Research Article

Anatomy of Non-tariff Barriers in India–Sri Lanka Free Trade Agreement: An Empirical Investigation

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Abstract

This article attempts to answer one crucial research question: why the utilization of India–Sri Lanka Free Trade Agreement (ISFTA) route for trade is very poor by the Indian exporters (13%) as compared to their Sri Lankan counterpart (65%) even after one decade of its implementation? The available studies have blamed the non-tariff barriers (NTBs) which are hamstringing the growth of trade between these partners development of international trade. However, these have considered NTBs as subset of non-tariff measures (NTMs) which are quite narrow sense of finding the hidden barriers within the International trade process. Therefore, this article has analysed in detail the logistic process involved in international trade between India and Sri Lanka to understand various NTBs sheltered within this logistic process. Further, the article has identified issues which are not directly beyond the logistic process which are affecting the international trade between these two countries.

JEL: F0, F1

Keywords

Non-tariff barriers, free trade agreement, India, Sri Lanka

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Introduction

The India–Sri Lanka Free Trade Agreement (ISFTA), which was signed on 28th December 1998 and entered into force with effect from 1st March 2000, provides duty free concessions to a wide range of products traded between the two countries. Under ISFTA India agreed to remove tariffs on 1,351 products immediately after the treaty became live; and, agreed to phase out prevailing tariffs on the balance items over a span of 3 years. Besides, it has granted Tariff Rate Quota (TRQs) for three commodities—tea, garments and textiles—in spite of them being present in the Indian negative list (Kelegama & Karunaratne, 2013). On the other hand, Sri Lanka submitted a negative list consisting of 1,180 items; agreed to grant immediate duty-free access to India on 319 items; and offered a 50 per cent margin of preference on a further 889 items (with the preferential reduction raised to 70, 90 and 100 per cent over a 3-year period).

Following this reduction in tariff, Sri Lanka's exports to India surged from 55.6 million US $ in 2000 to reach a peak of 559.2 million US $ in 2005, leading to a 10-fold increase compared to 2000. Further Sri Lanka's exports have increased over the years and reached at US$ 0.8 billion during 2015. During 2007–2016 imports from Sri Lanka have grown by a compound annual growth rate (CAGR) of 4.1 per cent. On the other hand, during 2001, Sri Lanka accounted for 1.4 per cent of India's exports, which amount to US$ 621.5 million. Over the years, exports have increased reaching US$ 2.6 billion in 2007 and increased by a CAGR of 5.3 per cent to US$ 4.1 billion in 2016 in the last 10 years.[1]

Although free trade agreement (FTA) boosted volume of trade between India and Sri Lanka, the utilization of the free trade route by the Indian exporters was merely at 13 per cent as compared to 65 per cent by their Sri Lankan counterparts in the year 2013. On the other hand, during the period 2007–2016, Sri Lanka's position has declined from being the top trading partner with India in the SAARC region in 2007 to the third largest trading partner after Bangladesh and Nepal in 2016. The studies by Mukherjee and Iyengar (2013), ITC (2011), Saqib and Taneja (2005) reinforce the issue that the holy grail of 'trade led growth' fundamentally is being jeopardized by the existence of certain forms of non-tariff barriers (NTBs). These literatures have identified five major NTBs, viz. (a) import policy barriers, (b) standards, testing, packaging and certification requirements; (c) anti-dumping and countervailing measures; (d) export subsidies and domestic support and (e) government participation in trade—as the cause for sluggish trade led development and international relations. In these literatures, it is also argued that Indian exports are less competitive in terms of price as compared to Bangladesh, China, Sri Lanka and Pakistan due to various export-related NTBs (Saqib & Taneja, 2005).[2] The research carried out by Asia Development Bank (Mukherjee & Iyengar, 2013) also has acknowledged the fact that NTBs between India and Sri Lanka are mitigating the positive impact of ISFTA even after 14 years of its implementation.

While it is true that the aforesaid five factors are hamstringing development, it is difficult to agree that all these factors are active in impeding the trade relations between India and Sri Lanka. Therefore, it is rational to identify the NTBs which are specific to India and Sri Lanka, affecting their bilateral trade performances and leading to underutilization of advantages of the decade old FTA signed between India and Sri Lanka. Equally important is to identify how various NTBs are sheltered into the international trade process between India and Sri Lanka and to whether there exists any barrier that is impeding the trade process but not defined as NTB?

