

Rising protectionism through NTMs: A case of SPS measures against South Africa's citrus exports

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Over the years, the application and use of tariffs by member states in the multilateral trading system has been substantially declining while the use of Non-Tariff Measures (NTMs) has been increasing. To a larger extent this may be attributed to an increasing adoption of Preferential/ or Free Trade Agreements (PTA/ or FTAs) among global trading partners that has also been increasingly enhancing international trade globally. According to the World Trade Organization (WTO) database on Regional Trade Agreements (RTAs), RTAs has increased from just 55 in 1995 to a cumulative 369 as of June 2024. Countries who are members to regional PTAs or FTAs benefit through preferential tariff rates or even no tariffs on certain goods and services traded among them (Li, 2024). In contrast to tariffs, which are very clear and frequently collected into public databases, NTMs are more difficult to detect and have only recently been compiled for a limited number of countries (UNCTAD and World Bank, 2018). The agro-food industry constitutes the most NTMs, both on the extended and intensive margins, across all regions.



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As of June 2021, NTMs among WTO member states have increased to over 9000 NTMs with technical measures accounting for a larger share of NTMs in force (Li, 2024). The aim of this article is to provide insights into the rising protectionism through the use of NTMs, exploring the case of South Africa's citrus exports (particularly oranges). Generally, NTMs are regarded as trade policy measures besides tariffs, which have a potential economic impact on the trade of goods and services internationally (UNCTAD, 2024).

Specifically, NTMs can be classified into several categories such as Sanitary and Phytosanitary measures (SPS), Technical Barriers to Trade (TBT), Pre-shipment Inspections and other formalities, Contingent Trade-protective measures, and other Export-related Measures. These measures are increasingly shaping trade between countries by dictating which nations' trade and by how much, despite their main aim being to protect public health and the environment (UNCTAD, 2024).

Europe is South Africa's leading market destination for fruits, particularly citrus. In the 2023 export season, Europe accounted for about 36% of South Africa's citrus exports and of which the majority is accounted for by navel oranges with a share of 37% (CGA, 2024). Other South Africa's leading markets are Middle East (19%), South-East Asia (13%), Asia (5%), Russia (8%), North America (9%), and United Kingdom (UK) (8%). Although the Europe market remains lucrative for South Africa, the country's citrus exports continue to face restrictive SPS measures in this market, due to the prevalence of citrus black spot (CBS) and false codling moth (FCM) in some production areas.

CBS is caused by the fungus *Phyllosticta citricarpa* which causes blemishes and significant yield losses on citrus, especially on sweet oranges (Dewdney et al., 2010). On the other hand, FCM is caused by the *Thaumatotibia leucotreta* (Meyrick) which is a key pest attacking citrus, stone fruit, and other crops in many countries in the African continent, including South Africa (Bloem et al., 2007).

The CBS and FCM are quarantine pests in the EU and other markets, and there is a set of SPS measures in place to protect public health and the environment from the possible spread of these pests into the EU orchards. Hence, to be able to access these markets, exporters need to comply with the set of regulations prescribed. Over the years, South Africa has managed to access the EU market as they comply with the existing regulations which involves pre-export inspections, strict spraying protocols, field surveillance programs, adherence to shipping protocols, and comprehensive CBS and FCM risk management systems. However, there is a lack of empirical evidence suggesting that these pests pose significant threats to human health and that they can spread from the consumer market to the orchards in the export market.

In July 2022, the EU enacted new regulations in addition to those that exist, requiring that imports of citrus fruit undergo specified cold treatment processes and precooling steps for specific periods before importation to ensure protection against FCM (USDA, 2023). This meant additional costs for the local industry on top of the estimated R4 billion to comply with the CBS and FCM regulations in this market. South Africa faces these challenges in the EU market although there is a preferential

agreement (that allows duty-free access for citrus exports) in place between these trading partners, the Southern African Development Community (SADC)-EU Economic Partnership Agreement (SADC-EU EPA). The SADC-EU EPA came into force in 2016 and it involves states comprising Botswana, Lesotho, Mozambique, Namibia, South Africa and Eswatini. Figure 1 below depicts South Africa's exports of oranges to the EU market (EU 28) from 2010 to 2023.

