Non-tariff regulation in the Eurasian Economic Union: current state and ways for improvement

Anastasia A. Khoroshavina

P.G. Demidov Yaroslavl State University, Yaroslavl, Russia E-mail: khoroshavinaa2001@mail.ru

Abstract. The paper analyses non-tariff regulation within the framework of the Eurasian Economic Union (EAEU). The paper considers the current state of this regulation within the EAEU member states and identifies the main directions for improving this system. The author draws attention to the problems and challenges faced by the EAEU member states in implementing nontariff regulation. The author proposes specific measures to improve this practice. The author uses a comparative analysis of the regulatory framework for non-tariff regulation of the Eurasian Economic Community (EurAsEC), the EAEU, and the Russian Federation as a research method. As a result of the analysis, the author identified the main issues of non-tariff regulation within the EAEU, including the divergence of approaches to non-tariff regulation in certain member states, the negative impact of nontariff regulation on intra-regional trade volumes, and the restrictive effect of NTM measures on capital and labour flows within the union. The paper concludes on specific approaches to improving the mechanism of non-tariff regulation in the EAEU. These include increasing the transparency and accessibility of data, transparency of information directly and indirectly related to the subjects of foreign trade transactions between economic entities of the EAEU member states, harmonisation of the regulatory and legal framework of the EAEU member states to minimise discrepancies in the legal sphere between the EAEU member states. It also includes the implementation of a set of measures to develop interstate standardisation and national standard unification. The EAEU unified technical regulations were proved to have an effective impact on trade not only in intra-union value chains, but also in international production chains outside the EAEU. The practical significance of the study includes the development of measures aimed at improving non-tariff regulation within the EAEU.

Keywords: non-tariff regulatory measures, non-tariff measures classification, technical barriers, prospects for the development of the net tariff measures system.

JEL codes: F42, F15, F13

For citation: Anastasia A. Khoroshavina. (2023). Non-tariff regulation in the Eurasian Economic Union: current state and ways for improvement. *Journal of regional and international competitiveness*, 4(4), 55.

Introduction

The role of customs and tariff foreign trade regulation is declining in the modern world. It eventually leads to the non-tariff restrictions. Today, non-tariff measures (NTMs) regulating foreign trade are very effectively applied not only in industrially developed countries, but also in developing countries. On average, up to 15% of imported to Europe goods are subject to non-tariff measures of foreign trade regulation (Pantak, 2021). The application and destination of non-tariff regulation measures for foreign trade has its own features, both in Russia and in other cooperating countries.

In a broad sense, non-tariff regulation is a set of administrative and economic measures exceeding the limits of customs-tariff policy and used as tools for foreign trade regulation. The purpose of these measures is related to the security policy and protectionism. A wide range of different protectionist tools is used, from low restrictive barriers for foreign trade to trade bans. At the same time, non-tariff regulation is not only restrictive measure; it implements non-tariff measures to stimulate and support foreign trade activities, aimed at implementing the state foreign trade policy. The role of non-tariff regulation in the context of the decreasing average level of the customs tariff and the need to ensure national security is growing.

Non-tariff regulatory measures are, in general, the important tools for protecting national interests and ensuring the safety and quality of goods on the world market. However, their application should be implemented taking into account all possible consequences and in accordance with international rules and norms.

The purpose of this study is to reveal the features and trends concerning the non-tariff regulation of intra-regional trade flows of EAEU countries under the current conditions, as well as identify possible ways



to improve non-tariff tools of foreign trade regulation in the Eurasian Economic Union.

The relevance of this issue involves foreign trade activities currently occupying a leading place in the trade policy of all states. This policy has a huge impact on the world economy. Therefore, public authorities apply various forms and methods of trade restrictions affecting national and domestic exports and imports.

