

# 07

## Improving Trade Connectivity Through Mutual Recognition Agreements in Standards: A Case Study of Processed Food Exports from Sri Lanka to India

SUBHASHINI ABEYSINGHE, *Research Director, Verité Research.*

HASNA MUNAS, *Senior Analyst, Verité Research.*

### Abstract

Existing free trade agreements (FTAs) among countries in the Bay of Bengal region have failed to effectively address non-tariff barriers (NTBs) to trade, take initiatives to expand existing FTAs, or negotiate new regional agreements. Addressing shortcomings in NTBs is vital to improving trade connectivity in the region. One important NTB that stifles trade is the time and cost taken to demonstrate compliance with importing country standards. This policy paper proposes a solution to this problem that can be implemented outside the ambit of FTAs. It takes the example of the challenges faced by food exporters of Sri Lanka to India by highlighting the time-consuming and complex standards compliance procedures at the point of entry to India. This arises out of India's reluctance to recognise testing and certification conducted outside its borders. The proposed solution is a Mutual Recognition Agreement (MRA) which enables mutual recognition of conformity assessment procedures carried out between recognised institutions in the two countries, and can be easily implemented. An MRA will allow Indian agencies to accept test reports and certifications issued by Sri Lankan agencies, reducing the unnecessary delays and costs incurred in demonstrating compliance with Indian standards, and thereby boost trade between the two countries. This policy brief is prepared based on the research report compiled by Verité Research titled "Improving Trade with India, Mutual Recognition in Conformity Assessment."

### *Recommended citation:*

Abeysinghe, S, & Munas, H. (2023). Improving Trade Connectivity Through Mutual Recognition Agreements in Standards: A case study of processed food exports from Sri Lanka to India. In Xavier, C & Palit, A. (Eds). *Connectivity and Cooperation in the Bay of Bengal Region* (pp. 61-66). Centre for Social and Economic Progress. Retrieved from <https://csep.org/RbPPYIq>

## Introduction

Entering into free trade agreements (FTAs) is a key strategy followed by governments to reduce trade barriers faced by their exporters in partner countries. However, lowering of tariff barriers is not sufficient to guarantee market access. In addition to tariff barriers, exporters face a vast array of non-tariff barriers (NTBs) in the form of rules, regulations, and procedures at the borders of the importing country that increase the cost and time of trading. Failure to effectively address such NTBs prevents exporters from making maximum use of the market access created by the removal of tariff barriers. Lack of strong provisions to tackle NTBs is a key limitation in most existing FTAs among countries in the Bay of Bengal region. This is particularly true of FTAs signed by Sri Lanka with its South Asian neighbours such as Pakistan and India. The agreements exclusively focus on phasing out of tariffs but have no provisions to address NTBs. The new initiatives taken by the countries in the region, including Sri Lanka, to expand/strengthen the existing trade agreements (e.g., the Comprehensive Economic Partnership Agreement (CEPA) between India and Sri Lanka) or to negotiate new agreements (e.g., the Bay of Bengal Multi-Sectoral Technical and Economic Cooperation (BIMSTEC FTA) have made little progress.

This policy brief focuses on an important NTB that stifles trade within the region and offers a simple and practical solution the countries could pursue to overcome it. The NTB in focus is unduly restrictive procedures to demonstrate compliance with the importing country's product standards, also known as conformity assessment procedures (CAPs) (Appleton, 2013). All countries have the right to maintain product standards to achieve legitimate public policy objectives of protecting consumers, the environment, and plant and animal life. Exporters also have a responsibility to ensure that the products exported comply with the importing country's standards. While the right to implement CAPs is recognised globally, it is also acknowledged that CAPs should not be a

hindrance to trade by increasing the time and cost of trading (World Trade Organisation, 1995).

To demonstrate the existence and impact of CAPs, this policy brief discusses the experience of processed food exporters from Sri Lanka to India. It serves as a useful case study to understand how, despite duty-free access, standards and regulations can unduly restrict trade, and how exclusively focusing on removing tariff barriers is not sufficient to guarantee market access. The brief also shows how mutual recognition in conformity assessment can be a simple and a practical solution that can be adopted by countries in the Bay of Bengal region faced with such NTBs, without the need for lengthy FTA negotiations.