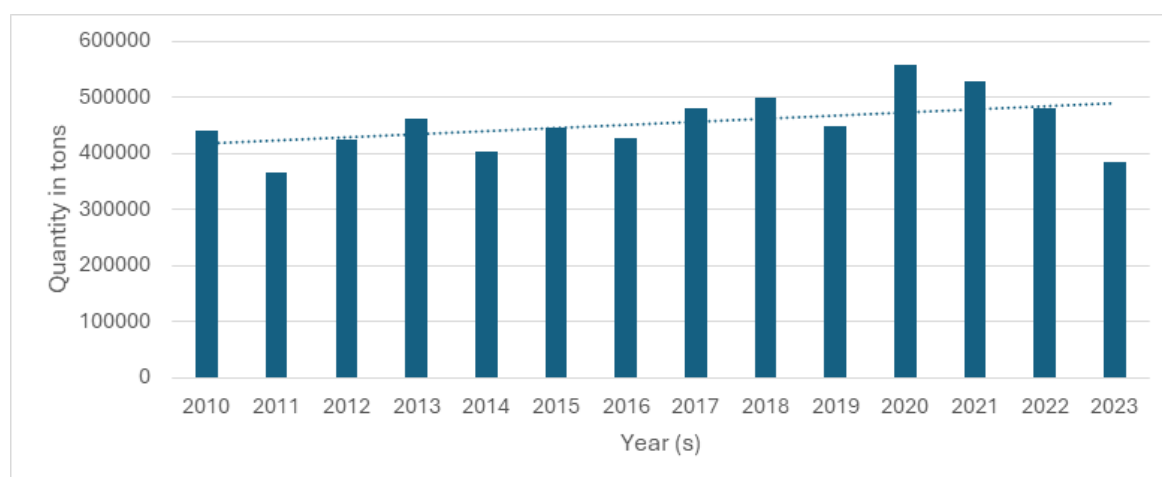
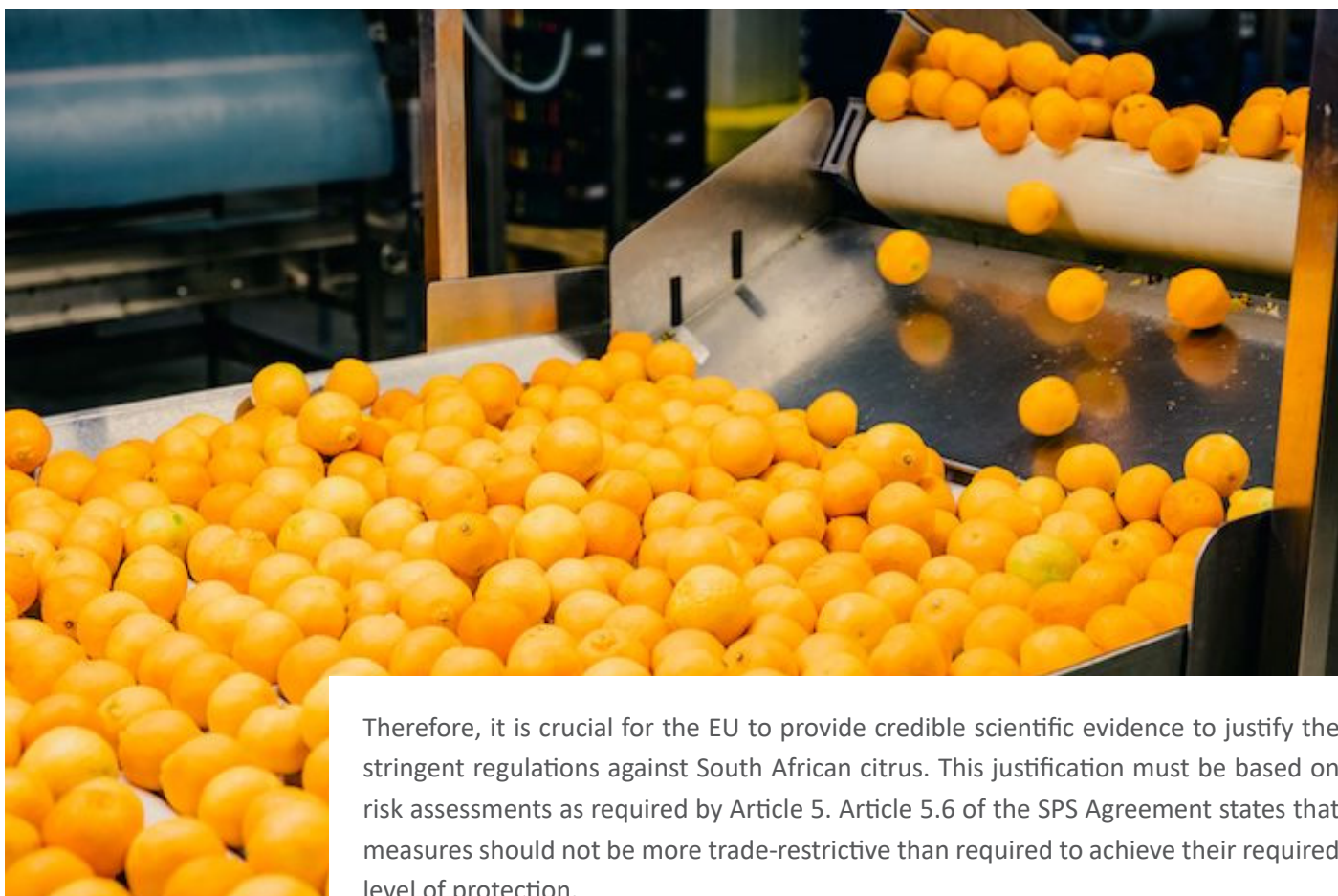


