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Anatomy of Non-Tariff Barriers in India-Lanka Free Trade Agreement

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Abstract

This paper 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 India 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 growth of trade between these partners development of international trade. However, these have considered NTBs as sub set of non-tariff measures (NTMs) which are quite narrow sense of finding the hidden barriers within the International trade process. Therefore, this paper has analyzed 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 paper has identified issues which are not directly beyond the logistic process which are affecting the international trade between these two countries.

Keywords: *Non-Tariff barriers, Free Trade Agreements, India Sri Lanka*

1. Introduction

Economic development is best fostered in an environment of free competition (Smith, 1776). Multilateral institutions such as the World Bank, the International Monetary Fund (IMF), and the Organization for Economic Cooperation and Development (OECD) regularly promulgate advice predicated on the belief that openness generates predictable and positive consequences for growth. A report by the OECD (1998, p. 36) states: "More open and outward-oriented economies consistently outperform countries with restrictive trade and [foreign] investment regimes"' (Rodriguez & Rodrik, 2001; See also Barro & Lee, 1993; Frankel & Romer, 1999). According to the IMF (1997) openness in Foreign policy is more beneficial for the developed and developing countries and it delivers thrust for economic growth and towards convergence (See Sala-i-Martin, 1992). Premised on this wisdom, the developing world began to liberalise trade policies to reap mutual trade benefits since 1980: either fully or in piecemeal form. South Asian countries were not exceptions to this process. As a result, the signing of the SAARC Preferential Trading Arrangement (SAPTA) and formation of the South Asian Free Trade Area (SAFTA) were a right step in this direction. Apart from these, individual South Asian countries have also implemented bilateral free trade agreements to foster bilateral trade. India and Sri Lanka entered into a bilateral agreement, known as India-Sri Lanka Free Trade Agreement (ISFTA) in 1998, which was one among the first ever bilateral free trade agreements in South Asia.

1.1. India Sri Lanka Free Trade Agreement (ISFTA)

The ISFTA has called for the submission of a negative list of 429 items from India. The country agreed to remove tariffs from 1351 products immediately after the treaty became live; and, agreed to phase out prevailing tariffs on the balance items over a span of three years (50 percent reduction of Indian customs duties in the first year, 75 percent in the second year, and 100 percent in the third year). Besides, it has granted Tariff Rate Quota for three commodities – tea, garments and textiles – in the Indian negative list (See Kelegama & Karunaratne, 2013).

As a response to Indian attempt of liberalizing trade and promotion of international relations, Sri Lanka submitted a negative list consisting of 1180 items; agreed to grant immediate duty-free access to India on 319 items; and offered a 50 percent margin of preference on a further 889 items (with the preferential reduction raised to 70, 90 and 100 percent over a three year period). The duty

on the balance items (excluding those of which do not fall within Sri Lanka's negative list) were expected to be phased out over a period of eight years – 35 percent of the existing duty level by the end of the first three of the eight years; 70 percent of the existing duty level by the end of the sixth year; and 100 percent removal of duties by the end of the eighth year. Thus, Sri Lanka provided an opportunity for India to have duty free access to the Sri Lankan market for her exports (excluding those items in the negative list) after eight years of the signing of the FTA.

Though the delayed initiation in practicing of the ISFTA as of March 2003, India has completed the required trade liberalization programme. Sri Lanka too has granted duty free concessions as the initial step in March 2000, followed by the offer of duty-free treatment on an additional 880 tariff lines in March 2003. Besides, 35 percent margin of preference is offered for 2082 tariff lines. The margin of preference on the 2082 products are brought down by 70 percent in September 2006 and is expected to offer complete duty-free access for these tariff lines by 2008.

1.2.Research question and scope of the study

Despite the adoption of this free trade agreement the utilization of the free trade route by the Indian exporters was merely at 13% as compared to 65% by their Sri Lankan counterparts in the year 2013. One can argue this phenomenon because of substitution effect of SAFTA which was implemented in the year 2004. But SAFTA allows tariff concession only up to 80% for limited products and lines of trade as compared to 100% tariff concession offered under ISFTA. Therefore, it can be counter argued trade under the free trade agreement is not free from barriers; rather there are non-tariff barriers which are hindering the prospect of free trade agreements. Studies done by De Mel (2009); Kelegama et.al (2013) have also revealed that fact that the development-oriented impact of ISFTA has been limited. The studies by Mukherjee & Iyengar (2013); ITC (2011); Saqib & Taneja (2005) reinforce the issue that the holy grail of 'trade led growth' fundamentally is been jeopardized by the existence of certain forms of Non-Tariff Barriers (NTBs). These literatures have identified 5 major NTBs viz. -- (i) Import policy barriers, (ii) Standards, testing, packaging, and certification requirements; (iii) Anti-dumping and countervailing measures; (iv) Export subsidies and domestic support; and (v) Government participation in trade -- as the cause for sluggish trade led development and international relations. In the literature, it is also argued that

Indian exports are less competitive in price terms as compared to Bangladesh, China, Sri Lanka and Pakistan due to various export related NTBs (Saini (2009); Saqib & Taneja (2005)).[1]

While it is true that the aforesaid 5 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 free trade agreement signed between India and Sri Lanka.

Given this backdrop, this paper tries to understand how NTBs arise within the framework of logistics support system in the context of ISFTA. 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 paper 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 plan of the rest of the paper is as follows. Section 2 illustrates the existing imbalance in trade scenario between India and Sri Lanka under FTA regimes with the help of secondary dataset. This section also describes importance of understanding the role of logistics support in trade. It asserts that poor logistics support may increase transaction cost and hence strengthen NTBs. Section 3 demonstrates the methodological framework for our analysis and subsequent section describes logistics processes and discuss NTBs existing within the fabric of such processes. Finally, section 5 provides concluding remarks.

