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Fixing the NTBs between India and Sri Lanka

Measures to prove compliance with an importing country’s standards and regulations are necessary for all exports. However, Sri Lankan exports to India suffer greatly from the associated costs and delays. This *Insight* proposes a Mutual Recognition Agreement (MRA) in Conformity Assessment Procedures (CAPs) to overcome this barrier and encourage further trade between Sri Lanka and India.

The previous Verité *Insight* titled ‘Exports to India: putting the “free” back into the free trade agreement’ highlighted that when negotiating trade agreements, focusing on “duty free access” alone can be insufficient, as non-tariff barriers (NTBs) can act as a strong impediment to exports.

It demonstrated the case of processed food exports from Sri Lanka to India, which have not expanded as expected. This is despite strong duty concessions from the India–Sri Lanka Free Trade Agreement (ISFTA). The NTBs faced by exporters trumped the duty concessions.

This *Insight* provides a solution to a significant NTB faced by processed food exporters: the NTB of undue delays and costs incurred at Indian ports to prove compliance with Indian standards and regulations. A mutual recognition agreement (MRA) will solve most of these issues, and there is no impediment in India recognising the need for such an agreement.

THE CURRENT PROBLEM

The Testing for compliance with standards and regulations are known as conformity assessment procedures (CAPs). These can have legitimate public policy objectives

2000
 YEAR

Free Trade Agreement between India and Sri Lanka

2002
 YEAR

Unilateral Agreement between SLSI and EIC

2006
 YEAR

Bi-lateral Cooperation Agreement between SLSI and BIS

such as protecting the health and safety of consumers and protecting the environment. However, when the CAPs in place create high costs, delays and uncertainty, they become barriers to trade – NTBs. This has become the case for processed food exports to India: high levels of sampling, storage costs, uncertain and sometimes lengthy time to clear testing procedures have effectively throttled exports of foods to India.

FAILED SOLUTIONS

India and Sri Lanka already have agreements in place to avoid CAPs unduly restricting trade. An agreement between Sri Lanka Standards Institute (SLSI) and Bureau of Indian Standards (BIS) in 2006 allows the two institutions to accept inspection and test reports issued by the other wherever standards are harmonized. Harmonisation is when two countries adopt the same standard for a product. The absence of harmonised standards, and the slow pace of discussions towards adopting them, makes this agreement mostly **irrelevant**.

A prior agreement in 2002 between the SLSI and Export Inspection Council (EIC) of India benefits only Indian exporters. It allows Indian exporters to send certain products to Sri Lanka without having to undergo further checks in Sri Lankan ports, if they have a certificate of conformity to Sri Lankan standards issued from and Indian lab accredited by the EIC. However, this agreement is **one sided** since it does not reciprocate this treatment for exports from Sri Lanka to India.

AVAILABLE SOLUTION

If the existing one-sided agreement was made reciprocal, it would become what is known as a MRA. This is simpler than harmonisation because each country can continue to maintain their own standards and regulations. In an MRA, each country agrees to accept certificates of conformity to their standards/regulations issued by the sending country's institutions, which are suitably evaluated and accredited to do so (Refer Exhibit 1).

Since conformity is assessed and established at the point of sending, the exporter

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does not have to suffer the uncertainties and difficulties that could arise in the receiving country. Exporters will also generally have more power to ensure that certifying institutions do not cause undue costs and delays in their own country.

An MRA is a quick win, because it can start with high priority products for which the capacity for mutual compliance testing already exists in both India and Sri Lanka, and can gradually expand overtime to cover a larger array of products.

DON'T WAIT FOR CEPA

The proposed Comprehensive Economic Partnership Agreement (CEPA) between

India and Sri Lanka already anticipates that an MRA would be a component. Furthermore, in all its new trade agreements with other countries, India has built-in provisions for MRAs. This makes the MRA a well-recognised and accepted solution for both countries.

The question then is should the MRA wait for CEPA? Or should it be unbundled and implemented first?

Trade agreements can be mutually beneficial, but there is no automatic guarantee – the details of the agreement and short to medium-term dynamics play a large part in the experience of benefits. Research suggests that the lack of provisions within the ISFTA to address NTBs and the weakness of problem-solving initiatives taken so far have clouded the view of Sri Lankan exporters on further liberalising trade with India. Therefore unbundling the MRA from CEPA and implementing it first can help to provide a clearer view on the potential benefits of the existing trade agreement.

And, if the potential benefits become clear, it could endear a positive problem-solving approach for expanding the trade agreement with greater mutual benefits in the future. ■