## Background

In 1998, the India-Sri Lanka Free Trade Agreement (ISFTA) was signed to strengthen trade relations between the two countries. The ISFTA came into effect in 2000.

The agreement eliminated tariffs for 4,227 Indian products and 2,802 Sri Lankan products (Institute of Policy Studies, 2017). The product list of India included mostly the fresh and processed foods exported from Sri Lanka to India. The FTA allowed for Sri Lankan food exporters to enter the large and fast-growing Indian market located in close geographical proximity. At the time, no other country had similar duty-free access to the Indian market for food products. Hence, Sri Lanka had a significant competitive advantage over other countries in exporting processed food to India. The Most Favoured Nation (MFN) tariffs imposed by India at the time on processed food imports tended to be prohibitively high. The average tariff rate was over 30%, and tariffs for some products (e.g., processed meat) went up by 100% and 150%. However, the processed food exporters failed to reap the full benefits of this market opportunity due to numerous NTBs that prevented them from entering the Indian market despite having duty-free access.

One key NTB faced by food exporters was the time and cost of adhering to CAPs related to Indian product standards. The problem of NTBs could not be addressed within the FTA framework, as it lacked any provisions to do so.

## Challenges for India-Sri Lanka CAPs

To understand why processed food exporters struggled, Verité Research conducted a study of processed food trade between Sri Lanka and India in 2015 (Verité Research, 2015). The study employed a desk-based review of public documents including trade agreements, government publications, and statistics pertaining to trade between India and Sri Lanka as well as key-person interviews with food exporters, standards issuing and testing bodies, and government officials and policy practitioners. The study revealed that the cost and time taken to comply with Indian standards and regulations at the point of entry was the biggest obstacle faced by exporters. The main reason for this, according to the exporters, was the unwillingness of Indian authorities to accept compliance certificates issued by laboratories located outside India for most food products. As a result, even if Sri Lankan exporters obtain certification stating compliance with Indian regulations and standards prior to export, the products were tested again by Indian authorities upon arrival at the Indian port. CAPs at the point of import in India acted as an obstacle to trade due to the following reasons.

1. *Delays:* Depending on the port, the time taken to obtain and issue laboratory test reports varied from 20-30 days and an overall 30-40 days to release goods from customs. Fresh produce such as fruit was held up for up to 5 days while processed foods like cordials, sauces, and jams for up to 3 months. These delays significantly shortened the shelf life and quality of the products, and at times made them unfit for consumption at the time of release from the port. The problem was exacerbated by another rule that required

the product to have a shelf life of more than six months at the time of clearance. If not, the goods were not permitted entry by the Directorate General of Foreign Trade (DGFT) in India. Thus, the longer the products were held, the higher the risk exporters faced of not being able to sell their products in the Indian market.

2. *Costs:* As a result of shipments being held at the port due to delays in issuing test reports by the authorities, the exporters have to bear demurrage and storage costs. This is in addition to paying the cost of testing, which was significant for small and medium exporters who shipped smaller quantities.
3. *Uncertainty:* The delay in obtaining test reports and the time taken to clear cargo varied by shipment and by port, causing difficulties for exporters in coordinating marketing and distribution plans with buyers. Since the date of release was unknown, obtaining necessary retail shelf space, warehouse storage, etc. was made more complicated for both Indian importers and exporters who were forced to adopt a 'wait and see' approach. If delays and costs are known and consistent, exporters can account for these and plan accordingly. However, inconsistency and the resulting uncertainty made it challenging for Sri Lankan exporters to retain buyers and continue to export.

