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Promoting Greater Regulatory Coherence and Cooperation through Aid for Trade: What could be done? What role for the private sector and the WTO?

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ABSTRACT

Trade and development paradigms have shifted in recent years, one of the reasons being the emergence of global value chains (GVCs) as the main feature of global business strategies. However, this shift in the paradigms has not been followed by parallel shifts in trade policy and Aid for Trade (AfT) practice. To remedy this situation and better address the need for regulatory coherence and cooperation, this paper suggests a shift in focus of AfT from trade to "trade and competitiveness" and a shift in the methods of AfT delivery to increase the role of the private sector. Moving from trade to "trade and competitiveness" in the AfT approach would help developing countries join, remain part of, and move up value chains. Deeper cooperation with the private sector would help assess where regulatory reforms and/or coordination are needed, and what type of regulations would be best suited to promoting trade and development.

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LIST OF ABBREVIATIONS

AfT	Aid for Trade
APEC	Asia-Pacific Economic Cooperation
CSR	corporate social responsibility
EU	European Union
EY	Ernst and Young
FDI	foreign direct investment
GFSI	Global Food Safety Initiative
GIs	geographical indications
GVCs	global value chains
IFC	International Finance Corporation
IPE	Institute of Public and Environmental Affairs
ITC	International Trade Centre
JCI	Joint Commission International
ODA	official development assistance
OECD	Organisation for Economic Co-operation and Development
PSD	private sector development
RTAs	regional trade agreements
SLDBs	small and/or less developed businesses
STRI	Services Trade Restrictiveness Index
TACB	technical assistance and capacity building
TNCs	transnational corporations
US	United States
USAID	US Agency for International Development
WEF	World Economic Forum
WTO	World Trade Organization

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INTRODUCTION

Trade and development paradigms have shifted in recent years, one of the reasons being the emergence of global value chains (GVCs) as the main feature of global business strategies. Nowadays, 80 percent of world trade involves transnational corporations (TNCs); trade in intermediates (as opposed to final goods or services) represents more than half of global trade in goods and 70 percent of global trade in services. The globalization of production has also increased the need for the availability of high-quality services around the world and boosted services trade that had long been neglected because of statistical challenges, among others.

These new trends have increased the need for regulatory coherence and cooperation all along GVCs, not only to facilitate trade and reduce trade costs but also to increase the traceability and quality of final products. The longer the value chain, the higher the cost of monitoring compliance with standards, and the higher the risk of infractions to the lead firm's guidelines that could affect its reputation. Countries unable to meet the standards of lead firms run the risk of being excluded from the main GVCs and trade flows. From the government of the target market (willing to protect its consumers) to the global firm (willing to preserve its reputation, the quality of its products, and to reduce compliance- monitoring costs) and the government of the suppliers' countries (willing to integrate trade and boost exports and growth), there seems to be a convergence of interests towards greater regulatory coherence and cooperation.[1]

However, this shift in the trade and development paradigms has not been followed by parallel shifts in trade policy and Aid for Trade (AfT) practice. Technical assistance and capacity building (TACB) in the area of regulatory coherence, while important, are still driven by outdated principles, and efforts made by the public and private sectors remain uncoordinated to the detriment of their efficiency.

To remedy this situation and better address the need for regulatory coherence and cooperation, this paper suggests a shift in focus of AfT from trade to "trade and competitiveness" and a shift in the methods of AfT delivery to increase the role of the private sector.

SHIFT IN FOCUS: FROM TRADE TO 'TRADE AND COMPETITIVENESS'

To the question "Is there a role for AfT to promote greater coherence and deliver TACB in the area of regulation and regulatory cooperation?" the answer is "yes." AfT already contributes to TACB in this area, but not sufficiently, and often with wrong incentives and focus.

WHAT REALLY MATTERS TO THOSE WHO DO TRADE

For the first time, on the occasion of the 2013 Global Aid for Trade Review, the Organisation for Economic Co-operation and Development (OECD) and the World Trade Organization (WTO) ran a survey in the private sector to identify obstacles to developing countries' insertion into GVCs and global trade that could be tackled by AfT.

Figures 1a and 1b show answers provided by lead firms in the agrifood sector about factors that most positively and negatively affect their decisions to invest and source production in developing countries. It shows that while traditional trade barriers still represent an obstacle to joining GVCs (in particular transport costs and customs delays), lead firms put a greater emphasis on regulatory issues. The "ability to consistently meet product specifications" (that is, standards) is the most important factor positively affecting investment and sourcing decisions in GVCs, and "corruption and graft" the most important factor negatively affecting such decisions. The "business and regulatory environment" at large also figures prominently. Thus, there is a strong case for AfT projects aimed at regulatory coherence and coordination that would improve the ability of developing countries to meet the standards of lead firms and improve their business environment and investment climate.

1 For the purpose of this paper, the notions of regulation and standards are broadly defined and not confined to technical norms/standards and regulation. Regulation refers to any law, rule or other order prescribed by the authority to regulate conduct as well as product or service specifications. The annex provides some examples of domestic regulations. In the services sector, regulation refers to the rules applying to the exercise of the professions that could be adopted by the professions themselves. Standards refer to technical, sanitary, phytosanitary standards, norms, and so on, as well as the level of expectations of lead firms, for example, in the areas of environment, deontology, and labour conditions, including corporate social responsibility (CSR) rules. They could be voluntary or, like norms, mandatory, firm-specific, or adopted by governments at the national, regional, or international levels.

FIGURE 1A:

Factors Most Positively Affecting Sourcing and Investment Decisions in Agrifood Value Chains

Source: OECD-WTO, 2013.

