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Ministry of Commerce

Institute of Public Policy
BNU

Pakistan-India Trade Liberalization: the Impact of Non-Tariff Barriers

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Chapter 0 Executive Summary

This report represents Deliverable 2 of the Project on Research and Public Awareness Initiatives to Support Pakistan-India Trade Normalization, being undertaken by the Beaconhouse National University's Institute of Public Policy (IPP) for the USAID Trade Project. The focus of this Deliverable is on Non-Tariff Barriers of India and Pakistan and their Impact.

The report is comprised of eleven Chapters. The support of Consumer Unity & Trust Society, CUTS International, office in India, is acknowledged.

Types of Non-Tariff Barriers

According to the World Trade Organization (WTO), there is no agreed definition of Non-Tariff Barriers (NTBs). In principle, NTBs include all measures, besides tariffs, which are used to protect a domestic activity or industry. They normally refer to 'government imposed' or 'government sponsored' measures.

The Panel of Eminent Persons set up by the United Nations Conference on Trade and Development (UNCTAD) proposed a comprehensive and detailed classification of NTBs in 2005. Fifteen types of NTBs have been identified including Sanitary and Phytosanitary (SPS), Technical Barriers to Trade (TBT), other technical measures, price control measures, quantity control measures, para-tariff measures, finance measures, anti-competitive measures, export-related investment measures, distribution restrictions, restriction on post-sales services, subsidies, government procurement restrictions, intellectual property and rules of origin.

A similar classification was developed by UNCTAD of procedural obstacles to trade and include the following categories: arbitrary or inconsistent behavior, discriminatory behavior favoring specific producers or suppliers, inefficiency or cases of outright obstruction, non-transparent practices, legal obstacles and unusually high fees or charges.

Non-Tariff Barriers of India

A summary of the NTBs applied by India on imports from different sources is given below:

- SPS measures are applied through a number of laws and mostly address food items.
- There is a strong focus on food security and self-sufficiency.
- The licensing, permit and tariff regimes are complex, varying according to product or user.
- India is one of the most active users of anti-dumping measures. A number of safeguard measures have also been imposed, including quantitative restrictions.
- India applies a number of duties and charges, over and above tariffs.
- Reference prices have been established for some products, which are revised every two weeks to align with international market prices.
- Some goods can only be imported through specified ports.

Agricultural products and textiles are of special interest to actual and potential Pakistani exporters to India. Textile exports to India face the largest number of NTBs. The NTBs include import licensing, quota or prohibition, transportation restrictions, import only by state trading agencies, application of SPS and TBT measures and quarantine requirements. Textiles exports to India, regardless of the source of origin, also face a number of NTBs including pre-shipment inspection, high para-tariffs, SPS measures along with relatively high tariffs. However, these NTBs are applicable to textile exports from any source country and are not specific to Pakistan.

The question is: are these barriers applied in a discriminatory or trade restrictive manner on imports from Pakistan?

Overall, Pakistan exporters face special restrictions in trade with India including problems in transportation, financial transactions and stringent visa requirements[1]. Also, there are apprehensions that India applies NTBs more strictly on Pakistani imports, motivated partly by security considerations. It is generally also perceived that NTBs on textiles are specific to exports from Pakistan. However, the application of stringent control measures on textiles by India on imports from the rest of the world might suggest that these are not specific to imports from Pakistan.

India also appears to be heavily subsidizing inputs into agricultural production, including fertilizers, electricity, and irrigation, among others. According to the WTO [2011] the total subsidies in 2008-09 aggregated to USD $53 billion, over 5% of the Gross Domestic Product (GDP), and have probably continued to show rapid growth up to 2010-11. The subsidy per hectare was almost USD $300. The comparable figures for Pakistan for 2010-11 are agricultural subsidies of USD $2.7 billion, equivalent to 1.2 percent of the GDP and per hectare of USD $118. Therefore, agricultural subsidies are almost three times higher in India in comparison to Pakistan.

Non-Tariff Barriers of Pakistan

The summary of NTBs applied generally by Pakistan is as follows:

- Pakistan's main trade policy instrument is its tariff regime. Industrial policy is influenced by a large number of Statutory Rules and Orders (SROs), which specify concessions/exemptions in tariffs by end use and product.
- Import prohibitions and licensing are applied for health, safety, security, religious and environmental reasons.
- Some imports under SROs require approval by relevant ministries/agencies, like the Engineering Development Board (EDB) for the import of components and parts for the automotive sector, finished pharmaceuticals by the Ministry of Health and Ministry of Food and Agriculture for import of wheat flour.
- The National Tariff Commission (NTC) conducts anti-dumping, countervailing and safeguard investigations.
- Pakistan has 27,000 national standards, covering mainly agriculture, food, chemicals, civil and mechanical engineering and textiles.
- There are 25 notifications covering sampling and testing procedures as well as labeling, package, storage and transport of a number of food products, and pharmaceuticals, among others.
- Pakistan's SPS-related legislation is relatively outdated.

NTBs in Pakistan tend to be more focused on manufactured goods, especially with regards to customs valuation, pre-shipment inspection, import licensing by a number of Ministries/Agencies, quantitative restrictions, indigenization, anti-dumping and quality certification.

Transportation links between the two countries are inadequate and weak. There are bottlenecks on the road and rail route. The land road is open for exports of a limited number of commodities from India. Currently Indian banks are not allowed to have branches in Pakistan. India and Pakistan also follow a restrictive visa regime.

[1] Since the conclusion of the research for this paper, Pakistan and India have signed an agreement on the liberalization of the visa policy on the 8th of September, 2012.

Survey of Pakistani Exporters

A survey of exporters was conducted in the five industrial cities of Pakistan to identify the barriers and problems in exporting to India. The survey enabled the identification of NTBs faced more frequently by firms in exporting to India. The largest proportion of respondents, almost half, faced problems in getting visas.

The frequency of firms reporting SPS and TBT measures in the form of handling at Indian ports, constraints of land transportation, and dealings of Indian Customs, among others, ranges from about 20% to over 60%. The major problem area is land transportation with 61% reporting problems.

Between 21% and 37% reported problems in meeting certification and SPS requirements, 30% appear to have experienced problems at the Indian port of entry. Similarly, 21% reported that they experienced some difficulty in dealing with the Indian Customs. 23% indicated that they faced problems in banking transactions.

Overall, the most significant constraints appear to be in the area of trade facilitation, especially with regard to issuance of visa, travel to India and the transportation infrastructure, including the logistics on the land route.

Survey of Indian Exporters

This chapter addresses issues of NTBs affecting Indian exports to Pakistan. The team conducted a small survey of five major Indian exporters. The most significant concerns on India's part regarding access to Pakistani markets were the restriction of imports from India in the positive list, now outside the negative list. Only 137 products are allowed through land route (Wagah) to Pakistan. In addition, exporters highlighted problems in issuance of visas.

Another issue is problems in the transportation of consignments through the rail route. The numbers of wagons that can commute from Attari to Amritsar are restricted. In addition, non-acceptance of Letters of Credit (L/C) issued by each other's banks is a persistent problem.

Measure of Trade Restrictiveness

This chapter describes different measures that have been developed to determine the degree of restrictiveness, arising from the presence of different NTBs and the level of tariffs. The basic purpose of the exercise is to determine, first, which country, India or Pakistan, has a more restrictive trade regime, and, second, which country performs better in terms of trade-related logistics.

The rating of South Asian countries in the International Monetary Fund (IMF)-Trade Restrictiveness Index is that India and Bangladesh have the most restrictive trade regimes followed by Pakistan, Sri Lanka and Nepal.

The Overall Trade Restrictiveness Index (OTRI) of the World Bank calculates the equivalent uniform tariff of a country's tariff schedule and NTBs that would maintain domestic import levels. According to this Index India also has a relatively more restrictive regime. Not only is there a wider range of NTBs but they also appear to be more intensively applied, especially in the case of agricultural goods. There is a case for relaxation of NTBs by India if regional trade within South Asia is to grow faster.

A comparison of the indicators of logistic performance between India and Pakistan indicates that India performs better. Overall, the quality of logistic services is at an intermediate level in both countries, implying significant room for improvement. Overall, the conclusion is that the trade restrictiveness effect of NTBs of India is greater, while Pakistan needs to do more to remove procedural impediments.

Impact of NTBs

According to UNCTAD, quantifying the impact of NTBs is complex and requires intensive and extensive data requirements. It becomes even more difficult in the context of bilateral trade, as with India and Pakistan. Approaches developed include frequency, price-gap or quantity-impact measures. In addition, the Gravity Model of trade enables determination of the quantum of potential trade between two countries.

A simple gravity model was constructed in the report for a number of South Asian countries with India acting as the center of gravity. According to this model, Pakistan's exports to India can reach the level of USD $792 million, an increase of USD $460 million. Overall, in the event that Pakistan grants Most Favored Nation (MFN) status to India and there is mutual relaxation of NTBs, then the volume of trade between the two countries could rise in a relatively short time frame from USD $2.7 billion to USD $7.1 billion, with the trade deficit of Pakistan with India rising from USD $2 billion to USD $5.6 billion.

The next approach used is based on the extent of increase in OTRI due to the presence of NTBs in India. Accordingly, the potential level of exports of Pakistan to India could range from USD $700 to USD $800 million in the event of relaxation of NTBs by India.

The survey reveals that there is substantial variation in the assessment of the sample firms regarding the increase in exports in the event NTBs are relaxed by India. The expected average increase in exports following a relaxation of NTBs of the sample of firms is 60%. This implies that Pakistan's exports could increase to about USD $530 million. This is somewhat lower than the results obtained from the two aforementioned approaches, because the sample firms have allowed for limitations imposed by supply side factors.

Investment Policy of India

A review of foreign investment policy shows that the policy framework for foreign direct investment (FDI) in India has been liberalized since 1991. India has, until now, opened up 59 sectors for FDI. In terms of degree of opening up, out of 59 sectors, a majority of sectors (33) have an investment cap of 100% equity. In addition, there are another 12 sectors with investment cap of 49%; four sectors each with investment cap of 74% and 26% respectively; two sectors each with investment cap of 74-100% and 49-74%; and one sector each with investment cap of 49-100% and 20% respectively. Restrictions remain in the financial and retail trade sectors.

Through a notification issued [2] in April 2012 by the Government of India, India amended the Consolidated FDI Policy to allow investments from Pakistan through the Government route (i.e. with prior approval of the Government of India) as opposed to the automatic route that is applicable for all countries except Pakistan and Bangladesh, The amendments says "a citizen of Pakistan or any entity incorporated in Pakistan invest only under the Government route, in sectors / activities other than Defense, Space and Atomic energy."

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[2] Circular 2, 2012 Consolidated FDI Policy of India

Investment Policy of Pakistan

Foreign investment policy of Pakistan is based on the following acts:

- Protection of Economic Reforms Act, 1992
- Foreign Private Investment (Promotion and Protection) Act, 1976

The prohibited sectors are as follows: arms and ammunition, explosives, radioactive substances, security printing and alcoholic beverages. The categorization of the current Investment Policy is according to the following sectors: manufacturing or industrial sector, non-manufacturing sector and other sectors.

The government of Pakistan signed agreements on Avoidance of Double Taxation with 60 countries. Pakistan also signed bilateral agreements with 46 countries on Promotion and Protection of Investment from 1959 to 2004[3], with the following provisions: non-discrimination between local and foreign investors; free transfer of funds; a dispute settlement mechanism and compensation in the event of war, calamities and emergency

Pakistan does not explicitly follow a discriminatory policy of investment with respect to Indian residents or companies, unlike India's investment policy.

Pakistan does not have a full-scope treaty on avoidance of double taxation with India. Instead, there is a Limited Purpose Treaty signed by all member countries of the South Asian Association for Regional Cooperation (SAARC) on November 13, 2005.

Policy Brief for Ministry of Commerce

During the on-going negotiations with India, prior to the decision to grant MFN status to India, Pakistan may seek the following from India as short-term measures:

- Streamline and simplify the issuance of business visa, to include flexibility in terms of reporting requirements, number of cities that can be visited and length of stay. The process of finalizing a Visa Protocol should be completed as soon as possible.
- As already indicated by India, to the extent possible, the process of meeting SPS and TBT requirements should be simplified, by accepting certification by Pakistan Standards and Quality Control Authority (PSQCA) and pre-shipment agencies. In addition, India needs to set up a testing and quarantine facility close to the border. The current requirement for a certification every two years also needs to be relaxed.
- More efficient and less intensive documentation process of handling by Indian Customs. Efforts at minimizing problems of transportation of goods from the border to destinations in India are also necessary.

Pakistan should be willing to reciprocate with similar measures, especially related to the following:

- Enhancing the railway wagon capacity and signing of a bilateral railway protocol.
- Setting up testing, warehousing and other facilities at the border.
- Expanding the list (beyond the existing 137 items) of items that can be imported on the land route from India.
- Harmonizing the classification of goods between the Customs departments of the two countries, especially with regard to items on the Negative List of imports from India.

In the medium term, a number of measures can be undertaken by the two countries, which may greatly facilitate trade. This includes opening of more integrated check posts (ICP) and land routes at the border, especially at Khokhrapar. Also, the improvement in banking channels will facilitate trade

[3] Board of Investment, Government of Pakistan

between the two countries. There are two options, either the countries wait for the South Asia Agreement on Trade in Services (SATIS) or they arrive at a bilateral arrangement, whereby there is reciprocity in opening branches.

It is important that, sooner than later, India officially withdraws the discriminatory clauses in its Investment Policy as a confidence building measure. Perhaps, over the next few years, the two countries can move towards the establishment of Bilateral Trade and Investment Commission, not only to facilitate economic relations but also to create an institutional framework for dispute settlement. As investment flows start between the two countries, it will also be important to sign a bilateral agreement on the avoidance of double taxation.

Capacity Building Measures

A number of important capacity building measures will need to be undertaken to effectively manage the granting of MFN status to India and the implementation of the final phase of trade liberalization under SAFTA, both of which are likely to occur at, more or less, the same time. In particular, the following institutions need to be strengthened.

National Tariff Commission: The series of changes by the end of 2012 could lead to a spate of requests from a large number of import- substituting industries who fear displacement and seek safeguard measures against 'serious injury'. Therefore, it is likely that the NTC may have to initiate a number of investigations with fast completion times. It will need a much larger cadre of professionals to do the technical analyses required to meet the demands of its stakeholders.

Customs: Trade will be facilitated if Customs is able to e-file documents at border posts.

Pakistan Standards and Quality Control Authority: The laws and rules regarding SPS and TBT measures need to be updated and the capacity of the agency enhanced. In addition, testing/certification facilities should be built at the Wagah border.

Trade and Development Authority of Pakistan: TDAP will have to be more proactive in organizing Exhibitions and Fairs for Pakistani exporters across India.

Ministry of Commerce: The Ministry should consider establishing a web-based trade portal on Pakistan-India trade that includes information on relevant laws, agreements, trade associations and their members, and trade statistics, among others. The MoC can help promote the relationship between the Pakistani and Indian Chambers of Commerce.

In conclusion, Pakistan and India are moving into a decisive stage of their trade relations. It is essential that both countries facilitate their bilateral trade on the basis of the principle of reciprocity and mutual cooperation, for the benefit of the people of both countries. Needless to say, this will require an environment in which there are no stresses in the political relations and security concerns are not heightened.

Chapter 1 Introduction

This report represents Deliverable 2 of the project on Research and Public Awareness Initiatives to Support Pakistan-India Trade Normalization, undertaken by the Institute of Public Policy for the USAID Trade Project. The focus of this Deliverable is on Non-Tariff Barriers (NTBs) of India and Pakistan and their Impact.

The following tasks have been completed to achieve this deliverable:

- Listing of NTBs of India, those which apply generally (including countries like Bangladesh) and those which are specific to Pakistan, in the areas of subsidies, visa regime, land transportation, air travel, sea transportation, payment systems, opening up of offices, customs procedures, sanitary and safety standards, and quantitative restrictions, among others.
- Listing of NTBs of Pakistan, directed at India and those which apply generally (including countries like Bangladesh).
- Identification of other measures for trade and investment promotion in both India and Pakistan like avoidance of taxation on corporate and individual incomes, strengthening of telecommunications and information technology (IT) links, and access to financial markets, among others.
- Identification of a broader list of specific barriers to investment in both countries.
- A survey was carried out to approximately 30 actual/potential Pakistani exporters to India to determine the impact of NTBs on the costs and times of delivery of products in the Indian market, with a ranking from the sample of exporters on the principal impediments to trade with India. Similarly, a small survey of Indian exporters to Pakistan was completed in India.
- Based on completion of Task an assessment on the impact of NTBs of India was conducted. It includes the total volume of exports from Pakistan, allowing for short-term constraints to attain higher levels of capacity utilization.
- Preparation of a policy brief for the Ministry of Commerce on the key NTBs and trade facilitation measures that need to be focused on during trade negotiations with India and the kind of reciprocal gestures that Pakistan may be willing to offer.

The report is in eleven Chapters.

The support of Consumer Unity & Trust Society, CUTS International, office in India, is acknowledged.

Chapter 2 Types of Non-Tariff Barriers

The objective of this Chapter is to define and identify Non-Tariff Barriers (NTBs). The first section provides the definition of NTBs and highlights the progress made in this area in the General Agreement on Tariffs and Trade (GATT), Tokyo and Uruguay Rounds. The second section presents the classification of NTBs developed by the UN Conference on Trade and Development (UNCTAD). The third section highlights a similar classification of procedural obstacles. The incidence of NTBs in a large sample of countries is presented in the fourth section. The fifth section gives a proposed classification of NTBs into 'protectionist' and 'non-protectionist' barriers. Finally, the sixth section identifies 'core' NTBs.