Given this backdrop, this article tries to understand how NTBs arise within the framework of logistics support system in the context of ISFTA through in-depth stakeholder interactions of parties engaged in India–Sri Lanka trade. Since, the past studies suggests that most of the barriers are on the Indian side, we have given key focus to understand the logistic process involved within the geographic boundary of India. Finally, the article intends to make recommendations based on our analysis to mitigate the impact of NTBs and further enhance the prospects of trade-driven growth of both the countries.

The rest of the article is organized as follows: the second section demonstrates the methodological framework for our analysis and the third section describes logistics processes of India-Sri Lanka trade. The fourth section discusses NTBs existing within the fabric of such processes and also other NTBs in the trade relation between India and Sri Lanka. Finally, the fifth section provides concluding remarks.

Approach and Methodology

Broadly speaking, there are two approaches to identify NTBs in the trade literature as given beneath.

1. **Policymakers approach:** The distinction between what classifies as non-tariff measures and what as non-tariff barriers has been subject to tremendous discussion and debate. Non-tariff measures (NTMs) are generally defined as policy measures other than ordinary customs tariffs that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both (UNCTAD/DITC/TAB/2009/3). Some of these measures are justified on the basis of various multilateral agreements governing international trade. On the other hand, those NTMs which cannot be justified under any of these provisions are termed as NTBs. However, certain NTMs in spite of being governed by multilateral agreements may lead to increase in costs and difficulties to comply with for trade, therefore becoming a constraint to trade.
2. **Academic approach:** McCarty (1999), states that NTBs should not be viewed as a synonym for NTMs but rather as a subset of NTMs. Baldwin (1970) provides a very comprehensive definition for a non-tariff distortion as ‘any measure (public or private) that causes internationally traded goods and services, or resources devoted to the production of these goods and services, to be allocated in such a way as to reduce potential real world income’.

In our article, a broader definitive approach is taken. NTBs are defined for the sake of identifying barriers in our article as any and all sort of interventions in the trade process with exceptions of tariff barriers by which trade competitors are losing advantages of trading. Consciously discriminated against following the line of thought that all NTBs are also NTMs but not necessarily the other way around. In this study we further proceed in identifying the problems of trade facilitation between India and Sri Lanka and propose recommendation accordingly.

Now to identify NTBs between India and Sri Lanka, we have followed a bottom-up approach which mainly includes the understanding cross border logistic management between India and Sri Lanka. To understand the logistic process involved in international trade between India and Sri Lanka, we have undertaken a primary survey with various stakeholders involved in India. The primary survey with the stakeholders was organized between July 2014 and December 2014 across various cities in India and Colombo, Sri Lanka. The stakeholders involved in this survey can be classified into the following groups:

1. Importers
2. Exporters
3. Customs house agent
4. Freight forwarders
5. Shipping lines
6. Port and customs authority
7. Business chambers
8. Government officials

After classifying the stakeholders, our next task was to obtain a detailed list of various stakeholders and their contact details. To get this, we had approached Ministry of commerce and Industry, GoI, Customs officials based in Inland Container Depot (ICD, Bangalore), Chennai port, Kochin port and Mumbai port. In addition, we had approached to Sri Lankan Deputy High Commissioner office, Ceylon Chamber of Commerce office in Colombo Federation of Chambers of Commerce and Industry of Sri Lanka (FCCISL) to identify key stakeholders engaged in India–Sri Lanka trade. Despite several meetings and personal visits with aforementioned authorities we were unable to get detailed list of exporters and importers due to confidentiality reason. Therefore, we have started our data collection from the custom house agents and obtain contact of at least one exporter/importer engaged with ISFTA. Thus, we had no other choice but to follow a snowball sampling method to identify stake holders for individual interview and group discussions. In this method, we first get contact of one stakeholder and obtain contact details from other from that stakeholder and so on. In addition, few stakeholder consultation workshops were conducted in New Delhi, Bangalore, Chennai and Mumbai in India and Colombo in Sri Lanka to map various NTBs arising in the trade process between India and Sri Lanka. A detailed list of number of sample stakeholder selected from different cities in India is shown in Table 1. Since stakeholder consultation workshops have indicated that exporters and importers are primarily dependent on customs house agent for processing their administrative

Table 1. Type of Sample Stakeholders Selected for Survey

Cities	Government Officials	Custom House Agent	Freight Forwarders	Complete Logistic Service Providers	Shipping Line/Airlines	Business Chambers	Exporter/ Importers	Total Sample
Bangalore	2	20	5	5	0	0	2	34
Chennai	4	10	5	3	5	2	5	34
Cochin	1	1	2	0	5	1	0	10
Mumbai	1	0	0	0	0	0	10	11
Kolkata	2	4	0	1	0	0	4	11
Total	10	35	12	9	10	3	21	100

Source: The authors.

formalities and logistics process, we have selected large number of customs house agents for our survey (see Table 1)[3].

