Mehta and Walton (2014: 30) interpret the shift change in the political settlement as being the "product of the confluence of a changing cognitive map of state elites, and an evolving, rather than a radical, shift in the relationship with business interests".

This may be interpreted as a reorientation of the political economy in many developing countries towards accepting and taking action on reform, albeit at variously different speeds. This is reflected in the international performance indices and the level of ratification of key trade instruments such as the TFA and AfCFTA. Well-publicised Regional economic success stories (like Rwanda) may also be contributing to a 'gravitational pull' on regional partners that can shape political economies and their institutions at the national level. Matthias and Staeger (2019) liken the AfCFTA's rapid ratification to countries responding to peer pressure to "jump on the train before it leaves the station and who is the best pan-Africanist"[9].

[6] https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/10185.pdf

[7] http://pubdocs.worldbank.org/en/822011487174249256/DFID-Economic-Development-Strategy-2017.pdf page 25

[8] e.g. through AfCFTA, the Southern African Development Community (SADC), East African Community (EAC), COMESA tri-partite agreement

[9] https://theconversation.com/more-work-lies-ahead-to-make-africas-new-free-trade-area-succeed-118135

Assessing the Potential Gravitational Pull of Converging Regional and International Trade Initiatives on National Political Economies.

International Performance Indices

In the narrow sense, institutions have been described as the organisational map of decision making at the junction where politics and public policy meet business and society. On trade policy, this map is much more complicated than it used to be. Trade policy is no longer just about a clutch of border instruments, and the preserve of trade ministries. It is increasingly 'trade-related', a matter of non-border regulation reaching deep into the domestic economy and its institutions.

However, against this backdrop of complexity, the general lack of open source information on the way the political economy interacts and effects institutions and vice versa in the trade space presents difficulties in reaching clarity, where the role of institutions and governance has not yet been formalised as part of *intelligible trade theory*[10]. Therefore, referencing international trade, governance and transparency indices becomes a useful (and necessary) exercise in understanding how the opportunities for institutions to become more impact may be increasing as a result of the developing dynamic of international trade and AfT.

According to Kelley and Simmons (2015), Global Performance Indices (GPIs) are exercises in social power that interact with the status of the country being ranked in the broader international community[11]. For the purposes of this review, relevant GPIs might include inter alia OECD's Trade Facilitation Indicators, World Bank Logistics Performance Index and Ease of Doing Business index [Trading Across Borders], but also Country Policy and Institutional Assessment data (CPIA). Under such circumstances, these indicators can mobilise and inform domestic actors, embarrass specific policy makers, and sometimes even activate other transnational pressure and move markets[12]. Colombia, Malaysia and the Russian Federation provide examples of where economies are reputation sensitive to external assessment having formed regulatory reform committees that use the Doing Business indicators as one input to inform their programmes for improving the business environment[13].

Since the inception of the Trading Across Borders [TAB] indicator in 2004, 119 of the 190 economies currently monitored [by the World Bank] have implemented a total of 264 reforms to improve the efficiency of trade facilities. The most commonly implemented reforms include the adoption of e-systems to enable electronic processing of trade procedures; implementation of

[10] Mashura and Makochekanwa 2018

[11] https://databank.worldbank.org/data/reports.aspx?source=country-policy-and-institutional-assessment#

[12] https://www.sss.ias.edu/files/pdfs/Rodrik/workshop%2014-15/Kelley__Simmons_EDB_22Mar15v2.pdf (page 8)

[13] http://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf page 29

risk-based inspections; elimination of redundant procedures to increase the efficiency of customs administration; and improvements in customs/border infrastructure[14] (World Bank, 2018).

Seen through the lens of international governance performance indices, low and unchanging rankings allude to the scale of the challenge faced with transitioning from a broadly positive stance on trade to *actually* managing the consistent and collaborative implementation of a multiplicity of new trade facilitative processes affecting many government agencies (not only customs). The transition is not merely about capacity building, finance and political will, but also the result of national interests and bargaining processes that are continually in flux. For example, the politics of member states in Regional Economic Communities (RECs) in Africa can be at cross-purposes to regional [and international] commitments. Where trade agreements have been signed by Heads of State committing a country to implementing region wide changes at the national level, this may also produce winners and losers in the process[15].

This recognises that entire economic sectors and communities can be heavily affected by the downsides of multi-lateral trade agreements involving developing economies, particularly when existing social protections are weak, and informal markets dominate many sectors. The question that a more focused political economy analysis may be able to answer is how will governments manage reform commitments if it results in wage cuts, unemployment, environmental degradation, revenue loss from customs duties and hurts some of their businesses and state companies?[16]

However, it is argued that a successful governance process, which can engage with the full range of political interests, would be one that can link the delivery of the Sustainable Development Goals (SDGs) that are capable of synergy, but also negotiate trade-offs to optimise delivery of goals that are in conflict[17]. This recognises that there will be winners and losers in the adoption of trade liberalising measures such as the TFA and that assistance maybe required to bring on-board vested stakeholder interest groups who stand to be affected. For example, pre-shipment inspection companies, customs brokers and ministries of finance affected by loss of revenue or jobs, will require support that is time-bound, with a clear exit strategy, and incentives to adjust and innovate; aimed at redeploying displaced workers; compatible with general safety net arrangements that are transparent and accountable[18].

The question of impactful institutions (or their potential to impact) should also be viewed through the imperatives for national action arising from the coming into force of the TFA in combination with the SDGs and the Addis Ababa Action Agenda (2015)[19]. In terms of ramping up the

[14] http://blogs.worldbank.org/developmenttalk/wto-s-trade-facilitation-agreement-and-doing-business-reforms-are-they-related-and-how

[15] Adapted from Byiers et al May 2019

[16] Ibid 19 (adapted)

[17] https://eprints.soas.ac.uk/20749/1/ch9.pdf page 80 and 87

[18] https://www.linkedin.com/pulse/wtos-trade-facilitation-agreement-why-should-african-than-mena/

[19] The Action Agenda establishes a strong foundation to support the implementation of the 2030 Agenda for Sustainable Development. It provides a new global framework for financing sustainable development by aligning

narrative, key international bodies (e.g. UNCTAD) have been active in mapping and promoting the linkages between these initiatives across development partners and beneficiaries[20].

In the African context, two more elements fit into this in this dynamic. Firstly, the African Union's **Agenda 2063**, linked to the global SDGs, is providing a powerful policy narrative on poverty alleviation and economic sustainable economic growth. Secondly, the AfCTFA, described as 'pivotal and catalytic'[21], is due to come into force (July 2019) and under which ratifying states will be accountable for its implementation. Thirdly, the G20 Compact with Africa (CwA) provides an example of a high-level initiative where reform minded regional Least Developed Countries (LDCs) are being encouraged to make substantial improvements of the macro, business and financing frameworks as a means of promoting private investment in Africa. Since its launch in 2017, twelve African countries have joined the initiative[22].

At the RECs level, the identification, removal and monitoring of Non-Tariff Barriers to trade by the member states is one of the priority areas for policy harmonisation and coordination being acted upon by governments under the EAC/COMESA/SADC Tripartite framework. With tariff liberalisation largely achieved, the challenge remains to eliminate non-tariff and other barriers to trade. Demonstrating what regional collaboration can achieve, an online reporting mechanism has been rolled out. The non-tariff measures database allows traders to report the existence and nature of non-tariff barriers applied by member states[23].

Four of the five EAC members - Burundi, Kenya, Rwanda and Uganda – collaborate on matters to do with transit, transport, customs control, documentation and procedures and the development of infrastructure related to sea ports, inland ports and waterways, roads, railways, pipelines and border posts along the Northern Corridor, which links the landlocked EAC countries with the Kenyan port of Mombasa. Here there is an alignment of political interests between the landlocked EAC member states - especially Uganda and Rwanda and the interests of politically influential Kenyan businesses in securing increased access to regional markets. In turn, this has generated tensions, with concerns in Tanzania that the Northern Corridor's focus on the Port of Mombasa provides competition to Tanzania's ports for control of regional transit markets[24].

In March 2017, Consultations at the EAC Level on harmonisation of the trade facilitation measures were concluded, a regional action plan developed and agreed upon. The EAC Secretariat is coordinating the implementation of the TFA without prejudice to any of the partner state's programmes. TFA measures that are regional in nature will be undertaken jointly to derive synergy. The size of gains from trade liberalisation differs across countries depending on the type of liberalisation pursued. Hence, countries are unlikely to have the same strategic objectives

all financing flows and policies with economic, social and environmental priorities (UN Sustainable Development Goals Knowledge Platform)

[20] https://unctad.org/en/Pages/DITC/Trade-Analysis/TAB-Trade-and-SDGs.aspx

[21] https://www.ids.trade/files/africa_fta.pdf

[22] These are Benin, Burkina Faso, Côte d'Ivoire, Egypt, Ethiopia, Ghana, Guinea, Morocco, Rwanda, Senegal, Togo and Tunisia[22].

[23] https://www.tradebarriers.org/about

[24] ECPDM Discussion Paper 202 November 2016

when contemplating further integration as the outcomes are likely to be different. This raises again the importance of the political economy of the regional integration process.

Case Study Example: The EAC Simplified Trade Regime (STR)

The EAC, in cooperation with partner states and the East Africa Trade Hub, has been working to eliminate restrictions to the free movement of goods by educating stakeholders through the facilitation of cross-border trade workshops in Rwanda, Tanzania and Uganda targeting the inclusivity of women traders who form the bulk of the informal trade sector in border regions. The sensitisation workshops have provided a platform to educate traders on their rights under the EAC STR, build capacity through business linkages and create trade ties between traders and aggregators and processors who will provide a ready market for goods[25].