Definition of NTBs

According to the World Trade Organization (WTO), there is no agreed definition of NTBs. In principle, NTBs include all measures, besides tariffs, which are used to protect a domestic activity or industry. They normally refer to 'government imposed' or 'government sponsored' measures.

Many of the NTBs imposed are based on a legitimate goal and can be introduced in a manner compliant with the WTO. This includes measures to protect national security, the environment, sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT). However, some measures are not compatible with WTO principles. Therefore, to ensure that tariff commitments are not undermined, to limit trade disputes between members and to minimize the trade distorting effects of a legitimate measure, various international agreements have been reached.

GATT includes many articles on NTBs as follows:

Article V:	Freedom of Transit
Article VI:	Antidumping and Countervailing Duties
Article VII:	Valuation Customs Purposes
Article VIII:	Fees and Formalities concerned with Importation
Article X:	Publication and Administration of Trade Regulations
Article XI:	General Elimination of Quantitative Restrictions
Article XII:	Restrictions to Safeguard Balance of Payments
Article XIII:	Non-discriminatory Administration of Quantitative Restrictions
Article XVI:	Subsidies
Article XVII:	State Trading Enterprises
Article XIX:	Safeguards

The Tokyo Round reached an agreement in 1979 among 102 participating countries on the following:

- Technical Barriers to Trade
- Government Procurement
- Subsides and Countervailing Duties
- Customs Valuation
- Import Licensing Procedures
- Antidumping

During the Uruguay Round, which concluded in 1994, there was multilateral agreement among 125 participating countries on the following:

- Sanitary and Phytosanitary Measures
- Pre-shipment Inspection
- Rules of Origin
- Safeguards
- Agriculture
- Textiles and Clothing

Various proposals on NTBs are being discussed in the Doha Round.

Classification of NTBs

The Panel of Eminent Persons set up by UNCTAD proposed a comprehensive and detailed classification of NTBs in 2005. This has become the standard classification of NTBs. A more aggregated classification is presented in Table 1.

Fifteen types of NTBs were identified including SPS, TBT, other technical measures, price control measures, quantity control measures, para-tariff measures, finance measures, anti-competitive measures, export-related investment measures, distribution restrictions, restriction on post-sales services, subsidies, government procurement restrictions, intellectual property and rules of origin.

Classification of Procedural Obstacles

A similar classification was developed by UNCTAD for procedural obstacles to trade and include the following categories: arbitrary or inconsistent behavior, discriminatory behavior favoring specific producers or suppliers, inefficiency or cases of outright obstruction, non-transparent practices, legal obstacles and unusually high fees or charges.

Removal of procedural obstacles will require changes in relevant laws and rules of application, streamlining of processes especially by customs and regulatory agencies, greater transparency in transactions and the adoption of a ‘level playing field’ for all exporters to a country.

Table 1: Classification of NTBs

A000	Sanitary And Phytosanitary Measures	F000	Para-Tariff Measures
	A100 Voluntary Standards		F100 Customs Surcharges
	A200 Sanitary And Phytosanitary Regulations		F200 Additional Taxes & Charges
	A300 Conformity Assessment Related To Sps		F300 Internal Taxes And Charges Levied On Imports
B000	Technical Barriers To Trade	G000	Finance Measures
	B100 Voluntary Standards		G100 Advance Payment Requirement
	B200 Technical Regulations		G200 Multiple Exchange Rates
	B300 Conformity Assessment Related To Tbt		G300 Restrictive Foreign Exchange Allocation
C000	Other Technical Measures		G400 Regulations Concerning Terms Of Payment For Imports
	C100 Pre-Shipment Inspection		G500 Transfer Delays, Queuing
	C200 Special Customs Formalities Not Related To Sps/Tbt		G600 Surrender Requirement
D000	Price Control Measures	H000	Anti-Competitive Measures
	D100 Administrative Pricing		H100 Single Channel (E.G. Govt. Agency) For Imports
	D200 Voluntary Export Price Restraint		H200 Compulsory National Services (Shipping, Insurance)
	D300 Variable Charges	I000	Export Related Investment Measures
	D400 Anti-Dumping Measures		J100 Local Content Requirements
	D500 Countervailing Measures		J200 Trade Balancing Measures
	D600 Safeguard Duties	K000	Distribution Restrictions
	D700 Seasonal Duties	L000	Restriction On Post-Sales Services
E000	Quantity Control Measures	M000	Subsidies
	E100 Non-Automatic License	N000	Government Procurement Restrictions
	E200 Quotas	O000	Intellectual Property
	E300 Prohibitions	P000	Rules Of Origin
	E400quantitative Safeguard Provisions		
	E500export Restraint Arrangement		

Incidence of NTBs

The UNCTAD Trade Analysis and Information System (TRAINS) database contains at the country level information on the presence of NTBs on different products. The incidence of NTBs has been identified by UNCTAD for a large sample of countries, both developed and developing. The results for the overall sample are presented in Table 3 and separately for developed and developing countries respectively in Table 4. The former table also makes a comparison of the pattern in 1994 and 2004 respectively.

Table 2: Detailed Listing of Procedural Obstacles
DETAILED LISTING OF PROCEDURAL OBSTACLES
A. Arbitrary or inconsistent behavior:
A1: Behavior of customs officials or any other government official
A2: With regard to how your product has been classified or valued
A3: In the manner procedures, regulations or requirements have been applied
B. Discriminatory behavior favoring specific producers or suppliers:
B1: Favoring local suppliers or producers in destination markets
B2: Favoring suppliers or producers from other countries
B3: Favoring large (or small) companies in destination
C. Inefficiency or cases of outright obstruction consisting of:
C1: Too much documentation or forms to be supplied or completed
C2: Too strict, too detailed or redundant testing/certification or labeling requirement
C3: Substantial delays in obtaining authorization/approval
C4: Complex clearing mechanism such as a need to obtain approval from several entities
C5: Short submission deadlines to supply information
C6: Outdated procedures such as lack of automation
C7: Lack of resources such as understaffing or scarce equipment in destination market
D. Non-transparent practices consisting of:
D1: Inadequate information on laws/regulations/registration
D2: Unannounced change of procedure, regulation or requirement
D3: There is no focal point for information
D4: Opaque government bid or reimbursement processes
D5: Opaque dispute resolution process
D6: An 'informal' payment was requested
E. Legal obstacles consisting of:
E1: Lack of enforcement with regard to breaches of patents, copyrights, trademarks, etc.
E2: Inadequate dispute resolution or appeals mechanisms and processes
E3: Inadequate legal infrastructure
F. Unusually high fees or charges
F1: Fees or charges are unusually high (e.g. fees for stamp, testing, or other services)

In 1994, the highest incidence, equating to almost half, was of quantity control measures. By 2004 this had declined to 35%. TBTs and SPS measures have emerged as the most frequently used NTBs, with a share of almost 59% in 2004. These three sets of NTBs account for the bulk of the barriers to trade.

Table 3 shows that the pattern of incidence of NTBs was similar for both developed and developing countries in 1994, with the highest frequency of TBT, SPS and quantity control measures. It is interesting that finance measures are somewhat more prevalent in Asian countries. These include the provision of foreign exchange from own resources for particular imports (like gold) by importers and margin requirements for bank financing of imports.

Table 3: The Evolving Application of NTBs over a 10 Year Period (1994-2004) (%)*			
		1994	2004
1	Tariff Measures	5.8	0.3
2	Price Control Measures	7.1	1.8
4	Finance Measures	2.0	1.5
5	Automatic Licensing Measures	2.8	1.7
6	Quantity Control Measures	49.2	34.8
7	Monopolistic Measures	1.3	1.5
8	Technical and SPS Measures	31.9	58.5
	Total	100.0	100.0
	Number of Countries	52	97
	Total Number of Tariff Lines**	97706	545078

Source: UNCTAD TRAINS
* of tariff lines with NTBs
** with NTBs

Table 4: Frequency of NTBs in Developed & Developing Countries					
		Asia	Developing Countries	Developed Countries	World
1	Tariff Measures	0.7	0.3	16.3	5.8
3	Price Control Measures	6.9	6.1	9.4	7.1
4	Finance Measures	7.7	3.1	0.1	2.0
5	Automatic Licensing Measures	3.7	1.5	5.3	2.8
6	Quantity Control Measures	55.6	53.1	45.8	49.2
7	Monopolistic Measures	1.9	1.4	1.1	1.3
8	Technical and SPS Measures	23.5	34.4	21.9	31.9
	Total	100.0	100.0	100.0	100.0

Source: UNCTAD TRAINS
* more recent data is not available

‘Protectionist’ Versus ‘Non- Protectionist’ NTBs

Deardorff [4] [2012] distinguished between ‘protectionist’ and ‘non-protectionist’ NTBs. The implicit assumption is that the latter are more justifiable. He includes in protectionist NTBs para-tariffs, import quotas, production subsidies (e.g., on agriculture), local content and procurement requirements, as shown in Table 5. Non-protectionist NTBs include SPS, TBT and intellectual property rights (IPR).

Table 5: Protectionist versus Non-Protectionist NTBs	
“Protectionist”	**“Non-Protectionist”**
Para-Tariffs	Regulations for Health and Safety[a]
Import Quotas	Protection of environment
Production Subsidies	IPR
Local Content Requirement	
Procurement Requirement	

[a] examples include technical barriers to keep out pests and disease, geographical indications, prohibition of genetically modified (GM) organisms
[b] ban on wild life species, carbon tariff

[4] Deardorff, A., 2012, some ways Forward with Trade Barriers, (online) Renmin University.

‘Core’ Versus ‘Non-Core’ NTBs

The Organization for Economic Cooperation and Development (OECD) (1997) [5] distinguished between ‘core’ and ‘non-core’ NTBs. As shown in Table 6, core NTBs include price control measures and quantity control measures. In addition, this classification highlights non-core border NTBs and standards and certification.

The value of this chapter is that it enables the identification of the range of different NTBs. This provides a useful framework for analyzing NTBs by India and Pakistan. This also enables an assessment of the impact of NTBs on bilateral trade.

Table 6: Core versus Non-Core NTBs

A. Core NTBs	B. Non-Core Border NTBs	C. Standards and Certification	D. Domestic Governance Government Assistance
Price Control Measures	**Para-tariff Measures**	**Technical Regulations**	Contract Systems
Admin Price Fixing	Customs surcharges	Product standards	Contract conditions
Variable Charges	Additional charges	Production standards	**Trade Balancing Distribution Restrictions**
Anti-Dumping Measures	Internal Taxes	Mandatory Labelling	
Countervailing Measures	And charges on imports	Marking	Wholes restrictions
	Financial Measures	Packaging	Retail restrictions
	Advance payment requirements	**Certification**	**Transportation Restrictions**
	Multiple exchange rates	General certification	Restrictive land, air and Sea regulations
	Restrictive Foreign exchange allocation	Quarantine	**IPR**
	Terms of payment for imports	Inspection Testing	Copy right Trademark Legal
	Licensing measures		
	Import monitoring		
	Monopolistic Measures		
	Single channel		
	Compulsory national services		
	Customs Procedures		
	Customs valuation		
	Customs classification		
	Customs clearance		
	Rules of origin		

[5] OECD, 1997, Indicators of Tariff and Non-Tariff Trade Barriers, OECD Publications.

Chapter 3 Non-Tariff Barriers of India

This chapter focuses initially on non-tariff barriers (NTBs) applied generally on imports by India. First a summary is presented on India's trade policy, highlighting the NTBs. Then, the second section gives the incidence of NTBs on different products, especially on those which are likely to be of export interest to Pakistan. The third section identifies the relevant laws and regulations which govern the application of NTBs in India and the agencies responsible for implementing these laws.

Pakistan specific NTBs for India are described in the fourth section on the basis of a review of available literature. These will be compared with findings from the survey conducted. The fifth section quantifies the subsidies provided to agriculture in India. Finally, in last section describes India's trade relations with other South Asian countries, especially Bangladesh. The objective is to compare country-specific barriers imposed on imports from India.

Summary of NTBs in India

A summary[6] of the NTBs applied by India on imports from different sources is given below:

- Sanitary and phytosanitary (SPS) measures are applied using a number of laws, many of which are harmonized with international standards and mostly cover food items.
- Import restrictions are imposed on grounds of health, safety, moral and security reasons. There is also a strong focus on food security and self-sufficiency. NTBs can be relaxed on food items in the event of inflation or shortage.
- The licensing, permit and tariff regimes are complex, varying according to product and user.
- India has streamlined its customs procedures and implemented some trade facilitation measures.
- India is one of the most active users of anti-dumping measures. A number of safeguard measures have also been imposed, including quantitative restrictions.
- Direct and indirect assistance is given to a number of sectors. Most central government subsidies are targeted to agriculture, petroleum oil and lubricants (POL) products and fertilizers.
- Pre-shipment inspection[7] is mandatory for some goods (e.g., textiles, metallic waste and scrap).
- Tariff-rate quotas are applicable on food items, while import quotas are maintained on some raw materials.
- India applies a number of duties and charges, over and above tariffs. These include additional customs duty (in lieu of union taxes), a special additional duty (in lieu of state taxes), the union education cess and some sub-national taxes (like octroi)[8].

Reference prices[9] have been established for some products, which are revised every two weeks to align with international market prices. In addition, minimum import prices have been set for a number of items.

Some goods can only be imported through specified ports. This tends to raise transport costs to particular locations and is, therefore, a NTB.[10]

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[6] This summary is derived from the **WTO Trade Policy Review** of India of 2011.

[7] Pre-shipment inspection is NTB C100 in the UNCTAD Classifications of NTBs shown in Chart 2.1. It is a NTB because it raises costs of exporters

[8] This is effectively a NTB because it raises the price of imports.

[9] Reference prices are 'tariff values' used for valuation of imports rather than reported prices in bills of entry. They are used particularly in the case of edible oil imports and revised every two weeks.

[10] This restriction is in the case of imports of new and used motor vehicles. New vehicles can be shipped only to Chennai, Kolkata and Mumbai, while second hand cars can only be imported through Mumbai port.

India maintains state trading for certain agricultural goods (especially cereals) which are imported by specified state agencies. This is characterized as a monopolistic price and, therefore, a NTB. Public procurement operates under a set of reservations and price preferences. Only domestic firms can supply particular goods and are given a price advantage in other goods.
Improvements have been made in intellectual property enforcement in recent years. This is classified as a NTB according to UNCTAD, as it involves a process to determine if there have been no patent violations.

Goods Covered Under Different NTBs

The NTBs adopted by India vary in their application. Below are 14 main NTBs applied by India and the respective categories of goods subject to each type of these NTBs.

Pre-shipment Inspection:	Unshielded and shredded metallic waste and scrap*, some textiles and clothing articles*.
Para- tariffs:	On all goods, an additional duty equivalent to central excise duty (generally 10%), special additional customs duty at 4% in lieu of state taxes, 3% education cess, octroi in some ports, fuel cess on HSD and petrol, national calamity contingent duty (NCCD) on pan masala, cigarettes and tobacco products:, clean energy cess on coal, lignite and peat.
Import Prohibitions:	On 51 items (at 8 digit HS level) including a range of livestock products*, ivory and ivory powder, mobile handsets (without IMEI number)
Reference Prices:	For calculation of customs duty payable on palm oil, palmolein oil (crude and RBD), crude soya bean oil, poppy seeds and brass scrap.
Import licensing:	442 tariff lines (at 8 digit HS level), primarily on live animals and products* (19%[11]), vegetable products* (9%), mineral products* (12%) pulp, etc (8%); arms and ammunition (80%), works of art (12%)
Minimum Import Price:	24 tariff lines, including betel nuts, retreaded tires; used pneumatic tires, marble tiles and products*, cement bricks and other building blocks* and bricks*, other articles of cement*, concrete boulders
Transportation Restrictions:	Motor vehicles and second-hand cars (less than three years old), animal products and fish products through specified ports. Also, on tea and garments from Sri Lanka.
State Trading:	33 tariff lines including wheat*, rye; oats; rice*, grain sorghum; millet; jawar, bajra; copra; crude coconut oil; some chemicals like special boiling point spirits*; aviation* fuel; high speed diesel oil*; kerosene oil*; urea.
Anti- dumping Measures:	207 anti-dumping measures in force. [12] Applied on China (32%), Republic of Korea (9%) Thailand (7%); EU (6%); Japan (4%); US (4%). By product; Machinery and mechanical/ electrical appliances (21%); chemicals and products* (37%); plastics and rubber articles* (13%); base metals and products* thereof (17%)
Import Quotas:	On marble* and similar products. Monitoring of 415 sensitive items including milk and milk products; fruits and vegetables*; pulses; poultry; tea and coffee; food grains*; edible oils, cotton and silk*.

[11] Of tariff lines
[12] As of December 31st 2010

Standards:	18623 Indian standards and 84% harmonized with international standards. BIS sets standards for 14 sectors including production and general engineering, civil engineering; chemicals*; electro-technical; food and agriculture; electronics and information technology; mechanical engineering; management and systems; metallurgical engineering; textiles*; water resources; medical equipment* and hospital planning
Packaging and Labeling:	Special requirements for all food items*, products containing natural flavoring substance, medicines, source of gelatin. Ingredient declaration required for food. Specific labeling requirements for infant milk substitutes, infant foods, bottled mineral water and milk products.
Sanitary and Phytosanitary measures:	71 notifications including measures on food items including processed food*, pet food products of animal origin; plants and plant materials; food packaging materials; horns/hooves of animals; meat and meat products; milk and milk products; food additives; maximum residue limits (MRLs) of different pesticides in carbonated water; MRLs of pesticides on different food commodities; pre-packaged food*; and food safety and standards rules.
Special Quarantine Requirements:	Animals and animals products*; some plants/planting materials

*potentially applicable on Indian imports from Pakistan

The level of Para-tariffs[13] imposed by India is high, in some cases exceeding 30% (inclusive of octroi). Import prohibitions apply primarily on livestock products, while reference prices are used for edible oil imports. Import licensing is generally used for regulating food imports. Minimum import prices are applied in the case of items which are vulnerable to under invoicing. Some products such as used vehicles can only be imported through specified ports (presumably because of complexities in customs valuation).