After completing the first round of stakeholder consultation workshops and primary survey, most of the qualitative and quantitative data were analysed for further validation and verification. For validation purpose the second round of stakeholder consultation workshop with government officials and officials from business chambers were conducted in New Delhi and Colombo. Thus, we have completed the process of data collection and validation for further analysis. In the following section we have described findings from our survey in relation to our objectives as mentioned in the earlier section of this article.

Understanding Logistic Process of International Trade in India

In this section we provide an overview of the administrative formalities and logistic process involved within India for undertaking import and export transaction of a commodity. Subsequently, we describe the additional requirement in the case of ISFTA. Box 1 describes in nutshell the complete process involved in export/import of goods between India and Sri Lanka.

In addition to aforementioned mentioned process and documentation requirements, an exporter or importer has to fulfil following documentation process to avail 100 per cent tariff concession under ISFTA.

- **Rules of origin under ISFTA**
  The ROO criteria need to be fulfilled to ensure the goods are wholly produced from the country of export. Alternatively, ROO criteria requires a combination of domestic value addition (DVA) amounting to more than 35 per cent of freight on board (FOB) value of the finished product and change of tariff heading (CTH). Failing this DVA criterion, the product will fall under cumulative rules of origin (CRO) criteria. Under CRO criteria, if raw materials of a product are imported from other states and this is not less than 10 per cent of FOB value of the products, a minimum 25 per cent DVA is allowed. The CTH criterion states that the Harmonised series (HS) codes of the imported raw materials and the finished products should be different at 4-digit level.
- **Documentation for ROO—New exporter under ISFTA**
  The following documents must be produced for a newcomer to avail ROO:
  1. An affidavit is required for wholly obtained goods.
  2. In case of not wholly obtained goods, the following documents may be asked by department of commerce officers depending upon the nature of the commodity:
     (a) cost statement; (b) supporting documents of the cost statement—Customs Declaration Form (CUSEDEC) and invoices of imported raw materials and invoices of local raw materials; (c) production flow chart; and (d) any other document deemed necessary;

Box 1. Detail Process Involved in Export and Import Between India and Sri Lanka

Stages	Activities Performed	Responsible Stakeholder
Stage-1	• Partnership agreement and finalize terms of trade. • Makes arrangement for invoice, packing list and other documents.	Exporter and importer
Stage-2	• Find logistics partner.	Exporter
Stage-3	• Collects authorization letter from the exporter. • Makes the exporter fill KYC document as per the customs regulation. • Demands invoice, packing list from the exporter. • Book shipping line through online. • Makes arrangement for certificate of origin from chamber of commerce. • Arranges the vessel/flight to transport the cargo. • Selection of vessel operator is done.	Logistic partner with the help of customs broker and shipping line
Stage-4	*Additional documents required* • To export hazardous chemicals, collect material safety certificate from safety officer hazardous goods. • For export of frozen fish collect certificate from FSSAI (Food Safety and Standards Authority of India). • For exporting rice collect certificate from Agriculture and Processed food products Export Development Authority (APEDA).	Customs broker
Stage-5	Container is picked from CCI (Container Corporation of India) for stuffing the cargo.	Shipping line
Stage-6	Stuffing takes either in plot/container transported to exporter's warehouse for LCL and FCL cargo.	Exporter
Stage-7	Cargo taken to CFS (Container freight station). Quantity and quality checking are done.	Shipping line
Stage-8	Cargo is taken through domestic container by either rail/truck. Reaches warehouse/port house.	Shipping line

(Box 1 Continued)

(Box 1 Continued)

Stages	Activities Performed	Responsible Stakeholder

Stage-9	• Dock challan and shed writer operations are prepared.
	• EGP (Export Generation Print) is collected at the gate port.
	• Final appraisement and examination are done by the examination officer.
	• Upon appraisement and examination of the cargo, late export order is issued by the appraisers.
	• Three copies of shipping bill are generated and given to:
	  • Customs authority.
	  • Exporter.
	  • Exchange control copy.
	  • Custom broker on behalf of exporter submits the dock challan to preventive officer for allowing shipment.
		Shipping line and custom broker

Stage-10	Cargo is shipped to destination country.
	A. After sailing of the vessel shipping issues following documents:
	  • Bill of lading if goods are shipped or an airway bill if imported through an airline.
	  • Contract of carriage responsibility of the cargo taken by the shipping line.
	B. The exporter with the help of CHA files export general manifest (EGM) with the customs within 48–72 hours from the sailing of the vessel. Export general manifesto has the following details—shipper, exporter, cargo quantity, commodity and gross weight.
		Shipping line, CHA and customs office