For example, with other international partners like the USAID funded East African Hub, the EAC is overseeing the roll-out of the STR, a provision under the Customs Union that is promoting regional integration by easing the requirements of small-scale traders to participate in structured cross-border trade (COMESA launched its STR in 2010 between Malawi and Zambia)[26]. The EAC STR benefits traders through formalising small-scale trade, which leads to increased revenue for governments through tax collection. It also simplifies customs procedures enabling traders to plan and budget cross-border business transactions.

However, there have been challenges to the wider uptake of the STR in the Africa region with Trade Information Desk Officers (TIDO) reporting: continued lack of awareness and capacity amongst potential beneficiary traders; a limited list of eligible goods (not necessarily the ones commonly traded); documentary requirements still heavy (SPS, import/export permits, licenses; the necessity to pay a transaction processing fee of US$1 and higher; arbitrary enforcement; limited presence of TIDOs. STR transactions went down when TIDOs remained underfunded[27] (In Malawi, however, where all three COMESA initiatives were inaugurated, the TIDOs were closed due to funding issues[28]).

The influence of accountability on institutions in the trade space?

Institutional quality is regarded as being key to the promotion of trade and catalytic to the process of economic growth. Low corruption, effective contract enforcement mechanisms, sound regulation and maintaining of efficient public sector administration are all cited as key institutional and governance factors that improve trade.[29] However, at the institutional level, Pritchett et al (2010) note that where institutions in developing countries may superficially take the form of

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[25] https://www.eatradehub.org/cross_border_traders_learn_more_about_the_eac_simplified_trade_regime_from_new_guide

[26] https://www.agrilinks.org/sites/default/files/resource/files/ICBT%20Gender%20Assessment%20Report_Final_4-30-2016.pdf page 9

[27] https://unctad.org/meetings/en/Presentation/cimem7p20_Mariangela%20Linoci_en.pdf

[28] Ibid 44 page 10

[29] See for example http://www.oecd.org/gov/ethics/OECD-Recommendation-Public-Integrity.pdf

those in functional states, they do not fully play the necessary roles and functions given the lack of supporting institutions, accountability and enforcement mechanisms. As such, where the potential consequences of non-compliance for member states and their institutions is low, it becomes clearer why international and regional agendas often struggle for traction at the national level[30].

Nevertheless, the enforcement and accountability that can also 'push' states into implementing new measures - whether it be to reduce tariffs on regional trade, or the introduction of new border management procedures - is available through international and regional trade agreements i.e. WTO Agreement (the Special and Differential Treatment arrangements for developing countries) and AfCTFA. However, until now, the potency of such mechanisms as a means of driving reforms at the national level remains largely untested and particularly regarding the conformity of new trade facilitation measures with international best practice.

The Government of Rwanda for its part has responded positively in this regard having managed to put in place strong monitoring and accountability mechanisms, which set clear goals and expectations of performance of Rwandan government officials aimed at evaluating outcomes and enforcing consequences for underperformance. Amongst these measures include the Annual Leadership Retreat and other public events where *Imihigo*[31] results and (performance) rankings are announced and discussed[32]. Notably, these accountability processes are said to have been *home-grown* with no perception of substantial trade-offs having been made within the power elites. This goes with a widespread perception among interviewees that enforcement of sanctions in the Rwandan public sector is stringent (Basel Institute of Governance, 2018)[33].

Rwanda and Nigeria, a Contrasting Counterpoint in the Trade Liberalisation and the Prospect of the National Political Economy

Case Study – Rwanda

As a post conflict land-locked country and Africa's fourth largest growing economy by GDP[34], Rwanda is seen as a leading light in SSA for trade facilitation and business regulation. It is also said to have the lowest levels of inequality in the EAC[35]. According to the World Economic Forum Global Competitiveness Index, Rwanda ranks at 29th place out of 140 economies for the strength of its institutions, the highest in the EAC[36]. A similar conclusion about the country's strength of

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[30] Ibid 3

[31] As part of efforts to reconstruct Rwanda and nurture a shared national identity, the Government of Rwanda drew on aspects of Rwandan culture and traditional practices to enrich and adapt its development programs to the country's needs and context. The result is a set of Home-Grown Solutions such as *Imihigo*, culturally owned practices translated into sustainable development programs. https://rwandaguide.info/post-details/imihigo

[32] https://www.baselgovernance.org/sites/default/files/2019-01/Rwanda.InformalGovernance.Country%20Report.pdf page 30

[33] Ibid 12 page 25

[34] https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/2019AEO/AEO_2019-EN.pdf page 8

[35] Ibid 22

[36] http://www3.weforum.org/docs/GCR2018/05FullReport/TheGlobalCompetitivenessReport2018.pdf page 617

institutions can be drawn from the World Bank's Worldwide Governance Indicators in which it significantly outpaces its EAC partners. Similarly, Rwanda also ranks 48th place out of 180 economies in the Corruptions Perception index way ahead of other countries of the EAC.

The World Bank in its Economic Review of Rwanda highlights the country's economic development journey as being underpinned by a series of national strategies for transformation (NST), which contain detailed sectoral strategies that are aimed at achieving the SDGs. The current iteration is NST 1 (2017 – 2024) that sets out many trade related policy commitments such a specific policy object to 'Promote industrial development, export promotion and expansion of trade related infrastructure'.

The Government of Rwanda has set out an ambitious agenda to become a lower middle-income country, operating as a service-based hub by the year 2020. Achieving this goal means exploiting the opportunities made available with regional integration along with creating a dynamic and competitive private sector, for which institutional capacity can flourish[37].

The evolving political economy in Rwanda has allowed the transition to an automated customs clearance environment through the development and implementation of the national electronic single window system supported by TradeMark East Africa (TMEA) and the United Nations Conference on Trade and Development (UNCTAD). This is a highly collaborative effort involving 34 agencies and has approximately 3000 registered users. This initiative has helped to reduce waiting times and costs. Moreover, the National Agricultural Export Development Board of Rwanda also introduced an online system, allowing certificates of origin to be issued electronically. Furthermore, The World Bank Ease of Doing Business Report for 2019 notes that amongst its achievement, Rwanda has managed to reduce the time required to export and import by implementing the Single Customs Territory, risk-based inspections and online certificates[38].

However, this positive trend towards trade liberalisation, based on the application of technology, belies a situation that exposes a potential risk of inequitable gains in the take-up of expanded regional and global market opportunities. This considers that In Rwanda, poverty continues to be the primary impediment to ICT uptake, especially the internet, with the majority of the population engaged in subsistence agriculture. Internet access is concentrated primarily in Kigali and remains beyond the reach of many citizens, particularly those in rural areas who are limited by low income and low levels of ICT awareness. Only 11 percent of Rwandans are ICT literate, and over 70 percent of the population speaks only Kinyarwanda, making internet content in English inaccessible to the majority of Rwandans[xi].

Case Study - Nigeria

The complexities of application of FTAs across the region, due to national contexts in which the political economy is not receptive to these reforms, can be outlined through the case of Nigeria. A combination of the characteristics of Nigeria have resulted in the current, protectionist, trade

[37] http://gov.rw/about-the-government/business-investment/

[38] http://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf page 149.

regime, which has been deemed arbitrary, opaque and sometimes ad hoc with the rank of 183rd in the World Bank TAB index (2018).

Factors affecting this, include the federalised government structure, which has resulted in difficulties for reform alongside the domestic opposition from both interest groups and rent-seekers (Hulse, 2016), and the belief held by many stakeholders that regional trade liberalisation threatens Nigeria's manufacturing sector, which supplies the domestic market. There is no strategic trade framework in place, and the country's national trade policy was last updated in 2002 and many of Nigeria's trade-related laws are outdated (WTO, 2017).

Between the combination of inconsistency in policy, and the government's failure to implement policies properly has meant that an unpredictable trade regime has characterised Nigeria's trade, which has discouraged investment. The country's economic power (relative to its neighbours) provides it with an informal but widely acknowledged 'veto' vote. As such, Nigeria has been both a key driver and blocker in the regional integration agenda - initially seeking a market for its processed goods, the country has turned to a more protective attitude in recent years. The Government of Nigeria[39], which initially supported the AfCTFA negotiations then made the decision to hold off on signing the agreement. The Government cited the need to re-evaluate the deal's impacts and the need to continue consulting with relevant stakeholders on the effects of the agreement. However, experts familiar with the situation say that Nigeria will likely join the area once national stakeholder buy-in improves[40] (see text box).

Through these rigid set of rules which are difficult to reform, and ruled by political and business elites, a separate set of 'rules of the game' has emerged, which often revolves around corruption, smuggling, and demonstrate a culture in which the rules of the game are 'breaking the rules' (ECDMP). This can be illustrated by smuggling and corruption evidenced at trade borders. Nigerian stakeholders complain that unscrupulous practices in neighbouring countries continue to lead to non-ECOWAS goods entering Nigeria under the ECOWAS Trade Liberalisation Scheme (ETLS)[41]. This smuggling is facilitated by the widespread corruption at border posts, to which the Nigerian government "turns a blind eye" or in which it actively participates. According to Roy (2017), collusion between traders and customs authorities is widespread, and is exacerbated by "politicians who deliberately create restrictions in order to raise political funds."