FIGURE 1B:

Factors Most Negatively Affecting Sourcing and Investment Decisions in Agrifood Value Chains

Source: OECD-WTO, 2013.

WHAT HAS BEEN DONE AND SHOULD BE DONE

The community of donors already contributes significantly to addressing the regulatory challenges faced by developing countries. AfT is not, however, the core of this activity, often relegated to addressing "old" trade issues, and in particular obstacles "at the border" rather than "behind the border". For instance, "private sector development" (PSD) is often distinct from trade, and competition, standards, investment climate assessments or other regulations specific to areas such as telecoms, transport, energy, agriculture, and so on, and is dealt with by dedicated units. With the emergence of GVCs, and the use of input-output tables to measure trade in value-added rather than nominal terms, it appeared that imports were as important as exports for competitiveness, and the focus of trade shifted to behind-the-border barriers, which are prominently regulatory issues. Developing countries were prompted to undertake domestic reforms that would improve their regulatory framework, attract investment and lead firms, and, as a result, boost their exports. Accordingly, the scope of AfT should be expanded, or AfT would run the risk of becoming irrelevant. At the same time, donors need to avoid duplication of work done elsewhere, and a too broad definition of AfT would run the risk of diluting the trade message.

At the World Bank, for instance, the Trade Department was morphed into a "Trade and Competitiveness Global Practice" that brings together former trade, investment climate, innovation, and competition teams, with the number of staff jumping from 30 to more than 300. Similarly, the International Trade Centre (ITC) changed its motto from "Export for Good" to "Trade for Good" to reflect this shift in the AfT paradigm and the greater emphasis on inward- (that is, regulatory reforms) rather than outward- (that is, promoting exports) looking policies. The annex provides an overview of "new generation" AfT projects in the area of regulation that would draw the lessons from this paradigm shift.

Moving from trade to "trade and competitiveness" in the AfT approach would help developing countries join, remain part of, and move up value chains. Moreover, it would contribute to maximizing the benefits from participation in GVCs, by encouraging transfers within GVCs: for example, rules on investment, intellectual property or competition facilitate the transfer of technology, know-how and knowledge. The adoption of rules, for example, on competition, also protects local suppliers from abuses of dominant position. Paradoxically, the so-called Singapore issues that were once promoted by the rich countries at the WTO and feared by the developing world now would best serve the interests of the latter under the new trade and development paradigms.

THE WTO, REGIONAL TRADE AGREEMENTS, AND THE INCENTIVES BEHIND TACB IN THE AREA OF REGULATION

The context in which AfT is provided and the motivation behind projects are important. The promotion of regulatory convergence and coordination has long existed and probably predated modern aid (the term official development assistance, ODA, was first used in 1969; the AfT Initiative was launched only in 2005). For instance, twinning of institutions in charge of regulation or certification (for example, in telecoms or health) between developed and developing countries has been commonly used to bring coherence into regulatory practices. In the case of France, for instance, most of the initial AfT projects dealt with standards (for example, certification of rubber in Cambodia or shrimps in Madagascar, development of a label for socially sustainable textiles/garments), and intellectual property promotion (geographical indications [GIs] in Cambodia or Laos)—that is, regulatory issues. The objective was to help those countries meet the level of standards required to export to the European Union (EU). Therefore, these projects have sometimes been criticized in the name of "policy space", and perceived as a way to impose higher (and more expensive) standards on low-income countries.

They also happened to take place in sectors affected by the phasing out of quotas, and regulatory convergence could be seen as a way to preserve privileges. In the case of intellectual property (and GIs in particular), it was also perceived as a way to expand the European sphere of influence in the area of regulation, thereby increasing the comparative advantage of European lead firms to the detriment of firms originating from countries with different standards. This was also achieved through the negotiation of regional trade agreements (RTAs) that aimed at deeper integration than the WTO and included more precise provisions on regulatory convergence and coordination. Some considered the race for RTAs between the United States (US) and the EU as a race for regulatory supremacy, raising questions about the risk of polarization of regulatory practices and trade diversion effects. Indeed, the question of regulation could be closely associated with the one of market access.

There is, therefore, a distinction to be made between AfT provided in the context of the preparation or implementation of RTAs, and other projects associated with the preparation of WTO negotiations or the implementation of its disciplines. There is also a distinction to be made between TACB provided in the context of policymaking (for example, assistance in WTO negotiations or participation in organs in charge of setting international standards) and TACB in the context of implementation of the agreements. While both are important, donors tend to neglect assistance to the negotiation of international rules/standards and policymaking at large because of their incapacity to measure outcomes. However, developing countries increasingly condition their participation in trade negotiations and vote in international organizations based on provisions or promises on TACB.

In many instances, regulations are best adopted at the regional level. For instance, energy distribution (regional power pool) and telecoms are best regulated at the regional level, requiring regulatory convergence and coordination. However, while AfT often accompanies North-South trade agreements, donors have difficulties accompanying South-South regional integration and designing regional projects (ODA is in essence bilateral).

THE HARD AND THE SOFT, AND THE SPECIFICITY OF SERVICES REGULATION

Economic infrastructure (mainly energy, transport, and communications projects) represents the bulk of AfT, with over 53 percent of total disbursements. In contrast, support for trade policy and regulation represents only 3 percent of total AfT. Some infrastructure projects have components of a regulatory nature, which are not reflected in those numbers; for example, when provisions on security are included in transports projects. Bilateral assistance provided by technical ministries/authorities also often falls outside the scope of ODA. Infrastructure is essential to trade. However, AfT reflects the old priorities of donors, and neglects the “soft” (or regulatory) dimension of infrastructure projects. For example, building a landing station for a submarine fiber-optic cable is of not much use if the telecoms sector of the country is not well regulated. Similarly, a trade corridor becomes more efficient when roads are rehabilitated, but also when rules that apply to transit, road safety, competition in the transport sector, and so on, are improved. Thus, there is a strong case for further developing the soft components (regulation) of infrastructure projects.