Stage-11	The logistic service provider hands over the shipping bill to shipper upon paying shipping line charges such as • Ocean freight. • Terminal handling charges. • Documentation fees.	Logistic partner

Stage-12	Importer from his side arranges custom broker • Importer gets information on arrival of cargo. • Custom broker collects an authorization letter from importer as a proof for clearing her/his goods. Custom broker demands documents like: • Import invoice. • Packing list. • Bills of lading. • Certificate of origin.	Importer and custom broker hired by importer
Stage-13	• Custom broker checks the arrival status of the vessel/flight. • Files bill of entry through EDI (electronic data interchange). • Bill of entry is processed, and cargo is released from the custody of shipping. • Delivery order is issued and presented same to the port/airport/CFS/ICD. • Registration of the BE at the port/CFS/ICD is done. • Examination officer prepares verification of report. • Appraiser prepares 'out of change report'. • Challan is prepared and signed by the examination officer and appraiser. • Then cargo carried in truck/trailers to move out of customs jurisdiction to importers premises. • Importer takes the responsibility of preparing transport/road permit/waybill to carry goods on road to the final delivery point.	Importer and custom broker hired by importer

Source: The authors.

- **Documentation for ROO—Regular exporter under ISFTA**
    1. For wholly obtained goods, any one of the following may do—(a) copy of the certified and approved affidavit, (b) commercial invoice and (c) parties copy of export CUSDEC.
    2. For not wholly obtained goods, the following are required—(a) copy of the approved cost statement, (b) commercial invoice and (c) parties copy of the export CUSDEC.

Table 2 shows individual cost incurred by the exporter in origin and importer in destination. Apart from paying custom clearance, freight cost and port entry cost, there are overhead charges, which include unloading and loading charges and terminal handling charge. On the other hand, importer at destination must pay insurance freight cost, port entry cost, delivery charges and demiurge charges if applicable.

As described earlier, a regular trade process between India (Bengaluru) and Sri Lanka (Colombo) through Chennai port takes around 8 days (192 h) and incurs approximately ₹90,729 per 40 feet container to complete entire process of international trade. However, this cost of logistics may vary due to size of container and types of commodities. On the other hand, it is not always possible to quantify costs associated with NTBs due to heterogenous nature of commodities and associated NTBs. For example, most of the stakeholders expressed their concern about speed money as their additional cost that they must pay at various transaction points to clear a consignment through free trade route. On the other hand, the amount of speed money depends on many factors like, nature of the commodity, packaging requirements, market size of the exporter/importer, volume of consignment, etc. Therefore, we have collected qualitative information to identify various NTBs that impede the trade process. The following section describes detail about the NTBs shelter in the international trade process.

NTBs Sheltered in the International Trade Process Between India and Sri Lanka

In this section, a list of NTBs identified throughout our survey with the stakeholders and the stakeholder consultation workshops have been mapped with different stages of logistic process. In addition, we have also listed some other issues related to logistic process that are indirectly affecting international trade between the countries. The detail description is given beneath.

Packaging and Labelling Process

On the Indian side, the stringent regulations of Food Safety and Standards Authority of India (FSSAI) are causing unnecessary delay in approval of consignments at various entry points. As a result, food importers and retailers are

Table 2. Charges Involved in Trade Process

				Transportation charges (visible) Unit: ₹			
From	To	Type of Cost		Roadways	Railways	Seaways	Airways
Bengaluru	Chennai	Domestic transport	Time (h)	36 h	24 h		
			Cost (₹, for 40 feet container)	41,000	25,000		
Chennai	Colombo	International transport	Time (h)	42 h			4 h
			Cost (₹, for 40 feet container)			24,395	30 per Kg
Other charges for 40 feet container export (sunk cost) Unit: ₹							
Customs clearance and inspection in Bengaluru ICD						5,000	
Terminal handling charges at Chennai						6,075	
Halting charges at Chennai (@ ₹3,125 per day) average waiting time (1 day)						3,125	
Demand delivery charges at Colombo port						5,500	
Demurrage charges at Colombo (per day) average time for clearance is 1 day						2,500	
Total cost of export 40 feet container						87,595	
Number of hours required for trade through regular route						192	
Total transportation charges (₹/h) through road + sea						456	
Number of hours required for trade through free trade route						288	

Source: The authors.

facing mounting losses. Import consignments are first checked for their compliance for labelling and then sent for checking to the authorized laboratories. According to the food regulator's norms, manufacturers of packaged food items must mention ingredients with their nutrition value in English language on the labelling. The producer's name, address and country of origin must also be mentioned in the prescribed format of FSSAI. In addition, instead of using stickers, FSSAI insists importers to print the product details on the packs that are to be shipped to India. Hence the packaging cost for small scale importers increases substantially. On the other hand, standard packaging sizes are enforced upon. This implies, if any other packing size used then a statement such as 'NON-STANDARD FSSAI PACKAGING SIZE' must be printed on the packets. All these cause delay in clearance of food products those are perishable in nature. Moreover, there is a shortage of proper storage facilities at ports (especially for items which require cold storage facilities), leading to loss of revenue to various traders.