From this context in which a separate 'rules of the game' prevails, multiple issues arise which are difficult to monitor, track and reduce due to the lack of transparency and regulatory processes. Issues arising from this current trade regime can be highlighted by the amount of unrecorded informal trade across Nigeria's borders that are a result of the procedures in place by Nigerian authorities for clearing customs that are complex and cumbersome. It is also difficult for traders to register products under the ETLS and to make international trade payments through formal

[39] https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/2019AEO/AEO_2019-EN.pdf

[40] https://etradeforall.org/ratification-of-african-continental-free-trade-area-gets-underway/

[41] http://www.etls.ecowas.int/

channels. These factors provide strong incentives to use informal trade routes, which contribute to significant volumes of unrecorded informal trade across Nigeria's borders[42].

Nigeria – the AfCFTA, Institutional Challenges and Opportunities

Nigeria's engagement with the AfCFTA has been strongly influenced by informal linkages between powerful actors and the political class. It is thought that these informal processes will continue to play a role in implementation of what is the formal process associated with the Agreement (ECDPM 2019). Moreover, a legacy of institutional and policy inconsistency is making it difficult for the Nigerian private sector to trust that government will effectively undertake the reforms needed [under AfCFTA] to improve the business environment in Nigeria[43]. This is marked by the perceived failings of key institutions that have been established to build a more coherent approach to trade policy negotiations i.e. the AfCFTA Commission and the Nigerian Office of Trade Negotiations (NOTN). Consumer groups, such as the Consumer Advocacy Foundation of Nigeria, have also largely been neglected in trade policy discourse in Nigeria where traditionally such groups have been less well organised than producers and manufacturers. As a result, policies have tended to favour producers' interests (e.g. domestic protection), and not consumers' interests (e.g. lower prices) (ECDPM 2019).

However, AfCFTA negotiations seem to have inspired new domestic initiatives and possibilities which may help implementation[44]. For example, The Nigerian services sector which had not provided much input to trade policymaking processes or trade negotiations, launched the Nigerian Coalition of Services Industries in July 2018 to function as a lobby group on trade in services. Likewise, the financial services sector sees opportunities in e-commerce partnerships in Nigeria[45] which is linking into the optimism held within the African Union that e-commerce could help the AfCFTA to deliver on its aim of significantly boosting inter-regional trade[46]. Nigeria is ranked the 7th highest internet using country in the world where online commerce and financial technology in Nigeria is being strengthened by fast growing youth populations, expanding consumer power, and increased smartphone penetration[47][48]. The challenge for Nigeria however will be for its new trade institutions (e.g. NOTN) to mobilise sufficiently around the AfCFTA, even

[42] Includes: Fasan (2015); Hoffman and Melly, (2015); Woolfrey, Philomena Apiko and Kesa Pharatlhatlhe, (2019); Byiers et al (2018); Medinilla (2018); Hulse (2016)

[43] ECDPM Discussion Paper No 242 Woolfrey et al (2019)

[44] Ibid 43

[45] Ibid 43

[46] https://www.tralac.org/news/article/13988

[47] https://www.export.gov/article?id=Nigeria-E-Commerce

[48] The current e-commerce spending in Nigeria is estimated at $12 billion and is projected to reach $75 billion in revenues per annum by 2025 (source US Government: Ibid 47).

before the Government ratifies the Agreement, in order to harness not just the potential of the digital economy but also to draw in the vast informal cross border trade sector[49],[50].

4. Impactful institutions in trade: listing those with significant potential

This review considers the role of the following institutions and the potential, with additional assistance, for enhancing impact on inclusive growth in trade and where therefore this provides an indication of entry points for external technical assist.

1. Ministries of Trade, Economy and Industry

With Ministries of Trade and Economy typically being given the responsibility for managing the implementation of trade facilitation reforms in developing countries, the challenge is for the Ministry to be able to work authoritatively as well as collaboratively across government and with the private sector to manage and achieve optimal buy-in for the change management process. However, progress has often been frustrated despite the presence of high-level political will in circumstances where there is no previous culture of ministerial cooperation.

Moreover, efforts by Ministries of Trade to drive trade reforms are further complicated through the activities of subordinate regulatory and enforcement agencies e.g. customs, national standards, sanitary and phyto-sanitary bodies, in which it has already been well documented that countries struggle to overcome the reticence to collaborate or coordinate their activities (silo working). This is a situation sometimes exacerbated by the need to compete for resources and even the rent seeking opportunities that arise in the process of moving goods across borders. However, adoption of comprehensive and coherent trade strategies has shown the potential to produce results.

Waage, Yap et al (2015), see the matter of institutional governance and breaking down silo working as essential in terms of reaching acceptance of responsibility, transparency, accountability, capacity, and legitimacy at sub-national, national, and international levels to achieve progress in the context of the SDGs. The suggestion is that governments should devise formal governance mechanisms at the national and sub-national levels that are characterised by deliberation, participation, and transparency in decision-making.

This requires engaging community organisations who are already mobilised around these issues and inviting democratic debate around middle-level goals and particularly conflicts. Responsibilities should be defined, accountability systems put in place, and human capacities built accordingly[51]. In summary, these considerations should be factored into the planning cycle

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[49] Ibid 43 (16)

[50] https://www.chathamhouse.org/sites/default/files/publications/research/20151207NigeriaBoomingBordersKoniHoffmannMellyExecSum.pdf

[51] Ibid 2

of national trade facilitation roadmaps that are forming part of development partner focus in the provision of technical assistance in developing countries (e.g. Under the UNCTAD National Trade Facilitation Empowerment programme).

The Ministry of Trade and Industry (MINICOM) of Rwanda through its National Export Strategy (NEC) lays claim to have made substantial impact through its trade strategy. Achievements include having reduced the impact of non-tariff barriers (NTBs) to trade through the elimination of 21 NTBs between July 2014 and March 2015. The measures taken included the elimination of multiple customs declarations and inspections; harmonisation of national park fees and an end to the weighing of empty trucks on the Northern corridor. The increased automation of the trade processes also reduced the average number of days taken to transport goods from 21 to less than six and from 17 to less than five along the Northern and Central Corridors, respectively. This has been linked to a reduction of trade costs of up to 25% since 2010[52].

In the case of Sudan, the Ministry of Trade has played in key role in the process of trade facilitation reforms instigated by the Government as far back as 2007. With the establishment of the Trade Facilitation working Group, the Ministry of Trade has taken on the lead role for ensuring the implementation of a multi-year strategic roadmap covering the years 2017-2021. The key feature of this comprehensive trade facilitation roadmap is that it sets out a clear vision as well as baselines Sudan's present position for example on time taken to clear goods and thereafter sets out specific goals and activities which are accountable to named Ministries and agencies and which are measurable against key performance indicators (where many of the objectives are the responsibility the Ministry of Trade.

The Sudan Trade Facilitation Roadmap was drawn up with support and technical assistance from the tripartite arrangement between UNCTAD, The World Customs Organisation (WCO) and UK HMRC. Crucially, the capacity building support provided to Ministry Staff and those working in the subordinate National Trade Facilitation Committee in support of the roadmap implementation process included an extensive and coordinated upskilling programme.

Sudan is credited as the first country in the world to have completed the UNCTAD sponsored professional and comprehensive training under the National Trade Facilitation Committee Empowerment Programme which covered sensitisation to international standards and recommendations for trade facilitation, measuring trade facilitation impact and facilitating national ownership in drawing up the trade facilitation Implementation Roadmap[53].

However, despite the level of ambition given over to this flagship effort, the impact and long-term success of this initiative remains uncertain as indicated in the latest World Bank Trading Across Borders performance index, which shows Sudan remaining well below the regional average[54]. The capacity for the Ministry of Trade to maintain momentum for achieving the goals set out in the trade facilitation Roadmap and in the face of challenges coming in the form of recent political upheavals and in the event of changes in personnel, will provide a litmus test to the viability (in

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[52] http://www.minicom.gov.rw/fileadmin/minicom_publications/Planning_documents/Annual_Report_2015-2016.pdf page 10

[53] https://unctad.org/en/PublicationsLibrary/dtl_ttf_2016_TFRoadMap_Sudan_en.pdf

[54] http://www.doingbusiness.org/content/dam/doingBusiness/country/s/sudan/SDN.pdf page 40

terms of impact and effectiveness of NTFCs). This should therefore be the subject of on-going monitoring by DFID.

Case Study: Building Collaboration across Ministries and Agency Institutions – Zambia. Adopting a multi-agency approach and creating partnerships between Government agencies and the private sector is embedded into the narrative on trade facilitation. However, for Least Developed Countries (LDCs) and Landlocked Least Developed Countries, border agency collaboration (Article 8 of the TFA) is in the top 3 of the notified measures under the TFA requiring external technical assistance (behind Single Window and Authorised Operators). This recognises the scale of the challenge in creating a joined-up policy on border control and customs clearance, which in turn represent processes that are highly interlinked and interdependent. In the African context, Zambia provides one example of how this need is being addressed through the Government's recent enactment of 'The Coordinated Border Management and Trade Facilitation Bill' in 2018 which also legislated for the establishment of the National Trade Facilitation Committee (NCTF) and operationalisation of One Stop Border Posts (OSBP) with neighbouring partner states[55]. However, despite having taken this significant legislative step towards securing cross-ministerial and agency coordination in trade facilitation reforms, the Government of Zambia has still indicated that it will require internal capacity building to enable it to implement Border Agency Cooperation as set out in Article 8 of the WTO TFA. In relation to achieving impact therefore, the questions this raises is firstly; what steps the Government of Zambia will take to translate this primary legislation into more detailed implementing provisions (secondary legislation) and standard operating procedures; secondly, what steps is it taking to sensitise (including training) of its enforcement/regulatory agency staff to accommodate new collaborative practices and arrangement as prescribed under the law and thirdly, what will be the oversight and monitoring mechanisms to ensure conformity and consistent application across government agencies?