Closely related is the question of AfT in the services sector. For a long time, services received little attention in AfT projects, and export promotion efforts focused on goods. The new trade in value-added databases reveal the importance of services embedded in goods exports, and the “servicification” of manufacturing increased the need for affordable, efficient, and high-quality services in developing countries. AfT has, therefore, to be adjusted in scope and ambit with regard to services. This will also put regulatory issues on the spot, since services trade is not only about capacity and skills, but also regulation. Typical AfT projects in the services sector include regulatory audits and reforms, and the establishment of transparency and regulatory cooperation mechanisms. Since most of the services sectors are highly regulated, it is a matter both of market access and capacity to export. The OECD and the World Bank have created Services Trade Restrictiveness Indices (STRI) that compile relevant regulations in the services sectors and translate them into restriction equivalents. The WTO has also created a dedicated portal (I-TIP Services) that compiles relevant information about services regulation in its member countries. A number of toolkits exist to guide the donors' performance of regulatory audits and reforms, as well as negotiations for the services component of trade agreements.

SHIFT IN METHOD: INCREASING THE ROLE OF THE PRIVATE SECTOR

While the private sector is already active and contributing to TACB in developing countries, either through investment or operations, there is a potential for increasing its role in AfT, from conception to evaluation, and to create more synergy between public and private efforts in the area of regulation and regulatory coordination. In particular, deeper cooperation with the private sector would help assess where regulatory reforms and/or coordination are needed, and what type of regulations would be best suited to promoting trade and development.

AN ALREADY ACTIVE BUT OFTEN ISOLATED PRIVATE SECTOR

A 2013 OECD-WTO survey, as well as efforts made by the World Bank to collect case stories, revealed that the private sector is already largely involved in trade-related TACB in developing countries. More than 65 percent of the lead firms surveyed declared that they were engaged in such actions throughout their investment and operations abroad (GVCs). These actions are primarily led by the companies, but also significantly taken in association with governments and donor agencies—more than 40 percent of the lead firms are involved in projects led by development agencies.

Increasingly, a new generation of programmes has emerged involving donors, partner countries, private firms, and civil society organizations (see Grow Africa below). For more than 60 percent of the firms, the main driver of their engagement is related to their core business strategy. In addition, the corporate social responsibility (CSR) agenda of lead firms explains more than 40 percent of their actions in this area. Also important are participation in business-to-business schemes (for example, suppliers' codes of conduct) and company foundation projects. The actions of one in four lead firms are mainly in response to specific programmes in this area undertaken in partnership with development agencies. According to lead firms, the impact of those actions has been largely positive: only a marginal share (less than 5 percent) of the participating firms found those actions had no impact or a negative impact. Lessons learned from these experiences are equally positive. None of the firms surveyed ruled out future participation in such activities. However, close to 40 percent of the surveyed firms still experienced difficulties in working with the public sector, suggesting room for improvement in public-private partnerships.

Right from the start, the WTO Task Force on AfT envisaged an important role for the private sector in operationalizing AfT. It has recommended that "an increased dialogue between the public sector and private entrepreneurs would improve effectiveness in assessing AfT needs, in diagnostics and in implementation as well as in evaluating effectiveness in implementation." Engaging the private sector more closely in regulation-related AfT projects could be achieved at four different stages of the project life cycle.

(i) At the stage of identification of the projects, where the views of the private sector could be solicited to provide information about regulations to be removed or improved, and in particular to see beyond the texts what issues emerge at the implementation level.

(ii) At the stage of conception of the projects, the private sector could share best practices they have observed from other AfT programmes or programmes they have implemented themselves, and in particular define the optimal level of regulation and/or regulatory coordination.

(iii) At the implementation stage of the projects, where governments, donors, and private companies could join forces to scale up their actions and maximize their impact, and at the conjunction of public and private interests.

(iv) At the stage of monitoring and evaluating projects, the private sector could provide evidence of success or failure, closing the loop with the identification stage.

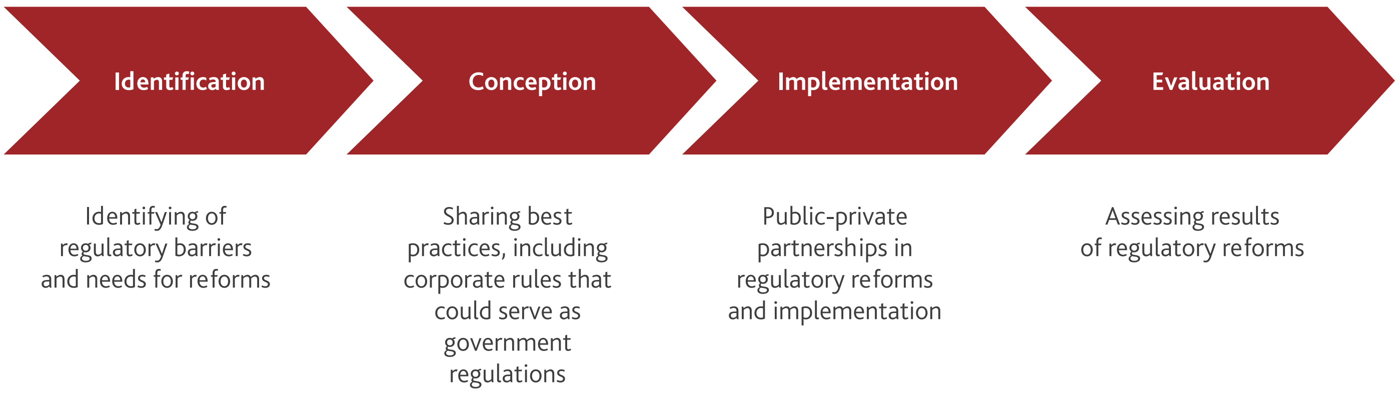
IDENTIFICATION OF THE NEEDS: THE ROLE OF THE PRIVATE SECTOR IN THE IDENTIFICATION OF REGULATORY BARRIERS AND NEED FOR REFORM, COHERENCE, CONVERGENCE OR COORDINATION

