

Non-Tariff Barriers to Trade: Tackling Compliance Related Issues

Each country has a right to maintain product standards and regulatory mechanisms to ensure the safety of their citizens as well as animal and plant life from health risks arising from cross border movement of goods. This has been recognised internationally, with the World Trade Organization (WTO) having an agreement on the application of Sanitary and Phytosanitary Measures (the "SPS Agreement") in force for more than two decades since the establishment of the WTO in January 1995. However, in recent years there is a tendency to use these measures as non-tariff barriers (NTBs) in international trade and as hidden protection from competition.

What is the SPS Agreement?

This agreement recognizes the right of a country to impose standards and regulatory mechanisms to ensure the safety of human, animal and plant life from unsafe food or beverages, or risks from diseases carried by animals or plants. The application of SPS measures are not just limited to the product itself but covers the entire production process, from production method to packaging used to ship goods across the world. While ensuring this, the SPS agreement also highlights the importance of not using these health and safety regulations to 'shield' domestic producers from competition. Application of SPS measures is an integral part of the global trade practice and has become a heated topic due its prevalence as a NTB to trade.

SPS as Protectionism

Countries are increasingly utilizing SPS measures with protectionist intentions and this has become a hot topic in global trade. The signing of the WTO multilateral agreement on Agriculture in 1995 committed members to achieving specific binding commitments in each of the areas of market access, domestic support and export competition. To a great extent this diminished the ability to use tariffs and trade restrictive measures (import quotas, export subsidies, discretionary licenses etc.) as barriers to trade.

The proliferation of regional and bilateral free trade agreements (FTAs) have further liberalised border tariffs. Yet, these FTAs have not always delivered the desired results due the existence NTBs; the majority of which are related to SPS measures and *Technical Barriers to Trade* (TBTs).

Standards and regulations designed to safeguard human, animal and plant life can be used as a double-edged sword. Standards that are appropriate for one country may not be considered appropriate for the other country. SPS measures can be used for discriminatory trade practices such as imposing these measures only on imports. With the absence of mechanisms for mutual agreement amongst trading partners on the necessary standards and conformity assessment procedures (CAPs), most FTAs have failed to fulfill their full potential.

Reducing Red Tape

Sri Lanka is a signatory to three FTAs – India Sri Lanka FTA, Pakistan Sri Lanka FTA and South Asia Free Trade Agreement. SPS measures have continued to be a major NTB to trade, as all of these FTAs were signed without Mutual Recognition Agreements (MRAs) on SPS related matters. As a result many Sri Lankan exports have been subject to severe delays at the border and additional costs are incurred on the goods that are already granted duty free access to these markets.

Existence of these NTBs have led to strong resistance from Sri Lankan businesses to further deepening of existing FTAs; especially the FTA with India. About 70% of Sri Lankan exports enter India through the port of Chennai. Many Sri Lankan exporters have faced severe delays in the goods clearance process here due to Indian authorities not accepting certificates issued by Sri Lankan conformity assessment bodies. The pain points of the SPS-related NTBs can be addressed by entering into a MRA with India on conformity-related SPS standards. This can be done in a number of ways such as through harmonization of standards, MRA on CAPs, accreditation etc., which the government must ensure is an integral part of the forthcoming Economic and Technology Cooperation Agreement (ETCA) and all future FTAs.

Private Public Partnership

There is little disagreement of the need for this on the government side or amongst private sector stakeholders. Even when the SPS measures are in agreement with WTO principles, scientifically justified and MRAs are entered into, the success of addressing SPS-related NTBs will depend on how efficiently implementation agencies perform their duties. The focus should be on identifying the appropriate MRA mechanism that is custom-designed to facilitate trade and working closely with the relevant government institutions and private sector stakeholders to facilitate export products that are of strategic importance to Sri Lanka. The concept of a MRA is new to many of the key stakeholders involved in this process. Therefore, the onus is on the government to educate stakeholders on the importance of this exercise so that effective input and cooperation can be obtained from government institutions. These institutions must see this more than an obligation, but rather as a necessity in facilitating trade and helping traders make full use of FTAs. The government should work closely with Chambers to obtain inputs from private sector stakeholders, as this is a crucial confidence building effort in pushing the Sri Lankan private sector towards a more liberalised trade regime.

This column is part of the 'TIPS' initiative of the Ceylon Chamber of Commerce, aimed at enhancing awareness on trade policy issues among the Sri Lankan private sector.

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