2. Trade Scene under various FTA Regimes

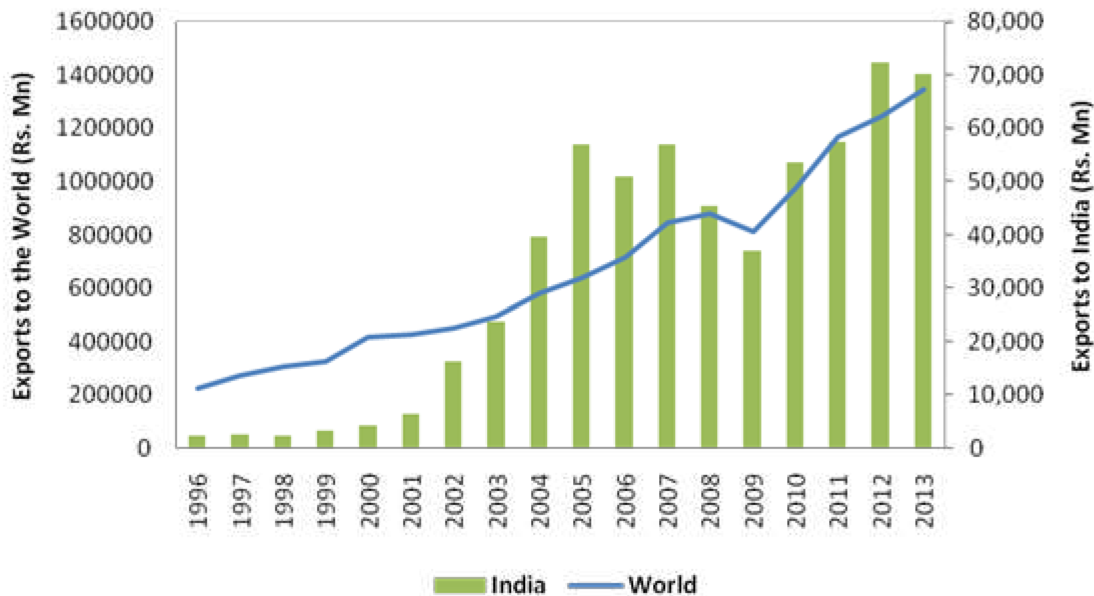
In the period immediately preceding the Agreement (1995-2000), average annual exports from Sri Lanka to India were 39 million US$ and annual average imports were 509 million US$. Following the implementation of the FTA in 2000 Sri Lanka's trade with India changed dramatically. Exports from Sri Lanka to India increased from 55.6 million US $ to 543 million US $ between 2000 and

[1] ITC Report (2011) has identified Sri Lanka as the most affected country with 'an overall share of 69.7% of exporting firms and 70.4% of importing firms reporting burdensome trade barriers' with India.

2013. Indian exports to Sri Lanka have increased drastically from 600 million US $ to 3092 million US $ between 2000 and 2013 (Economic & Social Statistics of Sri Lanka, Various issues). Therefore, it is evident from above that Sri Lankan capital inflow though increased over the years, however, has remained less than the capital outflow when it comes to trading with India.

Figures 1 and 2 suggest that after 2000 there has been a steady increase in Sri Lankan exports to India ex-post ratification of the FTA between the countries. Estimates show that Sri Lankan export to India in 2000 was 1 percent of their total exports to the world while after the implementation of the FTA this has increased to 5 percent in 2013. Imports from India constituted 8.2 percent of World imports to Sri Lanka. This has again reached a peak of 24.5 percent in 2008, but on the onset of the global recession in 2009, imports declined at 17.6 percent in 2013[2] Though the overall export of both the countries has increased after implementation of ISFTA, it is important to understand in detail about the implication of FTA on trade performances and the structural change of trade between the partner countries.

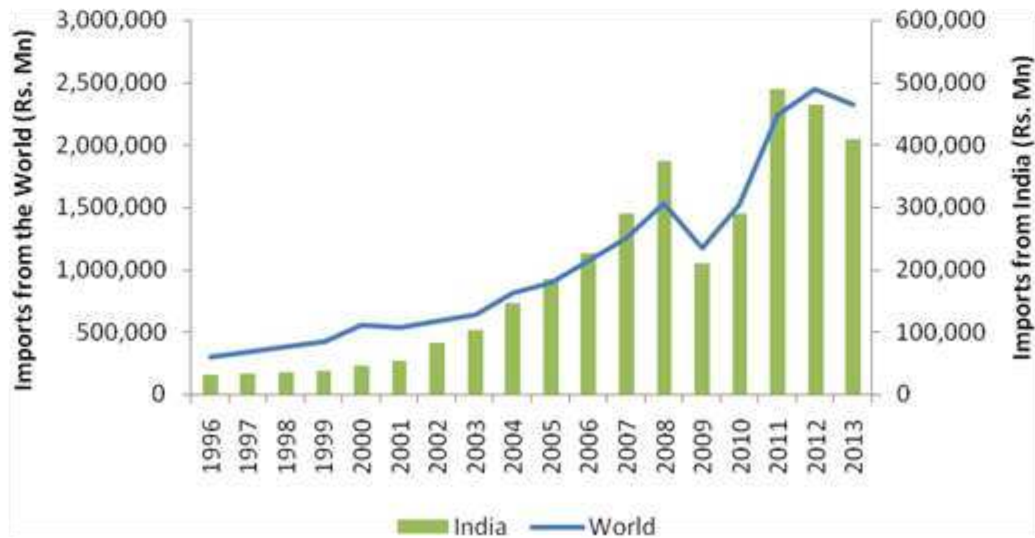
Figure 1: Sri Lankan Exports to India and the World (Rs. Mn)



Source: Author's Estimate using Economic & Social Statistics of Sri Lanka, Various issues

Figure 2: Sri Lankan Imports from India and the World (Rs. Mn)

[2] Economic and Social Statistics of Sri Lanka, Various Issues



Source: Author's Estimate using Economic & Social Statistics of Sri Lanka, Various Issues

During the implementation of the agreement, India agreed to the policy of 100 percent tariff reduction for 1351 items and by March 2003 this was extended to 2737 items. Following this reduction, exports to India surged from 55.6 US Mn $ in 2000 to reach a peak of 559.2 US $ Mn in 2005, leading to a tenfold increase compared to 2000. This rapid increase was mainly due to the export of Vanaspati (refined hydrogenated oil- HS 151620) and primary copper (HS 7403) amounting to almost 49.66 percent of total exports. If Vanaspati and copper were excluded from the trade figures, Sri Lanka's exports to India would have increased from 55 million US$ in 2000 to just 278 million US$ in 2006 – a five-fold increase compared to the ten-fold increase with Vanaspati & copper being included. It is not because of having comparative advantage over India these products performed well, but because Indian manufacturers invested heavily in Sri Lanka to take advantage of the low external tariffs on their principal inputs and preferential entry into Indian market.

With the collapse of Vanaspati (India cut import taxes on food imports including palm oil, making Vanaspati exports from Sri Lanka unviable) and copper exports in 2008, (Copper exports from Sri Lanka were also subject to much scrutiny from India, based on their low domestic value addition, arguing that they were under-invoiced. India insisted that pricing should be done based

on the London Metal Exchange Prices, and since then a large proportion of copper exports were deemed ineligible) Sri Lanka's total exports to India in 2008 declined substantially to US$418 million, the lowest since 2004 (US$386 million) and a 26 percent fall in export value since the peak in 2005. Further in 2009, due to the global financial crisis, exports to India further fell to US$324 million and then recovered gradually closer to the 2005 level of exports by 2012.