2. Joint Public / Private Sector Consultative Committees (e.g. National Trade Facilitation Committees)

The establishment of National Trade Facilitation Committees (NTFC) is one of the few mandatory provisions under the WTO Trade Facilitation Agreement (Article 23.2). NTFCs typically, but not exclusively, fall under the governance and remit of the Ministry of Trade and Economy (83% in the case of Africa according to an UNCTAD survey)[56]. This makes this institution of key importance in translating more liberal trade regimes into effective procedures that work across ministries, government agencies and private sector stakeholders. The opportunity should exist therefore for such bodies to become champions in the development and implementation of

[55] http://www.parliament.gov.zm/node/7745

[56] https://www.unescap.org/sites/default/files/1.%20UNCTAD%20Study%20on%20NTFC_P.%20Hansen.pdf

effective trade policy that can mainstream gender[57], MSMEs, entrepreneurship and for bridging the digital divide.

Even at such an early stage in their institutional evolution, these bodies are showing promise as a conduit through which development partners/donors are already concentrating investment in. These initiatives are not only designed to support developing countries in ensuring NTFCs can function as intended i.e. a vehicle to fulfil the implementation of the TFA as a collaborative partnership enterprise between the public and private sector, but also as a body that can oversee discreet and inclusive trade facilitation initiatives (ITC). However, the level of development partner investment needs to be viewed in the context of a growing list of capacity building needs, which developing countries have reported to the WTO[58].

The UK Government through the Commonwealth Heads of Government is a principle funder of UNCTAD's NTFC Empowerment Programme (one of the organisation's flagship TFA initiatives). At this stage, 22 NTFCs have received support with a further 6 being due to receive capacity building during 2019. This support ranges from developing Trade Facilitation Roadmaps to capacity building workshops and online training courses on NTFC operationalisation for managerial and technical level staff. However, UNCTAD cite lack of funding as being a limiting factor in meeting demand at this time[59].

Whilst NTFC's have been established as functional bodies on paper in developing countries, in reality many face multiple challenges and are ill-prepared to serve the purpose of driving through the ambitious change in cross-border trade practices[60] (see figure 1 below). At this time however, no comprehensive independent evaluation has taken place which details the different governance and operation arrangements applied across national NTFCs which can determine their functional capacity and effectiveness (with the data that is available largely having been gleaned from the respondent country institution through international scoping surveys[61]). However, more useful insights on NTFC country best practice in governance and operation are likely to become available in the near future through UNCTAD's '**Compendium Project**' linked to DC/LDCs capacity building and attainment of the TFA and SDG Target 17.9[62].

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[57] https://unctad.org/meetings/en/Presentation/cimem7p20_Mariangela%20Linoci_en.pdf

[58] At the time of writing this report, there are around 790 individual technical areas of the TFA requiring external assistance (Category C commitments). The WTO is in the process of matching beneficiaries to donors to support implementation https://www.tfadatabase.org/members (source WTO TFA Facility Database https://www.tfadatabase.org/members).

[59] Based on comments made to the IMC report author by senior UNCAT experts at the 7th Multi-Year Experts Meeting in Geneva 7th-9th May 2019

[60] https://unctad.org/en/Pages/MeetingDetails.aspx?meetingid=1886

[61] For example, see https://www.unescap.org/sites/default/files/1.%20UNCTAD%20Study%20on%20NTFC_P.%20Hansen.pdf

[62] SDG 17, Target 17.9: Enhance international support for implementing effective and targeted capacity-building in developing countries to support national plans to implement all the sustainable development goals, including through North-South, South-South and triangular cooperation

49%	**Lack of funding / resources**
28%	**Maintain engagement / motivation of participants and absenteeism**
19%	**Incorrect representation of members / frequent replacement of members**
19%	**Lack of coordination / conflicts of interest**
13%	**Lack of political will**

Figure 1 percentage of national trade facilitation committees that mention common challenges (Source UNCTAD, 2017: 57)

https://unctad.org/en/PublicationsLibrary/dtltlb2017d3_en.pdf

Apostolov, (UNECE, 2017) links the need to overcome different mandates and vested interests in the national political economy to the establishment of NTFCs in line with UN/CEFACT Recommendation 4. However, where NTFCs in developing countries are generally at an early stage in their operation, the potential for impact remains yet to be tested. However, through referencing ITC's collaboration with the Governments off Zambia and Morocco, it is possible to begin to gauge the potential of these bodies to have a significant and long-term impact on inclusive trade strategy where it has the capacity to take ownership of the management of discreet programmes of sensitisation and capacity building. The following examples are initiatives where ITC is linking in private sector capacity building through NTFCs.

> **Initiative 1: Zambia.** The NTFC has embarked on a programme of support and upskilling of its cadre of customs clearing agents to reduce mistakes in the customs clearance process and the consequent delays and unnecessary physical inspections of goods at the border. The programme will introduce a new framework for licensing customs clearing agents, which will include a training course with an exam to demonstrate competence as part of professionalising the sector and for growing trust between customs and traders. This training initiative is being designed to maximise accessibility for all, particularly for women who, as primary caregivers, face additional time constraints. A scholarship fund will be set up to help customs clearing agents with any additional costs such as training and exam fees, materials, travel and accommodation[63].
>
> **Initiative 2: Morocco.** In respect of its important agri-food sector, the country is also receiving support from ITC through the launch of a programme to introduce electronic phytosanitary certificates (ePhytos) which can be shared with other countries as part of an initiative led by the International Plant Protection Convention. To implement and

[63] https://www.tradefacilitation.org/content/uploads/2019/03/global-alliance-for-trade-facilitation-annual-report-2018.pdf

oversee the project, a steering committee is to be established that will sit under Morocco's **National Trade Facilitation Committee**, ensuring the project remains connected to Morocco's wider trade facilitation agenda[64].

The Kenya NTFC organisational model demonstrates the extent to which a national body of this kind can be, on the face of it, widely collaborative and inclusive with around 59 government ministries, subordinate agencies, industry and logistics representative bodies making up the stakeholder environment[65]. Whilst this may be an impressive list, what is not clear however is the extent to which the NTFC's Secretariat is effective in managing its stakeholders to ensure their voice gets heard in the strategic planning process on trade facilitation implementation. To the extent that capacity is an existential issue for the Kenya NTFC, it is noted that the State Department of Trade of Kenya has agreed with TMEA over a further programme of technical assistance due to commence in 2019[66]

There is evidence too of NTFCs collaborating with Advocacy organisations, which it is suggested adds an element of credibility and oversight in terms of identifying and reporting of trade bottlenecks and process inefficiencies and attempting to resolve them through the consultative process of the NTFC. For example, the Borderless Alliance is a multilateral partnership of private and public sector stakeholders, which covers the West African region and is funded in part through USAID and GiZ[67]. Where the Alliance is reported to have played a role in enabling NTFCs in the ECOWAS[68] region[69],

3. Customs and Border Agencies

Customs and other border agencies play a pivotal role in the enforcement of national laws concerning the control international trade. In this regard, the way in which these agencies are governed and operate has a significant impact on a country's trade performance outlook as well as attractiveness for foreign direct investments and participation and in unlocking local trade and entrepreneur potential to participate in global value chains and e-Commerce opportunities.

The international development community has a long tradition of investing in building institutional capacity in border agencies as a means of realising economic growth potential and in reducing poverty through the introduction of more effective i.e. simpler and more transparent, processes

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64 Ibid 1

65 http://www.trade.go.ke/sites/default/files/NTF%20Committee%20and%20Its%20Thematic%20WGs_0.pdf page 13-14

66 Tender Title: Consultancy Services to Support the State Department for Trade to Implement WTO Trade Facilitation Agreement PRQ20180168

67 Deutsche Gesellschaft für Internationale Zusammenarbeit

68 Economic Community of West African States

69 http://www.borderlesswa.com/sites/default/files/resources/aug18/2017%20Borderless%20Alliance-%20Annual%20Report-%20Eng.pdf

and procedures for dealing with customs clearance[70]. However, as is often the case at the Ministerial level, then the situation of lack of capacity, funding and silo working amongst customs and other border agencies has also been a prevalent feature within the political economy of developing countries. The lack of a joined-up approach and sometimes institutional mistrust has been an inhibitor to the adoption of more effective, risk and audit-based, control of cross border trade[71]. This has contributed to the traditionally high cost of doing business in the Sub-Saharan Africa Region.

Until recently, much of the focus of external capacity building by donors has been around supporting national customs administrations. In contrast, less attention has been paid to addressing the organisational efficiency of other border agencies who play a key role in the regulation and enforcement of non-tariff measures, such as the issue and control of phyto-sanitary licences pertaining to the health and safety of imported and exported agricultural products[72] (a significant feature of trade in Africa[73]).