Import of a number of food items, especially cereals and POL products, can only be made by specified state trading agencies (especially to enable provision of subsidies). India introduced some anti-dumping measures, especially against items imported from China and apply largely on manufactured goods. India monitors imports of 415 ‘sensitive’ items, mostly related to food.

A large number of standards, mostly harmonized with international standards, are applied by India. Packaging and labeling requirements are specified mostly for food items and medicines while there are as many as 71 notifications on SPS measures.

Agricultural products and textiles are of special interest to actual and potential Pakistani exporters to India. The former face the largest number of NTBs on imports from all sources, including import licensing, quota or prohibition, transportation restrictions, import only by state trading agencies, application of SPS and TBT measures and quarantine requirements.
Textiles exports to India also face a number of NTBs including pre-shipment inspection, high para-tariffs, SPS measures along with relatively high tariffs. These are, of course, standard procedures applied by most countries on import of textiles.

[13] Para-tariffs are all taxes besides customs duty levied on imported goods.

Relevant Regulations/Law and Agencies on NTBs in India

Given below in Table 7 are the different laws and regulations which govern the application on NTBs on imports by India. The agencies implementing the various laws are also indicated. The key agencies are the Directorate General of Foreign Trade (DGFT), Customs, Directorate General of Safeguards, Bureau of Indian Standards (BIS) and Directorate General of Anti-Dumping and Allied Duties (DGAD).

Table 7: NTM Laws/Regulations & Implementing Agencies in India

NTM/Procedures	Laws/Regulations	Agency
Customs Procedures		
Registration	Foreign Trade (Development and Regulation) Act, 1992 and 2010	Directorate General of Foreign Trade (DGFT)
Pre-shipment Inspection	Handbook of Procedures 2009-2014, Dept of Commerce	Accredited certifying Agencies
Customs Valuation	Customs Act 1962; Customs Valuation Rules, 1988[a]	Customs department
Reference Prices	Customs Notification No 36/2001	Customs department
Import Prohibitions/Restrictions	Import Policy Ministry of Commerce; Foreign Trade Policy 2009-14	Customs department
Import Licensing	Foreign Trade (Development and Regulation Act, 1992 and 2010)	DGFT
Import Quotas	DGFT Notifications	DGFT
Anti-Dumping and Countervailing Measures	Customs Tariff Act, 1975 and 1995, and Rules	Directorate General of Anti – Dumping and Allied Duties (DGAD)
Safeguards	Customs Tariff Act, 1975, with rules	Directorate General (Safeguards) in Dept of Revenue
Standards Technical Regulations and Certification	Bureau of Indian Standards Act 1986 and rules	Bureau of Indian Standards, (BIS)*
Accreditation of Laboratories		National Accreditation Board for Testing and Calibration Laboratories (NABL), Ministry of Science & Technology
Labeling	Legal Metrology Act 2009 with rules	Ministry of Health and Family Welfare

Table 8: Sanitary & Phyosanitary Legislation		
Legislation	**Description**	**Implementing Institution**
Prevention of Food Adulteration Act 1954	Aims to protect consumers against the supply of Adulterated food. It specifies minimum quality level standard for various food products. The Act is mandatory: infringement may lead to fines and imprisonment	Central Committee for Food Standards under the Directorate General of Health Services (Ministry of Health and Family Welfare)
Essential Commodities Act 1954	Regulates the manufacture, commerce, and distribution of essential commodities, including food. A number of control orders have been formulated under the provisions of this Act	Central and state government agencies
Fruit Products Order 1955	Regulates the manufacture and distribution of all fruit and vegetable products, sweetened aerated water, and vinegar and synthetic syrups. The manufacture or re-labeling of products require a license from the Ministry for food Processing Industries, which is granted when the quality of products, sanitation, personnel, machinery, and equipment and work area standards are satisfactory	Ministry for food Processing Industries
Solvent Extracted Oils, De-Oiled Meal, and Edible Four Control Order 1964;Vegetable Products Control Order 1976	These orders control the production and distribution of solvent extracted oils; de oiled meal, edible flours, and hydrogenated vegetable oils (vanaspati). Production and distribution of the above-mentioned products require a license, which is granted when products conform to the specifications laid down in the schedules. The Directorate also regulates the price of vanaspati	Directorate of Vanaspati, Vegetable Oils, and Fats under the Department of food and Public Distribution (Ministry of Consumer Affairs, Food, and Public Distribution)
Meat Products Control Order 1993	Regulates the manufacture, quality. And sales of all meat products	Department of Marketing and Inspection Under the Department of Agriculture and Cooperation (Ministry of Agriculture)
Milk and Milk Product Order 1992	Provides for setting up an advisory board to advise the Government on the products, sale, purchase, and distribution of milk powder. Units with installed capacity for handing milk of over 10,000 liters tones per year, are required to register with the Department of Animal Husbandry and Dairying	Department of Animal Husbandry, Dairying, and Fisheries (Ministry of Agriculture)
Livestock Importation Act 1898 (amended in 2001)	Allows the Central Government to regulate, restricts, or prohibits Import of animal and animal products into India	Department of animal Husbandry, Dairying, and Fisheries (Ministry of Agriculture)
Destructive Insects and pests Act 1914	Regulates import of plants to prevent introduction into and the transport from one State to another in India of any insects, fungus or other pest that is or may be destructive to crop	Directorate of plant Protection, Quarantine and Storage (Ministry of Agriculture)
Plant Quarantine (Regulation of import into India) Order 2003	It regulates the import of plants and plant materials	Plant Quarantine Division in the Ministry of Agriculture
Standards on Weights and Measures (Packaged Commodities) Rules 1977	They lay down certain obligatory condition for all commodities in packed from, with respect to declarations on quantities contained	Directorate of Weights and Measures under Department of Consumer Affairs (Ministry of Consumer Affairs , Food, and Public Distribution)

Pakistan Specific NTBs of India

We now focus on NTBs and procedural impediments in exports to India which may be considered as more Pakistan-specific, as identified from the available literature. Taneja [2007][14] focuses on the following:

- Trade facilitation and Customs Procedures
- SPS and TBT measures
- Financial Measures
- Para-tariff Measures
- Visas

The question is: are these barriers applied in a discriminatory manner or in a trade restrictive manner on imports from Pakistan?

Facilitation and Customs Procedures

- The most feasible route is the land route. The only operational rail route is through the Wagah border. India permits (as per Customs Act) import through Amritsar Railway station, Attari road, Attari Railway station, Khalra, Assara Naka, Khavda Naka, Lakhpat, Santal pur Naka, Suigam Naka, Dekhi Railway station, Hussainwala, Bamer railway and Munabao railway station. Goods from Kolkata are being shipped to Karachi via Singapore.
- India does not allow Pakistan transit facilities through its territory to Bangladesh and Nepal
- Customs clearance of India through e-filing is not available on the land route
- India customs authorities create special problems in the valuation of import of new items from Pakistan. On the other hand, there is evidence of under-invoicing of traditional items like dates.
- Sometimes, on the grounds of security, excessive checks are carried out on consignments from Pakistan. As a result, goods are held up for long periods at customs before they are cleared, especially at Mumbai port.

SPS AND TBT Measures

- In India there are 24 standard setting agencies both at the national and provincial level, as compared to a single authority in Pakistan, the Pakistan Standards and Quality Control Authority (PSQCA). Given that there is multiplicity in standards, the problem becomes acute for Pakistani exporters to India, given limited information. Also, enforcement of standards is strict in India as compared to Pakistan.
- Since the two most important items in which Pakistan has export potential are agriculture items and textiles, Pakistan exporters feel that these are precisely where SPS and TBT measures are most rigorously applied by India.
- Pakistani exporters would be greatly facilitated if there is an agreement with India that certification by Pakistani agencies will be accepted, as long as it adheres to international standards. A recent agreement has, in fact, been reached in this regard.
- Leather items from Pakistan: traders complain that the samples of consignments are sent to testing laboratories that are located far away from the port of entry in India.
- Textiles: traders in Pakistan who export fabric to India complain they are required to obtain a pre-shipment certificate from an accredited laboratory on the use of hazardous dyes. This frequently takes a long time. In addition India requires the label to include Pakistani exporters' manufacturer, description and sorted number of cloth and other details, including composition of cloth and printing or damaged pieces. This is, of course, the normal practice in most countries.

[14] Taneja, N., 2007, **India Pakistan Trade Possibilities and Non-Tarff Barriers**, Indian Council for Research on International Economic Relations.

- Agricultural items: obtaining the SPS certificate and testing requirements take a long time. Also, plant quarantine facilities are not available at Amritsar railway station. Testing requirements are available only in New Delhi and Mumbai.
- Processed foods: products must have 60% of the shelf life at the time of import. This shelf life is often determined arbitrarily and without transparency.
- Pre-packaged products: traders are required to give information on the retail sales prices (including cost breakup) in India.[15] This requires time and increases transaction costs.

Financial Measures

- In Amritsar and Lahore several firms trade without letters of credit (L/Cs). According to Pakistan exporters, some Indian banks do not recognize L/Cs from Pakistan banks [16] and there are significant delays. There are also no formal mechanisms for the settlement of trade disputes.
- The Asian clearing union (ACU) mechanism is meant to insure payments in US dollars. However, traders complain about the inefficiency of the ACU mechanism, particularly with regards to the amount of time taken to settle transactions. Also, there is no other mechanism available.
- Currently Pakistani banks are not allowed to operate in India. This is a significant impediment to bilateral trade.

Para-tariffs

- India imposes a countervailing duty of 10% on most items, a special countervailing duty of 4% and education cess of 3%. Exporters from Pakistan have to mention the minimum retail price (MRP) on packaged foods, without proper knowledge of distribution costs in India. Also, inter-state taxes on the movement of goods in India are excessive and add to the cost of imported goods.

Visas

- India grants business visas to Pakistan traders. Bona fide businessmen are granted visas on the basis of an invitation from a recognized Chamber / Federation / Association. The problems are that visas are issued for a period of 15 days. This greatly restricts market development activity. Further, police reporting is required on arrival and departure. The South Asian Association for Regional Cooperation (SAARC) business visas are available on a selective basis. Recently the period of validity was curtailed from one year to three months.

Overall, Pakistan exporters face special restrictions in trade with India including problems in transportation, financial transactions and stringent visa requirements. Also there are apprehensions that India applies NTBs more strictly on Pakistani imports, motivated partly by security considerations. Such apprehensions are difficult to validate. They reflect a trust deficit that needs to be overcome if the trade liberalization process is to proceed effectively. Hence, greater transparency in the application of NTBs and in the trade facilitation measures along with more direct interaction between Pakistani businessmen and their counterparts in India may alleviate many of the aforementioned issues and concerns over time.

[15] This is required in the case of infant milk substitutes, infant foods, bottled mineral water and milk products
[16] This problem has also been identified by the sample of exporters from Pakistan, in the survey undertaken(see Chapter V).

Indian Subsidies to Agriculture

India appears to be subsidizing inputs into agricultural production, including fertilizers, electricity, and irrigation, among others. According to the WTO [2011] the total subsidies in 2008-09 aggregated to USD $53 billion, representing over 5% of the GDP (as shown in Table 9). The subsidy per hectare was at approximately USD $300. The comparable figures for Pakistan for 2010-11 display agricultural subsidies of around USD $2.7 billion, equivalent to 1.2% of the GDP and per hectare of USD $118. Therefore, agricultural subsidies are almost three times higher in India than Pakistan. This artificially raises the competitiveness of India's agricultural products. The Indian subsidies on agriculture are WTO compliant but they do represent a NTB and substantially limit the prospects of Pakistani exports of agricultural products to India (as was the case at the time of Partition).

The level of subsidies as a percentage of the value of agricultural production is 15 percent. This can be treated as the ad valorem equivalent (AVE) of the subsidies.

Table 9: Subsidies to Agricultural Inputs in India

(billion USD $)

	2006-07	2008-09	Growth rate (%)
Fertilizer	16.0	35.0	54.1
Electricity	4.7	6.0	18.1
Irrigation	4.0	5.2	18.0
Other[a]	1.1	7.2	162.9
TOTAL SUBSIDIES	**25.8**	**53.4**	**50.0**
Memo items:			
Agricultural Value Added	196.3	232.1	
Agricultural Production**	294.5	348.2	
GDP* (at current prices)	927.6	1018.9	
Cropped Area (Million Hectares)	178.4	179.3	
Subsidies as % of value Added in Agriculture	**13**	**23**	
Subsidies as % of GNP	**2.8**	**5.2**	
Subsidy per hectare (USD $)	**145**	**297**	
Subsidy as % of Value Of Production	**8.8 %**	**15.3 %**	

Source: WTO Trade Policy Review, India Economic Survey, MOF.
*GNP at current prices
** 1.5 is ratio of production to value added
[1] more recent data is not available

India's Trade with other South Asian Countries

India has trade agreements with a number of South Asian countries including Bhutan, Nepal, Sri Lanka and Maldives. Given the agreements, NTBs are likely to be applied less intensively on these countries. India has no trade agreement with Bangladesh or with Pakistan. However, Bangladesh has a much smaller 'negative' list of imports from India.

Historically, bilateral trade relations between Bangladesh and India have also been identified as difficult. However, during the visit of Prime Minister Manmahan Singh to Bangladesh he announced duty-free import of 61 items.[17] 46 of these items relate to textiles, particularly readymade garments. Bangladesh has a large trade imbalance with India, selling about USD $450 million and obtaining about USD $3.6 billion worth of goods from India.[18]

[17] SAFTA requires non-LDC contracting states to reduce their tariffs to 0-5 percent for products of LDC contracting states, like Bangladesh. But India has a 'sensitive list' under SAFTA which also applies to the LDCs. Most textiles, including readymade garments, are included in this list. As such no tariff concessions on these products have been offered to LDCs in South Asia.
[18] Ministry of Commerce, India, 2010-11

The imbalance in trade between India and Bangladesh is similar to that between India and Pakistan, with the volume of trade being roughly twice as large. As shown in Table 10, the biggest export of India to Bangladesh in 2010-11 is cotton, at over USD $1 billion, followed by sugar at almost USD $0.5 billion. These are also the largest imports in 2010-11 of Pakistan from India.

It is significant that given greater liberalization of bilateral trade, Indian exports to Bangladesh are more diversified, including iron and steel, machinery and vehicles. This is also likely happen to imports from India to Pakistan following the granting of MFN status to India.

Bangladesh exports fish, cement and some textile products to India (see Table 11). Exports of readymade garments, in particular, are likely to rise substantially following the granting of access to the large Indian market.

Table 10: India's Exports to Bangladesh (USD $ Million)

Chapter of HS Code	Description	2009-10	2010-11
07	Edible Vegetables	252	139
08	Edible Fruit	41	45
09	Coffee, tea, mate	40	48
10	Cereals	121	172
17	Sugar	–	485
23	Residues of waste from food industries: animal fodder	198	245
27	Mineral Fuels	131	112
29	Organic Chemicals	84	92
39	Plastic and articles thereof	42	76
52	Cotton	455	1037
54	Man-made Filaments	76	65
55	Man-made staple fibres	41	61
72	Iron & Steel	134	44
84	Boilers, Machinery and Appliances	65	113
85	Electrical Machinery and Apparatus	38	73
86	Vehicles	244	241
	Others	471	558
	TOTAL	**2433**	**3606**
Memo Item			
Share of :		%	%
Agricultural Goods (excl cotton)		27	39
Cotton		19	24
Manufactured Goods		35	21
Other		19	19
TOTAL		**100**	**100**
Source: Ministry of Commerce, GOI, India Trade Statistics			

Table 11: Bangladesh Exports to India

(USD $ Million)

Chapter No		2009-10	2010-11
03	Fish	25	59
08	Edible Fruit	5	26
25	Salt, Cement	20	33
27	Mineral Fuels	–	41
53	Vegetable textile fibres; paper yam	55	100
63	Made up textile articles	51	58
	Others	100	130
TOTAL		**255**	**447**
Source: Same as Table 3.2			

Chapter 4 Non-Tariff Barriers of Pakistan

This chapter describes the non-tariff barriers (NTBs) imposed by Pakistan on imports. This is followed by the coverage of goods by different NTBs and their implications for imports from India following liberalization due to the granting of Most Favored Nation (MFN) status. The third section presents the relevant regulations/laws on NTBs and agencies which implement them.

Section 4 identifies any specific NTBs and procedural impediments which apply on Indian exports to Pakistan. Section 5 quantifies the magnitudes of agricultural subsidies by Pakistan.