Further there are no clearly defined labelling rules and standards to adhere to the Prevention of Food Adulteration (PFA) Act of. As a result, range of high-value commodities face legal compliance issue. Regular black and green tea (loose tea), regular black and green tea (tea bags), flavoured black and green tea (loose tea), flavoured black and green tea (tea bags), assortment flavoured and regular black and green tea (tea bags), herbal tea-regular/flavoured and organic tea-regular/flavoured are most affected commodities due to complexities in PFA compliance. Therefore, if the labelling regulations are clearly defined and made available to traders, it makes compliance easy and would not cause problems in clearing shipments at the point of entry into India.

On the other hand, fragile products like sanitary ware are usually packed in straw to insulate them from shock and impact. But Sri Lanka does not accept products packed in straw, instead, they demand that such products be packed in 5-ply corrugated boxes. Since, India does not manufacture enough 5-ply corrugated boxes to meet the existing demand, prices are too high compared to the other countries. This increases the costs of the packaging and affects the competitiveness in the international market.

Certification

India does not accept third-party certification in fast moving consumer good (FMCG) sector. Even if an accredited laboratory in Sri Lanka produces a certificate confirming that Sri Lankan products adhere to standards required by India, they do not accept such certification. Instead, the Indian authorities draw samples from each shipment and then test them in their own laboratories. Since last 5-years traders have complained that Indian authorities insist on drawing separate samples and carry out separate tests on the same product packed in different size bottles. This leads to unnecessary delays at the port and adds to the cost discouraging exports to India, which is a highly price competitive market.

Sri Lanka Standards Institute (SLSI), on the one hand, has entered into an agreement unilaterally with Export Inspection Council (EIC) of India on recognition of test reports/certification issued by reliable Indian authorities accredited to provide these tests. Therefore, Indian products do not face unnecessary delays or additional costs in this respect while entering Sri Lanka.

Unfortunately, this is not the case for Sri Lankan products as Sri Lanka does not have an agreement with Indian authorities where they accept test reports and certification issued by Sri Lanka. Also, they do not have a system in place where they recognize third party certification (Especially with respect to FMCG-food products) even if the third party is reliable and competent.

Testing

ISFTA specifies that customs shall not keep goods for more than 3 days and shall obtain an undertaking from the importer and release the goods. However, from time to time the goods arrive at the destination and samples are drawn by customs for testing, it takes 20–30 days to obtain report from the laboratory and overall 30–40 days to release the goods. Exporters are charged US$4.60–70 as testing fees for each sample representing every import consignment. Meanwhile importers must pay heavy demurrage and storage charges. The officials also take 500 gm of sample for testing from every import consignment, which exporters feel is grossly excessive, especially in the case of high-value products.

In cases of international commodity trade within the related companies, the transaction value is normally not accepted unless it is proved that the circumstances of the sale of the imported goods indicate that the relationship does not influence the price. Special valuation branch examines the influence of relationship on the invoice value of the imported goods in respect of transactions between related parties. With a provision of registration of special valuation bond (SVB), clearance of goods is allowed after on provisional terms with an added collection of 1 per cent revenue deposit as a safeguard depository measure. Usually a questionnaire is issued to importer releasing goods giving SVB. On receipt of revert from the importer and final evaluation of the same, SVB finalization takes place within a time frame of 3–4 months, which asserts that the declared value of goods is genuine.

The SVB clearance happens to be a complex procedure where time and money gets involved. Importers complain that even after authentication of declared value, the amount initially collected is not refunded, henceforth, leading to a huge unrecovered cost impact on the importer and the economy as well.

During the survey it was found that Sri Lanka specifies registration of cosmetics in their country even if the Indian exporter has registration in India. Thus, each time the exporter must export to Sri Lanka he has to register the product with the State Pharmaceutical Corporation of Sri Lanka, Ministry of Health of Sri Lanka. The exporter must send the analytical report of the tests carried out in India along with the samples to Sri Lankan importers. These samples again undergo various tests in Sri Lanka, after which the certificate of registration is rewarded. This registration is specific to Sri Lanka and is not a mandatory procedure for exports to other countries. Hence, this aggravates the agony of the exporter especially while exporting to Sri Lanka.