Table 1: Utilization of ISFTA by partner countries

	Exports (US $ M)			Imports (US $ M)		
Year	**Total Exports to India**	**ISFTA Exports**	**percent under ISFTA**	**Total Imports from India**	**ISFTA Imports**	**percent under ISFTA**
2000	55.6	8.6	16	600	53.9	9
2001	70.1	15.9	23	601.5	113.1	19
2002	168.8	114.2	68	834.7	81.7	10
2003	241.1	238.8	99	1076.2	150.4	14
2004	385.5	339.9	88	1358	394.7	29
2005	559.2	543	97	1440.4	246.2	18
2006	494	431.1	87	1822.07	459.3	25
2007	516.4	398.2	77	2749.6	385.3	14
2008	418	309.3	74	2848.4	541.4	18
2009	324.8	218.5	67	1709.9	371.7	22
2010	466.6	358.4	77	2546.2	573.7	23
2011	521.5	391.5	75	4349.4	579.6	13
2012	566.3	379.5	67	3517.2	156.4	4
2013	543.3	354.8	65	3092.6	393.4	13

Source: Computed from Economic and Social Statistics of Sri Lanka

Table 2 suggests that Sri Lanka's exports grew under the ISFTA, whereas India's exports have remained mostly outside the ISFTA. On an average, over 65 percent of Sri Lanka's exports to India continue to be under the ISFTA, while India's exports to Sri Lanka under the ISFTA remains only around 13 percent in 2013. This is probably because of the Special and Differential Treatment (SDT) granted to Sri Lanka, it could export more than 4000 product lines to the Indian market on duty free basis. In contrast most of the imports from India (such as oil, pharmaceuticals, and motor vehicles) are in Sri Lanka's negative list. In other words, this asserts the fact that concessions

offered to Sri Lanka enhanced its access to the Indian market; however, India was not fortunate enough to have access to a similar opportunity.

Looking into the import partners, Table 2 further suggests that India remained a major source of import for Sri Lanka. India accounted for over 8 percent of Sri Lanka's total imports at the time of implementation of the ISFTA in 2000, whereas, Sri Lanka accounted for a negligible share of total imports into India i.e. 1 percent. Imbalance in import patterns among the countries thus brought significant repercussion for the Sri Lankan domestic producers as compared to their Indian counterparts.

There is a visible shift in Sri Lanka's exports from agricultural products to manufacturing goods. The main export items before the implementation of the FTA was pepper, waste and scrap steel, areca nuts, dried fruit, cloves and waste paper (See Table 3). By 2008, there were still a number of primary products exported to India; however, several value-added products such as insulated wires and cables, pneumatic tires, ceramics, vegetable fats and oils, refined copper products and furniture were among the top exports to India (Dept. of Commerce, Sri Lanka). While, in general, exports to India have been skewed with the dominance of Vanaspati and copper in the initial stages, there has been rapid growth in exports of high value added manufacturing goods after the fall in exports of copper and Vanaspati which has been able to capture niches in the Indian market. Among the products whose import considerably declined over the years is crude glycerol (HS 152010). The value of imports of glycerol was reduced from $2.3 million in 2000 to only $0.5 million in 2007 and further to $51,000 in 2009. In spite being in India's residual list, it performed badly. A product that made significant entry into the Indian market was Sri Lankan cruise ships and boats. From a modest value of $6,291 in 2000 it increased to $140 million in 2008.

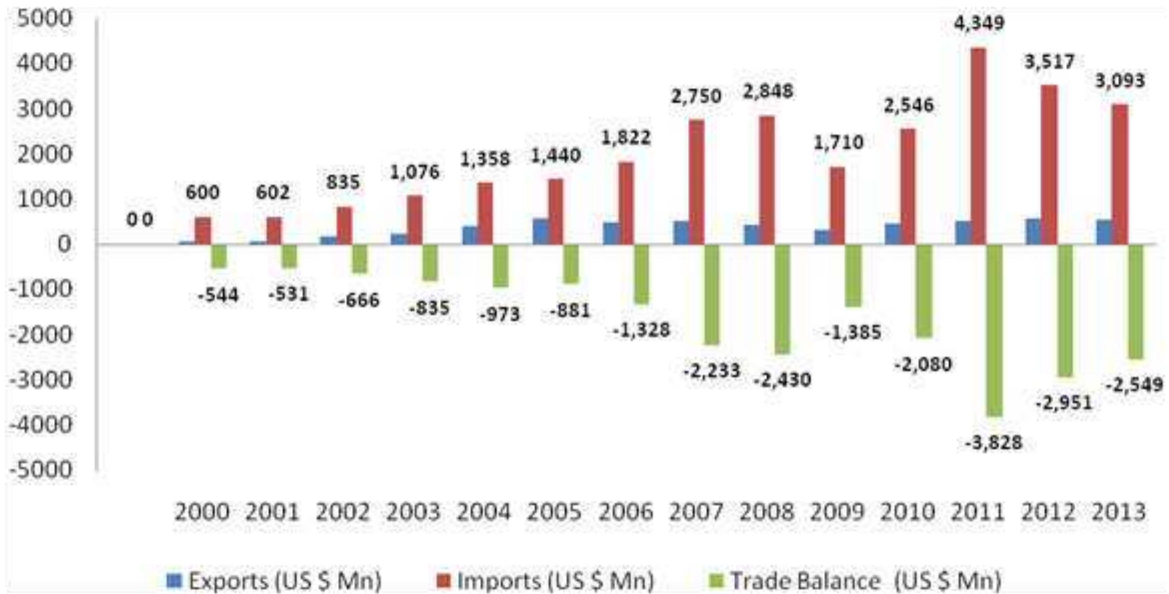
Table 2: Changing Structure of Trade between Indian and Sri Lanka

1999		2005		2013
Sri Lanka's Export to India				
Product	**Value (SL Rupees)**	**Product**	**Value (SL Rupees)**	**Product**
Whole pepper	695 million	Vegetable fats and oils	12 billion	Spices
Areca nuts	382 million	Refined copper and copper alloys	7.9 billion	Ships, Boats and floating structures
Scrap iron	272 million	Copper wire	4.1 billion	Poultry Feed
Dried fruit	214 million	Aluminium wire	3.1 billion	Apparel
Cloves	199 million	Antibiotics	2.2 billion	Insulated wires, cables etc
India's Export to Sri Lanka				
Lentils	2.1 billion	Refined petroleum oil	16 billion	Mineral fuels & oils
Ayurvedic medicine	1.4 billion	Motorcycles	8 billion	Motor Vehicles
Motor cars	1.3 billion	Motor cars	6.3 billion	Iron & Steel
Milled rice	1.3 billion	Medicaments	5.3 billion	Cotton
Pepper	1.2 billion	Crude petroleum oil	4.1 billion	Pharmaceutical products

Source: Export Development Board of Sri Lanka

To protect its farmers, Sri Lanka put most of the agricultural products under the negative list. Because of which the share of agricultural products from India has decreased over the years. On the other hand, during the pre-FTA period, mineral products constituted only 1percent of the total exports to Sri Lanka. However, its share started to increase immediately after the implementation of the FTA. In 2000, its share rose to 4 percent and continues to increase over the passage of years. By 2007, share of the mineral products reached 38 percent of the total exports to Sri Lanka. Transport equipment and oil imports have been steadily increasing despite it being in the negative list.