Summary of NTBs in Pakistan

The summary[19] of NTBs applied generally by Pakistan is as follows:

- Pakistan's main trade policy instrument is the tariff regime. Industrial policy is influenced by a large number of Statutory Rules and Orders (SROs), which specify concessions and exemptions in tariffs by end use and product. The tariff schedule is not transparent and does not indicate the preferential tariffs on each product.[20]
- Pakistan largely applies transaction values (e.g., c.i.f. prices) and WTO customs valuation rules. Special valuation procedures apply to motor vehicles, both new and old, cosmetics and toiletries, motorcycles, and polyester yarn, among others.
- Minimum import values [21] apply only to motor cycle parts.
- Pre-shipment inspection is required for a range of used machinery and equipment
- Import prohibitions and licensing are applied for health, safety, security, religious and environmental reasons and include items like retreaded tires, alcohol, and some goods in transit to Afghanistan.
- Import quotas apply to certain chemicals. Some imports under SROs require approval by relevant ministries or agencies, like the Engineering Development Board (EDB) for the import of components and parts for the automotive sector, finished pharmaceuticals by the Ministry of Health and Ministry of Food and Agriculture for import of wheat flour.
- Beyond the customs duty, importers pay the general sales tax (GST) of 16%, a presumptive income tax at 5% on commercial importers and 3% on industrial importers.
- Agriculture is subsidized through underpricing of inputs like fertilizer, electricity and irrigation water. Gas consumption is also subsidized
- Involvement in trading remains substantial. The TCP imports (and exports) major agricultural commodities like wheat, sugar and urea, mainly to provide subsidies.
- Price preferences (of up to 25%) remain on government procurement
- Standards increasingly follow international requirements, largely applied uniformly on imports and domestic goods
- Pakistan has strengthened protection of intellectual property rights (IPR) by adopting the 2004 Paris Convention and setting up the Intellectual Property Organization (IPO).
- Preferential rules of origin exist under bilateral/regional trade agreements, incorporating various value addition requirements
- Certain imports are restricted unless they meet specific conditions, such as prior approval or clearance, passing certain testing requirements or satisfying procedural requirements. This includes approval of finished and raw material imports of pharmaceuticals by the federal Ministry of Health (which has been devolved to the provincial governments) and licensing of concessional imports of materials, components and auto parts for the automotive sector by the Engineering Development Board (EDB).

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[19] This summary is based on the WTO, **Trade Policy Review of Pakistan** for 2008 and up-dating based on more recent notifications in the Import Policy.

[20] SAFTA tariffs, for example are not included in the main Customs Tariff schedule of FBR. They are indicated in a separate SRO, 558 (1)/2004, updated to 01-06-2012. the coverage and tariffs under FTAs with countries like China are presented in other SROs of FBR.

[21] They constitute a NTB as they constitute tariff values for determination of duty paid.

- Some State-Owned Enterprises (SOEs) enjoy preferential treatment. For example, Pakistan Steel Mills Corporation (PASMIC) may import iron ores and concentrates non-agglomerated duty free, while the statutory rate of customs duty on these items is 5%.
- The National Tariff Commission (NTC) conducts anti-dumping, countervailing and safeguards investigations. The organization has imposed 19 measures, including on ceramic tiles from China, polyesters staple fiber from Indonesia, Korea and Thailand, and India for Phtalic Anhydride, among others.
- Pakistan has 27,000 national standards that mainly cover agriculture, food items, chemicals, civil and mechanical engineering and textiles. About 15,000 are International Organization for Standardization (ISO) standards and 7,000 are International Electronic Commission (IEC) / International Organization of Legal Metrology (OIML) standards. However, enforcement remains poor.
- There are 25 notifications that cover sampling and testing procedures as well as labeling, package, storage and transport of food products and pharmaceuticals, among others.
- The Ministry of Food, Agriculture and Livestock (now the Ministry of Food Security and Research) is responsible for the formulation and implementation of animal/plant quarantine and regulating pesticides.
- Pakistan's SPS-related legislation is relatively outdated.

Coverage by NTBs of Goods

Highlighted below is the coverage of goods by different NTBs:

Rules of Origin:	Included in FTAs/PTAs. For SAFTA, minimum value addition is 40% of f.o.b. price (30% for LDCs) and minimum aggregate originating content of 50% f.o.b.*
Customs Valuation:	Transaction values on 90-95% of goods, special valuation procedures for some food and consumer goods. This includes cosmetics and toiletries*, floor covering and sheets, motor, cycles* auto-parts*, soap*, polyester yarn; fabric: air conditioners, soda ash and motor vehicles. The Customs Act includes a 'take over' provision.
Pre-shipment Inspection :	On a wide range of allowable imports of second hand goods (e.g. plant, machinery, equipment and apparatus*) by an authorized agency.
Import Licensing:	New or used aircraft: acetone*, sulphoric acid*and hydrochloric acid* (after obtaining NOC from Ministry of Narcotics Control), pharmaceutical raw materials* (subject to conformity with Drugs Imports and Export Rules, 1976); palm stearing (subject to some technical standards), various chemicals; food colors; dyes (by suppliers), insecticides, rodenticidies, fungicides; TV transmission equipment (by PEMRA). Imports of certain goods eligible for tariff exemptions/concessions require ministerial or other approval. The Ministry of Health approves specified finished pharmaceuticals*, and packing and raw materials for in-house manufacture; Ministry of food, Agriculture and Livestock must certify duty free imports of wheat flour.
Import prohibitions:	Alcoholic beverages; re-treaded and used pneumatic tyres; wide range of plant and equipment*; construction, mining oil, gas and petroleum industries can import second hard machinery and equipment* (or reconditioned) provided construction companies are registered with the

	Pakistan Engineering Council. A negative list prevents certain imports like auto parts and cigarettes of Afghanistan from transiting through Pakistan, so as to discourage smuggling of these goods back into Pakistan.
Quantitative Restrictions :	Certain chemicals* are subject to quantitative limits; ozone depleting substances
State Trading:	TCP is the main importer of wheat, sugar,* pulses and urea. PASMIC, a public sector company, can import iron ores free(others at 5 percent)*; POL products* (only by refineries or OMCs)
Government Procurement:	Price preferences of upto 25% on all government purchases depending upon domestic value added content.
Indigenization:	Pakistan has moved out of TRIMS, but indigenization is still promoted by the Ministry of Industries and EDB. Concessionary tariff arrangements have been made available for import of raw materials, components, assemblies that are not produced locally in automobiles*, air conditioners*, are fumigators* and coolers.*
Anti-Dumping, Countervailing	By NTC, items that have been subject to anti-dumping actions include ceramic tiles; polyester stable fiber*, phtalicanhydride, PVC resin polyester filament yarn*, electrolytic tin plate, acetic acid.
Safeguards:	Polyester filament yarn*, electrolytic tin plate, acetic acid
Standards and Quality Certification:	Pakistan Standards and Quality Control Authority (PSQCA) is the national standardization body. Coverage includes mainly agriculture, foodstuffs,* chemicals and pharmaceuticals,* civil and mechanical engineering* and textiles. Standards for 47 products (e.g. edible oil, biscuits and bottled water) are mandatory for human safety and public health reasons. The Pakistan National Accreditation Council (PNAC) is the accreditation body for testing laboratories. 24 such laboratories cover pharmaceuticals,* textiles, chemicals*, engineering* and food items*.
Sanitary and Phytosanitary regulations :	The Ministry of Food Security and Research is expected to plant/animal quarantine and regulates pesticides. Other Ministries involved are Commerce, Science and Technology and Health. MRL levels are tested for imported foodstuff*, which must have at least 50% of the shelf life at the time of importation.
Marking, Labelling and Packaging:	Specified food colors; pharmaceuticals*; cigarette; foodstuffs*; refined vegetable oil (only in bulk).
Quarantine Requirements:	Live animals, fish and fishery products, rice seeds.
Finance Measures:	Importers of gold and silver subject to arrangements of own foreign exchange.

* Potentially applicable on imports of Pakistan from India, after granting of MFN status

NTBs in Pakistan tend to be somewhat more focused on manufactured goods, especially with regards to customs valuation, pre-shipment inspection, import licensing by a number of Ministries/Agencies, quantitative restrictions, indigenization, anti-dumping and quality certification. There are issues of institutional capacity in agencies like NTC, PSQCA and PNAC. Also, some ministries like Health;

Food, Agriculture and Livestock have been devolved to the Provincial governments after the 18th Amendment. It is not clear how the regulatory functions related to NTBs are currently being performed there.

The automobile sector is one sector which is likely to be opened for trade with India following the granting of MFN status. Potential imports from India in this sector will face a number of NTBs including issues of customs valuation, pre-shipment and indigenization. In addition, Pakistan has high import tariffs on vehicles.

Regulations/Laws and Implementing Agencies for NTBs in Pakistan

The relevant laws/regulations which govern the application of NTBs and the implementing agencies thereof are presented in Table 12.

Table 12: Laws/Regulations & Implementation Agencies for NTBs

NTBs	Laws/Regulations	Agency
Customs Valuation	Customs Act, 1969[7] As amended, with rules	Customs
Pre-shipment Inspection	Import Policy Order, 2009 as amended	Accredited certifying agencies by PNAC
Import Prohibitions/Restrictions	Import Policy Order 2009 as amended	Customs and various Ministries/Agencies
Restricted Channel for Imports	Import Policy Order 2009 as amended	TCP, various entities both in the public and private sectors
Import Quotas	Trade Policy	Customs and concerned Ministry
Procurement	PPRA Ordinance	PPRA
Anti-Dumping, Countervailing Duties, Safeguards	Anti-Dumping Ordinance, 2001, with rules; countervailing Duties Ordinance 2001 rules; Safeguard Measures 2003 Ordinance with rules	National Tariff Commission (NTC), MOC
Standards and Quality Certification	Import Policy Order 2009 as amended	PSQCA
Marking, labeling and packaging	Import Policy Order 2009 as amended	Customs

Important agencies which play a key role in the administration of NTBs in Pakistan include Customs, Trading Corporation of Pakistan (TCP), Public Procurement Regulatory Authority (PPRA), NTC and PSQCA.

NTBs of Pakistan on Indian Imports

Taneja [2007] identifies the following non-tariff measures based on a survey of Indian exporters to Pakistan as follows:

Import Restrictions

- The most apparent barrier is restrictions on import of certain goods. Over the years, the list has gradually expanded. This has now been converted into a Negative List.
- Import embargo resulted in a well-documented problem, whereby several goods not on the positive list[22] have been exported to Pakistan through Dubai or smuggled into Pakistan. Transport costs on the Mumbai-Dubai-Karachi route are 1.4 to 1.7 times more than on the direct Mumbai-Karachi route. This problem is likely to persist with items in the Negative List until December 2012.
- A number of problems have arisen with respect to the positive list/negative list including, a mismatch of codes between the Indian and Pakistani 8-digit Harmonization System (HS) classifications. This has created unnecessary harassment to traders.

[22] The Lists are described in Deliverable 1 report.

Trade Facilitation and Customs Procedures

Trade between India and Pakistan takes place by sea, rail, air and road. Several factors such as inadequate land routes and weak transport infrastructure protocols raise the transaction cost of trading between the two countries.

Inadequate Land Transport Routes

- The most feasible and cost-effective way of moving goods between the two countries is through the land route. Pakistan permits trade from India only through Attari by rail and through Wagah by road. Goods from Kolkata are shipped to Karachi via Singapore.
- Pakistan allows the import of only 137 tariff lines from India through the road route (Wagah-Attari) since July 2005. Items permitted include: garlic, tomato, potato, onion and livestock.
- There are restrictions when trading via the rail route. Pakistan does not allow the import of cotton by the rail through Attari as per Pakistan's 1967 Plant Quarantine Rules (which allows cotton to be imported only through Karachi port). A large number of textile mills are located in proximity to Lahore but some cotton has to be imported through a circuitous route whereby goods are first transported to Mumbai,[23] from where they are moved to Karachi by sea and further to Lahore by road.
- Another issue that hampers trade is that the two countries do not allow transit facilities to each other. Pakistan allows goods from Afghanistan to be transported to India through the land border but does not allow access to transit facilities for Indian goods.

Infrastructure Constraints and Related Bilateral Protocols

- There are several bottlenecks for transportation by the rail route. Currently goods move by rail by a goods or parcel wagons that are attached to the Samjhauta Express, the passenger train. Goods that are transported by Samjhauta Express by parcel wagons move at fixed timings on a biweekly basis. The same number of parcel wagons (10) move on every trip, whether loaded or unloaded. There is no fixed timing for a goods train but the trains do not move across the border after 5:00 p.m. for security reasons. The number of rakes/wagons that can ply from Attari to Amritsar are usually determined on a monthly basis. Under a reciprocal arrangement between the two countries, the wagon balance has to be cleared every 10 days between the two countries. The Indian Railways crew and engine is allowed to carry the wagons until the Attari/Wagah border (and vice-versa) from which point the wagons are transported by Pakistani rail engine head. The following problems were highlighted in the course of the survey:
  - Demand for wagons exceeds the supply of Pakistan Railways.
  - The security of wagons leads to high transaction cost and bribes.
  - Several exporters in Kolkata are interested in exporting through the land route to be able to access the steel manufacturing units near Lahore but are not able to book rail wagons. Exporters are forced to send their shipments from Kolkata to Karachi through trans-shipment at Singapore. From Karachi the goods are transported by the land route to Lahore. This circuitous route raises transport and other costs considerably.
  - There is limited handling capacity at Lahore. Currently the Lahore railway station is not able to handle more than 20 rakes.
- Until recently, Indian and Pakistani trucks were not allowed to cross the border of their respective countries. Pakistani trucks were parked 200 meters away from the zero line. Goods were unloaded from the trucks and transported on head-loads by coolies up to the zero line where the goods were handed over to coolies on the other side of the border.

[23] SRO 280(1)/2012 allow import of cotton (HS code 5201.0090) upto 0.5 million bales by road.

- Trucks had to wait an average of three to four days. In a day only 10-12 trucks could cross the border.
- In a recent amendment of the road protocol, Indian and Pakistani trucks are now allowed to cross over to the border and unload. This protocol is similar to the road protocol between India and Bangladesh.
- There is no warehousing facility on either side of the border.

Customs Procedures and Administration

A hindrance facing Indian traders is that the facility of Electronic Data Interchange (EDI) that allows the goods declaration to be filed electronically is not available at the land-border trading points of Pakistan.

To summarize, transportation links between the two countries are inadequate and weak. There are several bottlenecks on the road and rail route too. The road route is open for exports of a limited number of commodities from India.

a) Sanitary and Phytosanitary Measures (SPS) and Technical Barriers to Trade (TBT)
    - In Pakistan the only standard setting body is the Pakistan Standards and Quality Control Authority (PSQCA) as compared to 24 standard setting bodies, both at the center and state level in India
    - Currently PSQCA imposes compulsory standards for 46 products.
    - There is no evidence on NTBs related to the strict application of SPS and TBT measures in Pakistan on imports from India.

b) Financial Measures
    - Currently Indian banks are not allowed to establishes branches in Pakistan. This is a NTB for bilateral trade between the two countries

c) Para-Tariff Measures
    - Para-tariff measures increase the cost of imports in a manner similar to tariff measures by a fixed percentage or amount. Pakistan imposes a sales tax of 16% and a withholding tax of up to 5%. Until recently selected products faced a federal excise duty in addition to a sales tax.

d) Visas
    - Visa applicants must have invitations from sponsors in each city that is visited. This is an impediment for traders as they are unable to visit cities where they can locate potential importers.
    - Pakistan grants visas for a maximum of three cities per visit.
    - A visa is granted for limited period of stay, in most cases for 15 days.
    - Visiting Indians are required to report to the police on arrival and before departing from the country.
    - Indians visiting Pakistan have to enter and exit from the same port.
    - Pakistani business often requires technical services from India in the engineering and chemical sectors. However, Indians find it difficult to get visas for technical services. Traders have pointed out that almost every transaction will have to be accompanied with a flow of technical experts who would need to install machinery in Pakistan. Pakistani businesses fear that visas for technical experts may not be granted easily.
    - Traders face delays in getting their visas in Pakistan

To summarize, India and Pakistan follow a restrictive visa regime. The Consulates in both countries exercise tremendous discretionary powers in granting visas and waiving visa requirements that include exemption from scrutiny by the Ministry of Home Affairs in India/Ministry of Interior in Pakistan, extending the length of stay, exemption from police reporting and number of cities to be visited.

Subsidies by Pakistan to Agriculture

As part of the project, current estimates of the level of subsidies on inputs into agriculture have been derived, perhaps for the first time. The results are presented in Table 13.

Table 13: Subsidies on Agricultural Inputs in Pakistan	(Million USD $)
Fertilizer Subsidy	1014
on imports	525
on domestic production[1]	501
Power Subsidy	944
Irrigation Subsidy	711
Others (tractors, seeds, etc)	7
TOTAL SUBSIDY	**2676**
Memo items:	
Agricultural Value Added	43088
GNP (at current prices)	219732
Cropped Area (million hectares)	22.75
Subsidies as % of Value Added	6.2
Subsidies as % of GNP	1.2
Subsidy per hectare (USD $)	118
Subsidies as % of Value of Production	4.9

Source: Federal and Provincial Budget Documents,
Agricultural Statistics Year Book,
Pakistan Economic Survey
[1] in the form of lower price of natural gas

The total subsidy bill is estimated at USD $2.7 billion, in 2010-11. The largest component is the fertilizer subsidy followed by the subsidy on electricity consumption (especially by tube wells) in agriculture. Subsidies to agriculture stand at 1.2% of the Gross National Product (GNP) and amount to USD $118 per hectare. We have already highlighted in Section 2.5 that the level of subsidy per hectare is almost three times higher in India compared to Pakistan.

NTBs in the South Asian Free Trade Agreement (SAFTA) are described in Box 14. The Agreement clearly advocates the elimination of the barriers to trade in the region. In addition, it highlights the trade facilitation measures that the Contracting States have agreed to.