The 2013 OECD-WTO survey shows that a more structured and regular consultation with the private sector could help improve the identification of developing countries' needs in terms of trade-related TACB. Those "who do trade" have the best available information about existing constraints and barriers, irrespective of their nature, and own the data necessary to measure trade costs. Partnerships for the collection of data and identification of countries' needs should be promoted and entrenched into AfT project cycles. Trade facilitation is a good example of successful cooperation with the private sector to compile metrics of countries' performance. The World Economic Forum (WEF), for example, compiles around 80 relevant metrics across 130

FIGURE 2:

Public-private Partnership Throughout Regulation-related AfT Project Cycles

Source: Author.



economies in its Global Enabling Trade Report. The World Bank works with the private sector (freight forwarders) to compile the Logistics Performance Index. These efforts have been salutary since they were the main driver of regulatory reforms in countries willing to climb the ladder of those indices.

In the area of regulation, some efforts were made to collect information about services trade restrictions (see STRI mentioned above); some efforts are also under way to create a database on public procurement. However, the private sector remains a missing link in those initiatives, and the STRI is mainly based on a legal analysis of existing laws. As a result, there could be important discrepancies between the value of the restriction index (de jure) and the de facto level of discrimination or protection, which only the private sector can assess.

Indeed, regulation could be misused for the purpose of discrimination, protection, rent seeking, or corruption. Examples are legion, as illustrated by the World Bank publication on the Ben Ali system in Tunisia (2014)—a number of sectors were theoretically open to competition, but in practice subject to "administrative authorizations," which are not bad regulatory practice per se, but could be systematically refused to foreigners or companies not willing to pay bribes. Only the private sector could attest to those practices and evaluate the effective need for reform. Prejudices could go well beyond the distortion in competition—for example, in Guinea, where the Ebola epidemic began, the distribution of drugs is regulated by the Ministry of Health that grants distribution licences. While some global companies like CFAO could access the market and deliver high-quality services, dozens of local companies could obtain a licence without even being able to maintain the cold chain for drugs: about ten to twenty times more licences were granted in Guinea than in large OECD countries.

When it comes to regulation, the devil is in the details and in the implementation. Cooperation with the private sector is essential to address cartels or corruption issues. A well-known example in the area of trade facilitation is a cartel of truck drivers in West Africa that causes enormous prejudice to companies trading goods. The donors and the private companies alone cannot address this issue. Corruption is an area where it takes two to tango, and only a joint action with the private sector could enforce efficient regulation (a "no corruptor, no corruption" pledge). In Cameroon, for instance, Diageo has launched a business coalition against corruption that has been setting and upholding new standards of governance and integrity in the country. More than 60 companies, the government, and civil society are involved.

CONCEPTION OF AFT PROJECTS: LEARNING FROM PRIVATE SECTOR TO INCREASE THE EFFICIENCY OF AFT PROJECTS IN THE AREA OF REGULATION AND REGULATORY COORDINATION

With regard to the conception of AfT projects in the area of regulation and/or regulatory coordination, donors could tap into best practices and scale up efforts made by the private sector. Starting in 2011, the World Bank collected a number of case stories illustrating the contribution of international business to AfT and trade-related TACB at large. Many included the training, capacity building, technology or know-how transfers made to raise the productivity and production/product standards of their suppliers.

Figures 3a and 3b illustrate the difference between a public and a private capacity-building programme, and the potential benefits from increased public-private partnership on regulation-related AfT. In the first scenario, the donor supports capacity building in the certification of rubber in Cambodia. The institutional change is valuable, but the post-project evaluation underlines the questions of the producers' capacities, the connection with international markets, and the financial sustainability of the newly created institutions (AFD 2009). This type of project is typical of the old paradigm, where AfT is supply driven, and used to raise the standards in developing countries, and focused on institutional capacities, without sufficient connections with the private sector (upstream and downstream) and markets. In the second scenario, the private sector is in the driver's seat, with global capacity-building programmes that target small and/or less developed businesses (SLDBs) around the world. Once certified following the guidelines of the Global Food Safety Initiative (GFSI), the products are recognized everywhere. This type of project is typical of a new paradigm, where capacity building is demand driven, and participants in the initiative not only benefit from the capacity-building efforts made by a consortium of 400 stakeholders in 70 countries but also get access to a market of €2.5 trillion in sales. In 2013, more than 85,000 certificates were issued for GFSI-recognized schemes in 162 countries (GFSI online resources).

Donors have, since, endorsed this initiative and, for example, the World Bank launched a multi-donor trust fund for a Global Food Safety Partnership (December 2012) that builds on the GFSI experience for the Asia-Pacific Economic Cooperation (APEC), and is the world's first public-private partnership on food safety. UTZ Certified is another private sector-led initiative that aims at raising the standards and sustainability of farming, which received the support of donors (Netherlands and Ireland) and private foundations (Ford Foundation).

FIGURE 3A:

Standards/Old Paradigm: Rubber Certification in Cambodia (AFD 2005–08)

Source: Author, based on AFD.