Even in case of mango pulp, most importing countries have standard specifications but to export to Sri Lanka, Indian exporters are required to obtain a Health Certificate from the Ministry of Health of Sri Lanka. However, for the other countries they also accept the certificate from the Government of India (Ministry of Health). In addition, the exporter also needs to get a thread bare analysis done. This test is conducted in order to specify the exact contents of the product. This test is conducted over a period of 2 days and costs about ₹5,000–7,000 per consignment. According to the exporters it is a test, which they do, and include this in the cost of the products.

Import Policy Barriers

Under ISFTA, India has introduced a cap of 2,500 tonnes pepper that can be imported into India from Sri Lanka annually. Since 1 April 2006 when the cap came into operation, no exports have been made into India under ISFTA, as the Sri Lankan exporters have shown displeasure and requested Indian authorities to remove the cap and restore free trade as was the case when ISFTA came into operation in 2000. India's production of pepper is around 50,000 tonnes and her imports are 20,000 tonnes so this cap of 2,500 tonnes is an insignificant figure. Sri Lanka also has requested for quarantine clearances for: strawberries, wood apple, dragon fruits, mangosteen, mango, ranbutan, avocado and guava. However, India has given the clearances only for strawberries, wood apples and dragon fruits.

Various other commodities such as meat also face problems in India due to the requirement of a Special Import Licence (SIL) issued by The Ministry of Agriculture, Department of Animal Husbandry Dairying and Fisheries, which meets only twice or so in a month. This is a matter of concern due to the inordinate delay/s and the requirements not being specified on the website clearly.

Sri Lankan importers have also been advocating for the removal of rubber from the negative list of both the countries. Import duty structure in India makes the imported rubber compounds more expensive than those of India and therefore is not competitive for exports from Sri Lanka. If the rubber compounds are included in the zero-duty category for both countries, both countries could adopt a mechanism where Sri Lankan company could export the compounds to Indian company and final product from Indian company could be targeted to Europe/USA markets. Under the present system, this mechanism of jointly approaching the western markets is not possible because the tariff structures are making the final products more expensive. It would be beneficial to both countries to include rubber in the zero duty items.

Indian exporters have also complained against the provision of having to pay the Terminal Handling Charges of Colombo port at Chennai itself as well as sudden levying of additional cess on their products by the Sri Lankan Government and then their sudden withdrawal, which makes the business environment uncertain. Sri Lanka also imposes discriminatory tariff for certain commodities such as onion exported from India. While the Most Favoured Nation (MFN) duty on both Pakistan and India's exports is zero, the preferential rate tariff on it is higher for Indian exports than those from Pakistan, leading to an unfair advantage in spite of onions being in the negative list of both the FTAs.

Contingent Measures

Various products exported from Sri Lanka are subject to certain contingent measures such as the anti-dumping duty of USD330/M3 on 6 mm and above plywood boards when the market was USD225/M3. This move by India resulted in retrenchment in Sri Lanka as a production line had to shut down. Even a minimum floor price of USD60.00 per square meter on marble from Sri Lanka made the exports to India unviable.

In the Sri Lankan Pharmaceutical sector there exists a rule/procedure which aims to protect the locals, which is seen differently by Indian exporters. In this case when a company exports a product to Sri Lanka it cannot market the product in Sri Lanka on its own. The product has to be registered by a local company and can only be marketed by that company. Exporters in India stated that when they were not satisfied with the local company and wanted to shift to another, they could only do so with by obtaining a no objection certificate from the current company, who normally demands a large sum of money.

Infrastructure and Technological Barriers

It is obvious that the lack of infrastructure, such as bad road conditions and problems of Information and Communication Technology (ICT), are impediments to trade. The majority of the trade between India and Sri Lanka takes place through Chennai port. But the 20 kilometre stretch approaching Chennai port is in a devastating condition due to movement of overloaded trucks which often goes unnoticed by the inspection authorities. Moreover, inefficient cargo handling at port hamstrings growth. Also, shallow draft and water levels in river ports, such as Kolkata and Haldia, have slowed down the trade cycle altogether.

At the Cochin port, most of the traders faced hurdles in loading and unloading of their cargo due to high dominance of labour unions. Consequently, traders based in South India mostly prefer Chennai port for shipment, as a result of which the congestion at the Chennai port increases and delays the custom clearance.