Many national and international authors are engaged in the study of non-tariff regulation measures. For example, E.L. Andreeva and P.V. Ilyasov (2021), K.O. Mostovich (2021) analyse the issues of improving non-tariff regulation measures within the EAEU, and identify ways to solve them. These authors also study the methodological approach to assessing the impact of non-tariff regulation measures on EAEU imports (Ilyasov & Andreeva, 2023). P.V. Ilyasov (2023) in his studies considers the effects of non-tariff measures on the EAEU economy, and evaluates the improvement mechanism effectiveness of import non-tariff regulation in the EAEU. S.S. Fadeeva and E.V. Shchelkunova (2022) describe in detail the role and place of non-tariff regulation methods in the EAEU foreign economic activity. A.O. Zyk (2021) demonstrates the EAEU trade regimes in terms of non-tariff regulation in trade and economic relations with third countries. In particular, the paper (Zyk, 2021) considers examples of conditions included in the EAEU Agreements with the Socialist Republic of Vietnam, the Islamic Republic of Iran, the People's Republic of China, the Republic of Singapore, and Serbia. A.V. Pantak (2021) studies the role and purpose of non-tariff regulation measures in foreign trade. He considers the inherent absence of their own non-tariff measures for the export of goods as one of the main problems for the EAEU countries. Also, A.D. Egorova (2023) assesses the non-tariff measures of the EAEU countries' regulation of foreign trade relations, and considers non-tariff regulation in terms of Law.

The study of non-tariff regulation measures is difficult because they vary from country to country, change over time, and are not classified properly. The scale of NTMs, unlike tariffs, is difficult to measure and requires special methods to quantify. Therefore, the extent of the NTMs' impact, as well as protectionism, on international trade and the countries that are parties to regional trade agreements (RTAs) is a difficult task to quantify.

Main part

Non-tariff measures currently dominate the regulation of world trade due to the reduction of customs tariffs as a result of the GATT/WTO, and the tariff tools inability to meet all the requirements of modern foreign trade regulation.

The non-tariff regulation of foreign trade of any civilised state striving for sustainable development is necessary due to the aspiration (Kirillov et al., 2020):

- 1) to ensure national and economic security;
- 2) to protect domestic manufacturers of the industries, agriculture, and other national economy spheres;
- 3) to secure the life and preserve the population health;
- 4) to ensure the protection of animals and plants;
- 5) to reduce the negative impact of certain goods and materials being transported across the border on the environment;
 - 6) to protect the cultural patrimony of the nation;
 - 7) not to violate international obligations.

The issue of non-tariff measures in the state foreign trade regulation in recent years is increasingly on the agenda of national and international economic organisations. The report of the World Trade Organisation on NTMs, large-scale studies by the Eurasian Development Bank, the European Commission together with the International Trade Centre, individual experts, as well as UNCTAD's systematisation of NTMs, and the development of NTM databases as part of the Trade Analysis Information System (TRAINS) and Integrated Trade Intelligence Portal (I-TIP) databases on international trade show a clearly increased interest in issues related to non-tariff measures.

The definition of non-tariff measures is extensive. Therefore, a detailed classification is necessary to identify and distinguish the various forms of non-tariff measures.

Non-tariff measures of trade regulation are consolidated in complex normative legal acts, which are

issued by various controlling state authorities, etc. However, the measures of trade tariff regulation in terms of customs tariffs facilitate the procedure of their application and quantitative analysis (Kuleshov, 2014).

Furthermore, non-tariff trade measures include all measures different from customs tariffs significantly affecting international trade. Therefore, the number of measures available to be classified definitively is quite high.

The development of a comprehensive international classification of non-tariff trade measures is a necessary step to solve the above-mentioned problems. On the one hand, it allows ones to systematise the information received on non-tariff trade measures, and, on the other hand, structure the collection and analysis of such information.

Non-tariff regulation of foreign trade activities in Russia and the Eurasian Economic Union (EAEU) corresponds with the established international practice of their application. However, changes in the external conditions of trade and economic cooperation and geo-economic environment create new challenges to the organisation, structural arrangement, and regulation of foreign trade flows.

The current Eurasian Economic Union has developed on the basis of international agreements. Its system of foreign trade regulation is based on commonly accepted methods of customs tariff and non-tariff regulation.

The classification of common non-tariff regulation measures against third countries within the Eurasian Economic Union and the Russian Federation differs in a number of respects from the classification schemes of GATT-WTO¹ and UNCTAD². Hence, it is worth special attention.

Table 1 presents the main categories including effective common non-tariff restrictions in the Customs Union within the Eurasian Economic Community. Those are currently effective in the Eurasian Economic Union and the Russian Federation.