Figure 1: South Africa's exports of oranges to the EU, 2010-2023

Source: Trade Map (2024)

The graphical illustration shows that South Africa's exports of oranges to the EU have been fluctuating over the years. However, following the enactment of the SADC-EU EPA, South Africa's orange exports increased notably and reached their highest quantity in 2020. In 2020, South Africa exported about 557.5 thousand tons of oranges to the EU, showing a growth rate of 30% from 2016. However, between 2016 and 2023, South Africa's exports have declined by 10%. This may be attributed to the successive year-on-year (y/y) decline from 2020 to 2023. From 2020 to 2021, exports of oranges to the EU declined by 5% y/y, followed by a 9% y/y decline from 2021-2022, and a 20% y/y decline between 2022 and 2023.

Through the WTO Dispute Settlement Unit (DSU), South African initiated a dispute against the new EU FCM cold treatment regulations in July 2022. In addition, as of April 2024, South Africa also initiated another WTO dispute consultations process regarding the CBS regulations in this market. Under the World Trade Organization's (WTO) framework, there is an agreement on the application of SPS measures (SPS Agreement) which aims to ensure that member countries can protect human, animal, and plant health while preventing unjustified trade barriers (WTO, 2024). However, Article 2.2 of the SPS Agreement states that SPS measures must be based on scientific principles and should not be maintained without sufficient scientific evidence.



Therefore, it is crucial for the EU to provide credible scientific evidence to justify the stringent regulations against South African citrus. This justification must be based on risk assessments as required by Article 5. Article 5.6 of the SPS Agreement states that measures should not be more trade-restrictive than required to achieve their required level of protection.

In conclusion, the stringent SPS measures, including new cold treatment requirements introduced by the EU, have imposed substantial compliance costs on the South African citrus industry and have led to a notable decline in orange exports to the EU in recent years. South Africa should leverage scientific research to challenge the EU's SPS measures through the WTO. By providing robust scientific evidence demonstrating the limited risk of CBS and FCM to human health and the improbability of these pests spreading from consumer markets to EU orchards, South Africa can strengthen its position in ongoing and future WTO disputes. Moreover, to mitigate the risks associated with dependency on the EU market, South Africa should explore and expand its citrus exports to other regions. Diversification can reduce the impact of market-specific NTMs and open new growth opportunities. Also, South African trade authorities should explore bilateral negotiations with the EU to seek adjustments to the stringent SPS measures. Diplomatic efforts focused on finding a balance between SPS compliance and trade facilitation can help reduce trade barriers. Lastly, the citrus industry should adopt sustainable agricultural practices to improve pest management and reduce the incidence of CBS and FCM. Sustainable practices can enhance the quality and safety of citrus exports, making them more attractive to international markets.



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