Table 14: NTBs in SAFTA
The first objective of the SAFTA agreement is as follows: ‘eliminating barriers to trade in and facilitating the cross-border movement of goods between the territories of the contracting states’ This is to be achieved by the following: ‘the elimination of tariffs, para tariffs and non-tariff restrictions’ According to clauses 4 and 5 of Articles 7, contracting- states shall eliminate all quantitative restrictions, except otherwise permitted under GATT 1994, in respect of all products included in the Trade Liberalization Program (that is, items not in the Sensitive Lists). Also, contracting states are expected to notify the SAARC Secretariat all non-tariff and para tariff measures their trade on an annual basis. In addition, in Article 8, the contracting states agree to the following trade facilitation measures: a) harmonization of standards, reciprocal recognition of tests and accreditation of testing laboratories of Contracting States and certification of products; b) simplification and harmonization of customs clearance procedure; c) harmonization of national customs classification based on HS coding system; d) Customs cooperation to resolve dispute at customs entry points; e) simplification and harmonization of import licensing and registration procedures; f) simplification of banking procedures for import financing; g) transit facilities for efficient intra-SAARC trade, especially for the land-locked Contracting States; h) removal of barriers to intra-SAARC investments; i) macroeconomic consultations; j) rules for fair competition and the promotion of venture capital; k) development of communication systems and transport infrastructure; l) making exceptions to their foreign exchange restrictions, if any relating to payments for products to their rights under Article XVIII of the General Agreement on Tariffs and Trade (GATT) and the relevant provisions of Articles of Treaty of the International Monetary Fund (IMF); and m) Simplification of procedures for business visas. Also, safeguard measures are highlighted in Articles 16 and the dispute settlement mechanism in Article 20.

Chapter 5 Survey of Pakistani Exporters

A survey of exporters was conducted in the main five industrial cities of Pakistan primarily to identify the barriers and problems in exporting to India. This chapter first describes the survey methodology and then highlights the key findings from the survey. It needs to be emphasized that many exporters in the sample are not fully aware of problems beyond the point of entry (the FOB stage) because consignments are handled by Indian commercial importers.

Survey Methodology Characteristics of Sample Firms

The city wise distribution of firms is given in Table 15 in the total sample of 27[24]. 12 firms are from Lahore, 8 from Karachi, 4 from Sukkur, 2 from Faisalabad and 1 from Sialkot. The sample was generated randomly from the list of exporters to India, with stratification by location and major products exported to India. The questionnaire used is given in Annexure 2 and briefly described in Box 5.1. Products exported by the sample firms include grey fabrics, gypsum, cement, chemicals, dry dates and cotton.

Table 15: City-Wise Distribution of Respondent Firms	
Karachi	8
Lahore	12
Sukkar	4
Faisalabad	2
Sialkot	1
Total	**27**

According to Table 17, 42% of the firms are public limited companies, especially these exporting cement and chemicals. The same percentages are private limited companies, while the remainder consists of proprietorships or partnerships. 71% of the sample firms are manufacturers cum exporters while 29% are commercial exporters.

Table 16: Distribution of Firms between Manufacturers & Commercial Exporters		Percentage
Manufacturers + Exporters	No 71	Exports 89
Commercial Exporters	29	11
Total	**100**	**100**

The distribution of firms by level of turnover is given in Table 16. The firms are, more or less, uniformly distributed by size of sales. It is significant that relatively small firms, more likely to be commercial exporters, have been able to organize exports to India. This is also confirmed by the distribution of firms by level of employment in Table 21. 37% of the firms have employment less than 250 persons. These firms are officially classified as SMEs.

Table 17: Distribution of Firms by Legal Status	(% of firms)
Proprietorship/Partnership	16
Private Limited	42
Public Limited	42
Total	100

[24] The target sample size was 30, but due to problems of non-response, arising primarily from incorrect addresses, the sample size achieved is 27.

Table 18: Listing of Sample Firms					
Name of the City	**Name of the Company**	**Legal Status**	**Number of Employees**	**Nature of Business**	**Products Manufactured/Exported**[25]
Lahore	Samin Textiles Ltd	Pvt Ltd	500	Manufacturer and Exporter	Grey Fabrics
Lahore	Diamond Fabrics Ltd	Public Limited Company (Unquoted)	1425	Manufacturer and Exporter	Cotton/Grey Fabrics
Lahore	Iqbal Associates	Sole Proprietorship	67	Manufacturer and Exporter	Gypsum
Lahore	Maple Leaf Cement Factory Limited	Public Listed Company	1500	Manufacturer and Exporter	Ordinary Portland Cement
Lahore	Nimir Chemicals Pakistan Limited	Unlisted public limited company	-	Manufacturer and Exporter	Phthalic anhydride
Lahore	Kohat Cement Company Limited	Public limited (listed on all stock exchange in Pakistan)	400	Manufacturer and Exporter	Ordinary Portland grey cement
Lahore	Newage Chemicals Pvt. Limited	Pvt. Ltd	25	Manufacturer and Exporter	Calcium Carbonate in Different Grades
Lahore	FSS Enterprise	-	15	Manufacturer and Exporter	Gypsum
Lahore	Industrial Chemical and Minerals Pvt Limited	Pvt Company	25	Manufacturer and Exporter	Talc Powder
Lahore	Ravi Trading Company	Sole Proprietor	4	Commercial Exporter	Rock salt
Lahore	Descon Oxychem Limited	Public Limited	124	Manufacturer and Exporter	Hydrogen peroxide
Lahore	Atlas Honda Ltd	Public Limited Company	3685	Manufacturer and Exporter	Honda CD 70 motorcycle
Faisalabad	Sitara Peroxide	Public Limited	200	Manufacturer and Exporter	Hydrogen peroxide
Faisalabad	Sitara Chemical Industries Limited	Public Limited Company	1000	Manufacturer and Exporter	Caustic Soda Liquid
Sialkot	Nadeem Surgicals	Sole Proprietor	150	Manufacturer and Exporter	Graefe's speculum
Karachi	Chun On Jubilee International	Partnership	35	Commercial Exporter	Gypsum Powder
Karachi	International Industries Limited	Public Ltd.	1200	Manufacturer and Exporter	Pipes
Karachi	Haji Khudabux Amir Umar Pvt Ltd.	Pvt Ltd.	50	Commercial Exporter	Raw Cotton
Karachi	Lucky Cement Ltd	Public Ltd	5000	Manufacturer and Exporter	Ordinary Portland Cement 42.5 N Grade
Karachi	DADASONS Pvt. Ltd	Pvt Ltd	25	Commercial Exporter	Cotton
Karachi	Sapphire Textile Mills Ltd	Pvt Ltd	3700	Manufacturer and Exporter	Cotton textiles
Karachi	Al Abbass Sugar Mills Ltd	Public Limited	750 including seasonal Labour	Manufacturer and Exporter	Sugar
Karachi	Artistic Fabrics Mills (Pvt) Ltd. Artist Garment Factories (Pvt) Ltd.	Pvt Limited	300	Manufacturer and Exporter	Fabrics
Sukkur	Dastagir Commission Shop	Pvt Ltd	15	Commercial Exporter	Dry Dates
Sukkur	Omar Enterprises/Sinhri Commission Shop	Pvt Ltd	18	Commercial Exporter	Dry Dates
Sukkar	Amar Trading Company	Pvt Ltd	12	Commercial Exporter	Dry Dates
Sukkar	Badshah Traders	Pvt Ltd	20	Commercial Exporter	Dry Dates

[25] Not only to India

Table 19: Modules in the Firm's Questionnaire Relating to NTBs	
1. Visa regime	11. Licensing requirements
2. Labeling and Packaging requirements	12. Intellectual property requirements
3. Rules of origin requirements	13. Tariff, Charges, Taxes and other Para- tariff measures
4. Quarantine requirements	14. Government procumbent restrictions
5. Certification and standard requirements	15. Distribution requirements
6. Testing requirements	16. Problems in getting benefits from SAFTA/SAPTA.
7. Requirements is Pakistan for Exports	17. Other restrictions, and
8. Restrictions on transportation	18. Ranking of NTBs
9. Custom handling and services	
10. Countervailing measures	

Turning to the level of exports, there is a big spread (see Table 16) in the distribution of firms. 28% of the firms have small exports of less than Rs 10 million and 33% between Rs 10 million and Rs 100 million. The percentage of large exporters is 22%, with exports of above Rs 1 billion. These include the big cement manufacturers.

Table 20: Distribution of Firms by Level	(% of firms)
Upto Rs 100 million	26
Above 100 million – 1 billion	26
Above 1 billion – 10 billion	26
Above 10 billion	22
Total	**100**

Exporting to India

As shown in Table 23, over one third of the firms export mostly only to India. This indicates that opening up of the large Indian market has provided an enhanced opportunity to export to some entities. It is also significant that 38% of the firms have built up a history of relationship with Indian importers of over five years (see Table 24). Enlargement of this number will, no doubt, build a constituency of peace between the two countries.

Table 21: Distribution of Firms by Size of Employment	
Employment	**%**
0 – 100	21
101 – 250	16
251 – 1000	21
1001 and above	42
Total	100

Table 22: Distribution of Firms by Level of Exports	
Export	**(% of firms)**
Upto Rs 10 million	28
Above Rs 10 million to Rs 100 million	33
Above Rs 100 million to Rs 1 billion	17
Above Rs 1 billion	22
Total	**100**

One useful information provided by the Survey is identification of channels whereby trading partners are identified in India, given the limited flow of information and people between the two countries. As shown in Table 25 almost 44% have established links in India through friends and relatives. The surprise is the high percentage, 41%, of firms who located trading partners through the internet. Trade fairs and exchange of information among Chambers of Commerce in the two countries also appear to be useful in establishing trading relationships.

Incidence of NTBs

The survey has enabled the identification of NTBs faced more frequently by firms in exporting to India. Table 26 indicates that the largest proportion of respondents, almost half, faced problems in getting visas[26] for India and during visits.

Table 23: Diversification of Export Markets by Firms of Firms	(% of firms)
Only in India	36
To India & Other Locations	64
Total	**100**

The frequency of firms reporting SPS and TBT measures, handling at Indian ports, constraints of land transportation, dealings of Indian Customs, etc ranges from about 20 to over 60%. The major problem area is land transportation with 61% reporting problems, especially on the land route.

Table 24: Period of Trading with India of Firms	(% of firms)
Less than 1 year	12
1 year to 5 years	50
Above 5 years	38
Total	**100**

Between 21 and 37% have reported problems in meeting certification and SPS requirements, 30 percent appear to have experienced problems at the Indian port of entry. Similarly, 21% have reported that they experienced some difficulty in dealing with the Indian Customs. 23% have indicated that they faced problems in banking transactions.

Table 25: How Trading Partners Located India	(% of firms)*
Friends & Relatives	44
Internet	41
Trade Fairs	26
Chamber of Commerce	19
Others	33

* add up to more than 100 percent due to multiple responses

Also the survey indicates the low incidence of the following NTBs in India:

- rules of origin
- minimum import price
- state trading restrictions
- IPR
- Distribution channels with India

[26] Since this survey was conducted, Pakistan and India signed an agreement on the liberalization of the visa policy on the 8th of September, 2012. The new pact offers a considerable relaxation of the visa regime, especially with regards to businesses visas, granting multiple entry one year visas permitting access to 4 to 10 cities depending on the size of the business represented by the visa applicant.

Table 26: Incidence of NTBs Faced by Sample Exporters (%)	
	% of reporting sample considering the trade restriction a problem[2]
A. REQUIREMENTS	
Certification	29
Standards	37
Testing	21
B. HANDLING AT INDIAN PORT OF ENTRY	30
C. DEALINGS BY INDIAN CUSTOMS	21
D. Getting Indian Visa	45
E. ACCEPTANCE OF ACCREDITATION AGENCIES IN PAKISTAN	33
F. REGISTRATION OF INDIAN IMPORTERS (by DGFT)	
G. TRANSPORTATION CONSTRAINTS	61
H. BANKING TRANSACTIONS	23

[1] A detailed listing of problems faced is given in Chart 11.1
[2]A disaggregation by sector has not been undertaken because the smallness of the sample in each sector.

Overall, the biggest constraints appear to be in the area of trade facilitation, especially with regard to issuance of visa and travel to India and transport infrastructure and logistics on the land route.

The Visa Regime

Businesses from both India and Pakistan require visas to travel to the other country. However, as of July 2012, when the research for this study was conducted, traders and businessmen were facing several problems in obtaining visa and the visa regime emerged as one of the most important barriers in the survey. Difficulty in obtaining business visas by Pakistanis with business friendly terms and conditions had been identified as a key barrier to trade with India in earlier studies also (Taneja (2007, 2006). About half of the respondents from Pakistan revealed that they had problems in getting India visa. Some of the problems identified include.

- **Time taken for visa approval** is identified as a problem by 56% of the respondents. Respondents reveal that a visa can takes four to eight weeks. However, instances were quoted where time taken was longer. There are cases where the technical director of a spinning mill, who had to go to India to attend to a customer complaint, was not been granted a visa for the last three months. The delay in access to a Pakistani visa for technical service personnel constitutes a very important barrier in the trade of machinery, engineering and chemical sectors, which have emerged as significant trading items in recent years. Traders point out that the fear that visas to technical experts may not be granted easily may discourage trade in these potential trade items.
- **Documentation required** for the issue of visa was also identified as a barrier by almost half of the respondents. Table 27 presents the list of 27 documents required to obtain visa for India. In particular, a sponsorship certificate is identified as a major hurdle. A sponsorship letter is required for each city. Indian sponsors exhibit hesitation in issuing the sponsorship letter. Also, it acts as a barrier for SMEs, in particular, for those who want to enter the market and for formation of new partnerships. Traders claim that it is relatively easy to access European countries as only an invitation letter is required. Also, the requirement of presenting electricity and gas bills appears excessive.
- **City specific, single entry visa regime** is also identified as a barrier. City specific visa for limited cities per visit forces the trader to limit trading partners in these cities only. This restricts trade not only spatially but also the items of trade since the import demands of different cites may be different. Both countries currently do not issue multiple entry visas. Some traders may get visa that allow double entry but to be availed within a specific time. However, the criterion for eligibility is not transparent. The traders pointed out that if multiple entry was allowed, they will not have to go through the cumbersome procedure every time.

Table 27: Documents Required for Indian Business Visa Prior to the Revision of the Visa Protocol by Pakistan and India in September 2012.
1. Visa Fee – Rs.15 only for people with Pakistani passports. 2. Copy of Income Tax return/audited accounts/bank statement for the last two years to demonstrate gross sales/turnover of at least Pak Rs 1 crore per annum or Individual salary of the applicant at least Rs 5,000 per annum 3. Letter from the company/firm in Pakistan giving details of the applicant, his/her designation and the purpose of visit 4. Copy of membership certificate of any Chamber of Commerce in Pakistan and/or recommendation from any Chamber of Commerce in Pakistan (preferred). 5. Copy of NADRA Identity Card along with its English translation 6. Copy of a utility bill, such as electricity bill/ gas bill/ Landline telephone bill 7. Letter of invitation from any registered Indian Company/firm in India or any Federation/Chamber of Commerce and Industries. 8. Copy of letter of credit/correspondence with the registered company/firm in India. 9. Recommendation from any prominent chamber of Commerce in India (preferred) 10. In case, participation in a trade/business exhibition/fair in India, details of the nature of participation and a copy of the invitation from the exhibition/fair authorities or Federation/Chambers concerned in India. 11. Any two documents of the Indian invitee such as passport (preferred), copy of electricity bill, telephone bill, ration card, Election I-card, along with their address and contact telephone numbers. 12. Passport (or copy of the passport) with more than six months validity from the date of journey. 13. Previous Passports, if any or the latest passport with a previously issued India Visa. 14. Signed printout of the online Application form 15. Two latest passport size colour photograph pasted on the application. 16. In view of the likely delay in affixing visa after submission of visa application at the High Commission, if the applicants so desire, they can submit only copy of the passport at the time of submission of their visa application. They can submit the original passport for affixing visa once High Commission contacts them to submit the same for issuance of visa. 17. Police Reporting on arrival and departure

Limited Duration of the Stay and Requirement of Police Reporting are other constraining factors. In most cases a visa is valid for a very limited duration (15 days) which is not enough for traders to effectively complete their business. Respondents identified this as an important barrier. According to one respondent the duration depends on the mood of visa officials, revealing the use of discretion and lack of transparency. Also, Pakistanis visiting India are required to report to the police on arrival and before departing from the country. This clearly causes harassment to business delegates. However, it may be emphasized that similar restrictions are placed on Indian businessmen visiting Pakistan.

In response to these visa problems, SAARC Visa Exemption Scheme was initiated in 1988 which became operational in 1992. Currently persons entitled to the Scheme are Supreme Court Judges, members of the National Parliaments, Heads of Academic Institutions, foreign/Permanent Secretaries dealing in foreign affairs, SAARC Secretary-General and Directors of the SAARC secretariat, Presidents of National Chambers of Commerce and Industry and their families. SAARC business visas are also issued to bona fide businesses.

Revision of the Visa Protocol by Pakistan and India in September 2012

Pakistan and India signed an agreement on the liberalization of the visa policy on September 8, 2012. The new pact offers a considerable relaxation of the visa regime, especially with regards to businesses visas, granting multiple entry one year visas permitting access to four to 10 cities depending on the size of the business represented by the visa applicant. Visa protocol has also been eased for senior citizens, group tourists and artists. Salient features of the revised visa policy are as follows:

- Under the new agreement, the business visa will have to be issued within five weeks. There are two categories of business visas:
    - Category 1 is for business persons with annual income of PKR 0.5 Million or with gross turnover of PKR 3 Million. Category 1 is allowed four visits in a one year multiple visa.