However, through the development of landmark international agreements such as the WTO TFA, member states' governments have recognised and accepted that border management should be viewed holistically as part of a collaborative border management concept[74]. This considers the fact that the efficiency of a nation's trade and border management arrangements e.g. measuring the time taken to clear goods, may be assessed by the performance of its least efficient as opposed to its best performing agency. A border agency that is capable of translating international, regional and international trade policy into capacity to prevent cross border fraud as well as being a facilitator and partner to legitimate traders, will depend on many factors not least: political will; leadership and; a 'goals' oriented organisational strategy linked to a country's cross-government national trade policy (e.g. Kenya)[75].

Since the WTO Trade Facilitation Agreement came into force in February 2017, many least developed countries have reported their requirements for external capacity building in support of implementation of the Agreement. Likewise, the international development community is responding with a series of flagship capacity building programmes which are aimed a closing the capacity gaps between border agency partners. These include:

70
http://worldcustomsjournal.org/Archives/Volume%2010%2C%20Number%201%20%28Mar%202016%29/1796%2001%20WCJ%20v10n1%20Heinesson.pdf

71 https://pdf.usaid.gov/pdf_docs/PA00N1PG.pdf page v

72 https://www.tfafacility.org/sites/default/files/case-studies/usaid_a_comprehensive_approach_to_trade_facilitation_and_capacity_building_june_2015.pdf (page 9)

73 See for example https://www.fas.usda.gov/data/turning-point-agricultural-exports-sub-saharan-africa

74 Coordinated Border Management (CBM) linked to Article 8 of the TFA is recognised as being key to unlocking many of the traditional trade facilitation challenges. However, insofar as this is a matter of promoting better cooperation amongst border agencies (including those in partner countries), also important is where Governments act decisively to improve collaboration between border agencies and the private sector where this can further benefit the cost and efficiency of moving goods across borders (e.g. Zambia passing the Coordinated Border Management and Trade Facilitation Bill in 2018).

75 http://www.trade.go.ke/sites/default/files/Kenya%20National%20Trade%20Policy%20%282016%29_0.pdf

- The World Bank *Trade Facilitation Support Programme* (TFSP);
- The WCO-HMRC-UNCTAD Mercator Programme;
- The Commonwealth Trade Facilitation Support Programme[76] (supporting the UNCTAD NTFC Empowerment Programme;
- DFID support for the TFA through SITFA;
- IMF AFRITAC/CARTAC programmes;
- Various EU TF related initiatives[77]

The following case studies draw out some of the key challenges faced by border agency institutions in terms of managing and in being accountable for the transition required under the TFA and the other international and regional influencers already described.

Case 1: Project Management Capacity and Delegated Authority with a Customs Authority (ECOWAS Member State Revenue Authority)

Fulfilling the commitments called for under the TFA, AfCTFA, national development programmes and organisational strategic plans will require senior managers in border agencies (not just customs) to have the right skills to be able to deliver the transition to new working practices effectively as well as collaboratively under a coordinated cross-government approach. Highlighting this is a finding from a DFID study from January/February 2018 (undertaken by the author) of the Revenue Authority (RA) of an ECOWAS member State which centred on the identification of two key constraints to the implementation of an IMF backed multi-year strategic plan to implement the provisions of the TFA.

Firstly, was that the RA had established a Modernisation Unit whose primary function was on leading reforms. However, the Unit at that time had extremely limited resources, essentially one middle level manager, whose project management experience and qualifications were insufficient to cope with the scale of reform demanded by such an ambitious programme.

The second issue was that the RA did not encourage, practice or otherwise have in place a formal mechanism that allowed senior managers to delegate authority where appropriate to junior managers. Consequently, the speed and efficiency with which change management was possible in the organisation was severely restricted.

This situation contrasts with other national institutions such as the South African Revenue Service (SARS) which, through the introduction of the formal **Delegation of Authority** (DOA) procedures, managers are empowered to take key decisions so that they can respond quickly and effectively to changing business needs. These procedures ensure that good governance is upheld when authority is delegated from executives to managers[78].

Case 2: Lack of Secondary Legislation/Implementing Provisions (ECOWAS member state Revenue Authority)

The RA, whilst ostensibly having in place institutional accountability mechanisms regarding the performance and conduct of officials, the matter of enforcement is complicated due to an absence of approved (i.e. signed-off at the executive level), secondary legislation (although these existed in draft form). Sometimes referred to as implementing provisions, such a legal instrument

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[76] https://www.theyworkforyou.com/wms/?id=2019-01-14.HCWS1247.h

[77] http://trade.ec.europa.eu/doclib/docs/2017/february/tradoc_155332.pdf

[78] http://www.sars.gov.za/AllDocs/SARSEntDoclib/AnnualReports/SARS-AR-17%20-%20Annual%20Report%202012-2013.pdf

is necessary to support overarching primary legislation (for example for a Customs Code) where it provides a detailed and prescriptive interpretation of primary law for every aspect of customs agency's business delivery. In the absence of such provisions, this provides a process 'get out clause' for incompetent or corrupt behaviour and lessens the possibility of holding managers and operational level staff in regulatory or enforcement agencies to account for the way they use (abuse) their powers[79].

Case 3: Institutional Succession Planning or Political Economy interference? (Zimbabwe)

The Chirundu One Stop Border Post (OSBP) between Zimbabwe and Zambia opened to much international acclaim in 2009 as a means of facilitating cross border trade through this major transit road artery. This was achieved through the presence of political will and the building of new infrastructure and in implementing a highly collaborative environment involving the partner agencies in each jurisdiction. As a result of this initiative, the time traders had to wait at the border for customs clearance reduced from 120 hours in 2009 to 25 hours in 2012. Similarly, commercial passenger vehicles had waiting times halved from two to one hour under previous arrangements.

It is estimated that the new measures translated into cost savings for the transport sector of around US$600,000 a day while increasing the volume of traffic through the border post by 65% percent. However, one reports suggests that these early gains could not be sustained where border agency staff who had previously received extensive training in the new collaborative customs clearance arrangements, were either rotated to new posts or otherwise left the agencies to be replaced by new staff who (by accident of by design) reverted to previous to previous inefficient procedures. The report points to the lack of monitoring and oversight by the Government and its agencies contributed to this situation[80].

Assuming that the situation at the Chirundu OSBP was caused by institutional weaknesses in border agency training and succession planning as opposed to the government of the time deliberately acting to erode the gains of one of its flagship regional policy initiatives, then this Reviews contends that this presents a very real risk of back-sliding in any and all trade facilitation focused technical assistance. The Chirundu OSBP case again highlights the need to strengthen oversight and audit capacity to mitigate this risk.

Beyond this example and highlighting how OSBPs are generally viewed as being key to the growth of regional trade and transport efficiency. TradeMark East Africa (TMEA) in partnership with the East Africa Community Secretariat and its Partner States and lead agencies have embarked on a programme to establish and operationalise 13 One Stop Border Posts and the implementation of Integrated Border Management Systems[81]. In terms of assessing the impact of these highly collaborative border arrangements, TMEA survey data suggests that since the operationalisation of the 'Mutukula' OSBP early in 2017, the time to cross from Uganda to

[79] Author's first-hand knowledge

[80] https://www.zimbabwesituation.com/news/one-stop-border-project-abandoned/#comments

[81] Ibid 29

Tanzania has reduced by 66% from 10 hours in 2011 to 3.4 hours 27 minutes in June 2017. Similarly, crossing from Tanzania to Uganda reduced from 46 hours to 4.5 in June 2017[82].

4. Customs broker

Customs brokers act as intermediaries between traders and other parties involved in moving goods internationally and as such play a pivotal role in trade efficiency thanks to their in-depth knowledge of the import export environment, customs laws, tariffs and regulations. In certain economies, brokers are the only channel through which, by law, producers can sell their goods internationally[83].

In view of the role performed by Customs Brokers, the communication and training provided to them on new trade processes, as well as on IT developments (e.g. the introduction of electronic single window systems) are viewed as being critical in the process of implementing new trade strategies. According to the World Bank Doing Business report 2019, the use of regular training to promote the development of the specific skills or knowledge to customs clearance officials and customs brokers reduces the number of process errors and is positively associated with increased trade volumes as well as lower border and documentary compliance times.

In the case of Cameroon, in line with many countries in the Sub-Saharan Africa Region, the issue of cross border trade efficiency has been negatively impacted due to the large number of informal brokers who operate without a licence and therefore illegally at border crossings. A key factor is the lack of competence and professionalism of customs brokers as well as small importers, who often do not exercise due diligence in the clearance process. This results in considerable delays in payment and slows down the entire logistics chain. The capacity and professionalism of the private sector have a large effect on the clearing process. For instance, an analysis of Douala port by a major freight forwarder found that delays caused by customs procedures were significantly less than could be attributed to the lack of, or erroneous, customs documentation presented by the importer[84].

However, in Cameroon, brokers are viewed as being politically powerful and certain past initiatives by the national Trade Facilitation Committee (GUCE) to address the risk have been unsuccessful. For example, an attempt was made by customs to establish a certification programme for brokers and freight forwarders but ultimately this failed ostensibly due to the level of influence this group was able to exert[85]. Accepting that a well-functioning border relies heavily on the knowledge, professionalism and integrity of customs brokers, the Zambia example (mentioned in section 2, NTFCs) provides another example of where the lack of a proper

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[82] https://www.eac.int/press-releases/150-infrastructure/888-presidentsmagufuli-and-museveni-launch-mutukula-one-stop-boder-post

[83] http://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf

[84] https://www.icafrica.org/fileadmin/documents/Publications/Why%20Does%20Cargo%20Spend%20Weeks%20in%20Sub-Saharan%20African%20Ports.pdf page 50

[85] http://www.businessenvironment.org/dyn/be/docs/274/CustomsBrokersInformalSectors_Cameroon_WB2014.pdf

licensing framework and accreditation programme for customs clearing agents risks cross border trade efficiency.