Figure 3: Trade Deficit of Sri Lanka with India



2.

Source: Author's Estimate

While the volume of total trade between the two countries has grown substantially after the implementation of the FTA, the absolute trade deficit has also increased. This has been driven largely by increasing oil prices, which is one of the largest import commodities to Sri Lanka and a fall in SL exports of Vanaspati and copper to India.

Since India has faced lesser competition from other countries in exporting to Sri Lanka due to its geographical proximity as well as preferential access under the ISFTA, it remains the largest exporter of goods to Sri Lanka. Exports from Sri Lanka in contrast are not substantially owing to the large Indian market and competition from other countries. Therefore, India's export volumes grew faster than its imports shifting the bilateral trade in favour of India.

Further evidences suggest, while there have been positive developments in trade due to the signing of the ISFTA; the full benefit of it has not been realized. 65 percent of Sri Lankan exports to India are under the ISFTA route while only 13 percent of Indian exports to Sri Lanka fall under this route (See Table 2). Experts are of the opinion that the fall in utilization of ISFTA route is due substitution effect occurred after implementation of SAFTA (SAARC Preferential Trading

Agreement). However, SAFTA offers tariff concession only up to 20% whereas ISFTA offers 0% tariff for the wide range of products in the positive list. Therefore, question may arise here is that whether the Indian exporters are not well familiar with ISFTA route and its legal and administrative obligations? Some officials from various government departments as well as Chambers of Commerce in India claim that the Indian exporters are handicapped with their agents and not fully aware about the administrative formalities involved to trade through ISFTA route. On the other hand, a section of exporters blames NTBs existing under this ISFTA which causes less export through this route. The research carried out by Asia Development Bank (ADB, 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. The same study also reveals that, average customs transaction involves 29–30 different parties, 40 documents, 200 data elements (30 of which are repeated at least 30 times), and the re-keying of 60 percent –70 percent of all data at least once. The varying customs procedures and requirements result in very high administrative costs that are currently estimated to represent 7 percent –10 percent of the value of global trade (ADB, 2013, pp54). Therefore, creation of favourable trading environment by trade facilitation minimizes transaction costs and the complexity of international trade for businesses. Average gains from trade facilitation in the Asia-Pacific region account for at least 0.26 percent of the real GDP, while the gains from trade liberalization account for only 0.14 percent of the real GDP (ADB, 2013, pp.55). Hence, it is an imperative to focus on understanding the NTBs existing between India and Sri-Lanka and find out a way to extract benefits from the decade old ISFTA. This remains a crucial policy issue for both the countries.

3. Methodology:

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 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 and
7. Business Chambers.
8. Government Officials

After classifying the stakeholder into different groups, a snowball sampling method has been applied to identify individual/group of stake holder for group discussions. In addition to that few stakeholder consultation workshops were conducted in New Delhi India and Colombo Sri Lanka to map various NTBs arising in the trade process between India and Sri Lanka. A detail 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 formalities and logistics process, we have selected large number of customs house agents for our survey (see Table 1).

Table 3: 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
Bangalore	2	20	5	5	0	0	2
Chennai	4	10	5	3	5	2	5
Cochin	1	1	2	0	5	1	0
Mumbai	1	0	0	0	0	0	10
Kolkata	2	4	0	1	0	0	4

After completing the first round of stakeholder consultation workshops and primary survey, most of the qualitative and quantitative data were analyzed 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 paper.

4. 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 ISFTA

3.1 Import Process

The complete process of import of goods comprises of 4 major steps which are as follows:

Identifying an import commodity and selection of a supplier

It is the most important step as it cursors the initiation of international trading. For a person to be an importer he needs to choose his commodity/ commodities of import. Based on his choice, he searches for a supplier(s) who may or may not be a manufacturer[3] but can meet the former's trading need. In this process of selection of commodity and supplier, a buyer needs to take care of 3 things:

a. Check whether the import of the commodity is restricted/ prohibited in the country of destination. Many countries impose restriction or prohibit import of certain commodities to ensure national interests. For example, India has a long list of restricted items & prohibited items under the free trade agreement between India and Sri Lanka.
b. Check whether the supplier is a blacklisted party in any list prepared by the country of destination.
c. Does the import involve any special licensing other than Import Export Code (IEC)[4] for an Indian importer? In case of India, trader has to apply for IEC to the Directorate General of Foreign Trade (DGFT) prior to international trading of any commodity.

Planning and collection of the commodity from the seller

Once the importer has selected the commodity for trading and resolved the licensing criteria, he/she should first decide the mode of shipment and terms of shipment and search for either. A shipper may ship her goods through air or sea or land depending on the weight, volume and nature of the cargo. For example, pharmaceutical items are usually shipped via air flight; heavy minerals

[3] A person may deal in raw materials or natural products for example, is not/ does not need to be a manufacturer.
[4] Indian trader has to apply for IEC to the Directorate General of Foreign Trade prior to international trading in commodity

are shipped in vessels. Where there are provisions for transporting goods through land, a shipper may avail truck services to participate in international trade. Basically, a logistics service provider who is capable of collecting goods from the consignor's premises, transport goods via air/ sea/ land and deliver the same to a final delivery point, or may request the consignor/ shipper to arrange door delivery of the goods, or may depend on the consignor/ shipper to arrange a service provider to ensure export of goods from the place of origin and further he may appoint another service provider who can handle import customs clearance at the port of discharge of goods and further deliver the same to his designated point of delivery.

Import Customs Clearance

Most of India- Sri Lanka trade takes place through sea. Therefore, in this article we have chosen to discuss procedure of customs clearance of goods imported via sea route. Again, we have assumed here that the importer is dealing in import of containerised cargo for the sake of simplicity and ease of understanding of the system of logistics management.

Once the deal between importer and the exporter is ratified and cargo has arrived at the port of destination, an importer appoints a customs broker to transact the business of import clearance of goods from the custody of the customs authority. As a proof of getting appointment by the importer for clearing his goods from the custody of customs, the customs broker collect an authorisation letter from the importer and also makes him fill a Know Your Customer (KYC) form accordingly as prescribed by the Customs House Agents Licensing Regulations (CHALR) set by Central Board of Excise and Customs, government of India (GoI, 2013). As there are increasing number of offences involving various modus-operandi such as misuse of export promotion schemes, fraudulent of export incentives and duty evasion by bogus IEC holders etc., it has been decided by the Board to put in place the "**Know Your Customer (KYC)" guidelines** for CHAs so that they are not used intentionally or unintentionally by importers / exporters who indulge in fraudulent activities. Accordingly, Regulation 13 of CHALR, 2004, has been suitably amended to provide that certain obligations on the CHAs to verify the antecedent, correctness of Import Export Code (IEC) Number, identity of his client and the functioning of his client in the declared address by using reliable, independent, authentic documents, data or information. In this regard, a detailed guideline on the list of documents to be verified and obtained from the client/ customer is given below.