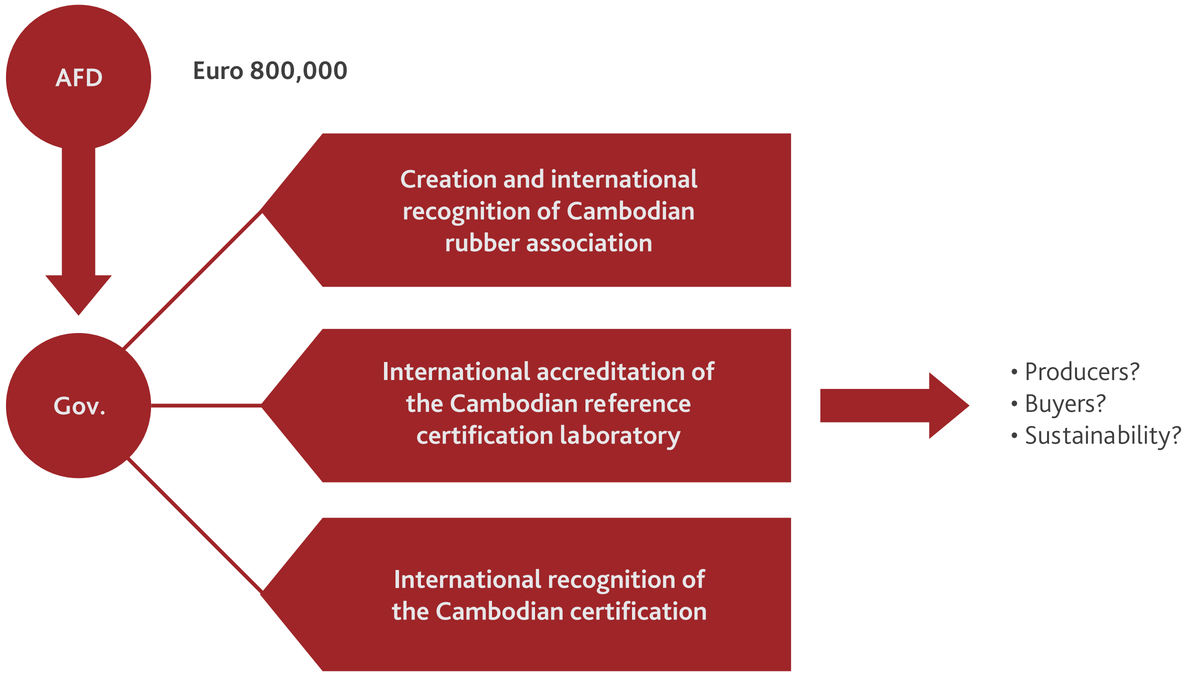
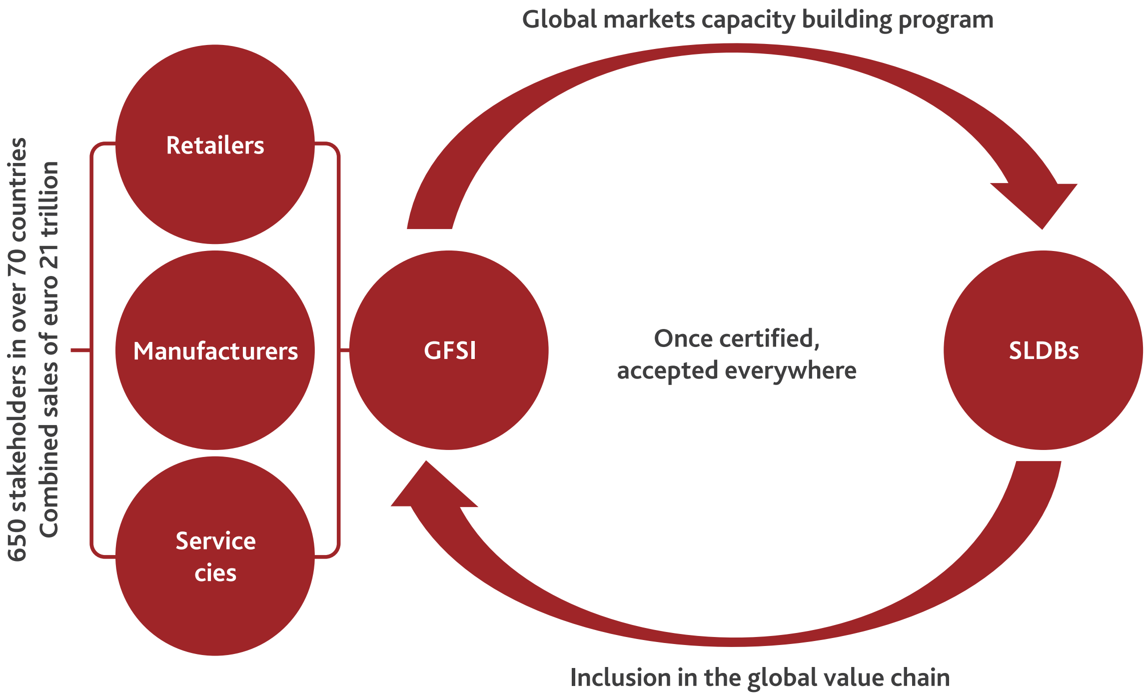


FIGURE 3B:

Standards/New Paradigm: The Global Food Safety Initiative

Source: Author, based on GFSI online resources.
Services cies= services companies



Traditionally, donors have always promoted the development of local certification capacities and standards. The above example shows that best practices do not necessarily imply a change in local standards, contrasting supply- and demand-driven approaches. What matters is the ability of local producers to meet the standards/regulations of the lead firm or the target market. This is particularly true in the context of GVCs, where the bulk of trade is in intermediate goods and services, and all must comply with certain standards embedded in the final product. Traceability is essential for today's producers and consumers, and the standards set by the lead firm prevail. Hence, regulatory coherence/convergence could significantly reduce the cost of standards-compliance monitoring borne by lead firms, but only to the extent these standards are up to the lead firm's level of expectation.