## Policy Options

Compliance-related costs and delays that result at the point of import were not the only problems faced by food exporters, nor were they unique only to trade between India and Sri Lanka. This is a common CAPs-related barrier to trade faced by many countries and exporters around the world. Much groundwork had already been done across countries in terms of mechanisms to overcome this barrier. Broadly, the study by Verité Research identified four approaches that can address the issue of compliance related NTBs:

1. *Harmonisation of Standards*: The adoption of common or identical standards and regulations by a group of countries can, in principle, be an effective way to reduce duplication of compliance costs, of having to comply with varying sets of standards in different types of exports, and can make international markets more efficient and competitive by reducing transaction costs and improving transparency. However, in practice, it has proven to be a difficult and time-consuming goal to achieve due to lengthy negotiations between countries with different standards, the cost of adjustment, and the restrictions it places on the ability of the countries to choose standards that are more appropriate based on their context.
2. *Equivalency Agreements*: In effect, equivalence allows two different standards to serve as alternatives to each other by allowing countries to maintain differing standards or regulatory procedures for a product parameter but treat them as equal since both standards are implemented to achieve the same objective. While potentially a powerful tool, this system is likely to be more feasible where regulatory differences among jurisdictions are minimal and do not implicate highly sensitive issues.
3. *Accreditation of Foreign Manufacturer*: This refers to the foreign manufacturer directly obtaining accreditation from the national standards body of the importing country. This requires individual exporters to bear the cost of facilitating checks by the national standards body of the importing country. This system of certification, however, will only assist a few large-scale businesses in a country that can afford this certification.
4. *Mutual Recognition of Conformity Assessment Procedures (CAPs)*: Partner countries mutually agree to recognise the competency and capacity of each other's Conformity Assessment Bodies (CABs) to assess conformity of products with the

importing country's national standards and regulations. MRA on CAPs require partner countries to work with each other to assess capacity to conduct the testing and certification to ensure compliance certificates issued by the exporting country standards bodies/ laboratories are acceptable to the importing country.

The benefits of an MRA on CAPs compared to the previously discussed solutions is that it allows countries to keep their own standards, and hence can be implemented fairly quickly compared to harmonisation of standards. It can be implemented even between countries with significant differences in standards, and it prevents exporters from having to obtain recognition on an individual basis at a higher cost. It achieves the same outcome expected from other types of arrangements, i.e., reduced time and costs of trading by preventing the products from being retested at the border of the importing country.

In the case of Sri Lankan food exports to India, the proposal on the table at the time Verité Research did this study (2015) was to tackle this problem within the proposed Comprehensive Economic Partnership Agreement (CEPA) between the two countries. There was also a proposal on the table on harmonisation of standards between the two countries. However, the study conducted by Verité Research identified an MRA in CAPs as a far better and a more feasible solution compared to what had been proposed. CEPA negotiations commenced as far back as in 2005 but faced many hurdles, and there is still no end or completion of negotiations in sight. Harmonisation is likely to take a long time, given the differences in standards between the two countries. In contrast, MRA on CAPs is a better option because (i) it allows each country to maintain its own standards within its borders; (ii) benefits both small and large exporters alike; and (iii) it is easier to implement because it focuses on a single issue and can even be implemented at an institutional level. Further, MRA on CAPs is unlikely to attract opposition from the public or domestic industry compared to, for example,

negotiating and concluding CEPA, which covers multiple sensitive sectors and issues.

It is heartening to note that this proposal has received the attention of policymakers. The Export Development Board (EDB) of Sri Lanka initiated discussions in 2018 with the Food Safety and Standards Authority of India (FSSAI). EDB submitted the names of five local state-owned and private sector labs for the approval of the Indian food standards regulator to allow these labs to issue certificates which would not be rejected in India, viz., the laboratories at Registrar of Pesticides (ROP), Industrial Technology Institute (ITI), Tea Board, SGS Lanka Ltd., and Bureau Veritas. At the time, FSSAI had not registered any laboratory outside India (Export Development Board of Sri Lanka, 2018). An audit team comprising officials from FSSAI, the National Accreditation Board for Testing and Calibration Laboratories (NABL), and Export Inspection Council (EIC) to audit these laboratories arrived in Sri Lanka. Following the audit, FSSAI recognised three labs to test processed food exports to India: ITI, SGS Lanka Ltd, and Bureau Veritas (FSSAI, 2018). Thereafter, the FSSAI put forward new policies for the recognition and accreditation of food testing laboratories located outside India (FSSAI, n.d.).