5. Transport and Logistic Bodies

Trade and Transport costs in East Africa are amongst the highest in the world according to the Doing Business and the Logistics Performance Indicator report series of the World Bank. These are largely attributed to bureaucracies in documentation of trade in goods, uncoordinated goods inspection processes by border agencies as well as the multiple steps involved in the clearance of goods across borders. These impede the region's ability to trade competitively in the international market. In particular, the time taken to get to and from the ports to land locked countries is a major factor.[86]

As one of the key foundations for manufacturing, trade and growth, logistics is a strategic component of every economy. A competent logistics sector is vital for well-functioning trade flows and taking advantage of global value chains thereby contributing to a stronger economy and better jobs. However, there is said to be little systematic evidence of a link between the size of the logistics sector and economic outcomes, such as trade openness (World Bank - Shepherd 2011). However, according to the African Development Bank (year), if all countries could bring border administration, together with transport and communications infrastructure, up to just half the level of global best practice, global GDP would grow by $2.6 trillion (4.7 percent), and total exports would increase by $1.6 trillion (14.5 percent)[87].

In 2016 and 2018, the World Bank's Logistics Performance Index found that many developing countries face a significant skills gap in the logistics sector, especially at the managerial level. In addition, protectionism, union control, fair market access competition and the condition of local logistics fleets all contribute to making logistics inefficient and expensive (although the influence and importance of the transport and transit sectors vary in weight across countries with different implications for reform)[88].

In principle governments, transporters, shippers and port operators all seek to improve efficiency to allow more transport although in practice governments often have limited resources to improve matters[89] and many different parties benefit from current inefficient practices. In addition, a UNCTAD survey of NTFCs found that only 13% of respondents cited transport facilitation issues as being within their remit[90]. A study of Transit and Transport arrangements in West Africa (Saana Consulting) found that the interests of shippers, consumers, producers and traders, are largely absent in discussions around regional transport, with only a few cases emerging of coalitions of reform among citizens, firms or logistics hubs like ports. In contrast, professional associations and coalitions of public and professional stakeholders in the port of Abidjan seem to

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[86] http://web.monitor.co.ug/Supplement/2018/trademark-Busia16032018.pdf

[87]Ibid 1 page xxi

[88] https://blogs.worldbank.org/transport/logistics-building-skills-prepare-jobs-tomorrow

[89] https://blogs.worldbank.org/transport/voices/trade/logistics-building-skills-prepare-jobs-tomorrow

[90] https://www.unescap.org/sites/default/files/1.%20UNCTAD%20Study%20on%20NTFC_P.%20Hansen.pdf

find common ground to cooperate around particular areas of problem solving and reforms, especially given the high economic stakes around the metropolitan transport market of Abidjan[91].

Some regional initiatives, such as ASEAN, have recognised the importance of logistics by treating it as an independent "cluster" for negotiation and liberalisation purposes[92]. This suggests a potential **entry point** for development partners to facilitate coalitions through greater inclusion of the transport industry within the trade facilitation reform agenda. This fits in with the view of McLinden and others (World Bank, 2011[93]) that (developing) countries should put in place trust building mechanisms, partnerships, and cooperative initiatives that bring together the many participants in the transit and corridor operations of which transport efficiency is a vital element. The following case studies indicate the way in which increased inclusivity and partnerships could be achieved through investments in more coherent and efficient cross-border transport inter-connectivity.

Case Study 1 - TMEA initiatives to improve regional effectiveness in logistics

(LIFT - Logistics Innovation for Trade). TMEA aims to reduce transport time along the main East Africa transport corridors by 15% by 2016. To achieve this, TMEA has adopted a mixed approach including infrastructure and software development support that will reduce or eliminate bottlenecks along the corridors. TMEA established the **LIFT Challenge fund**, targeting innovators in the private and public sector to develop and test new ideas that could reduce the cost and time of transport and logistics in the East Africa region. LIFT is a competitive financing facility that co-invests with successful innovators in projects that have the potential to offer logistics solutions, but that may be too risky to undertake[94].

TMEA has also provided funding and technical assistance for the private sector players, through the Private Sector Foundation Uganda, in the creation of a National Logistics Platform to support the logistics industry in Uganda and to increase collaboration and engagement with the Government of Uganda (in collaboration with the Ministry of Works and Transport) on logistics policies, such as local content, to ensure that the industry benefits from the upcoming Oil and Gas industry[95].

However, there is little data to support the level of impact of both these initiatives. This Review therefore suggests that an NTFC would have a role in monitoring and evaluation

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[91] ATWA Stage 2 Report Part 2: Political Economy Analysis – Transport and Port sectors (September 2016).

[92] https://openknowledge.worldbank.org/bitstream/handle/10986/26724/815750WP0Trans00Box379836B00PUBLIC0.pdf?sequence=1&isAllowed=y page 1

[93] https://openknowledge.worldbank.org/bitstream/handle/10986/20399/904190WP0LPI0R00Box385316B00PUBLIC0.pdf?sequence=1&isAllowed=y

[94] https://www.trademarkea.com/projects/logistics-innovation-for-trade-lift/

[95] https://www.trademarkea.com/press-releases/trademark-east-africa-receives-presidential-award-visionary-award-in-uganda/

to ensure capture of information on improved efficiency and reduced costs in the transport and logistics sector in order to factor in as part of a coherent TF and transport strategy.

Case Study 2 – Trade and Transport Corridor Monitoring Mechanisms.

Provided here are examples of how private sector advocacy is strengthening oversight within the transit/transport sector in-line with UN/CEFACT Recommendation 42[96].

Established in September 2011, the USAID funded Borderless Alliance (BA) represents a private sector-led coalition to increase trade in West Africa and foster change by exposing trade inefficiencies throughout the region. To address the issues of sustainability and effectiveness, BA has evolved from an advocacy campaign into the region's leading advocacy platform. From an initial group of six, BA now enjoys more than 50 dues-paying members from the private sector, across West Africa. Its membership base draws from a broad range of organizations involved in the various supply chains including port authorities, freight forwarders, logistics operators, manufacturers, traders and farmers. The BA's premise is that by working together, businesses and traders can advocate effectively for change.

In East Africa, similar monitoring centres established in Rwanda to Tanzania are said to have reduced transit time by 70%[97]. However, highlighting the challenges of successfully coordinating and agreeing transport and trade facilitation linked initiatives at the RECs and national level, can be seen from the role of the EAC Electronic Cargo Tracking System (ECTS). The ECTS is aimed not only at facilitating transit cargoes but also enhancing security and safety. However, Tanzania and Burundi have yet to adopt the system (Tanzania is currently using its own technology). [98]

6. Private Sector Industry Representative Bodies and Informal Trade Initiatives

The needs and interests of private sector actors are often poorly articulated and presented at regional levels, and therefore difficult to address. Consequently, private sector forces tend to ignore regional policies or seek to block implementation. Examples include resistance to the ETLS and CET schemes in Nigeria, where operators seek waivers and other protective measures against cheap extra-regional imports.

This section provides examples of how trade facilitation related initiatives are increasing the inclusivity of the private sector including minority groupings through offering gateways to market access opportunities. Other examples demonstrate the potential of the public private sector consultative process to provide additional monitoring and advocacy of trade reforms. Reiterating a key contention of this Study is the role that NTFCs can play in taking a lead in driving the

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[96] http://tfig.unece.org/contents/recommendation-42.htm

[97] https://unctad.org/meetings/en/SessionalDocuments/dtl_AfricanNTFCForum2018_Report_en.pdf page 5

[98] https://www.trademarkea.com/news/revealed-why-tanzania-will-not-adopt-new-eac-cargo-tracking-system/

initiatives mentioned below, or at the very least to engage with them at a meaningful level, as part of an overarching national trade facilitation strategy.

Trade openness and the spread of information and communication technologies (ICTs) have increased women's access to economic opportunities and in some cases increased their wages relative to men's[99]. Growth in export and ICT-enabled sectors, together with a decline in the importance of physical strength and a rise in the importance of cognitive skills, has increased the demand for female labour. ICT has also increased access to markets among female farmers and entrepreneurs by easing time and mobility constraints[100]. However, Zahanogo (2016), suggests that developing countries lacking in human capital skills, R&D and a well-functioning financial system, may not take full advantage of technology transfer.

This considers the trend towards more services being made available through online platforms e.g. e-phyto sanitary certificates and electronic trade information portals and electronic Single Window and linked to on-going international initiatives such as UNCTAD's 'eTrade for All', eTrade for Woman Network and the World Bank eTrade for Development[101].

However, implementing new automated trade systems such as the national electronic single window is inherently complex not least that it requires a high level of human capacity, funding, an enabling legal environment and the need for ministries and agencies to agree to cooperate and to share data. Introducing automation also signals a transition away from the traditional face-to-face dealing between officials and traders that allowed rent seeking behaviours to flourish. Therefore, where this transaction can be managed effectively at the national level, this may be taken as a key barometer that the political economy has shifted towards reform.

Case Study 1. ITC SheTrade & SheTrade in the Commonwealth

As a contribution to the Sustainable Development Goals, the International Trade Centre has launched the SheTrades initiative to create an ecosystem of integrated solutions that empower women economically through trade. Through country-based activities, SheTrades enables women entrepreneurs to improve the quality of their products and services. There have been more than 10 SheTrades country launches where governments have embraced the initiative and adapted it to local context to ensure that women have a greater role in their economies. More than 120 corporations and institutions have signed up to support the initiative.