The actual Customs Code of the Eurasian Economic Union³ defines terms revealing the concepts of measures to protect the domestic market, prohibitions, and restrictions in foreign trade activities (Kuleshov, 2014):

- Clause 20 Article 2: measures for the domestic market protection special protective, anti-dumping, compensatory measures, and other measures for the domestic market protection, established in accordance with the Agreement on the Union⁴, imposed on goods originating in third countries, and imported into the customs territory of the Union;
- Clause 10 Article 2: prohibitions and restrictions measures of non-tariff regulation, including those unilaterally imposed in accordance with the Agreement on the Union, measures of technical regulation, sanitary, veterinary-sanitary, and quarantine phytosanitary measures, measures of export control, including measures for military products, and radiation requirements established in accordance with the Agreement on the Union and (or) the legislation of the Member States, applied in respect of goods moved across the customs border of the Union.

Thus, the classification of non-tariff regulation measures presented in Table 1 is limited to the consideration of only original economic measures. Consequently, non-tariff measures of state regulation of foreign trade activity do not cover all administrative barriers other than tariffs. They are limited to measures of economic nature only, based on the current customs legislation in the Customs Union, including the Russian Federation.

¹ World Trade Organization – Integrated Trade Intelligence Portal. Available at: http://i-tip.wto.org/goods/Forms/ProductViewNew. aspx?mode=search (accessed 11.09.2023)

² International Classification of Non-Tariff Measures // Unctad 2019 edition of Trade - Available at: https://unctad.org/system/files/official-document/ditctab2019d5_ru.pdf https://unctad.org/system/files/official-document/ditctab2019d5_ru.pdf. (accessed 17.10.2023).

³ Customs Code of the Eurasian Economic Union (ed. of 29.05.2019, amended on 18.03.2023) (Annex N 1 to the Agreement on the Customs Code of the Eurasian Economic Union). Available at: http://www.consultant.ru/document/cons_doc_LAW_215315/ (accessed 29.10.2023).

⁴ The Agreement on the Eurasian Economic Union (Signed in Astana 29.05.2014) (ed. of 24.03.2022) (with amendments and additions, entered into force from 03.04.2023). Available at: https://www.consultant.ru/document/cons_doc_LAW_163855/ (accessed 01.11.2023).

In addition to economic measures, the Eurasian Economic Union and the Russian Federation have a large number of other administrative restrictions aimed at regulating foreign trade activities. They, according to the current terminology of the customs legislation of the Customs Union, should be classified as prohibitions and restrictions.

The analysis of prohibitions and restrictions presented in Table 2 shows there are common restrictions and rules of their application for most restrictions on foreign trade activities within the Eurasian Economic Union. However, restrictions related to export control and military products are established on the basis of the member states national legislation.

Table 2 shows that various restrictive measures imposed on goods other than tariffs in accordance with the customs legislation of the Eurasian Economic Union and the Russian Federation relate to prohibitions and restrictions. In turn, non-tariff regulation measures are only a part of these restrictions. This circumstance should be taken into account by participants in foreign trade activities, since all customs procedures, except for release for domestic consumption and export, assume that goods are placed under customs procedures without the application of non-tariff regulation measures.

Table 1 – Classification of common non-tariff regulation measures within the Eurasian Economic Union and the Russian Federation

Official and the Rassian Federation				
NTMs in the CU within the framework of the EAEC	NTMs in the Eurasian Economic Union	NTMs in the Russian Federation		
Economic measures				
Prohibitions or quantitative restrictions	Prohibition of import and (or) export of goods	Quantitative restrictions established by the Government of the Russian Federation in exceptional cases provided for by international treaties of the Russian Federation		
The exclusive right to export and (or) import certain types of goods	Quantitative restrictions on the import and (or) export of goods	Non-discriminatory application of quantitative restrictions		
Licensing in the field of foreign trade in goods	The exclusive right to export and (or) import goods	Quota allocation		
Monitoring the export and (or) import of certain types of goods	Automatic licensing (supervision) of export and (or) import of goods	Licensing in the field of foreign trade in goods		
	Permissive procedure for the import and (or) export of goods	The exclusive right to export and (or) import certain types of goods		
	Licensing in the field of foreign trade in goods	Special protective measures, anti-dumping measures and countervailing measures		

Source: Ilyasov, 2023; The Agreement on the Eurasian Economic Union, 2014; Kuleshov, 2014

Table 2 presents the prohibitions and restrictions within the Eurasian Economic Union and the Russian Federation.