- Category 2 is for Business persons with annual income of PKR 5 Million or with gross turnover of PKR 30 Million. They are allowed 10 visits in a one year multiple visa. Category 2 is exempted from police reporting.

- There will be a single-entry visitor visa for a maximum period of six months but the stay cannot exceed three months at a time and for five places (currently limited to three places).
- Group tourist visas, for groups of 10-50 people, have been introduced for the first time. This will also be available for students provided they do not seek admission in the other country.
- Citizens aged 65 and above will be issued visas upon arrival. The visa will be valid for 45 days.
- Under a new category, a visitor visa for a maximum of five specified places may be issued for a longer period of up to two years with multiple entries to senior citizens (above 65); spouse of a national of one country married to person of another country and children below 12 accompanying parent(s).
- People aged more than 65, children below 12 and eminent businessmen are exempted from police reporting.
- Another simplified rule will allow people to enter and exit from different check posts and change their mode of travel. This is subject to the exception that exit from Wagah/Attari, by road (on foot) cannot be accepted, unless the entry was also by foot via Attari/Wagah.

TBT and SPS Measures

India implements various technical barriers to trade (TBTs) and Sanitary and Phytosanitary (SPS) measures allowed under the UNCTAD/ WTO framework. As mentioned in Chapter 2, they have a complex legal and institutional framework for the purpose. The Bureau of India Standards (BIS) under the Ministry of Food and Consumer Affairs is the principal standard setting body which imposes mandatory standards on a number of items. Labeling and packaging requirements, quarantine requirements, certification and standard and testing requirements are all imposed under this umbrella. Items reported by the sample exporters as requirements to meet particular TBT/SPS requirements are listed in Table 28.

Table 28: Types of Products Exported from Pakistan facing TBT & SPS Measures in India
Labeling Requirement cement; dry dates; gypsum powder, raw cotton, hydrogen peroxide; fabrics;
Packaging Requirement cement; calcium carbonate; talc lumps; dry dates; hydrogen peroxide, alcohol from sugar, fabrics
Quarantine Requirement dry dates; textiles
Certification Requirement grey fabric; cement; zinc ash; hydrogen peroxide; motorcycles; industrial alcohol, fabrics

Findings from earlier studies (Taneja (2007, 2006)) reveal that Indians impose these conditions more stringently than their Pakistani counterparts. For example, the samples of export consignments are sent to testing laboratories located far away from the port of entry in India, while in the case of agricultural products the required phytosanitary certificate and testing requirement in India can take several days.

The survey findings are as follows:

- **Labeling requirements:** These are more relevant for export of some items like food, cement and textiles products. They require brand name and serial number. Generally these requirements are not considered costly, since the average cost is reported to be low. The requirements add to time and are cumbersome. Overall the perception was that these requirements are low to medium barriers to trade.
- **Packaging requirements:** BIS approved bags and packaging (with examination on a sample basis) is compulsory and a requirement for most items including food items, chemicals, and

minerals. The requirements were more stringent for dry dates exports in the sample, classified as a medium barrier to trade.

- **Quarantine requirements:** Quarantine was compulsory for food and raw cotton exporters in the sample. It entailed fumigation and retention of up to a week in a majority of cases. Cost of Rs 3,000-4,500 per container was reported. Absence of such facilities, particularly for rail and road consignments, with delays including those due to weekends and holidays were pointed out as concerns.
- **Certification and standards requirements:** Certification requirements appear to be applicable to most survey respondents, except the exporters of gypsum. Certification agencies included Indian authorities, BIS, Lahore Chamber of Commerce, SAFTA, SAARC, Fumigation Authorities, TDAP and one Dubai based firm. Delays in obtaining a certification were identified as a problem. Large variations are observed in the time taken for this, ranging from a few days to weeks or months, and in the case of a cement company, 2 years. It appears that the transaction costs, (in terms of delays and in some cases when Pakistani or internationally accredited certification is not acceptable), is more of a concern than the actual financial cost for the documentation (which is in the range of Pak Rs 200-5,000).
- **Testing requirements:** Testing requirements are applicable to almost 70% of the surveyed firms. The agencies include PCSIR, BIS, customs authorities, and International Standards Regulatory Institute. Generally, the time taken is up to a week (for 48% of firms) while in some cases, like cement, it was also reported in excess of 3 weeks. The criteria is specified and in some cases it is not required for every consignment (e.g. gypsum is taken from the mines every two months for testing). The sample firms complain about the distant location of testing facilities, mostly at Delhi or Mumbai, from the point of entry.

To conclude, imposition and application of standards and other TBT and SPS measures are perceived as a NTB in Pakistan, but of a low to medium category. Since these measures are more applicable to exports like textiles and agricultural products, which are of greater interest to Pakistani exporters, there is a feeling that it is restricting trade with India.

Transportation Restrictions and Customs Handling

Trade between India and Pakistan takes place by sea, air, rail and road. Several factors such as inadequate land routes, weak transportation infrastructure and bilateral transport protocols, which raise the transaction costs of trading between the two countries along with custom procedures, have been identified as NTBs in earlier studies (Taneja 2006, 2007). The questionnaire also focused on these and a summary of findings is presented below:

- Though the most cost effective way of moving goods between the two countries should be land route, given the common border,[27] exporters are using all three modes of exporting goods to India- rail, road and sea. About 70% of the sample firms are using the sea mode, some along with rail and /or road. The generally cited reason for the choice of the sea mode is: it takes only 72 hours from Karachi to Mumbai, due to less time the quality of the product is preserved; it is convenient, cost and time effective audit; it is economical. (See Table 29)

[27] Except for export from the South of Pakistan, including Karachi.

Table 29: Choice of Mode of Transportation		
The table below indicates the route and mode of transport from different cities of origin of exports in Pakistan to India. Table B-1 Choice of Mode (% of firms)		
	By Sea	By Road
Lahore	45	55
Karachi	100	0
Faisalabad	100	0
Sukkur	100	0
Sialkot	0	100
Total	**70**	**30**
The surprising finding from the survey is the high percentage of firms who have adopted the sea route, from Karachi mostly to Mumbai. This is the case even for some consignments from Lahore and most consignments from Faisalabad. Clearly, the quality of transport infrastructure by rail/road is underdeveloped. If this constraint is removed there could be significant cost savings to Pakistani exporters.		

- Close to half of the respondents (especially from Punjab) reported that there was another route (Wagah-Attari) which could potentially have a freight advantage which is not currently being used, clearly indicating that infrastructural bottlenecks are significant.
- Non-availability of rail wagons/rakes is cited as a problem by over half of the respondents, while insufficient number of customs agents, non-availability of sheds and warehousing and non-availability/ shortage of technical equipment like weighing machine, and x-ray, were cited as some of the problems faced by exporters using rail for transportation of goods to India.
- Delays were reported by one-fifths of the responding firms. The delays were caused due to: slow custom clearance, documentation requirements [28] and one way traffic at the border. 12% of the surveyed businesses reported mishandling of cargo at the border (because of shifting of containers from the truck).
- About one-fifth of the respondents experienced problems at Indian customs. The problems relate to checking and clearance of goods, classification and valuation of goods and the use of discretionary powers by the officials. While both countries are making an effort to modernize and streamline custom procedures, the facilities at the land borders need to be improved. It is significant that some firms reported more severe problems with Pakistani Customs.
- Similar problems have been reported by those using the road. Choking of the border, the brief time for which the border is opened for custom clearance, delays due to clearance of bulky items like marble and cement (which are given priority) affects the quality of items like dry dates. In addition, the clearance of specific number of trucks every day leads to extra costs and restriction on vehicles (only 10 wheelers are allowed) are some of the problems reported by the respondents. As one of the respondent stated "he wished Pakistani trucks to be allowed to carry consignments to various destinations in India themselves rather than having to rely on Indian trucks." What had convinced him of pursuing this idea was the strong union of Indian truck owners at the Attari border. He said he had met a man in Amritsar, who because of his influence had managed to get his own trucks, which had cost him USD $0.05 per kg as opposed to the union rate of USD $0.25 per kg that Pakistan exporters face. The average demurrage rate of USD $20/day has been reported though the general demurrage charges ranging from USD $20 to USD $60 per delayed vehicle.
- Problems arise from lack of warehousing and cold storage facility is reported by about one-thirds of the respondents.
- Customs facilitation, rules and regulations were classified as a medium to high trade barrier [29] by about one-fifths of the respondents.

[28] Frequently due also to incomplete and inadequate documentation by clearing and forwarding agents.
[29] Due partly to the failure of clearing agents to provide proper information to exporters.

To conclude, transportation links between the two countries are inadequate and weak. Limited land routes are open for exports to India and fraught with problems like inadequate warehousing and storage facilities, limited time for trading, single gate for exporters and importers, non-availability of wagons, inadequate handling capacity and insufficient infrastructure especially in Lahore. Also, lack of Electronic Data Interchange (that allows the goods declaration to be electronically filed), under invoicing in the case of importers of traditional products such as dates are also issues that need to be resolved if trade between the two countries is to be promoted.

Fiscal and Financial Measures

Tariffs and Para-tariffs can make imports uncompetitive in the Indian markets. The tariff rates range from 5% to 60% on the products exported by the respondents. Details on tariffs and Para-tariffs did not emerge fully from the survey as these were handled by importers in India. However, India imposes a countervailing duty of 10% on most items, special countervailing duty of 4% and an education less of 3%. Over and above this, there is a tax on interstate movement of goods.

About a quarter of the respondents feel that their profits have fallen because of the tariff and para-tariff/state tax regime in India. Some businesses reported that their trade can increase substantially, almost double, if India eased the fiscal regime. Interestingly, about a third of the respondents indicated that they are not aware of the preferential tariff of products under SAFTA and SAPTA. The respondents did not report any problems because of preferential tariffs.

The survey made an attempt to elicit responses on whether traders faced any problems relating to payments because of the restrictive financial measures, particularly related to the banking sector. Earlier studies have identified problems related to L/Cs, absence of formal mechanisms to address defaults in payments and inefficiencies in payment settlements through Asian Clearing Union (ACU) (payments related to bilateral trade are made through ACU, established in 1974). Over and above this, Indian and Pakistani banks are not allowed to have branches in the other country. Over one-fifth of the respondents indicated that they faced problems due to the non-existence of banking arrangements. Extra costs from delays in payments, commissions deducted and problems due to the apprehensions of the Indian banks were cited as concerns. As an example, one respondent said that their firm makes all payments through USA.

Summary of Principal Impediments

The study finds that though the two countries have liberalized their import regimes, impediments to trade still exist, although perhaps not of the same intensity as perceived. The restrictive visa regime emerged as the most important barrier to trade in the survey. Recognizing this, both India and Pakistan prioritized the relaxation of the regime for greater trade facilitation in September 2012.

The second most important category of barrier relates to transportation, infrastructural constraints and Customs. Respondents pointed out that transportation links between the two countries are inadequate and weak. Land routes need to be opened for exports to and imports from India and commodity restrictions removed. In addition, problems of infrastructure shortages including that of warehousing, storage, number of operative entry points and equipment have to be addressed. Problems relating to flow of goods both through road and rail, including availability of wagons, inadequate handling capacity, limited hours, custom procedures and protocols have to be addressed with the view to minimize transaction costs. The infrastructural and procedural bottlenecks need to be readdressed from both the countries. They appear to be more stringent on the Pakistani side and require immediate policy attention if export promotion to India is a priority.

The third important barrier is the TBT and SPS measures category. The imposition of standards, quality certification requirement are perceived non-tariff barriers by Pakistani businesses, especially because they are somewhat more rigorously applied to products which are exported from Pakistan.

The items on which Pakistani exporters have an interest are textiles, agricultural products and cement. These are items on which India imposes a number of import restrictions. Even though India has the lowest number of items on the sensitive list under SAFTA, it has the largest proportion of items under textile and agriculture products. Pakistani exports are affected by multiplicity of rules, regulations and enforcement agencies, and restrictions on obtaining certifications from Indian agencies, like cement, even though the TBTs and SPS measures are not discriminatory. As one of the respondents suggested, an agreement that would allow PSQCA to carry out testing on behalf of BIS would speed up the entire process and help avoid a situation when BIS representatives are unable to visit plants because of security concerns. While the TBTs and SPS measures are non-discriminatory it needs to be noted that any measure applied at the land border largely becomes specific to India and Pakistan. Therefore, trade facilitation measures undertaken by both the countries at the land border are very important.

The fourth in rank in the importance of barriers is the category of financial measures. The two countries need to have institutional arrangements and prudential laws whereby banks, both private and public, can operate in conducting transactions in both countries.

Lastly, an important cross-cutting barrier appears to be the presence of a 'trust deficit' in both countries. It's not that NTBs are specific to Pakistan; it's just that these are applied more rigorously to Pakistani exports, a legacy of history and security concerns. It is time that 'politics' becomes less important than people's welfare. As one of the respondents said "for the first time in the history of Pakistan, business has taken the lead and politics is trying to catch up"

Chapter 6 Survey of Indian Exporters

Introduction

This chapter addresses issues of NTBs affecting Indian exports to Pakistan. Evidence of NTBs and rough estimates of costs thereof are presented before specific barriers faced by exporters from India to Pakistan, including results of a survey of selected Indian exporters engaged in trade with Pakistan. A concluding section highlights priority areas and suggestions for policy reforms.

NTBs Faced by Exporters

For an insight into the impediments perceived or experienced in general by Indian exporters exporting to Pakistan, the team conducted a small survey of five major Indian exporters. The sample is not intended to be statistically representative; instead the survey is exploratory in nature.[30] The sample includes firms belonging to the followings sectors: cotton, light machine parts, engineering goods and freight logistics.

Restricted List of Exports

Over the past decade, following economic reforms and adoption of trade liberalization policies in both countries, the biggest concern on India's part regarding access to Pakistani market was the restriction of imports from India due to the positive list, now negative list, for imports from India and a reluctance to grant MFN status to India. Import restrictions have limited the growth and diversity of exports from India to Pakistan and as a result informal trade through third countries has escalated in products which were banned. Though Pakistan recently adopted a negative list, increasing the scope of diversity of imports from India, the fact that there are limits imposed on the number of products that can be traded through land routes has the same effect as the now discarded positive list approach.

Only 137 products are allowed through land route to Pakistan. This raises the cost of transportation for restricted products significantly and thus this regulation operates as the most significant NTB for Indian exporters. This issue has been repeatedly highlighted by industry/business organizations as well as by the Indian government.

The survey respondents expressed strong opposition to the policy of restriction of trade through land route. Circuitous informal trade has been a practice admitted by traders in both countries as a result of this policy, which leads to high transport costs for traders. In addition, this policy approach lacks transparency, creates uncertainties for traders and leads to high transaction costs. Allowing trade in all products outside the negative list of Pakistan would be a significant positive step towards enhancing Pakistan-India trade.

Product Classification

Even though both countries follow a standardized international coding system, under the UNCPC Harmonized System (HC) of product classification, often the codes do not match at the 8- digit level. As a result, traders in both the countries face problems in identifying items that are permissible. Since there is a mismatch of codes between the Indian 8-digit HS classification and the permissible items, customs officials have the discretion to classify items. This creates unnecessary difficulties for traders. In some cases the description of items does not match between the Indian classification and Pakistan's list, resulting in confusion. Harmonization of product classification is essential, as it will simplify, increase transparency and facilitate the clearance of goods and improve valuations of import of new items.

[30] The sample was restricted by the limited budget available for this purpose. Staff of CUTS in India carried out this survey.

Transport Infrastructure and Logistics

Several factors such as inadequate land routes and weak transport infrastructure raise the transaction cost of trading. The survey highlighted that barriers related to customs procedures, customs clearance, and rules of origin certification are mostly from the Indian side and, generally speaking, traders do not face any specific problem from Pakistan's administration.

Another issue is problems in transport of consignments through rail route. There is no fixed timing for the movement of goods by train and freight movements are unduly regulated on the grounds of border security. The numbers of wagons that can commute from Attari to Amritsar are also restricted and there are undue regulations applied in the logistics of rail wagon transport.

Exporters from eastern regions of India are interested in exporting through the land route but face difficulties in booking rail wagons. It was reported that exporters are forced to send their shipments from Kolkata to Karachi through transshipment at Singapore. This circuitous route raises transport and other costs considerably. Though Indian authorities have a major stake in finding solutions for this issue, initiatives for rail transport capacity building is imperative and requires a mutual consultative process between both governments.

Table 30: Indian Exporter's Views on NTBs in Pakistan Trade

Trade Restrictions	**Sectors**				
	Cotton	**Consumer Durables**	**Machine Parts**	**Freight logistics**	**General**
Business Relations/Visa/Information	Excessive documentation and Delay in Issue of Visas	Lack of information on potential wholesalers and contact of local business. Travel procedures and costs prohibitive for small scale businesses	Only city specific visas are issued. Mandatory police reporting. Minimal interaction of cross-border business organizations	Lack of Information portals. Difficult visa procedures	Business travel is difficult due to visa restrictions and delay in issuance. Special track for processing business visas must be implemented with single point inspection and minimal documentation.
Testing/Labelling /Documentation	Low Barrier	Low barrier	Harmonization of product codes needed.	Delay in container registration and inspection. Wagon allotments not transparent.	Testing and quarantine requirements may be simplified for organic products
Customs/Ports/Cargo Services/Transportation	Pakistan does not allow the import of cotton by rail. Undue delay in Weighing and valuation.	Integration of Atari to onwards transport by rail will reduce costs.	Difficulty in booking container space. Inspection and cargo handling slow in Pak customs stations	Frequent rescheduling due to transport blockades	All products should be allowed through land route. Single window customs clearance needed
Government Procurement/IPR Barriers	Low Barrier	Low Barrier	Negligible effect on trade	Not Applicable	Negligible effect on trade
General Remarks		Import of Spare parts is not allowed as per current negative list. Problem for complementary products.		Cross-border tie ups between transport companies should be facilitated and de-regulation of transport licensing	Important products negative listed Frequent trade fairs needed Risk free financial instruments and speedy LC clearance needed.