Robinson and Friedman (2007) describe the UMA (Uganda Manufacturers Association) as one of the most effective policy impacts Civil Society Organisations in Uganda (although this review would argue that the body is more akin to an industry representative body rather than a CSO per se). As well as working closely with a range of Government Ministries and Agencies, the UMA maintains links with a list of development partners

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[99] http://siteresources.worldbank.org/INTWDR2012/Resources/7778105-1299699968583/7786210-1315936222006/chapter-6.pdf (page 271)

[100] http://siteresources.worldbank.org/INTWDR2012/Resources/7778105-1299699968583/7786210-1315936222006/chapter-6.pdf page 271

[101] https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2047&Sitemap_x0020_Taxonomy=UNCTAD Home;#2258;#UNCTAD E-Week 2019;#2140;#e-Trade for All

including: World Bank (WB), United Nations Industrial Development Organisation (UNIDO); Royal Danish Embassy Uganda; USAID; GIZ; and the European Union (EU).

UMA has a track record of active advocacy with the Government of Uganda on trade related issues for example lobbying with the Minister of Trade Industry and Cooperatives in the suspension of the Pre-Shipment Verification on Conformity to Standards (PIVoC) which was proving a burden to local importers in terms of the challenges Ugandan businesses faced in securing the Certificate of Conformity from the Manufacturers in the country of origin[102].

The UMA also engages in consultative meetings. The outcomes of these meetings have seen several members exempted from payment of import duty through stay of application of Common External Tariff (CET) on certain raw materials and intermediate products. In addition, products which we have a competitive advantage have been protected though an increment in the CET. UMA continues to have consultative meetings with all the major sectors to understand their issues and challenges with the view to develop stronger policy positions to be submitted to Government[103].

In terms of trying to gauge UMA's achievements in the context of the local political economy, it is noted that in all key respects Uganda shows lower international performance scorings compared to its neighbour Rwanda i.e. in terms of governance and corruption. As such what desk based research is not able to determine (over and above what PEA would be able to) is whether UMA's advocacy with the Government in terms of trade reform is a product of a truly progressive attitude to reform and collaboration between the private and public sector or a product of the exercise of the power of narrow self-interest to maintain duty exemptions (another common feature of opaque and collusive practice leading to revenue leakage in many economies in Sub-Saharan Africa).

Case Study 2. The Safe Trade Development Facility

The *Safe Trade Development Facility* is supported by donors with a mandate to build sanitary and phyto sanitary capacity gaps (SPS) in developing countries in order to boost exports of agricultural produce. The facilitating safe trade imitative offers grants for initiatives to promote safe trade across borders. The facility aims to encourage dialogue on experiences, lessons and good practices to improve the implementation of SPS, making this aspect a good entry point for donors.

Without these systems in place, there are often negative impacts on inclusive trade. There has been a reported issue that when there is a lack of certainty in the issuing and acceptance of SPS certificates, this creates a barrier to inclusive trade (STDF, 2018). A reported 43% of exporters from developing countries have cited the issuing and acceptance of certificates as a constraint for MSME's to participate in e-commerce. (STFD, 2018). SPS e-Certs provide faster processing and clearance times, and lower travel costs. These SPS can drive more inclusive trade, especially for MSMEs. Female

[102] http://www.psfuganda.org/new/images/downloads/Trade/e-newsletter%20dec%202012.pdf

[103] https://www.uma.or.ug/policy-and-advocacy/uma-policy-achievements

traders, who face particular barriers in cross-border trade will likely be beneficiaries of this (STFD, 2018)[104].

7. Entrepreneurs

By 2035, Africa will contribute more people to the workforce each year than the rest of the world combined. By 2050, the continent will be home to 1.25 billion people of working age. In order to absorb these new entrants, Africa needs to create more than 18 million new jobs each year. Across African markets, companies are pioneering business models that bridge the formal and informal sectors; in these models, each company is a formal entity, but can mobilise large numbers of informal actors in their supply chains or service delivery. While this has been done in dairies in Kenya and at coffee and cocoa out-growers across the continent and in other sectors for nearly a century, the penetration of mobile phones has enabled a new breed of African companies to monetise their ability to organise and inject trust into fragmented informal markets.

Many of Africa's new 'gig economy' firms are writing the rules for whole new industries in local markets and are being enabled to operate with greater agility through technology driven innovations such as M-PESA mobile payments system developed by Kenya's largest telecoms operator (Safaricom). This system is said to have enabled millions of informal sector workers to move money at lower cost, which has provided a significant boost to the Kenyan and Tanzanian economies However, the gig economy comes with limitations. Lack of legal rights, limited career progression, stagnant pay and a lack of benefits as well as overcoming a dearth of funding remains one of the highest barriers for African entrepreneurs, and the development impact of investing in those that improve employment is enormous[105].

A study by ODI (2019) concludes that success in productive sector transformation only occurs when a mutual interest between indigenous entrepreneurs and politicians supports the formation of a pocket of effectiveness, where businesses get close support from a capable and specialised bureaucracy, enabling a sufficient level of productivity-oriented learning.

This Study suggests therefore that NTFCs should be capable of fulfilling this function including developing strategies that can boost national entrepreneurship. This could be achieved not only through sensitisation of the trade facilitation policy roll-out but also in strengthening channels of opportunity for SMEs and to access trade finance for example, pre- export credit loans through programmes such as AfDB's Trade Finance Programme (TFP).[106]

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[104] https://www.standardsfacility.org/sites/default/files/e_Cert_Briefing_note_EN.pdf see also http://www.standardsfacility.org/sites/default/files/SPS_Ecert_Backgroundpaper.pdf and https://unctad.org/meetings/en/Presentation/cimem7p19_Marlynne%20Hopper_en.pdf

[105] https://www.weforum.org/agenda/2019/05/new-kind-of-company-revolutionising-africa-gig-economy/

[106] https://www.afdb.org/en/topics-and-sectors/initiatives-partnerships/trade-finance-program/

8. Civil Society Organisations (CSOs)

Civil Society Organisations (CSOs) are being sensitised, assisted by development partner interventions, to play the role as protagonist in trade advocacy (e.g. UNCTAD)[107]. However, there is little independent data as to which CSOs are translating this sensitisation into impact in the trade advocacy space in Africa. For example, the East African Civil Societies Organisation[108] and the AGOA Civil Society Organisation[109] appear to have been engaging with development partners and have made generalised commitments to link their respective strategies to the TFA, but beyond this, it is not clear how this is translating into tangible activities including formal collaboration with national Governments and RECs over TFA implementation and NTFCs.

In contrast, the Government of Rwanda has been pro-active in bringing Civil Society within the national consultative process on trade through encouraging CSO inclusion into the workings of the National Trade Facilitation Committee[110] (see below).

Case Study: CSO empowerment in Rwanda[111]

The Government of Rwanda considers civil society an important feature of good governance, as it provides an important framework for citizens to voice and aggregate their needs, offers a channel to convey them to government and is one of the key actors to hold public institutions accountable.

The government of Rwanda, through the **(Rwanda Governance Board RGB)** has supported the establishment, growth and empowerment of Civil Society Organisations which now total over of 1,300 bodies. As part of this effort, specific laws were also enacted governing the organisation and functioning of national NGOs which simplified the registration of CSOs. The RGB was also instrumental in the establishment of the *Civil Society Development Barometer (CSDB)* as a research tool to assess the role and impact of CSOs in Rwanda's prosperity.

The results from this indicate that CSOs are generally regarded as effective in empowering people and advancing social interests although some need to be strengthened in holding state and corporates accountable and meeting social needs. It also highlighted the need for capacity development support to CSOs on a long-term basis with a view to bridging capacity disparities and ensuring that most CSOs play an active role in sustainable development programmes.

It is against this background that RGB in partnership with One UN-Rwanda launched a five-year joint programme, with a total budget of US$8.6 million, aimed at strengthening CSOs for responsive and accountable governance in Rwanda. The Joint Action

[107] https://unctad.org/en/Pages/About%20UNCTAD/UNCTAD%20And%20Civil%20Society/UNCTAD-And-Civil-Society.aspx

[108] http://www.trade.go.ke/sites/default/files/NTF%20Committee%20and%20Its%20Thematic%20WGs_0.pdf

[109] https://www.agoacsonetwork.org/

[110] https://www.eabusinesstimes.com/committee-to-facilitate-trade-launched-in-rwanda/

[111] http://www.commonwealthgovernance.org/partners/rwanda-governance-board/

Development Forum (JADF) is part of a wider strategy to deepen collaboration between CSOs and government to discuss and advocate for the voices of civil society to be taken into account in public policy making. The programme will also strengthen the capacities of CSOs to hold public and private sectors to account as well as advocate for the rights of the weak and marginalised sections of the Rwandan society. CSOs' penetration into rural areas will be raised from 27% in 2012 to 50% in 2018.

Strategic focus areas under the programme are:

- **Capacity development for CSOs:** CSO networks have been selected through a competitive process and awarded grants. Prior to this, networks undertook capacity assessments of their members and developed capacity building plans;
- **Evidence-based policy advocacy:** Financial resources provided to CSOs will enable them to undertake evidence-based policy advocacy through conducting policy research, developing policy models, conducting ad-hoc advocacy campaigns, holding policy dialogues to influence policymakers and evaluating the impact of policy advocacy;
- **Capacity strengthening of RGB:** RGB will be enabled to put in place mechanisms for efficient registration of CSOs, including online registration and other ICT-based services, and also to implement its new strategic plan (for the CSO component) as well as the publication of a CSO directory on a bi-annual basis. Further, RGB intends to forge links with local academic institutions to provide short professional courses for CSOs. Additionally, RGB will convene annual policy dialogues on civil society and democratisation to discuss achievements and challenges in CSO development.