(a) Customs Declaration Form
(b) Packing List
(c) Proforma Invoice
(d) Commercial invoice
(e) Certificate of Origin
(f) Bill of Lading if goods are shipped or a Airway bill if imported through an airline
(g) Letter of Credit or evidence of advanced payment
(h) Purchase Bill
(i) Consignment Note
(j) Insurance

In addition to that it is also obligatory for the client/ customer to furnish to the CHA, a photograph of himself/herself in the case of an individual and those of the authorised signatory in respect of other forms of organizations such as company/ trusts etc., and any two of the listed documents as mentioned in the Circular No.9/2010 from central board of excise and customs of government of India (GoI, 2010).

Further to the completion of these basic formalities, the customs broker collects the following documents from the importer viz. Import invoice, Packing List, Bills of Lading and Certificate of Origin (COO) in general. Noteworthy, if the importer is importing any chemical such as insecticides, he needs to have certificate of permission from the Central Insecticides Board & Registration Committee to import such goods, which he has to handover to the customs broker for production of the same along with other trade documents to the customs during the process of clearing of goods. Again, if an importer is importing second hand machineries he needs to produce Pollution Certificate and Survey report given by a Chartered Engineer via customs broker in order to take delivery of goods.

It is clear from the above discussion that government of India has set up certain rules to ensure national interests such as safety and security which must be followed by a service provider and the importer engaged in supply chain activity and trade and often, security is ensured at a cost. It has been seen that obtaining certificate from government organisations may delay the trade process and further increase total cost of the supply chain.

However, the Manifest Clearance Department (MCD) is responsible for the final step of accounting of all cargo declared to be unloaded at the port. The declaration filed under Section 30

of Customs Act, 1962 is known as Import General Manifest (IGM) in case of sea import and Import Report (IR) in case of land import. This is a statutory declaration every ship has to make when enter into India with an intention to discharge cargo. The purpose of this is to ensure that all import of a vessel has been duly accounted for all the obligations imposed on the master/ steamer agents of the vessel under the provision of Section 30 and 42 of Customs Act, 1962, have been duly fulfilled and that all documents relating to import files are forthcoming and complete.

On filing of the IGM each individual import (each Bill of Lading) is reflected against a specific line number or item number. An IGM is also marked with an import rotation number specific to the inward vessel voyage or airline flight. On confirmation of the arrival of the vessel/ flight and filing of the IGM, the CHA prepares a Checklist and seeks for approval of declaration from the importer prior to filing of a Bill of Entry (BE) with the customs. It is important to mention here that an importer can take delivery at his door step or may store goods in a customs warehouse with pending payment of duty and may seek for part delivery from time to time accordingly on payment of duty. Based on the decision of the importer, the customs broker fills a BE either for door delivery or a B E for warehousing or ex-bond clearance. Now, if the importer has desired to take delivery of goods for door delivery, then the customs broker files a BE for door delivery through Electronic Data Interchange (EDI) system of the customs and waits for the assessment of the declaration made by him on behalf of the importer. It is the computerised system which allots a number to the BE and decides whether the cargo shall get cleared under Risk Management System (RMS) or shall be assessed, appraised and examined by customs officers on payment of customs duty.

In case an importer decides to file BE for warehousing, he has to file a BE under section 60 and stores his goods in customs bonded warehouse. As per requirement he arranges full/ part delivery of goods after filing ex-bond BE under Section 68. It is to be noted that if the importer wants to export warehoused goods, he needs to file BE under Section 69 to avail waiver on duty payment and complete export procedure under the supervision of a Preventive officer.

Once the BE is processed, the customs broker arranges release of cargo from the custody of the shipping line/ airline on payment of all shipping line/ airline dues. A delivery order is issued on presentation to the port/ airport/ Container Freight Station / ICD cargo is released. Cargo is physically handed over, subject to release by customs authority. The Customs cargo release is based on approved and duty paid BE. It is important to mention here that at present customs

authority expects importers to pay duty online. They are discouraging payment through Pay Order or Demand Draft.

Once duty is paid and settled, the physical process of releasing the goods from the custody of customs takes place. Deliveries are usually taken either from ports or Container Freight Stations (CFS) or Inland Container Depot (ICD). Noteworthy, the point of discharging the goods from the custody of customs depends on whether the cargo is containerised or is a (break) bulk. Containerised cargoes (usually full container load (FCL)) are usually released from CFS or ICD. Less container Load (LCL) cargoes sometimes are released from the port directly or in some cases are released from CFS or ICD. In Kolkata Less Container Load (LCL) cargo is directly released from the port. Whereas, in Delhi and Bangalore the LCL cargo is released from the Inland Container Depot (ICD). Bulk or break bulk cargos are released directly from the port.

To arrange release of cargo, the custom broker locates where the cargo has been kept. On tracking the place of the cargo, he seeks for noting and registration of the BE at port/ CFS/ ICD. 4 copies of appraisement tickets (1 for seal cut personnel, 2 for getting signed by laborer & 1 for Preventive Officer) are issued along with 3 labour slips. But if the BE is under RMS, just after seal checking cargo is released.

However, for non-RMS Bill of Entry, cargo is appraised at the airport and at the CFS or ICD, de-stuffing of containerised cargo becomes necessary which is followed by the appraisement procedure. On completion of appraisement, (in case of containerised cargo) the container is sealed and prepared for release provided find in parity with the declaration made and all things in order.

Meanwhile, Examination Officer discharges his responsibility of preparing report of verification and an Appraiser prepares *Out of Charge* report. Then Consignment note known as *Challan* is prepared and signed by the Examination officer and Appraiser. Again 3 copies of *Gate pass*es are prepared each of which goes to a Preventive Officer, Port/ CFS/ ICD, consignment record file and to a gatekeeper. Cargoes are loaded on trucks or trailers to move out of the customs jurisdiction for final delivery to the importer's designated place.

Final Delivery of goods to the importer's premises

When the process of releasing the cargo takes place at the customs jurisdiction, operation team personnel of the custom broker or the transporter or the importer himself takes the responsibility of preparing transport/ road permit/ Waybill to carry goods on road to the final delivery point.

Transporter collect Road Consignment note from the custom broker. Waybill is a vital document to the importer and is a record of tax for the State Government. On the basis of these documents transporter carries imported goods and deliver the same to the importer's premises. Thus, the completion of import of goods takes place.