On the ICT front, there is a problem of server failure or server congestion in India which delays the clearance of the consignment and results into increased transaction cost. For example, during booking of cargo through any shipping line gets delayed by an average 1 day due to server failure. As every stage in logistic procedure are inter linked, delay at one stage causes delays at other stages and hence increases the number of days required to export to Sri Lanka.

During our field survey, we came to know from the logistic providers based in Bangalore that, on an average every third transaction faces delay due to server failure. According to their view, under normal situation, almost 7–8 days are required to export any cargo from Bangalore to Sri Lanka; but due to such delay, number of days increases up to 10–11 days to export to Sri Lanka from Bangalore. Technology support is important to achieve the benefits of the FTA. Such support is expected to reduce human interaction. Autonomic decision-making process will strengthen principle-based economic judgements and shall remove corrupt practices. System breakdown has been noticed after adoption of an upgraded version of online customs electronic data interchange (EDI) system: that is, implementation of EDI 1.5 version from EDI 1.00. That not all trade activities are electronically managed by this system, therefore manual filing of bill of entry and shipping bills for re-exports for example leaves room for manual intervention and corrupt practices.

Although such technology and infrastructure barriers are not specific to a country like Sri Lanka, but Sri Lanka being small economy, enjoys less comparative advantage to trade as compared to other developed and developing countries. However, it can be easily understood that removal of such barriers will increase flow of goods between India and Sri Lanka to gain mutual benefit from FTA.

Administrative Barriers

In India, information on policy changes by the custom department is not disseminated in a proper manner, which becomes a major impediment in trade to exporters and in particular to importers.

Sri Lanka uses both printed and electronic media to publish regulatory and administrative changes related to trade. The dissemination of information regarding tariffs and regulations are done through gazette notifications. However, most traders state that collection of information related to trade was very time-consuming, and costly. Moreover, a majority of the respondents find it difficult to access laws and administrative rulings even though there are designated official enquiry points for traders to obtain information. Also, from the survey, it is evident that government procedures take time in publishing information through gazette notifications. Even though several government agencies launched websites, they have not been regularly updated.

Measures Affecting Competition

The discrimination of Sri Lankan company to access Indian market affects competing in the market. Indian advertisements are broadcasted in Sri Lanka through cable TV and satellite broadcasting. However, when Sri Lanka advertisements are broadcasted in India, surcharges and other penalties are added if Indian models are not used and commercial is not of Indian origin.

NTBs Sheltered Under FTA Compliance Process

To enjoy ISFTA benefits, the products should comply with the following criteria.

- The DVA in the exporting country should not be less than 35 per cent of the FOB value of the finished product.
- HS codes of the imported raw materials and the finished products should be different at 4-digit level (CTH criteria).

It has been argued during our expert consultation that a section of exporters from India were exporting detergents to Sri Lanka and using the ISFTA route after this agreement came to force. But in about last five years, there is a change in the formulation of the product in Sri Lanka and due to that the raw material (speckles) imported from India contributes less than 1 per cent of total value of the final product. Again, these speckles were in same HS heading as the final detergent and hence not being able to fulfil the change in tariff heading rule and cannot anymore use the ISFTA route[4].

Even at the Sri Lankan end it is noticed that some importer imports the concentrated compound under HS code 2009 and mix with other relevant components under different HS codes in Sri Lanka. The entire process, including bottling has a value addition of almost 100 per cent at ex-factory cost status. However, as per the HS code description used by Sri Lanka customs the item remains under the same HS code of the main imported input, therefore the product does not meet the ROO criteria stipulated. Therefore, the company requests to dispense with the 4-digit HS conversion requirement for the product. The company also states that in other countries the compound imported is classified under the HS code 2106 and Sri Lanka customs also used to apply this code until 2006 but now the imported compound and the final product both are classified under HS 2009. This is the main reason for not being able to meet ROO criteria under ISFTA.

General Barriers That Impede Trade

Observation suggests that there are certain aspects which both the countries must consider in order to simplify the trading process by means of developing better coordination among implementing agencies and analysing the weaknesses that are hampering greater market access.

The main issue which needs to be addressed is that despite the FTA being signed in 1998 and the lists being available only in 2000 there is a considerable lack of awareness of the agreement and the preferential lower import duties applicable. The traders at times produce all documents to establish the existence of the agreement to avail of lower import duties. This delay results in the demurrage meter ticking, negating the advantages of trade under this agreement. It needs to set time frames within which procedures need to be completed to avoid any such occurring problems. Traders have also highlighted the fact that there is no grievance cell to resolve disputes in international trade.