Source: Field survey (questionnaires attached)

Other problems highlighted during the survey include infrastructural deficiencies at the Land customs stations. Lack of space and inadequate capacity for cargo handling was chronic till the initiation of the Integrated Check Post at Wagah. Though the newly installed ICP has dictated terminal for cargo handling, customs and immigration facilities (which has increased cargo movement capacity) its exact impact on "ease of trade" is yet to be seen.

The average waiting time for trucks was three days before the installation of ICP. Even now, certain issues like non-allowance of border crossing of Indian trucks and lack of improvement in customs clearance services remains to be taken care of. Improvements in road transport protocol is an issue which can only be tackled by cooperation between the two countries at the official level, since it entails complementarity between the infrastructure and customs services provided by both countries.

Banking

Another major area of concern is payments. Dispatch of consignments is usually done against confirmed Letter of Credits (L/Cs). Non acceptance of L/Cs issued by each other's banks has been a persistent problem in South Asia. This acts as a particularly serious NTB in the case of Pakistan-India trade. Because of the problems faced by delays in acceptance of L/Cs, trade transactions are often carried out through contracts offered by banks without explicit guarantee of payment as the second best option. Survey respondents were of the opinion that a permanent solution for this can only be brought about by allowing banks to open branches in each other's territory. A strongly voiced demand for such a policy reform has been registered by industry organizations by both countries, but it still awaits implementation.

Bank branch opening can reduce the incidence of default in payments, while bringing transparency to transactions, reduce risks and trade disputes as well as provide customized financial instruments to smooth transactions. Government intervention from both sides is urgently required for reforms in trade financing. The South Asia Agreement on Trade in Services (SATIS) is currently under negotiation with SAARC and is a promising platform for building reciprocal commitments in liberalizing financial services that include the opening of cross-border bank branches.

Effective Relaxation of Business Visa Regime

Communication and business relations are affected by hurdles faced by the business community in obtaining visas. Although both Pakistan and India have recently (September 2012) signed a protocol relaxing the visa regime, both countries need to ensure that the revised protocol is implemented effectively to reduce delays and facilitate businesses in both Pakistan and India to do cross border trade.

Transit Facility

A frequently raised demand from the Indian side, with respect to trade policy reforms in Pakistan, is transit facility to access Afghanistan's markets. This will help other South Asian countries as well in connecting with Afghanistan's markets through the shortest route and therefore facilitate better integration of Afghanistan with rest of the region. Once again, this area of reform also requires reciprocal concessions from the Indian side in providing transit for Pakistani exports to Bangladesh, Bhutan and Nepal.

Issues of Priority for Policy Reforms

From the point of view of market access for exports from India, required steps by Pakistan include improvement in infrastructure and trade services and pruning of its negative list. It is noted that most of the infrastructure and trade services related reforms can only be taken forward on a cooperative approach between both countries, wherein reciprocal reforms are required from the Indian side. Most important reforms include the following:

- Remove the limitations on exports through India through the land route. If such limitations are linked to cargo handling capacity, immediate steps should be taken to assess the potential growth in trade volume in the restricted products through land route and plan investments in infrastructure building to cover for deficiency. The current list of 137 restricted product categories can also be removed in a phased manner to accommodate possible time delays in upgrading infrastructure.

- Steps to facilitate more volume of cargo movement through land route. To ensure that the Integrated Check Post (ICP) at Wagah border fuels growth in trade volume a stocktaking of matching trade services at the customs stations have to be undertaken in order to take full advantage of the investments. This will require training of customs personnel and coordination of transport protocols, among others. In addition, problems faced in allotment of wagons, frequency, and timings of container movement through rail needs to be addressed to better support trade through land route. One of the most important proposals by both sides is opening the trade route linking Munabao (India) and Khokharapar (Pakistan). This step will significantly increase land route trade capacity.
- Bilateral negotiations for cross-border bank branch opening must be initiated. As alternatives, mutual recognition of selected national banks as nodal banks for trade transactions between Indian and Pakistani traders, special mechanisms for fund transfers as well as clearance of L/Cs through selected nationalized banks can be used as provisional measures. Though negotiations on financial services under the upcoming SATIS can be used as platform for reforms in trade financing, given the urgency, special bilateral talks on this topic at the ministerial level are imminent.
- Harmonization of product classification codes in conformity with international standards of HS system at 8-digit level. Harmonization of codes along with single window clearance at the border points will ensure proper valuation and reduce clearance time and costs. A joint task force including representation of business/trade organizations from both sides should be appointed to develop easy and economical procedures.

At the official level, there are signs that both sides are realizing the necessity for cooperation and interdependence. A bilateral arrangement covering better transport and other forms of connectivity, mutual recognition and harmonization of standards in pharmaceuticals, textiles, cement, food products and other major commodities of enhanced trade potential, streamlining of financial institutions and banking facilities and initiation of an effective arbitration mechanism have to be solicited with right earnest. The exact contours of this arrangement can be done only through an inclusive approach, by taking into account the concerns and suggestions of various stakeholder groups, including producers/traders and consumers. Therein lies the importance of track 2 diplomacy in Pakistan-India trade reforms.

It should also be noted that policy reforms in the broad areas mentioned above will help to increase bilateral trade volume to a threshold level, which will thereafter naturally fuel growth of the trade relationship, resulting in better trade facilitation measures, procedural ease and economies of scale in the transport sector, better returns and rents from investments in trade infrastructure and additional incentives for private enterprises to explore regional markets. Thus, a market driven positive cycle of trade leading to more trade can be kick-started with an initial set of reforms.

Chapter 7 Measures of Trade Restrictiveness

This chapter describes different measures that have been developed to determine the degree of restrictiveness, arising from the presence of different NTBs and the level of tariffs, of the trade regime of a country. The first section presents the methodology used by the International Monetary Fund (IMF) to construct a relatively simple Trade Restrictiveness Index (TRI). The second section describes the TRI developed by the World Bank and presents a comparison between India and Pakistan and a sample of countries. The last section compares the two countries in the Logistics Performance Index (LPI).

The basic purpose of the exercise is to determine, first, which country, India or Pakistan, has a more restrictive trade regime, and, second, which country performs better in terms of trade-related logistics.

The IMF Trade Restrictiveness Index

The IMFs TRI consists of three components, as follows:

- The overall Trade Restrictiveness Index
- The Tariff Restrictiveness Rating
- The Non-Tariff Restrictiveness Rating

The classification scheme for tariff restrictiveness is as follows:

Rating	**Simple Average Tariff + Surcharges**
1	0 ≤ t < 10%
2	10 ≤ t <15 %
3	15 ≤ t < 20 %
4	20 ≤ t < 25 %
5	25% ≤ t

The nontariff, NTB, component of the Index consists of a three point scale as follows:

Incidence of Non-Tariff Barriers

- NTB are absent or minor. Less than 1% of trade subject to NTBs
- NTBs are significant applied in at least one sector. Up to 25% of trade affected by NTBs
- Many sectors covered by NTBs. More than 25% of trade is affected

The classification scheme for the overall TRI is as follows:

(Scale of 1 to 10)

NTB Rating

		1	2	3
Tariff Rating	1	1	4	7
	2	2	5	8
	3	3	6	9
	4	4	7	10
	5	5	8	10

The higher the overall TRI the more restrictive is the trade regime. The country with the most liberal trade regime has rating of 1 while the country with the most restrictive regime has a rating of 10.

The IMF-TRI has the following shortcomings:

- The IMF TRI is a simple and useful tool but it suffers from a number of shortcomings. First, it is an unweighted index and, therefore, may not accurately reflect a country's trade policy.
- Second, it does not accurately reflect the trade regime of countries which operate under a number of bilateral or regional trade agreements. Third, there is a case for inclusion of tariff peaks (especially on agricultural commodities), the extent of tariff dispersion and the presence of tariff rate quotas.
- The principal problems with the NTB rating are, first, insufficient differentiation between the intensity of different NTBs. Majority of the counties get a moderate '2' rating. It would be more preferable if different types of NTBs were measured using weights that were more proportionate to their impact.

Nevertheless, given its simplicity, it can be updated more frequently as compared to other more sophisticated measures.

The overall rating of a sample of countries in the IMF-TRI is presented in Table 31. Within South Asia, according to the IMF, India and Bangladesh have the most restrictive trade regimes followed by Pakistan, Sri Lanka and Nepal. A perhaps surprising conclusion is the high TRI for some East Asian countries like Vietnam and relatively low TRIs for others. The country with the most liberal trade policies in the sample is Chile.

Table 31: IMF TRI of a Sample of Countries
(1 = least restrictive; 10 = most restrictive)

Region/Country	IMF-TRI		Region/Country	IMF-TRI
SOUTH ASIA			LATIN AMERICA	
Bangladesh	7		Argentina	5
India	7		Brazil	5
Nepal	3		Chile	1
Pakistan	6			
Sri Lanka	5		AFRICA	
			Algeria	4
EAST ASIA			Egypt	4
China	5		Malawi	2
Malaysia	4		South Africa	5
Philippines	4			
Thailand	5			
Vietnam	7			
REST OF ASIA				
Turkey	5			

Source: IMF
[1] for most current year available

A decomposition of the TRI into the two components of the level of tariffs and the incidence of NTBs respectively for South Asian countries is given in Table 32.

Table 32: Level of Tariffs & Incidence of NTBs in South Asian Countries

	Level of Tariffs1	Incidence of NTBs2	Overall TRI
Bangladesh	4	2	7
India	4	2	7
Nepal	3	1	3
Pakistan	3	2	6
Sri Lanka	2	2	5

[1] in a scale of 1 to 5
[2] in a scale of 1 to 3

Therefore, the difference in the IMF-TRI is primarily due to the variation in the level of tariffs. But, as highlighted earlier, the indicator used for measuring the incidence of NTBs is not sufficiently sensitive.

The World Bank's Trade restrictiveness Index

This measure was first derived by Kee, Nicita and Olarreage (2004). The overall Trade Restrictiveness Index, OTRI, calculates the equivalent uniform tariff of a country's tariff schedule and non-tariff barriers (NTBs) that would maintain domestic import levels. NTBs considered include price control measures, quantity restrictions, monopolistic measures, technical regulations and agricultural support.

Table 33: Comparison of the World Bank's OTRI for a Sample of Countries (%)

Region/Country	Simple Average MFN Tariff	Ranking[a]	WB-OTRI	Ranking[a]
	(1)		(2)	
SOUTH ASIA				
Bangladesh	23.0	2	23.8	8
India	22.2	3	46.7	3
Nepal	18.0	4	14.1	14
Pakistan	17.1	5	22.2	10
Sri Lanka	12.0	11	9.9	16
EAST ASIA				
China	12.3	10	21.2	11
Malaysia	9.2	13	39.7	5
Philippines	4.2	16	34.5	6
Thailand	14.7	7	22.8	9
Vietnam	16.5	6	45.2	4
REST OF ASIA				
Turkey	12.4	9	15.1	12
LATIN AMERICA				
Argentina	14.7	7	22.8	9
Brazil	10.4	12	30.1	7
Chile	5.9	15	14.2	13
AFRICA				
Algeria	23.7	1	60.0	2
Egypt	9.1	14	84.9	1
Malawi	13.6	8	13.7	15
South Africa	12.0	11	9.9	16

Source: IMF [2005]
[1] for the early 2000s
[a] the higher the ranking the more restrictive the trade regime.

Table 33 presents the estimates of the World Bank OTRI for the sample countries for the latest year for which data is available. The results are qualitatively different than the IMF-TRI. Chile was the country with the most liberal trade regime according to the latter index, but according to the World Bank the most open economies in terms of trade policy in the World Bank are Sri Lanka and South Africa. Also, contrary to the IMF, trade restrictions are severe in some African countries like Egypt and Algeria, which are ranked first and second respectively in the OTRI.

Turning to South Asia, the OTRI is by far the highest for India, followed by Bangladesh, Pakistan, Nepal, and Sri Lanka. A decomposition of the OTRI reveals that the high OTRI of India is due to the restrictive effect of NTBs. By and large, the negative impact of NTBs on the volume of trade appears to be very limited in other South Asian countries.

More recent estimates of OTRI are given in the World Bank Trade Indicators. These are presented in Table 34. Unfortunately, the OTRI for Pakistan is not given. Estimates of OTRI are available separately for agricultural and non-agricultural goods. The table gives the OTRIs for 15 countries in different regions for which data is available.

A comparison of the OTRIs in Tables 33 and 34 respectively shows that they have fallen significantly in the case of most countries from the earlier to the later years of the last decade. Also, the OTRI of agriculture goods is higher than that for non-agricultural goods in most countries.

Table 34: Frequency of NTBs & Trade Remedy Measures in a Sample of Countries (%)						
Region/Country	**OTRI Agricultural Goods**	**Ranking**	**OTRI Non-Agricultural Goods**	**Ranking**	**OTRI – All Goods**	**Ranking**
	(1)		(2)		(3)	
SOUTH ASIA						
Bangladesh	42.1	4	17.0	5	20.4	5
India	39.0	6	17.0	5	18.0	7
Nepal	n.a.	-	n.a.	-	n.a.	-
Pakistan	n.a.	-	n.a.	-	n.a.	-
Sri Lanka	16.6	14	5.5	12	6.8	14
EAST ASIA						
China	18.6	13	9.5	8	9.8	9
Indonesia	19.8	11	5.3	13	7.6	12
Malaysia	46.8	3	23.1	2	24.8	2
Philippines	48.5	2	16.4	6	19.0	6
Thailand	50.7	1	6.1	11	8.5	11
Vietnam	n.a.	-	n.a.	-	n.a.	-
REST OF ASIA						
Turkey	23.4	10	3.8	14	4.0	15
LATIN AMERICA						
Argentina	18.9	12	15.6	7	15.7	8
Brazil	31.1	7	21.5	4	22.1	4
Chile	26.6	9	7.9	9	9.4	10
AFRICA						
Egypt	41.2	5	22.7	3	25.6	1
Malawi	29.3	8	23.4	1	24.6	3
South Africa	14.7	15	6.7	10	7.2	13

Source: World Bank, World Trade Indicators.
[a] for the period, 2006-09

India ranks highly in the sample, sixth in the case of agricultural goods, fifth in non-agricultural goods and overall ranking of sixth. It has a more restrictive trade regime than China, Indonesia, Thailand and Turkey. Within South Asia, India and Bangladesh remain the two countries with relatively high OTRIs while Sri Lanka has one of the most open trade policies.

The frequency of non-tariff barriers, measured as the percentage of tariff lines covered by one or more NTBs, and the extent of resort to tariff remedy measures like anti-dumping and countervailing duties or safeguard measures are presented for a sample of countries in Table 4. India ranks high in both measures, third in the case of frequency of NTBs (as of the late 90s) and first in presence of trade remedy measure. This clearly indicates that India has a relatively more restrictive trade regime.

Therefore, we have the clear conclusion that India has a relatively more restrictive regime. Not only is there a wider range of NTBs but they also appear to be more intensively applied, especially in the case of agricultural goods. There is a case for relaxation of NTBs by India if regional trade within South Asia is to grow faster.

The Logistic Performance Index

A comparison of the indicators of logistic performance between India and Pakistan is presented in Table 35. The conclusion here is that India performs better. Overall, the quality of logistic services is at an intermediate level in both countries, implying significant scope for improvement. In particular, it appears that Pakistan needs to enhance the efficiency level of customs and other border procedures.

Table 35: Comparison of Indicators of Logistics

Indicator[a]	%	Pakistan[a]	India[a]	Average for[a] South Asia
Logistic Performance Index (LPI)				
LPI – Overall	No	2.53	3.12	2.49
LPI - Customs Efficiency and other border procedures	No	2.05	2.70	2.22
LPI – International Transport Costs	No	2.80	2.91	2.13
LPI – Logistics Competence	No	2.28	3.16	2.33
LPI – Track ability of Consignments	No	2.64	3.14	2.53
LPI – Domestic Transport Cost	No	2.86	3.08	3.12
LPI – Timeliness of Shipments	No	3.08	3.61	3.04

Source: World Bank, World Trade Indicators.
[a] on a scale of 1 to 5, with 5 the best

Overall, the conclusion is that the trade restrictiveness effect of NTBs of India is greater, while Pakistan needs to do more to remove procedural impediments.

Chapter 8 Quantification of Impact of NTBs

Methodology

According to UNCTAD (2005) quantifying the impact of NTBs is complex both in methodological terms and in terms of the intensive and extensive data requirements. It becomes even more difficult in the context of bilateral trade, like between India and Pakistan.

The direct approach is recommended only when studying the impact, say, of a quota restriction, at a highly disaggregated level. But generalizing this approach is very difficult. Indirect approaches may be more feasible and rely on frequency and coverage- type measures and price- comparison and quantity-impact measures. These are described below:

Frequency Measures: Such data is available in UNCTAD TRAINS. Frequency may be represented by the percentage of tariff lines having NTBs. Coverage could then be measured by the share of imports affected by a NTB. However, these measures do not provide any direct information concerning possible impact on prices and quantities of goods produced, consumed or exchanged.