3.2 Export Process

The complete process of export of goods comprises of 3 major steps which are as follows:

Identifying the export commodity and selection of buyer

Like importers, it is of utmost importance to all exporters to decide what they are going to sell to their overseas customers. Based on their commodity selection, they search market for sales of their products. Selection of proper marketplace and geographic regions are equally important for an exporter. Identifying market for sales lead to the process of identifying right buyer(s).

Planning and preparation of necessary documents

Once a buyer has been identified and both the trading partners have agreed to the terms of trading, an exporter takes the responsibility of raising Invoice, Packing List and arranges any other necessary document which is needed to transact the business. Buyer, like the exporter shares the responsibility of respecting the contract of international trade. In this regard, types of documents required to process export of a commodity are as follows:

(a) Customs Declaration form
(b) Proforma Invoice
(c) Commercial Invoice
(d) Certificate of Origin
(e) Letter of Credit or evidence of advanced payment
(f) Purchase Bill
(g) Consignment Note
(h) Bill of lading if goods are shipped, Air way Bill if goods are exported through an airline
(i) Delivery Order
(j) Insurance

Export Logistics management

On agreement of terms of trade, either the exporter appoints a logistics service provider to execute the *forwarding* formalities or if the buyer wants to nominate a logistic service provider the exporter handover his cargo to the nominated logistics service provider to execute the process of forwarding and final delivery of the cargo at the buyer's premises.

Before proceeding further on the discussion of the export procedure process it is noteworthy mentioning here that the physical process of cargo delivery usually begins when necessary financial conditions have been met by the buyer. Likewise import, even in export, banks participates in the process of financial transaction and on the basis of letter of credit or advance payment or any other mechanism trading is done.

On agreement or on complete settlement of financial terms, physical export of goods process begins. The logistics service provider, if he is a licensed customs broker, collects an authorization letter from the exporter which states that he can execute the process of export clearance on behalf of the exporter; he also makes the exporter fill a KYC form as per the customs regulations. He also collects the export invoice & packing list from the exporter to prepare checklist which is basically used to file Shipping Bill (SB), which is an export declaration made to the customs. On the other hand, the logistics service provider also takes the responsibility of arranging Certificate of Origin (COO) from a chamber of commerce or any other organization which has the right to issue the same[5].

In addition to the preparation of SB and COO note, preparation of other documents and other certifications may be necessary depending on the nature of export cargo. Below we have given examples of few cases where special certificates are required apart from the COO not for export.

(i) To export of hazardous chemicals, service provider needs to collect Material Safety Data Sheet from the shipper/ exporter in order to arrange Certificate from a Safety Officer to ship hazardous goods.

(ii) In case of frozen fish and meat, an exporter needs to seek permission from Food Safety and Standards Authority of India (FSSAI).

[5] Another organisation, the Federation of Freight Forwarders' Association of India (FFFAI) recently has announced of starting issuance of Certificate of Origin.

(iii)Export of rice involves Agricultural and Processed Food Products Export Development Authority (A. P. E. D. A.) Certificate is mandatory for an exporter.

On one hand, SB and COO are processed, and on the other hand, the service provider arranges a vessel/ flight to transport the cargo. Once vessel operator has been selected, freight booking is done; container pick up letter is collected from the relevant shipping line. Further, carting order is issued and an empty container is picked up from a container plot for stuffing. Point to be noted here that, cargo stuffing takes place either in a plot/ warehouse or containers are transported to the exporter's warehouse or factory premises for stuffing and further aimed to bring the same to a CFS or made it enter into the port for sailing. But in case of air shipments, carting order and consignment note are prepared prior to the entry of goods at the airport premises.

While gating in the port, *Dock Challan* and Shed Writer Operation is prepared. Export Generation Print (EGP.), which contains detailed declaration of the shipper, consignee, flight, customs broker and cargo details, is collected at the port gate itself. Thereafter, registration and noting for the shipment is made. Appraiser and Examination Officer (EO) are allotted for the examination and appraisement of the cargo. This process of appraisement and examination may call partial or complete de-stuffing of containers by manual labour or use of cranes and forklifts depending on the weight and volume of the cargo.

On appraisement & examination of the cargo, Appraiser issues the Late Export Order. 3 copies of SB are system generated if SB is under Duty Entitlement Pass Book (D. E. P. B.) Scheme and 4 copies of SB are required under duty exemption case. In the later case, fourth copy is known as DEPB copy which is handed over to the shipper by the customs broker on completion of the shipment. The first original is kept by the Customs authority, the duplicate copy is known as Exporter's Copy which belongs to the exporter, and the triplicate copy is known as the Exchange Control Copy which is handed over to the exporter for submission in his bank within stipulated time limit. Besides, another Custom/ Report Copy are generated for Customs use only. Once the duplicate and triplicate copies are generated, the customs broker on behalf of the shipper/ exporter presents the same along with the Dock Challan to the Preventive Officer to allow shipment.

It is important to mention here that above illustration describes cargo which is sailed on ship/ aeroplane ex-post appraisement. There are cases where exporters have permission to stuff containers in their premises and seal the same in presence of Central Excise Department personnel.

Central Excise official seals the container after checking the cargo in the premises of the exporter. Such central excise sealed containers do not call for the complete examination of the cargo by an EO or an appraiser. But after due checking of seal the sealed containers are allowed for shipment.

Ex-post verification by the Preventive Officer and allow of shipment, Dock Challan is deposited to the shed writer at port. Based on the declaration made in the Dock Challan, Mate Receipt (3 copies issued: one for the shipper, second copy is for the shipping line and the last copy belongs to the stevedore) is prepared by a stevedore who subsequently gets it ratified by a Chief Officer of the prospective sailing vessel. Further Vessel Call Number, SB and quantity of goods are checked and on finding in order export cargo is loaded on vessel for sail.

After sailing of the vessel, the shipping line issues a set of Bills of Lading (3 in originals and 3 non-negotiable copies of Bills of Lading) which is a proof of receipt of goods by the shipping line, and also contract of carriage responsibility of the cargo taken by the shipping line to deliver the same to the true owner of the cargo in exchange of endorsed Bills of lading at destination. The exporter with the help of CHA files Export General Manifest (EGM) with the customs within 48 to 72 hours from the sailing of the vessel. This EGM format is as prescribed by the customs and contains the basic shipping bill details viz. shipper/ exporter, cargo quantity and commodity, gross weight etc. The customs broker collects the Export Promotion copy from the customs authority and handover the same to the exporter. The logistics service provider handover the Bill of lading to the shipper. Thus, the export customs clearance process comes to an end at the origin point.