This means that a new layer of domestic regulation is not always required (at least for trade purposes). As suggested by the WTO, compliance with internationally recognized standards remains the best option. For example, in Tunisia, the government introduced, with the help of the World Bank, a certification/accreditation system in the health sector. Provided that the objective of Tunisian clinics was to export health services, it was agreed that the Tunisian certification/accreditation would match the requirements of the Joint Commission International (JCI), which is the reference in this domain, and that the clinics should also seek ISO certification. Indeed, these are the references required by health "tourists," and a strictly Tunisian accreditation/certification would not allow the development of health tourism in the country. Similarly, in Malaysia, one of the main actors in health tourism in the world, the World Bank questioned the addition of a new regulatory layer (a new local accreditation scheme) that would have merely increased the compliance costs of clinics already compliant with the JCI and successful on the export front.

Sometimes the burden and cost of monitoring compliance of developing countries' suppliers to lead firms could be reduced by other means. For instance, the Institute of Public and Environmental Affairs (IPE) in China started by mapping pollution in the country at the micro level. Subsequently environmental NGOs and lead firms used this map to verify the compliance of their Chinese suppliers with their environmental corporate standards, palliating the absence of adequate government regulations and controls. The IPE has produced a Green Supply Chain index that measures the environmental performance of lead firms in light of the performance of their suppliers. Such civil society-led solutions could be sponsored by donors as a regulatory cooperation project.

Finally, the question of regulatory coherence/convergence/coordination becomes increasingly important because of the servicification of manufacturing, that is, that when manufacturers go global, their services inputs also need to go global and be provided remotely by services providers on the move (mode 4 of the General Agreement on Trade in Services), or by local suppliers. Recent AfT programmes have attempted to encourage local sourcing of services to help developing countries move up the value chain ("upgrade") and increase the positive spillover effects of foreign direct investment (FDI). Often, local regulations are irrelevant. For example, in the accounting sector, a lead firm will need to have its accounts done in accordance with international standards (as opposed to local ones) because it is liable to its shareholders in its home country. Typically, one of the "big four" will follow its client and establish an office abroad, sending expatriates to launch the activity. Then, it is in the interest of the accounting firm to substitute expatriates with local staff, that is, develop local capacity by training them to the international standards. For example, Ernst and Young (EY) followed mining companies in Kazakhstan and Guinea and established local offices, but contributed to finance local (or regional in the case of Guinea, in Senegal) training and develop a curriculum for the university to match their needs. It could be the role of AfT to help such knowledge transfers and scale up best practices to develop local capacities to the standards of lead firms. As illustrated by the example of Guinea, such efforts to develop local capacity at higher standards should be accompanied by export diversification programmes (another role for AfT to supplement private sectors efforts). Indeed, once the price of aluminium dropped and Rio Tinto decided to hold its exploitation of the Guinean site, most of the local suppliers that had invested in upgrading their standards went bankrupt in the absence of local demand for such high-standard services (for example, housing to the norms set by Rio Tinto for its staff). The only services suppliers that survived were the ones that had diversified their clientele through exports (for example, EY Guinea now provides specialized services for mining companies in other regions of the world).

Interestingly, corporate regulations are so binding on some multinational corporations that they will not hesitate to infringe local regulations to respect their corporate standards. For example, while an international hotel chain could not import toiletries used everywhere else in the group for its hotels in Nigeria and did consent to use local soaps, it had to smuggle fire-proof fabric through the border to ensure the safety of its clients. Similarly, a lead firm in the distribution sector had to infringe the Kazakh regulation on prices to offer its clients a basket of discounted basic products each week in conformity with its corporate practice. A vast majority of the case studies collected by the World Bank and the WEF points at efforts to train and build local capacity to meet the standards of the lead firm, in particular in the agrifood sector (for example, Nestlé AAA coffee, Kraft Food cocoa initiative, Unilever SustainabiliTea, and so on). Similarly, when Shoprite (a South African chain of supermarkets) opens a supermarket in an African country with poor standards, it will first import 80 percent of its products from South Africa to maintain its corporate standards; but it will then contribute to train local farmers to help them meet its higher standards, and progressively substitute its products with local products. Soon, 80 percent of the products are local, and the best performers might even be exported to Shoprite supermarkets in South Africa or third markets. Typically, this process of capacity building to make local production conform to higher standards (without requiring any change in the local regulations) could inspire AfT practice.

IMPLEMENTATION OF AFT PROJECTS: JOINING FORCES FOR BETTER RULES

Once best practices are identified, the question becomes: is there a clear enough convergence of public and private interest to justify a scaling up of the private initiative with AfT (that is, public funding)? Often, donors shy away from private sector-led projects because of potential (or perceived) conflicts of interest. When Cargill offers free training to more than 2.4 million farmers in China to enhance productivity as well as sanitation standards or farm management, is it appropriate for the public sector to join the initiative? What if the objective of the training is to produce coffee or cocoa to standards that are specific to one company and the supplier is locked in the value chain of this particular company? Some expressed fears that these intra-chain vertical agreements challenge the freedom of the supplier to sell its production to other firms.