The political economy of Rwanda is certainly not without challenges considering the question marks over the ability of its citizens to engage freely in political activity. However, the country's model of CSO advocacy, as presented by its Government, has the potential to inform the evolving strategies of other EAC partner states and beyond. This considers the way in which inclusive public/private sector engagement, empowered under a legal framework, can serve to build shared ownership and accountability in this case, in the progress of trade reform.

The contention is that the additional oversight this would bring would benefit on two fronts. Firstly, where a Rwanda style CSO empowerment law is put in place, the presence of such organisations in addition to other industry representative bodies, would help to increase accountability for government agencies charged with implementing new trade procedures. Secondly, it would provide an additional conduit of feedback on the progress of reform to entities who stand to benefit (i.e. promoting more inclusivity across business sectors and types). This approach aligns with current international development thinking which calls for developing interventions that use the prevalent, locally driven collective action practices as entry points for change and then seek to transform incentives incrementally (OECD 2015)[112]

5. Opportunities to Engage

The Review contests that international and regional trade agreements and development initiatives are having a significant influence on shaping the narrative and attitudes within the

[112] http://www.oecd.org/dac/accountable-effective-institutions/Governance%20Notebook.pdf page 294

national political economies of developing countries towards adopting a more reformist mindset in trade policy. In the context of Sub-Saharan Africa this has been evidenced by countries committing to implement a range of new measures that will reduce friction at borders (the WTO TFA), and move African economies a step closer to creating a continent-wide customs and single market (through the AfCFTA). However, this process has not been marked by uniform levels of enthusiasm. Major regional economies such as Nigeria remain cautious over the potential impact that opening up its market to free trade will have on its own domestic market.

With the majority of African states having now ratified the TFA this has resulted in a long list of capacity building and technical assistance requirements. which will require a coordinated response by the international development community as the Agreement moves into a long implementation phase. The scale of the list of capacity building needs is ambitious as it is daunting. This considers that countries are expected to manage (with or without external support) an almost seismic transition away from traditional disjointed and cumbersome cargo clearance processes (a cloak under which corruption has been able to thrive unabated) to highly automated, transparent and simplified systems of service delivery across all key national agencies, including customs. Arguably, the most seismic element of this transition is where these new processes are to be underpinned by high levels of collaboration between government agencies nationally and in neighbouring states but also between government agencies and the private sector in partnership and consultation. This is against a backdrop of ministries and agencies working in silos and an often, antagonistic relationship between the private sector and government agencies.

For trade liberalisation reforms to succeed (as afforded by the implementation of the TFA and AfCFTA), this will almost certainly require trade-offs between the potential winners and losers from this transition. However, the extent to which this is playing out within the current political settlement in developing countries is not supported by extensive qualitative research. Where a country has adopted a strongly progressive and cohesive trade policy, this has produced tangible outcomes demonstrating that it is possible for national institutions to become more impactful and receptive to change. In the case of Rwanda, the actions undertaken by its Government, ministries and agencies has resulted in greater inclusivity and consultation with private sector institutions as well as having become a regional leader in the e-clearance services (factors which have contributed to the country's impressive rise in the international performance indices).

Achieving comparable gains through the implementation of the TFA and AfCFTA and other international and regional development initiatives will of course mean other countries in the region having to overcome multiple challenges not least in sustaining political will for reform but also considering budgetary, institutional capacity and infrastructure constraints. Moreover, this also recognises fundamental implementation challenges such as the absence of mechanisms for bottom up policy linkage between the operational and strategic levels within the organisation as well as weak policy designs, lack of monitoring and supervision mechanisms, ineffective administrative and managerial capacities[113].

However, a key contention of this study is that generally the vectors in national political economies in Sub-Saharan Africa are shifting towards a willingness to apply trade reforms related measures (where the long-term benefits of opening up national economies through trade

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[113] https://www.researchtoaction.org/2016/12/research-uptake-goes-comes/

liberalisation will tend to outweigh protectionist tendencies). Implementation of the TFA and AfCFTA therefore provides an entry point through which international development partners can engage in supporting key private and public sector institutions collectively rather than as individual entities anchored around the two principle imperatives of collaboration and oversight.

This Review points to the national (and regional) significance of establishing and operating National Trade Facilitation Committees and joint border arrangements. This recognises their importance within the provisions of the TFA and AfCFTA in providing the focal point through which trade simplifications can be designed, actioned and monitored across government and with the private sector at a policy and operational level. It is also argued here that, as with the Kenya NTFC and Rwanda governance models, this can give a voice to Civil Society Organisations, entrepreneurs, transport and logistics and marginalised groups in the development of national trade policy. Moreover, it will contribute to the knowledge base of the NTFC ensuring it can remain relevant and able to respond positively to challenges and opportunities in the trade dynamic e.g. the existence of new trade barriers and the rise of e-Commerce.

All the suggested interventions listed below stem from an evaluation of the information gathered as part of this Review. Their relevance would be further substantiated through a Political Economy Analysis and where the opportunity exists for complementarity with other related development partner programmes (as mentioned on page 20):

Intervention 1 - (strategic and policy level) – Support Ministries of Trade to develop an enabling environment for the operationalisation of NTFCs. This could include inter alia, TFA sensitisation workshops, development of robust legislation and governance arrangements that would ensure the vertical and horizontal integration of a trade reform activities. In parallel, develop a detailed and coherent multi-annual national trade facilitation plan linked to national development aspirations and specific TFA commitments. The plan would contain logically sequenced and interconnected interventions that are specific, measurable, time bound and accountable;

Intervention 2 - The need to assess and address gaps in government institutional project management capacity at Ministerial, NTFC and agency level to enable multi-scoping and multi-agency planning to be successfully managed;

Intervention 3 – Assess and support Trade Ministry and border agencies with their institutional arrangements around succession planning to ensure knowledge and skills are retained within the organisation and can be further enhanced throughout the organisation (train-the-trainers, staff leaver exit interviews etc.);

Intervention 4 – Recognising that new trade procedures could produce losers as well as winners in the process, support could be given to increase Ministry of Trade and NTFC capacity to conduct consultative processes as part of a structured and time-bound impact assessment to be undertaken before new policies and procedures are introduced;

Intervention 5 - Preparing the NTFCs to design and deliver discreet programmes of Trade Facilitation related support to key bodies within its stakeholder orbit (as part of an structured outreach programme) e.g.: TFA sensitisation workshops including metropolitan and provincial roadshows; professional training to customs brokers; improving access to information products to support greater levels of informed compliance targeted at important industry sectors and marginalised groups, (informal traders, women owned enterprises, SMEs); linking innovative traders/entrepreneurs to sources of export finance and opportunities for building global value chains based on national value added input;

Intervention 6 – Enabling (including financing) NTFCs to engage in (exchange visits) peer-to-peer learning, cooperation and knowledge exchange with other partner country NTFC (e.g. within and beyond RECs where there is mutual interest on expanding trade);

Intervention 7 – Increasing capacity of NTFCs to optimise the collection and evaluation of disaggregated data on trade facilitation performance (e.g. by gender and business and commodity type) as part of monitoring the implementation and effectiveness of new TFA procedures, the performance of road transit corridors and where such data can inform and refine government trade policy at the strategic level;

Intervention 8 – Increase capacity of the border agency internal audit and National Audit Office function to increase oversight and accountability for the manner in which local managers and staff are implementing trade facilitation reform measures. This recognises that the TFA itself is largely silent on corruption in which case, audit can serve as an additional assurance tool (where the political economy allows it to be) in rooting out maleficence and for identifying needed improvements in management practices. This is especially true if the performance auditors combine forces with fraud investigators, forensic accountants and law enforcement officials[114];

Intervention 9 – Trial the introduction of UK National Decision Model methodology (SAFCORM) for border agencies as a means of introducing greater levels of accountability for operational managers and reduce the possibility for arbitrary decisions and misuse of statutory powers e.g. involving the granting of duty exemptions; confiscation of goods, issuing of penalties and fines to traders, and where it is necessary to enforce a formal code of ethics within use in a Government department;

Intervention 10 – Provide legal support in drawing up detailed secondary legislation to support primary legislation. This would be necessary not only in bringing greater efficiency, clarity and transparency to the way border agencies carry out their function but also where it would another requirement to strengthen accountability and the role of the internal/national audit function;

Intervention 11 - Support analysis or research conducted by pro-development elites e.g. CSOs that can help increase their influence in policy debates, and persuade powerful political elite actors (entrepreneurs, academia, middle classes) to enter into alliance;

Intervention 12 - Support extending the mandate and involvement of NTFCs to consult on, construct policies and monitor transport issues that reduce the transaction costs affecting international movements of goods. This would could include creating a coherent and interlinked national logistics Master Plan linked to a Trade Facilitation Roadmap.

[114] Ibid 7 page 352

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This report is based on eleven days of desk-based research. The K4D research helpdesk provides rapid syntheses of a selection of recent relevant literature and international expert thinking in response to specific questions relating to international development. For any enquiries, contact helpdesk@k4d.info.

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