

Root cause analysis approach to addressing non-tariff measures: A CEFTA case study

Governments often apply non-tariff measures (NTMs) in international trade to achieve various policy objectives such as protecting human health and safety, ensuring plant and animal health and addressing environmental concerns. Many a time, however, NTMs become barriers to trade (referred to as non-tariff barriers or NTBs) by being excessively discriminatory, deliberately protectionist or retaliatory in nature and impact trade flows more than required to achieve a certain legitimate objective. These barriers can impose significant cost of compliance on all economic operators involved in international trade.

NTMs must be understood in the local context against the backdrop of country specific strategies to achieve trade objectives. More often than not, there is a mismatch between legitimate government policy objectives and the distortive measures in place to meet those objectives.

Therefore, the process of identification and subsequent elimination of distortive trade barriers requires a mechanism for open dialogue between the public and private sectors to discuss the most burdensome barriers to trade and strike a balance between government's rationale behind the implementation of the concerned measures and the compliance costs for business.

Perceptions matter, but they may not be enough

Many of the issues reported by the private sector, especially in developing countries, are based on perceptions due to their lack of full understanding of the intent of government regulations and the attendant administrative procedures to implement them. Furthermore, manufacturing units generally employ third party service providers such as customs brokers and logistics services providers to manage regulatory approvals. Unless the public-private dialogue mechanisms are inclusive of all such stakeholders, governments do not get the complete picture of the issues necessary to determine the root causes of trade barriers.

Investigating the root causes of a particular trade barrier is a multi-layered process. In essence, a measure that is perceived as a trade barrier by the private sector can have many underlying causes, each of which can, in turn, have their own root cause. Thus, in order to identify the correct causal factor of a trade barrier, it is imperative to undertake extensive multi-layered investigation of each perceived obstacle.

Understanding the local context

The importance of the local context in addressing non-tariff barriers was clearly illustrated in a concluded project¹ implemented by the International Trade Centre (ITC). Intra-regional trade between Central European Free Trade Agreement (CEFTA)² parties was plagued by trade barriers in the form of tedious, lengthy, complex and difficult trade procedures and documentation, which made trade within the CEFTA covered region even more time consuming and expensive than trading with EU Member States.

Historically, most parties in the present CEFTA region were part of the erstwhile Yugoslavia. With the disintegration of Yugoslavia in the 1990's, what was essentially domestic market trade came to be known as intra-regional trade between CEFTA parties. These parties now function as independent administrative units that strive to become members of the EU and are aligning their regulations, policies, laws and procedures with EU Acquis. But this process was not taking place in a harmonized way. While some parties like Serbia and North Macedonia were racing ahead in putting regulations into practice in line with the EU Acquis, the others were far behind. This unsynchronised adoption of the EU Acquis, as a result, generated additional barriers to trade among the CEFTA parties. Eliminating NTBs thereby served a dual purpose: that of enhancing intra-regional trade within the CEFTA region and deepening regional integration by speeding up the process of alignment with the EU Acquis.

Addressing NTBs in CEFTA parties

In order to identify and prioritize the most distortive trade obstacles, as perceived by the private sector in the region, ITC undertook a bottom-up approach of mobilizing the private sector representing all segments of vegetables and iron & steel value chains. Follow-up sessions were conducted with the public sector representatives from all ministries and agencies involved in international trade to validate the issues and to understand the objectives of the governments.

The identified issues were categorized into two broad categories of trade facilitation related issues, such as long queues at the borders due to slow clearance procedures (lack of information on export and import procedures, burdensome documentary requirements, lack of harmonization of rules and procedures) and quality infrastructure/Sanitary and Phytosanitary Standards (SPS) related issues (lack of mutual recognition of certificates, double testing, low capacity of laboratories, etc.).

¹ ITC completed the implementation of the project "Support to the facilitation of trade between CEFTA parties". The project was implemented in partnership with GIZ and provided support to CEFTA structures to address the most distortive non-tariff barriers (NTBs) to trade to increase intra-regional trade and boost competitiveness.

² Albania, Bosnia & Herzegovina, Kosovo (This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo declaration of independence), Moldova, Montenegro, North Macedonia, and Serbia

Applying a layered approach in SPS-related issues to pinpoint root causes of NTBs

Intra-regional trade, particularly in the vegetables sector, is hampered by SPS related issues such as the time-consuming inspection and testing procedures and the non-acceptance of testing certificates, which are perceived by the private sector as possible protectionist measures put in place by governments due to political reasons.

The diagnosis of the root causes for these issues required a layered approach which started with an analysis of the gaps in standards, technical regulations, conformity assessment procedures, SPS measures and the supporting institutional frameworks for the two sectors in each CEFTA party and compared them with EU and WTO requirements. The studies were able to pinpoint the root causes, described below, for the SPS related trade barriers and recommend solutions at national and regional levels.

Regulatory heterogeneity among CEFTA parties was one of the root causes for the non-mutual-recognition of testing certificates, it also verified that this was not the main reason and there was a need to further explore into the state of laboratory infrastructure in the CEFTA region.