This is a question of the universality of public vs. private standards. In some cases, like the Kraft Foods initiatives on sustainable cocoa or cashew in Africa, donors have been involved (GTZ and the US Agency for International Development, USAID); same for Nespresso projects in Central America (USAID and the International Finance Corporation, IFC), where the objective was to produce coffee meeting firm-specific standards. Thus, the answer to the above questions is unclear, and donors seem to have decided on a case-by-case basis. Private standards, as much as public standards, should pass the proportionality and necessity tests, and should not create unnecessary obstacles to trade, contribute to creating rents, or enable some companies to price their competitors out of the market.

A number of initiatives led by the private sector aim to transmit corporate rules to suppliers. BASF, for instance, drove its partners to become "bee-like" companies with the "1+3 CSR project" in China, whereby BASF teams up with three local partners (supplier, client, or logistics service provider) to transfer best practices and sustainability principles. In turn, each of the beneficiaries will do the same with three other firms, creating a snowball effect. The United Nations Global Compact named this initiative as a best practice of promoting CSR in China. BASF attempted to extend this practice to the whole chemical industry across regions. To what extent could these CSR rules then become government regulation, and be roped into AfT projects to contribute to regulation improvement and harmonization?

The example of the joint Total-World Bank Road Safety initiative is interesting in that respect. The objective of the project launched in 2010 was to enhance the efficiency of African trade corridors, starting with the Northern corridor (Kenya-Uganda-Rwanda) that suffered from high accident rates. The problem was in part due to the absence of proper road safety rules (and features on the road, such as signs) and the lack of implementation of existing ones. Corporate rules that Total had designed for its own fleet of trucks and drivers were expanded to become public. Total, jointly with the local governments and the World Bank, contributed to the adoption of new traffic rules and regulations in Uganda, uniform standards (including the privatization of enforcement) for axle load in Kenya and Uganda, as well as a new driving code regulatory framework in Kenya. Thus, a public-private AfT project could clearly contribute to improving regulation and regulatory cooperation in the region, starting from a private sector best practice, relayed at the political level by a donor and governments.

Examples of public-private partnerships in AfT are legion, and there is abundant literature about it. The WEF New Vision for Agriculture, Grow Africa, and Grow Asia are good examples of multi-stakeholder initiatives that promote best practices and contain a regulation/regulatory cooperation dimension, in particular in the domains of land access and tenure, environment, or access to finance and risk management instruments. There are different levels of cooperation though, and the commingling of public and private resources or the interference of public agencies with private initiatives are not always necessary or even desirable to leverage each other's efforts. Further dialogue and cooperation could help in coordinating actions and ensuring that the public and private efforts serve the same objectives; only in specific cases (see example above of corruption), these objectives could be better achieved through joint projects.

EVALUATION: CLOSING THE LOOP

Projects led by the private sector are results driven. Clear objectives are assigned and performance indicators put in place at the onset of the initiatives. AfT projects could benefit from this "culture of result." Moreover, only those "who do trade" are able to measure the impact of the regulatory reforms. Planned outcomes in donors' projects are often too vague because of poor access to critical information such as productivity gains, income increases, or profitability. Just as the private sector is best positioned to identify regulatory barriers at the onset of the AfT projects, it is also best positioned to measure the impact of the projects and remaining needs for regulatory reforms at the outset of the projects. For example, one can measure the impact of trade facilitation measures with the World Bank Logistics Performance Index fed by private sector data. Only such databases allow a serious monitoring and evaluation of AfT projects.

CONCLUSION

This paper suggests that there is a role for AfT to play in the areas of regulation and regulatory coordination, and that both public and private sectors have to gain from a closer coordination of their efforts, starting with greater consultation and exchange of information. Most of the reasoning has been based, however, on a certain vision of trade: mainly North-South trade,[2] with a segmentation of production along GVCs, and the diffusion of best practices by responsible lead firms. Trade patterns are changing quickly.

WHAT HAPPENS TO REGULATION AND REGULATORY COORDINATION WHEN MARKETS SHIFT TO THE SOUTH?

Regulatory coordination/coherence/convergence is essential to reducing trade costs in North-North trade. For example, an ambitious Transatlantic Trade and Investment Partnership that includes some regulatory convergence would have a greater impact than an agreement focused on the removal of tariff barriers. The same goes for North-South trade and investment. Regulatory cooperation/coherence/convergence is essential to allow developing countries attract FDI and join GVCs, reducing compliance-monitoring costs. When the target market is not in the North, however, things start to change. General Electric and others have implemented the concept of "reverse innovation," whereby products were created in the South for emerging markets. "Just enough" products might meet standards different from the ones required by consumers in the North. If those products are exported to the North, regulatory issues might arise, including intellectual property ones, as illustrated by disputes over parallel imports of products for which distribution is regulated by licences, health/sanitary, and technical regulations, or price fixing. Sometimes, the motivation clearly is to segment markets, with trade capture rather than consumer protection in mind.

The story then becomes very different when the lead firm is from an emerging country and/or the target market is a developing country, since the consumer preferences and lead firms' regulatory requirements vary. This was illustrated for example by Kaplinsky (2009) in the Thai cassava and Gabon timber cases, where a shift in demand from Europe/US to China resulted in a lower transformation of products (less value added in Thailand and Gabon) and less attention to international regulations. Figures 4a and 4b show the shift of consumers and lead firms away from sustainable harvesting standards in the case of Gabon.