In the above discussion we have described both the import and export process in India under the general circumstances which are common irrespective of the bilateral or multilateral trade agreements between India and other countries. But as our one of the key objective is to identify the NTBs under Indo-Lanka FTA (ISFTA) route of trade, a special focus has been given on issue of additional administrative formalities involved in ISFTA route and this is given below.

3.3 Additional administrative formalities required to trade under the FTA route

Additional guideline on Rules of Origin under ISFTA

The Rules of Origin (ROO) criteria needs to be fulfilled to ensure the goods are wholly produced from the country of export. In case goods are not wholly produced ROO criteria under ISFTA requires a combination of Domestic Value Addition (DVA) and Change of Tariff Heading (CTH). DVA in exporting country should not be less than 35% of freight on board (FOB) value of the

finished product. Failing this criterion ensures 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% of FOB value of the products, a minimum 25% DVA is allowed. The CTH criterion states that the HS Codes of the imported raw materials and the finished products should be different at 4 digit level.

Documentation for COO – New Exporter under ISFTA

In order to issue a COO for the first time the following documents have to be produced:

(i) An affidavit is required for wholly obtained goods

(ii) In case of not wholly obtained Goods: (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; (d) Any other document deemed necessary by department of commerce officers depending upon the nature of the commodity.

Documentation for COO – Regular Exporter under ISFTA

(i) Wholly Obtained Goods: (a) Copy of the certified and approved affidavit, (b) Commercial Invoice, (C) Parties Copy of Export CUSDEC

(ii) Not wholly obtained goods: (a) copy of the approved cost statement, (b) Commercial invoice, (c) Parties copy of the export CUSDEC

Therefore, it can be argued from the above discussion that the international trade under ISFTA route is more complex than the non-free trade route through the former allows tariff concession up to 100% depending on the nature of commodity. Hence, we have found some answer to the question of why the utilization of ISFTA route has been declining since the last decade. However, the above discussion describes the partial story on this issue and a detailed analysis is required about non-tariff barriers which are sheltered in the international trade process especially when trading under the free trade route. This issue has been brought forward in the following sections.

4 NTBs sheltered in the international trade process between India and Sri Lanka

A list of non-tariff barriers identified during our survey with the stakeholders and the stakeholder consultation workshops, and these have been mapped with different stages of logistic process. Apart from the NTBs sheltered within the trade process, we have also listed some other issues

which part of the logistic process are not directly but affecting the trade process and international trade performances between the countries. The detail description is given below.

Packaging and Labelling process

On the Indian end, due to Food Safety and Standards Authority of India (FSSAI) regulations, food importers and retailers are facing mounting losses as consignments are being held up at different entry points. Import consignments are first checked for their compliance for labelling and only then sent for checking to the authorized laboratories. According to the food regulator's norms, manufacturers of packaged food items must, among other things, list the contents in English language on the labelling, which must mention the ingredients used and their nutritional values. The producer's name, address and country of origin must also be mentioned, and in the format prescribed by FSSAI. FSSAI also insists that importers should not use stickers indicating details such as product type, price and nutritional value, and the manufacturing/producing company but must print the product details on the packs that are to be shipped to India. Hence the packaging cost, unless orders are in large in volume, leads to a substantial increase in costs. Also standard packaging sizes are enforced upon. If any other packing size used then a statement such as 'NON STANDARD FSSAI PACKAGING SIZE' has to be printed as well. These mandatory declarations are too many to be followed.

Consequently, consignments of food products and raw material are being held up at various entry points such as ports and airports, and awaiting clearance. Containers include products such as food ingredients, packaged food, processed foods, biscuits, frozen foods, seafood, cheese, meat and sauces, estimated to be worth hundreds of millions. 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.

Even under the Prevention of Food Adulteration (PFA) Act there are no clearly defined labelling rules and standards for the imports of:

(a) Regular Black and Green Tea (Loose tea)
(b) Regular Black and Green Tea (Tea Bags)
(c) Flavoured Black and Green Tea (Loose tea)
(d) Flavoured Black and Green Tea (Tea Bags)
(e) Assortment Flavoured and Regular Black and Green Tea (Tea Bags)

(f) Herbal Tea- Regular/ Flavoured

(g) Organic Tea- Regular/ Flavoured

Only 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. As sanitary ware is fragile, extra care is taken in packaging of these products. They are usually packed in straw to insulate them from shock and impact. But Sri Lanka does not accept products packed in straw. They demand that such products be packed in 5-ply corrugated boxes. India does not manufacture enough 5-ply corrugated boxes to meet the existing demand. The prices are too high compared to the other countries. This actually increases the costs of the packaging and affects the product pricing 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 and every shipment and then test them in their own laboratories. Recently 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 into Sri Lanka.

Unfortunately, for Sri Lankan products this in not the case as Sri Lanka does not have an agreement with Indian authorities where they accept test reports and certification issued by Sri Lanka. Also they don’t 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 arrives 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 to 70 as testing fees for each sample representing every import consignment. Meanwhile importers have to pay heavy demurrage and storage charges. The officials also take 500 gms 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 percent revenue deposit as a safeguard depository measure. Usually a questionnaire is issued to importer releasing goods giving Special Valuation Bond. On receipt of revert from the importer and final evaluation of the same, SVB finalisation takes places within a time frame of three to four months, which asserts that the declared value of goods is genuine.

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 course of 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 has to 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 has to 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 in order 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 Rs.5000- Rs.7000 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 2500 tonnes pepper that can be imported into India from Sri Lanka annually. Since 1st 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 2500 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 HusbandryDairying 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 web site 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.

. 4.1. NTBs not originating from NTMs

Discrimination of Sri Lankan Nationals and goods in India

Political tension between Tamil Nadu and Sri Lanka on the issue of LTTE acts a major setback in the growth of trade between India and Sri Lanka. Due to opposition of few local leaders in Tamil

Nadu exporters from India often do not declare trade with Sri Lanka. Many shops which used to sell Sri Lankan products were burnt completely in the past. Even if Sri Lankan goods enter into Tamil Nadu, just after the entry the 'made in Sri Lanka' tag is removed and then sent to the market for selling. The discrimination against Sri Lankans is to such an extent that Sri Lankan citizens coming for services in Tamil Nadu has to register themselves in the police station of their locality apart from registration as a foreign citizen. This registration at local police station has to be renewed every year which requires sacrifice of lot of working hours and hassles. Even various offices such as Sri Lankan airlines, Bank of Ceylon and even the Sri Lanka High Commission have been attacked and regular demonstrations are encouraged to picket the entrance. This has led to the main entrance being not operational almost since its opening in view of the increased security. Therefore, political turmoil between Tamil Nadu and Sri Lanka needs to be resolved with utmost priority to facilitate trade between India and Sri Lanka.