Table 2 – Classification of prohibitions and restrictions within the Eurasian Economic Union and the Russian Federation

Prohibitions and restrictions in the Eurasian	Prohibitions and restrictions in the Russian	
Economic Union	Federation	
Non-tariff regulation measures	Non-tariff regulation measures	

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Prohibitions and restrictions in the Eurasian Economic Union	Prohibitions and restrictions in the Russian Federation	
Measures to protect the domestic market: special protective, anti-dumping, countervailing measures	Monitoring the export and (or) import of certain types of goods	
Measures to protect the domestic market on a bilateral basis, including with regard to imports of agricultural goods	Special protective measures, anti-dumping measures and countervailing measures	
Technical regulation measures	Pre-shipment inspection	
General exceptions	Measures affecting foreign trade in goods and introduced based on national interests	
Sanitary measures	Prohibitions and restrictions on foreign trade in services and intellectual property	
Veterinary and sanitary measures	Technical regulation measures	
Quarantine phytosanitary measures	Sanitary measures	
	Veterinary and sanitary measures	
	Quarantine phytosanitary measures	
	Export control measures	
	Measures regarding the export and (or) import of military products	

Source: composed by the author

The EAEU had some challenges within the framework of non-tariff regulation (Andreeva & Ilyasov, 2021). Major groups of issues can be distinguished as follows:

1. The problem of divergence of non-tariff regulatory measures (NTMs) between the EAEU member states. There is still a possibility for the EAEU member states to independently establish national non-tariff regulation measures. The divergence of NTMs between countries causes the increasing of trade costs. Regulations developed in the EAEU countries on the application of NTMs have different terminology. It causes significant complications in the work, and serious challenges for international traders who need to comply with country-specific requirements for goods and production processes.

Both EAEU and national standards are currently operational. The latter are developed by the national standardisation body. Each EAEU member state can use these standards, but they are more actively used in the country where the standard was developed, especially when they are published only in the local language. Although the national standard is public available, it is more difficult for foreign market participants to apply it than domestic market participants, and in some cases the costs of adaptation are prohibitive.

The heterogeneity of national standards covering the same topic but developed by different countries results in additional costs. Market participants must respond by duplicating processes to meet the different requirements of standards. Reasonable policies promoting regulatory convergence should be pursued to achieve government regulatory objectives without limiting economic development.

2. The problem of lost trade. According to official data, more than 500 thousand certificates of conformity and more than 5 million declarations of conformity have been issued for serially produced products within the EAEU. This is quite a significant number of documents. NTMs hinder trade both within the Union and imports from third countries. Assessments by the Eurasian Development Bank (EDB) show NTMs account for 15% of intra-union trade flows value. Many costs arise from process redundancies, such as retooling production cycles for different market specifications. When these are eliminated, firms can serve more markets with existing or even lower resource utilisation. Previously utilised resources are reallocated to other activities where they can be used more productively. Reducing the actual costs associated with serving foreign markets provides lower prices, which in turn leads to increased demand and increased resource utilisation.

Experts of the EDB Centre for Integration Studies (EDB CIS) identified NTMs as having a significant

negative impact on trade. The report considers a number of scenarios for reducing NTMs and the corresponding effect. In the baseline scenario, in the medium term, Belarus would benefit most from lowering barriers: its real GDP would increase by 2.8% and well-being by 7.3%, cumulatively. In Kazakhstan, well-being will grow by 1.3%, while real GDP growth will be 0.7%. The effects for Russia are less significant: well-being will grow by 0.5% cumulatively, and real GDP by 0.2%.

3. The issue of the limiting effect of technical barriers. The significant limiting effect of technical barriers in the EAEU member states can be explained by the GOST system of standards inherited from the USSR. GOST standards often impose mandatory requirements on products. However, in Western countries only voluntary standards are used. There may be less risks to human, animal or plant life and health.

By 2020, the EAEU has done a lot of work to establish a unified system of technical regulation. Forty-eight technical regulations have been established, covering almost 85% of products, and uniform rules and procedures for conformity assessment are in place. Up to 80% of standards used in the EAEU are similar to international standards used. For example, the EU has directives and regulations. The similarity of standards would eliminate barriers to trade between member states and third countries. However, mutual recognition of certificates and declarations of conformity issued on the basis of international standards has not yet been implemented.

The Eurasian Economic Commission (EEC) identified 59 barriers in the EAEU internal market in 2020. 11 barriers are obstacles to the free movement of goods, services, capital, and labour within the framework of the Union's internal market functioning. Indeed, they do not comply with Union Law. 13 barriers are exceptions (exceptions (derogations) stipulated by the Union law on non-application by a Member State of the general rules of the internal market functioning). 35 barriers – restrictions (obstacles to the free movement of goods, services, capital, labour within the framework of the Union internal market functioning causes by the absence of legal regulation of economic relations, the development of which is provided for by Union Law). Analysis of the register of exemptions, restrictions and barriers in the EAEU has shown obstacles in the field of technical regulation to be the most common type of obstacles in the EAEU domestic market, accounting for 22%.