Thus, the maturity of consumers and lead firms in terms of appetite for standards, testing, or certification requirements, and so on, varies a lot from the North to the South. Some lead firms could have a predatory behaviour and capture more of the value originally added by developing countries in the value chain, with a negative impact on development and growth. In the case of Gabon, the shift in demand for wood products from Europe to China resulted in the collapse of the local transformation industry, the depletion of natural resources, and ultimately in the ban of exports of logs. European countries then resorted to AfT projects to restore some of the market conditions prevailing before the shift of exports from processed wood products to Europe to logs to China. Better regulation and regulatory convergence with Northern standards then becomes a way to protect local consumers and producers from exports of emerging countries less concerned with sustainability and quality. "Just enough" is hard to measure. For instance, in Conakry, the Chinese won the market for the fleet of public transportation buses, but in the absence

2 For the purpose of this paper, North and South do not refer to geographical notions but to the distinction between developed and developing countries, including emerging economies.

FIGURE 4A:

European and Chinese Buyers' Preferences — Purchase of Logs from Gabon

LEGEND:

— — EU

—— CN

Source: Kaplinsky et al. (2010).

of strict quality standards and transfer of technology, or even ability to source parts, the buses soon broke down and could not be fixed, leaving the city without public transportation. This, of course, is a dynamic process. Some lead firms in the North still have a predatory behaviour, while some lead firms in the South are more mature. For example, the emergence of photovoltaic technology was first promoted in the North to improve environmental standards. Today, Chinese firms are leaders in the market. The Chinese government has also been active in promoting compliance with higher standards to promote exports through GVCs.

South-South trade and value chains change the paradigm of regulation and regulatory coordination. The question is: what will be the collective preferences of people in emerging countries once they catch up with Northern economies. Will they be the same as the ones in the North? Or will consumers develop different tastes, expectations, and risk-aversion levels? AfT in this area should not be only about helping the promotion of standards of the North and helping participation in GVCs led by firms in the North. It should also think "just enough" and help promote regulations that protect local consumers and resources according to their level of preferences, or help them participate in South-South value chains. This also raises the question of South-South AfT that is becoming increasingly important, as illustrated by the success of the Asian Infrastructure Investment Bank.

Just as AfT may have been used in the past to serve a race between the US and Europe for the diffusion of regulation in their relative spheres of influence, will the emergence of new AfT actors in the South lead to a new approach to AfT in the area of regulation and regulatory coordination? Is there a risk that a new layer of standards is added (convergence to a lower level of standards) with the risks stressed above, that is, an increase in the costs of trade for lead firms originating in the North or for local companies primarily trading with the North? This calls for greater cooperation of the private sector with AfT providers that promote higher standards.

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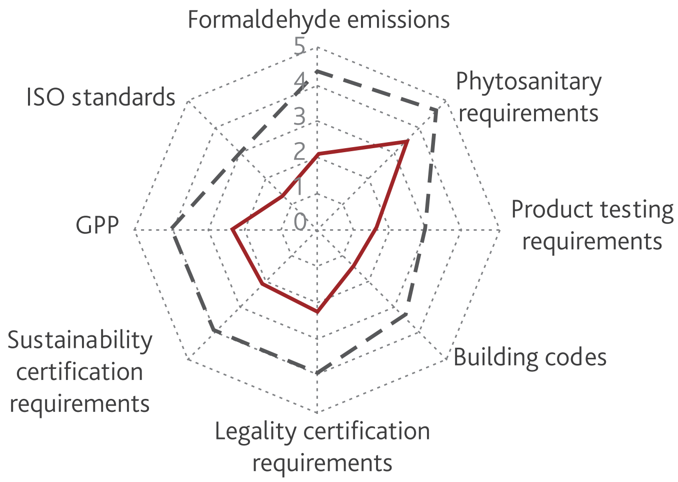

FIGURE 4B:

European and Chinese Buyers' Requirements—International Regulation and Standards (Logs and Wood Products out of Gabon)

LEGEND:

EU

CN

Source: Kaplinsky et al. (2010).

ANNEX

Project objective: Improving domestic regulation	Type of AfT project
Technical and SPS standards	• Capacity building for certification and accreditation (labs, personnel, resources, etc.) • Adoption or reform of domestic norms and standards to comply with international best practices • Promotion of standards, including voluntary standards, and related training • Private sector support to comply with standards
Intellectual property	• Improvement of IP regime and administration to comply with trade agreements, to include patents, authors' rights, geographical indications, etc. • Improvement of enforcement mechanisms and practices • Promotion of IPRs and related training or technical assistance
Competition, including privatizations and concessions	• Privatizations, concessions, and other forms of opening of sectors to competition • Elaboration and implementation of a competition framework, including competition law, competition authority (e.g. independence, resources, etc.), competition law enforcement (e.g. investigations, sanctions, etc.) and related training or technical assistance
Government procurement	• Adjustment of the laws pertaining to public procurement, including transparency, selection criteria, national preference, etc.
Security of contracts and investment	• Strengthening investor protection, including rights to challenge domestic regulations/decisions • Development of alternative dispute resolution mechanisms available to foreign investors (e.g. recognition of international arbitration, bolstering of domestic arbitration capacities) • Adjustment of the laws pertaining to nationalization, expropriation, foreign ownership, stability clauses, etc.
Corruption	• Reforms aimed at fighting corruption in the public (e.g. customs) and private sectors • Promotion and adoption of relevant international instruments
Administrative burden	• Administrative reforms towards simplification and reduction of administrative procedures (e.g. guillotine reform), increase in transparency, predictability, timeliness, and security of administrative decisions (e.g. suppression of authorizations)
Access to finance	• Reforms of the financial sector, including micro-finance, to increase affordability and availability of financial services • Export credit and trade finance
Other constraints	• Creation of export processing zones, business clusters, technology centres, etc. • Revision of relevant labour regulations towards greater labour market efficiency • Revision of regulations pertaining to the form of business operations and partnerships (e.g. franchises, multi-sector partnerships, etc.) • Increasing security of operations and staff against crime and violence

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