Infrastructure and Technological barriers

It is obvious that the lack of infrastructure such as bad road conditions, 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 due to high dominance of labour unions most of the traders faced hurdles in loading and unloading of their cargo. Though with the government interventions this issue has been resolved but failed to regain the confidence of the traders from India. This causes underutilization of the Cochin port. The proper utilization of Cochin port can reduce the terminal handling charges (which are calculated on the basis of total no. of containers handled per day) as well as freight charges incurred by traders. Due to this reason 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 to 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 to 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 judgments and shall remove corrupt practices. System breakdown has been noticed after adoption of an upgraded version of online customs EDI system: i.e. 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.

Ethical Issues

Unfortunately, some companies of Sri Lankan found to be practitioner of unethical business. Evidences suggest that some of them appointed some Indian companies to import their product/s, test the market for the same and set up distribution. On having understanding of the market, the Sri Lankan companies did not continue doing business with their initial Indian counterpart. They appointed other companies to distribute their products and have not compensated the earlier company which launched their product / got their product accepted by retail chains etc.

There have also been cases of breach of contract and trust from the Sri Lankan end. Quite often it becomes impossible to identify the final buyer of a product in Sri Lanka. It has often been found that buyers from Sri Lanka often try to breach the contract or manipulate the terms of trade as they are aware of the prevailing competition among the exporters in India. Often buyers in Sri Lanka start bargaining with the exporter in India when the shipment arrives at the Colombo port and become successful in altering the terms of trade. For example, an Indian exporter exports his consignment to Sri Lanka on the basis of the promise made by the importer in Sri Lanka. Once the cargo reaches the Colombo port importers are supposed to fulfil the trade obligation in terms of payment. Document against Payment (DP) is such a process in which importers can get documents through Bank, which can be used for clearance of the consignment in his name from port. In case the importer refuses to pay the said amount due to any kind of problems such as inability to find a potential buyer for the exported commodity, he renegotiates with exporter to convert DP into Document under Acceptance (DA) so that importer can clear the consignment at the port before paying exporter. In this situation exporter has two options (a) Finding a new buyer (b) Re-import the consignment from Colombo. In the process of finding a new buyer, it sometimes exceeds the limits of the days given for custom clearance and in that case custom department in Colombo auctions the consignment and exporter gets nothing. In the second case exporter has to once again incur the freight charges for importing from Sri Lanka and in this process he loses a large amount.

So the best option lies with him is to convert DP in to DA so that importer clears the consignment and pays whatever amount he likes. Therefore, often exporters to Sri Lanka are at the mercy of the Importers and this distrust is an important non-tariff barrier and inhibiting the growth in trade between two countries.

This proves to be dangerous barrier for perishable commodity like onion which is described using following Figure 1 and Figure 2.

Figure 1: 1st Case study on Breach of trust in modifying the terms and conditions for trade of perishable Onion

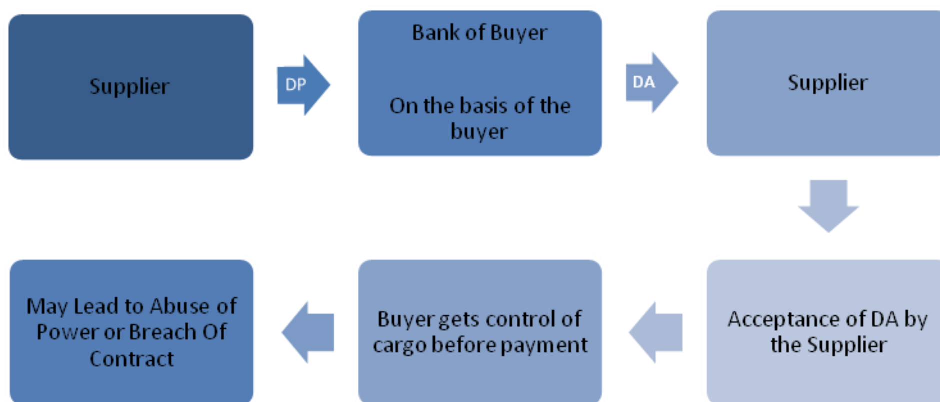
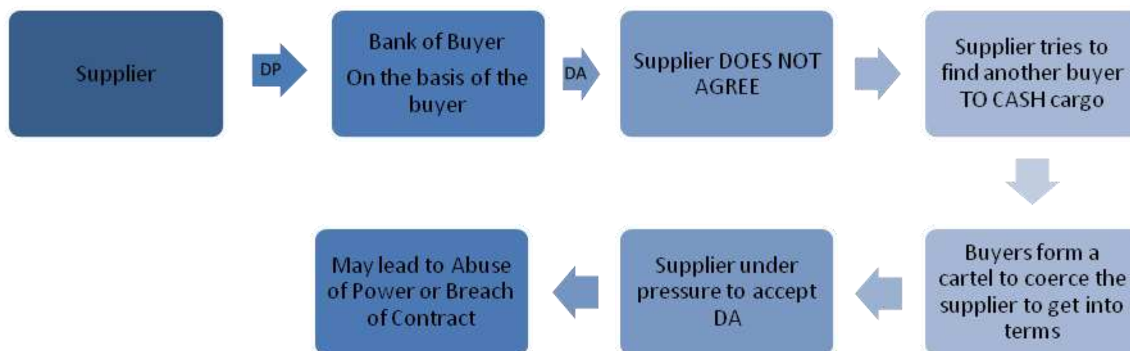


Figure 2: Second Case where buyers forms a cartel to put pressure on supplier to change the terms and conditions



NTBs sheltered under FTA compliance process.

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

- The Domestic Value Addition (DVA) in the exporting country should not be less than 35percent of the FOB value of the finished product and
- HS Codes of the imported raw materials and the finished products should be different at 4-digit level. (Change of Tariff Heading 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 recently, 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 percent 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[6].

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 SL. The entire process, including bottling has a value addition of almost 100 percent at ex-factory cost status. However as per the HS code description used by SL customs the item remains under the same HS code of the main imported input, therefore the product does not meet the rules of origin 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 SL 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 rules of origin 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.

[6] http://shodhganga.inflibnet.ac.in:8080/jspui/bitstream/10603/6691/9/09_chapterpercent204.pdf)

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.

5 Conclusion and Policy recommendations

The FTA between India and Sri Lanka has no doubt facilitated trade driven growth between two countries. Though 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. However, we have to go long way to strengthen this historical tie up between both the countries and bilateral trade is one of the most important tools to achieve that. In this paper, 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 percent of export from Sri Lanka was through FTA route in the year 2005 and it has fallen down to 65 percent in the year 2013. On the other hand, maximum 30 percent of Indian exports were routed through FTA route in 2004 and it has fallen down to meagre 13 percent. 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 percent) than SAFTA (up to 20percent), 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 paper 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 affects 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 problem.
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 INR 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 reduce time for clearance of goods from port.

8. The existing rule of origin (35 percent 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, Export Inspection Council 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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