Experts highlight the following main directions for improving non-tariff regulation in the EAEU member states in order to promote integration and competitiveness that supports their sustainable economic development as well as global integration (Andreeva & Ilyasov, 2021):

1. Promoting mechanisms to increase transparency and accessibility.

Increased transparency requires the collection of comprehensive and comparable data on NTMs based on international classification. OECD work has shown that increased transparency can be sufficient to reduce trade costs. Transparent information is also necessary for any negotiations aimed at achieving harmonisation and mutual recognition and thus strengthening trade.

Access to these data should be public in order to reduce information costs. The interface providing access to databases should be user-friendly. The existence of available, clearly defined, and consistently applied regulatory requirements increases predictability and certainty for participants in international trade. Nowadays, it is formidable in interconnected world characterised by the international fragmentation of production within global value chains.

Platforms for public-private interaction on regulatory and procedural issues require strengthening and promotion of dialogue platforms. For example, ePing, a publicly available online tool developed by the UN Department of Economic and Social Affairs (UNDESA) and the International Trade Centre (ITC). It facilitates the tracking of notifications and timely response to them. The launch of such a service in the EAEU could solve a serious problem in tracking more than 4,500 TBT (technical barriers to trade) and SPS (sanitary and phytosanitary measures) notifications annually. If parties to international trade are aware of the changes, they can submit comments and take advantage of opportunities for discussion and co-operation.

2. Harmonisation of the regulatory and legal framework of the EAEU Member States.

It is necessary to minimise divergence in the field of NTMs between the EAEU Member States. Reasonable policies are required to promote regulatory convergence, rather than elimination, to achieve state

regulatory goals without restricting economic development. Regulatory co-operation between the EAEU Member States should be supported with converging regulatory requirements, establishing clear rules for the formation of a modern standards base, and the implementation of common mandatory product requirements. A growing body of evidence on this topic, including recent OECD assessments, suggests reducing regulatory heterogeneity can decrease the trade costs associated with NTMs. The costs and benefits of reducing differences in some regulatory approaches have been identified through OECD work. The evidence shows strong positive effects on bilateral trade flows when countries co-operate to reduce unnecessary trade costs associated with measures such as SPS and TBT.

3. Comprehensive measures for the development of interstate standardisation.

The development of interstate standardisation is among the most important tasks of establishment the unified system of EAEU technical regulation. It is necessary to replace outdated GOST standards with modern international standards; to implement the best practices of developed countries. National standards block trade in Eurasian value chains, while international standards promote trade. EAEU technical regulations have a greater impact on trade in intra-union value chains. Indeed, international standards have a positive impact on EAEU trade with third countries. Thus, technical regulations reduce information asymmetry between market participants in the value chains of the single Union market. International standards are the tools of global communication with international trading partners.

Conclusion

The main task in modern conditions is to adapt the mechanism of non-tariff regulation to the current conditions of international trade within the framework of the EAEU functioning. The NTM mechanism needs to be revised in order to minimise compliance costs and increase the efficiency of implementation processes. If the regulatory and procedural requirements related to NTMs are made more accessible, the awareness of FEA participants will increase, with a simultaneous reduction of costs and time-related costs. Information costs will be reduced through increased transparency. Resources previously used to serve redundant NTM processes are reallocated to other more productive economic activities. Reducing NTM trade costs can affect domestic production in two ways: through efficiency gains and resource savings, and through cost reductions leading directly to lower prices. Effective market integration also requires the resolution of non-tariff measures. Various analysis methods based on relevant data will allow ones to quantify the impact of NTMs in the EAEU and identify potential benefits from the optimisation and convergence of regulatory requirements. Uniform rules for the circulation of goods in the internal market of the EAEU contribute to the elimination of unnecessary non-tariff barriers, improvement of competitiveness, and development of the export potential of goods and services produced in the EAEU.

FUNDING

The study was done on a personal initiative.

CONFLICT OF INTEREST

The author declares no conflict of interest.

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Received 02.10.2023 Revised 15.11.2023 Accepted 21.11.2023