A detailed assessment of the testing capacity of CEFTA laboratories was carried and it was found that although some laboratories were under the impression that they were following nearly the same procedures in all parties, this was not the case. In particular, for pesticides residue analysis, while the laboratories studied cover 665 compounds between them, less than 30 of these are tested by all laboratories! This meant that if a product is retested by another lab located in another CEFTA party, it will most likely be analysed for different compounds than those included in the initial analysis. The laboratories were also not found to be following the accredited international standards for testing procedures.



The investigation thereby revealed that there was indeed a technical justification for the double testing conducted by laboratories, and it was not just a regulatory or even a political reason as was perceived by the businesses in the region. The perceived political protectionist agenda was, in reality, underpinned by technical weaknesses in laboratory infrastructure and processes, and the institutions that support them.

Many such underlying causes behind key trade obstacles faced by the exporters and importers while trading across CEFTA parties can be broadly classified as below:

Issues	Root Causes
Double testing by laboratories due to non-acceptance of quality certificates issued by other labs in the region	<ul style="list-style-type: none"> • Retests conducted by CEFTA parties were for different compounds than those included in the initial analysis • Insufficient or unclear understanding of technical requirements in specific markets
Inadequate laboratory testing services within each party	<ul style="list-style-type: none"> • Inadequate knowledge (skills and internal systems) to comply with requirements • Weak policy and regulatory framework to support compliance
High percentage of shipments inspected across regions	<p>Weak risk management practices due to:</p> <ul style="list-style-type: none"> • Inappropriately designed and rudimentary risk assessment criteria • Faulty determinants of risk. Practices should be based not only on scientific notions but also on regional experiences that include: <ul style="list-style-type: none"> ○ incidence of smuggling; ○ false reporting of data by companies; and ○ violation of rules of origin criteria • Lack of cooperation between border agencies
Excessive documentation and delays in administrative procedures	<ul style="list-style-type: none"> • Lack of harmonization of official control procedures • Lack of efficiency mindset and regular review of formalities
Multiple controls and submissions of similar data to various regulatory agencies, which may also interpret rules differently at different entry points	<ul style="list-style-type: none"> • Multiple agencies regulating and controlling trade at the border, coupled with lack of private sector capacity

Mapping trade procedures to identify and resolve bottlenecks and inefficiencies

Long queues of trucks were a common sight in the region due to the trade facilitation challenges faced by CEFTA parties. In order to investigate the root causes for the inefficiencies, a detailed investigation of export and import procedures through business process analysis (BPA)³ studies was undertaken, which helped in identifying areas of reform. The studies mapped trade procedures for edible vegetables and iron and steel value chains in intra-regional trade in each participating CEFTA party along with a time and cost estimation. The studies acknowledged the infrastructure challenges in the region, such as limited road lanes at border crossing points, and identified certain causes for trade barriers resulting from the design and execution of the business processes. These included increase in time and transaction costs due to a number of factors including large number of agencies involved, under-utilization of electronic systems, parallel paper documents and manual data verification tasks due to lack of adequate information sharing mechanisms among others.

In addition, the studies pointed to weak risk management practices in the region resulting in a high rate of inspections and lack of inter-agency coordination at domestic levels between customs and

³ Business Process Analysis (BPA) is an established methodology for capturing and describing businesses processes. The UNECE and UNESCAP have adapted BPA for use in the analysis trade and customs procedures. UNESCAP (2012) "Business Process Analysis Guide to Simplify Trade Procedures", <https://www.unescap.org/resources/business-process-analysis-guide-simplify-trade-procedures>

other inspection agencies. In some CEFTA parties, state-of-the-art risk management systems exist but they are not configured properly to assess risks, especially in the context of intra-regional trade where political tensions are frequently high.

It was noticed that customs administrations are generally more advanced and informed in the region, but the overall cross border performance is only as good as the weaker performing agency. In this case, the phytosanitary control agencies were found to be the bottleneck causing slow clearance procedures in the trade of vegetables and contributed to the long queues at the borders.



The project attempted to bridge the gap between the technical capacities of the two control agencies by conducting training of SPS inspectors from each CEFTA party on integrated risk management practices and facilitated a study tour for them to Latvia to see how such practices can be implemented on the ground.

Analysing root causes enables evidence-based recommendations

The complaints and perception-based views of the private sector were subjected to a multi-layered analysis of the obstacles faced by the private sector in cross border trade. The diagnostics employed to identify the root cause of the problem have resulted in a list of recommendations, a few of which are illustrated below.

- i. Outline a well-defined strategy for upgrading laboratory testing infrastructure and revising strategies to reduce the private sector perception of protectionist intent. Once the technical capacities required for reliable testing are ensured through the upgradation of laboratories, discussions on mutual recognition to avoid double testing in the region can be meaningfully undertaken by CEFTA regional structures established for this purpose. A strong technical foundation is an essential first step to overcome any political inertia at the CEFTA committee level to achieve this objective.
- ii. Restructure risk management parameters after thorough analysis of the criteria used to identify risky goods so that the samples thrown up for testing do not exceed more than 10%-20% of the overall consignment size, against the currently observed 80-90% sampled for testing.
- iii. Harmonise the trade documents amongst all CEFTA parties based on mapping their data fields with EU recognised international trade and customs data models to address

inefficiencies at the border. The recommendation gives precedence to their alignment with the EU system due to the strong desire and alignment of the beneficiaries with EU Acquis.