Conclusions and Policy Recommendations

The FTA between India and Sri Lanka has no doubt facilitated trade-driven growth between two countries. Although there is less utilization of FTA route by the Indian exporters, Sri Lankan exporters find it more convenient to trade with India. This has resulted in the increase in the volume of Sri Lankan exports to India. In this article, we have tried to understand and identify NTBs between both the countries, removal of which certainly will increase the trade volume.

It is important to note here that the ISFTA being the first ever signed FTA in South Asia has its limitations. It is also evident from the past that there are NTBs which caused misinterpretation of FTA between India and Sri Lanka. Consequently, it has been observed that exporters of both the countries are gradually shifting from FTA route to non-FTA route and it is more serious in case of Sri Lankan exporters. Almost 98 per cent of export from Sri Lanka was through FTA route in the year 2005 and it has fallen down to 65 per cent in the year 2013. On the other hand, maximum 30 per cent of Indian exports were routed through FTA route in 2004 and it has fallen down to meagre 13 per cent. Experts are of the opinion that this fall in share of utilization of FTA route is mainly because of implementation of SAARC Free Trade Agreement (SAFTA) in the year 2006 and most of the Indian exporters are using SAFTA route than FTA route. Although the rate of tariff concession is higher in FTA (up to 100%) than SAFTA (up to 20%), shifting from FTA to SAFTA raises a serious concern about the existence of NTBs and hence it is important to revisit FTA policy and take necessary actions to remove those NTBs to strengthen bilateral trade between India and Sri Lanka.

Given this back drop the present article has identified a list of NTBs which have been unidentified so far by the existing studies and provides the following recommendations.

1. NTBs should not be looked as only subset of NTMs; rather it should increase its scope and include barriers, which affect bilateral trade and can be solved through domestic as well as foreign policy interventions. For example, as discussed in this study that the Chennai port is overcrowded as compared to Cochin port which has also modern infrastructure facilities. So creating awareness to the exporters and importers to utilize its capacity will reduce burden to the Chennai port and can reduce clearance time of the goods. Hence domestic policy can reduce transaction cost and hence export will be more competitive in the partner countries.
2. Harmonization of standards for food items will reduce time for testing and certification. As per existing norms, any food item exported either from India or Sri Lanka are tested twice (one in port of origin and another in port of destination), which increases unnecessary trading time. Therefore, harmonizing standards for these items will solve such problems.
3. Agent-dominated pharmaceuticals import in Sri Lanka must be controlled by the government, otherwise it will provide monopoly power to the agents to exploit Indian exporters and breach the trust.

4. Good governance by smoothening process of grievances will reduce existence of disguise buyers and breach of contract.
5. Standard operating procedure must be followed by both the countries to gain confidence of the exporters and importers to use FTA route for trade.
6. Neither India nor Sri Lanka use US dollar as medium of exchange in their domestic economy. But while trading they use US dollar as medium of exchange and hence increases the transaction cost to both exporters and importers. Therefore, trade in ₹ or LKR may reduce this transaction cost at least once and hence cost of trade between both the countries.
7. Mutual recognition of certificate of origin will help to increase confidence among the exporters and importers as it reduces time for clearance of goods from port.
8. The existing rule of origin (35% value addition for tariff concession) is too stringent and flexibility is required. Initially it can be started with low-value product and gradually can be extended towards high-value intermediate commodities.
9. In case of FTA, EIC of India issues certificate of origin for every 20 shipments, which is not viable for low-value commodities. Hence, limits in terms of number of shipments can be changed into value of the product. This will reduce less documentation time for the low-value product.

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Notes

1. See Export Import Bank of India (2018).
2. ITC Report (2011) has identified Sri Lanka as the most affected country with ‘an overall share of 69.7 per cent of exporting firms and 70.4 per cent of importing firms reporting burdensome trade barriers’ with India.
3. On 30 April 2014 and 6 September 2014, two stakeholder consultation workshops were held at the Institute for Social and Economic Change, Bangalore. On 19 November 2014 and 20 February 2015 two rounds of stakeholder consultation meetings were held at the Galadari Hotel in Colombo. On 28 January 2015, a stakeholder consultation meeting was held at the Center for Policy Research in New Delhi. During 14 August 2014 to 26 August 2014, individual stakeholder meeting was held in Mumbai. During the first week of July 2014 stakeholder meeting was held in Chennai. Between 14 December

2014 and 16 December 2014, two stakeholder meetings were held at the South Indian Chamber of Commerce and Industry in Chennai.
4. See http://shodhganga.inflibnet.ac.in:8080/jspui/bitstream/10603/6691/9/09_chapter-percent204.pdf

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