### **Wider implications for improved trade connectivity in the Bay of Bengal**

Unlike FTAs, which cover many sectors, products, and issues requiring lengthy

negotiations, MRAs on CAPs can be implemented relatively quickly to improve trade connectivity by reducing standard compliance-related NTBs faced by traders. In fact, an agreement is required only for the national standards body in the importing country, in this case FSSAI, which accepts certificates of conformity issued by recognised, competent, and accredited CABs in the exporting country (i.e., food testing laboratories in Sri Lanka), confirming that the product meets with the importing country's standards and regulations. Since conformity is assessed and confirmed at the point of export, exporters do not have to go through the hassle of proving compliance at the border of the importing country. Another advantage of the MRA approach is it can fast-track priority export products before being gradually extended to other products as local laboratories expand their capacities to certify for importing-country standards.

Given the pace of trade negotiations among the countries in the region, the MRA approach presented in this case study can be a quick and effective way of dealing with compliance-related NTBs, especially given the lack of standards and regulations for common products. It is especially relevant for neighbouring countries seeking to boost their exports in a large and fast-growing Indian market. In fact, several countries, especially in the ASEAN region, have included MRAs in their trade negotiations and agreements with India in recent years, such as Singapore, Malaysia and Korea, among many others (Department of Commerce, 2005; 2011 and; 2009)

## References

- Appleton, A.E. (2013). Conformity assessment procedures. In T. Epps and M.J. Trebilcock (Eds.). In *Research Handbook on the WTO and Technical Barriers to Trade* (pp. 81-119). Gloucestershire, The UK: Edward Elgar Publishing.
- Department of Commerce. (2009). *Comprehensive Economic Partnership Agreement between India and Korea*. New Delhi: Ministry of Commerce and Industry. Retrieved from <https://commerce.gov.in/wp-content/uploads/2020/05/INDIA-KOREA-CEPA-2009.pdf>.
- Department of Commerce. (2005). *Comprehensive Economic Cooperation Agreement between The Republic of India and the Republic of Singapore – Chapter 5*. New Delhi: Ministry of Commerce and Industry. Retrieved from <https://commerce.gov.in/wp-content/uploads/2020/05/ch5.pdf>.
- Department of Commerce. (2011). *India Malaysia CECA*. New Delhi: Ministry of Commerce and Industry. Retrieved from <https://commerce.gov.in/wp-content/uploads/2020/12/Chapter-07-TBT.pdf>.
- Export Development Board of Sri Lanka. (2018, May 21). Food Safety and Standards Authority India to recognise Sri Lankan Food Labs. *Sri Lanka Business*. Retrieved from <https://www.srilankabusiness.com/news/food-safety-and-standard-authority-india-to-recognise-sri-lankan-food-labs.html>.
- Food Safety and Standards Authority of India. (2018, July 13). *Three Sri Lankan Labs Obtain FSSAI Authorisation for F&B Certification*. Retrieved from [https://fssai.gov.in/upload/media/5b4dc1d54957dFSSAI\\_News\\_Srilanka\\_Labs\\_Hospitality\\_14\\_07\\_2018.pdf](https://fssai.gov.in/upload/media/5b4dc1d54957dFSSAI_News_Srilanka_Labs_Hospitality_14_07_2018.pdf).
- Food Safety and Standards Authority of India. (n.d.). *Policy for Recognition/Accreditation of Food Testing Laboratories located abroad*. Retrieved from <https://fssai.gov.in/upload/uploadfiles/files/Policy-ForeignLabs.pdf>.
- Institute of Policy Studies. (2017). *Handbook on India Sri Lanka Free Trade Agreement*. Colombo, Sri Lanka: Institute of Policy Studies and High Commission India. Retrieved from <https://www.ips.lk/wp-content/uploads/2017/01/HB-India-SL-FTA-final.pdf>
- Verité Research. (2015). *Improving Trade with India: Mutual Recognition in Conformity Assessment*. Position Paper. Retrieved from <https://www.veriteresearch.org/wp-content/uploads/2018/05/Improving-trade-with-India-1.pdf>
- World Trade Organisation. (1995). *Agreement on Technical Barriers to Trade*. Retrieved from [https://www.wto.org/english/docs\\_e/legal\\_e/17-tbt\\_e.htm#articleVI](https://www.wto.org/english/docs_e/legal_e/17-tbt_e.htm#articleVI)