

Challenges and Opportunities of Economic Integration within a Wider European and Eurasian Space



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TECHNICAL PRODUCT STANDARDS AND REGULATIONS IN THE EU AND EAEU – COMPARISONS AND SCOPE FOR CONVERGENCE

Executive Summary

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Michael Emerson, Jurij Kofner



Summary

This paper explores the how non-tariff barriers might be handled in the hypothesis of a free trade agreement (FTA) between the European Union (EU) and Eurasian Economic Union (EAEU). The existing systems of both the EU and EAEU are documented in some detail.

The political context under which this might happen lies beyond the scope of this paper, which deals only with technical and economic policy questions.

The tariff-free trade prior question

A prior issue is whether such an agreement would be a **FTA**, including the abolition of tariffs, or just a '**non-preferential**' **agreement** under which tariff protection would remain. This would affect the level of ambition of an agreement to reduce non-tariff barriers.

The EU for its part generally favors making FTAs in its global trade policy. Whether the EAEU would favor this also would need to be clarified, noting that while the EAEU has made a FTA with Vietnam, it only aims at a non-preferential agreement in current negotiations with China. A conceivable compromise formula could be an '**asymmetric FTA**', with the EU scrapping tariffs immediately, while the EAEU would see substantial transition periods for the reduction and ultimate elimination of tariffs (as for example in the EU-Ukraine DCFTA).

Options for non-tariff barriers

Given this undetermined wider context the paper explores a range of possible options for non-tariff barriers from the minimalist to maximalist, both for industrial goods (called Technical Barriers to Trade or 'TBT' in WTO texts) and agri-food products (called Sanitary and Phyto-Sanitary or 'SPS' regulations in WYO texts).

The non-tariff barrier content of trade agreements is generally recognized these days to be of exceptional complexity and importance, more so than the relatively simple matter of tariffs, which are in any case much reduced as between WTO members.

This would be the case in any agreement between the EU and the EAEU. However actual trends in the policy of the EAEU add a specific factor of highest relevance, namely its **autonomous use already of many EU directives** as the basis for reforming and modernizing its former GOST regulations and standards. In addition **the EAEU is adopting many standards of the international standards organizations** (ISO, IEC, ITU), which work very closely in partnership with the European standards organizations (CEN, CENELEC, ETSI), such that international and European standards are to a large degree identical. This means that **the legal and technical infrastructure for non-tariff barriers of the two parties is already converging very substantially**. This makes non-tariff barriers a potentially fertile field for cooperation between the EU and EAEU, for which several scenarios are considered in a minimalist to maximalist range.

The minimalist scenario

Realistically there are practical problems to be overcome in all cases, even in a minimalist scenario. In many free trade agreements the minimalist formula merely confirms the principles of existing WTO agreements for both TBT and SPS, and otherwise adds only soft provisions for cooperation and exchanges of experience by technical staff. The main issue arising in practice is

whether the **WTO principles** of non-discriminatory, scientifically based and de-politicized implementation are respected. On this point the EU and neighboring states have problems with some Russian practices that they consider to be non-compliant with WTO principles.

Mutual recognition

A well-established mechanism for going further to reduce the costs of non-tariff barriers is the **Mutual Recognition Agreement (MRA)**, such as the EU has with the US, Canada and other OECD countries. The usual situation is that the substantive standards may differ between the parties, but accredited bodies in the exporting country may certify conformity with the standards required by the importing country, without requiring further conformity assessment in the importing country. This is based on the 'mutual recognition' of the competence of each other's conformity assessment bodies. This valuable mechanism requires a high level of mutual trust in the professional competence of the technical agencies and their freedom from political orientations in their decision making. Starting from present day conditions, this would still be a serious challenge as between the EU and EAEU and its member states.

The maximalist formula

This is where the two parties adopt identical substantive regulations and standards, such that the non-tariff barriers can be not just reduced but eliminated. The EU has established a template formula for eliminating non-tariff barriers, which is an **Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA)**, and which begins to be used in relations with neighboring countries (for example Israel, and potentially Ukraine under its DCFTA). This requires full conformity with EU regulations, standards and practice; on the basis of which trade between the parties can function as freely as between EU member states (i.e. conformity established in one party for its own internal market means that no further checks are required to enter the market of the other party). It is already most positive that the EAEU is to a large extent adopting international and European standards identically, although some EAEU member states (especially Russia) adopt 'modified' versions, which would need to be rectified for this maximalist scenario.

Conditions for progress

These options therefore exist 'on the table' already. In general it can be anticipated that pre-conditions for any ambitious arrangements would include establishment of basic trust over the professionalism and de-politicization of the work of accredited technical agencies. In addition the strategic economic policy priorities of the EAEU member states would have to be committed towards international openness and competition. These conditions remain to be assured.

About the authors

Michael Emerson is an Associate Senior Research Fellow, Centre for European Policy Studies (CEPS) and a Senior Research Scholar, International Institute for Applied Systems Analysis (IIASA). (Contact: michael.emerson@ceps.eu)

Jurij Kofner is the Head of the Eurasian sector, Centre for Complex European and International Studies, Higher School of Economics and a Research Assistant, International Institute for Applied Systems Analysis (IIASA). (Contact: kofner@iiasa.ac.at)

Contact

IIASA

Schlossplatz 1

A-2361 Laxenburg

Austria

Phone: +43 2236 807 361

Fax: +43 2236 71313

E-mail: stepanov@iiasa.ac.at

Web: www.iiasa.ac.at



twitter.com/iiasavienna



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