Price-Gap Measures: These can provide a direct measure of the price impact of NTBs and enable quantification of consumer welfare losses. For implementing this methodology, it is necessary to know the prices that would prevail with and without the NTB. A number of assumptions also need to be made before the Ad Valorem Equivalent (AVE) can be derived. Data problems are serious, especially on domestic prices.

Quantity-impact measures: These provide precise and direct measures of NTB's impact on trade. It will, however, be difficult to obtain the appropriate data. The question is how to estimate the quantity traded of different items in the absences of NTBs.

Different approaches can be adopted. First one must establish an econometric model that includes the determinants of trade in an unregulated context. This is essentially the Gravity Model of trade that encompasses the determinants of size of a country's external trade and the goods flow between partners. To obtain AVE measures, the NTB quantity measures have to be estimated with import demand elasticity.

A key feature distinguishing NTB from tariffs is their tendency to act as 'binary trade barriers'. NTBs could, and in many cases do, block the exports of a product of a country. In such cases, where NTBs acted as fixed costs, these effects need be included.

The general conclusion is that NTBs are much more restrictive to trade than tariffs. The impact on agricultural trade is usually greater of NTBs. Suggested new approaches include to, first, calculate AVEs on a bilateral basis. Another approach is to concentrate on partial equilibrium models focusing on particular products.

The price-gap approach is demonstrated in below and is a simple case of a quota restriction. In the event that the product import is non-competitive, there is no domestic production of this product. The world price is to P_w. In the presence of the quota, the domestic price rises to P_d. The AVE in this case of the NTB is

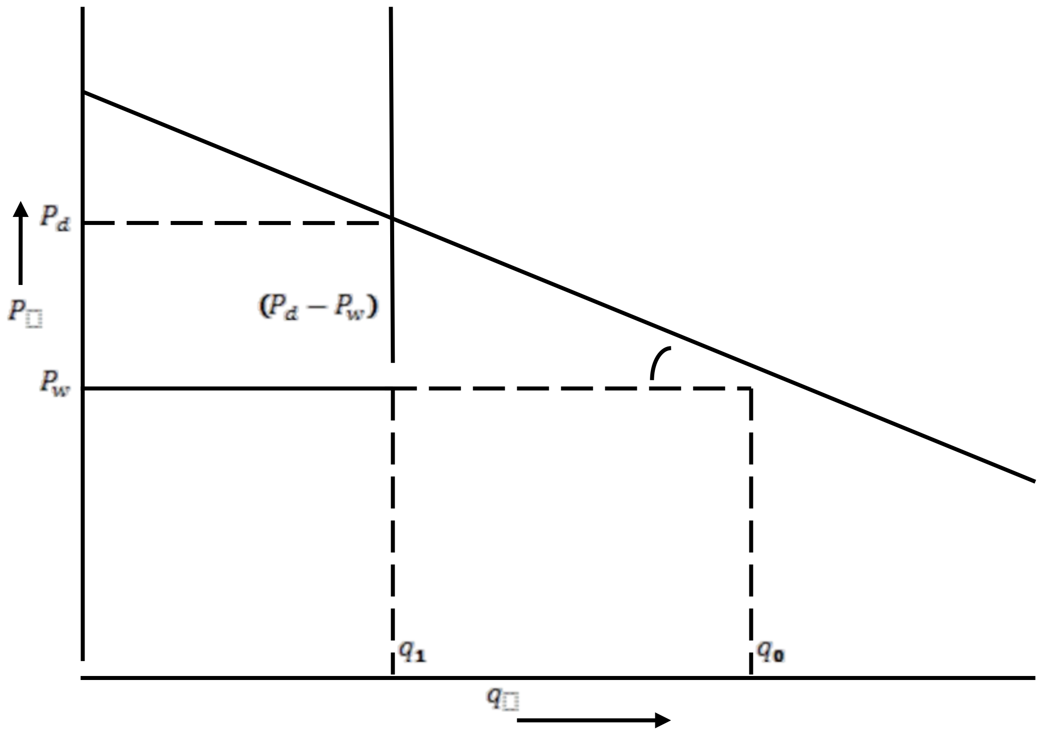
$$AVE = \left(\frac{P_d - P_w}{P_w}\right) \times 100\%$$

The quantity imported changes by

$$\left(\frac{q_1 - q_0}{q_0}\right) = \varepsilon \left(\frac{P_d - P_w}{P_w}\right) \qquad (1)$$

$$\text{that is} \qquad \begin{matrix}\text{\% changes in} \\ \text{quantity imported}\end{matrix} = \begin{pmatrix}\text{price elasticity} \\ \text{of demand}\end{pmatrix} \times \begin{pmatrix}\text{\% difference between} \\ \text{international and} \\ \text{domestic price}\end{pmatrix}$$

Figure 1
IMPACT OF AN IMPORT QUOTA



We describe below two approaches two to quantify the impact of NTBs imposed by India on exports from Pakistan. The first involves the development of a simple gravity model for South Asian countries with respect to India. The second involves application of the methodology given in equation (1) above.

A Simple Gravity Model

A simple gravity model was constructed below to determine the trade of a number of South Asian countries, with India acting as the center of gravity.

Turning first to exports of India, a simple interpretation of the gravity model implies that

$$X_i = \frac{\alpha(Y_{IND})(Y_i)}{d_i} \qquad (2)$$

Where X_i = exports from the *i*th country to India, Y_{IND} = GDP (at current prices in USD $) of India, Y_i = GDP (at current prices in USD $) of country *I*, d_i = distance between the *i*th country and Indian α is a positive constant.

Equation (2) implies that

$$\frac{X_i}{Y_i} = \frac{\alpha Y_{IND}}{d_i} \qquad (3)$$

The countries considered within South Asia are Pakistan, Bangladesh, Nepal, Bhutan and Sri Lanka. All these countries are located in close proximity to India and share common borders (with the exception of Sri Lanka which is an island separated from India by a narrow strip of water). Therefore, the assumption is made that d_i is, more or less, the same for the five countries with respect to India.
Given this assumption, in the presence of similar trade relations of the countries with India,

$$\frac{X_i}{Y_i} = \text{a constant} \qquad (4)$$

The actual magnitude of X_i/Y_i (exports to India divided by the GDP of country *i*) is computed below:

	X_i (Total Exports to India) (USD $ million) 2010-11	**Y_i (GDP of country, with GDP of India=1)**	**X_i/Y_i (in billions)**
Bangladesh	447	0.0581	7.693
Bhutan	201	0.0008	251.250
Pakistan	332	0.1029	3.226
Sri Lanka	501	0.0287	17.456
Nepal	513	0.0091	56.263

Sources: India Trade Statistics, MOC, India
World Development Indicators, World Bank.

Contrary to the simple gravity model, the ratio X_i/Y_i varies widely among the five countries. The basic reason for this is the difference in the nature of relationship in trade between the countries and India. Bhutan, Nepal and Sri Lanka have FTAs with India which gives them special market access. Bangladesh does not yet have a FTA with India but maintains an effectively mutual MFN relationship with probably less intensive application of NTBs by India.

As such, the X_i / Y_i ratio of Bangladesh is probably more indicative of the level of the ratio that can be attained by Pakistan if it grants MFN status to India and as a reciprocal gesture India relaxes the application of NTBs from import of Pakistan.

Therefore, if Pakistan achieves the ratio of Bangladesh its exports to India can reach the level of USD $792 million, an increase of USD $460 million.

Going back to equation (2) we have

$$X_{INDi} = \frac{\beta(Y_{IND})(Y_i)}{d_i} \qquad (5)$$

where β is another positive constant. This transforms to

$$\frac{X_{INDi}}{Y_i} = \frac{\beta Y_{IND}}{d_i} = \text{a constant} \qquad (6)$$

on the basis of the same assumption that the d_is are, more or less, the same.

$\frac{X_{IND}}{Y_i}$ is derived for each country below.

	X_{INDi} (Exports of India to country *i*)	Y_i (GDP ratio of country *i*)	$\frac{X_{INDi}}{Y_i}$
Bangladesh	3606	0.0581	61.692
Bhutan	176	0.0008	220.001
Pakistan	2333	0.1029	22.672
Sri Lanka	4039	0.0287	242.198
Nepal	2204	0.0091	242.197

Here again, the Bangladesh ratio is probably more representative for Pakistan when it moves from a Positive List to granting MFN status to India. We highlighted earlier the similarity of Bangladesh and Pakistan's imports from India.

As such, following MFN status, India's exports to Pakistan could increase from USD $2,333 million to USD $6,348 million, an increase of USD $4,015 million. Overall, in the event Pakistan grants MFN status to India and there is mutual relaxation of NTBs, then the volume of trade between the two countries could rise in a relatively short time frame from USD $2.7 billion to USD $7.1 billion, with the trade deficit of Pakistan with India rising from USD $2 billion to USD $5.6 billion.

Application of the OTRI Approach

The application of this methodology is based on the extent of the extent of increase in OTRI (see Chapter 7) due to the presence of NTBs in India. This is derived below in Table 36.

Table 36: Extent of Escalation of OTRI of India due to NTBs

	MFN Applied Tariff-Trade weighted (%) (1)	OTRI (Tariffs + NTBs) (%) (2)	Extent of Escalation due to NTBs (%) (3)*
Agricultural Goods	20.0	39.0	15.8
Non- Agricultural Goods	6.0	17.0	10.4
All Goods	6.7	18.0	10.6

$* \ (3) = \left[\frac{(2)\text{-}(1)}{100+(1)}\right] \times 100$

The next step is the estimation of the import demand elasticities of India for different types of goods. These elasticities have been derived (on a trade-weighted basis with respect to imports from Pakistan) from the data base of the World Trade Indicators. The resulting estimates of elasticities for agricultural and non- agricultural goods are given in Table 37.

Table 37: Estimate of Increase of Exports from Pakistan to India in the Event of Relaxation of Generally Applicable NTBs by India

	Import Demand Elasticity (1)	Extent of Escalation in OTRI (2) (%)	Increase in Exports* (3) (%)
Agricultural Goods	-2.903	15.8	45.9
Non-Agricultural Goods	-8.684	10.4	90.3
*(3) = $\lvert(1) \times (2)\rvert$			

The resulting estimate of the likely increase in exports of Pakistan if India relaxes many of its generally applicable NTBs is given below:

Table 38: Potential Level of Exports of Pakistan to India if General NTBs are Relaxed (USD $ Million)

	Current Level of Exporters *	Increase in Exports (%)	Potential Level of Exporters
Agricultural Goods	80.6	45.9	118
Non-Agricultural Goods	251.9	90.3	479
Total	**332.5**	**79.5**	**597**
*According to the Trade Statistics of the MOC, India.			

Therefore, Pakistani exports to India could rise by 80% if India relaxes its generally applicable NTBs.

Beyond this, we have to allow for the impact of particular restrictions on Pakistan's exports to India, including transportation restrictions, limited banking channels, difficulties in obtaining visas and more intensive application of SPS and TBT. The assumption is that the overall OTRI is consequently 25% higher for imports of India from Pakistan. The resulting calculations are presented in Table 38.

Table 39: Potential Level of Exports of Pakistan to India if General & Pakistan Specific NTBs are Relaxed

(USD $Million)

	Current Level of Exports	Increase in Exports* (%)	Potential Level of Exports
Agricultural Goods	80.6	69.7	137
Non- Agricultural Goods	251.9	125.3	566
Total	**332.5**	**111.4**	**703**
* with a 25 percent higher OTRI, that is,48.8 percent for agricultural goods and 21.3 percent for non-agricultural goods.			

Therefore, we have similar results from the two approaches. The simple gravity model implies a potential level of exports of Pakistan to India of USD $792 million (see previous section) while the OTRI approach yields an estimate of USD $703 million. As such, the potential level of exports of Pakistan to India could range from USD $700 to USD $800 million in the event of relaxation of NTBs by India, both general and Pakistan-specific, and appropriate trade facilitation measures. This is, of course, conditional on the presence of large enough exportable surpluses in Pakistan, which may be difficult given current constraints to production in the economy of key inputs like electricity, gas and water.

Results from Survey of Exporters

The survey reveals that there is substantial variation in the assessment of the sample firms about the increase in exports in the event NTBs are relaxed by India. Almost 38% indicate no impact either because they face short run constraints of capacity or its utilization (due to supply-side factors like power outages or a shortage of gas). As opposed to this, one fourth of the firms are optimistic that they can more than double their exports if they face fewer barriers.

Table 40: Extent of Increase in Exports if NTBs are Relaxed by India

	(% of firms)
No impact	38
Upto 50%	12
More than 50% to 100%	25
More than 100%	25
Total	**100**

Overall, assuming midpoints of intervals above, the expected increase in exports following relaxation of NTBs of the sample of firms is **60%.** Pakistan exports could increase to about USD $530 million, if the assumption that the sample is representative, albeit small, is accurate. This is somewhat lower than the results obtained from the above two approaches, probably because the sample firms have allowed for limitations imposed by supply side factors

Chapter 9 Investment Policy of India

A review of foreign investment policy shows that the policy framework for foreign direct investment (FDI) in India was liberalized in 1991. India's conscious shift in the early 1990s from an inward-looking development strategy to a liberal and market-based approach resulted in significant changes in its foreign investment policy. Until the early 1990s, the policy was heavily restrictive with a majority foreign equity permitted only in a handful export-oriented, high technology industries. Outward-oriented reforms have changed such perceptions with a progressively liberal foreign investment policy followed by a steady reduction of external capital controls and simplification of procedures.

The change in investment regime has facilitated inflows of FDIs from a number of countries, both developed and developing, and from all regions. Some of the countries which have heavily invested in India include Mauritius, Singapore, Japan, US, UK, Netherlands, Cyprus, Germany, France, and the UAE, among others.

Despite the achievements and the progress made, the investment regime in India is still considered restrictive in comparison to a number of other countries. Various restrictions remain in place, especially in low-productivity sectors where growth could be accelerated by the enhanced productivity that would benefit from increased foreign investment, for example in banking, insurance and especially retail distribution. Inflows of FDIs in these sectors could help raise incomes in the agricultural sector while increasing choice and lowering living costs for consumers.

Prohibited Sectors

As per the consolidated FDI policy of 2012, there are certain sectors where FDI is strictly prohibited. These are,

- Retail trading, except when it is single brand product retailing.
- Any and all lottery business, including government/private, online lotteries, etc.
- Gambling and betting businesses, including casinos etc.
- Chit funds- a kind of a saving scheme.
- Nidhi companies- a non-banking finance company doing the business of lending and borrowing with its members or shareholders.
- Trading in Transferable Development Rights (TDRs).
- Real estate business or construction of farm houses.
- Manufacturing of cigars, cheroots, cigarillos and cigarettes, or of tobacco or tobacco substitutes.
- Activities / sectors which are not open to private sector investment e.g. atomic energy and railway transport (other than Mass Rapid Transport Systems).

Sectoral Investment Policies

Besides the above prohibited sectors, investment is allowed in all other sectors of the economy but with varying limits to the extent of share in equity capital and fulfillment of certain conditions, as shown in Table 41.

India has until now opened up 59 sectors for FDI. In terms of degree of opening up, out of 59 sectors, a majority of sectors (33) have an investment cap of 100% equity. In addition, there are another 12 sectors with investment cap of 49%; four sectors each with investment cap of 74 and 26% respectively; two sectors each with investment cap of 74-100% and 49-74%; and one sector each with investment cap of 49-100 and 20% respectively.

Table 41: Sectoral Investment Policies	
Sector cap	**Sector (automatic/ FIPB route)**
100%	Automatic (with investment within sectoral caps): Airports (Greenfield); Air-transport services – scheduled (Non-resident Indians); Air-transport services – non-scheduled/chartered and cargo airlines (Non-resident Indians); Alcohol distillation and brewing; Civil aviation services ground handling services (Non-resident Indians); Maintenance and repair organizations, flying training institutes and technical training institutions; Coal and lignite mining (specified); Coffee, rubber, processing and warehousing; Construction, development projects (specified); Drugs and pharmaceuticals (including those involving use of recombinant DNA technology); Floriculture, horticulture, development of seeds, animal husbandry, pisciculture, aqua culture, cultivation of vegetables and mushrooms (specified and services) related to agro and allied sectors; Hazardous chemicals (specified); Industrial explosives manufacture; Industrial parks; Mining covering exploration and mining of diamond and precious stones, gold, silver and minerals; Non-banking finance companies (specified); Petroleum and natural gas (refining, private companies); Petroleum and natural gas (other specified areas); Power including generation(except atomic energy), transmission, distribution and power trading; Special economic zones (setting up of zones and setting up of units in these zones; Manufacture of telecom equipment; Trading (wholesale/ cash and carry); Trading (for exports). Sectors in which FIPB approval is required if investment is above the sectoral cap: Uplining of non-news and current affairs TV channel; Cigar and cigarette manufacture; Courier services other than those under the ambit of Indian Post Office Act; Investment companies in infrastructure/ service sector (except telecom); Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities; Publication of scientific magazines (journals/ periodicals); Tea (including tea plantation); Trading of items, sourced from small scale sector; Test marketing of such items for which a company has been approved for manufacture.
74-100%	Automatic (with investment within sectoral caps): Airport (existing); Banking (private sector). Sectors in which FIPB approval is required if investment is above the sectoral cap: Airport (existing).
74%	Automatic (with investment within sectoral caps): Air-transport services – non-scheduled/chartered and cargo airlines (FDI); Air transport services (others Helicopter services/separate services specified); Civil Aviation services ground handling services (FDI). Sectors in which FIPB approval is required if investment is above the sectoral cap: Satellite establishment and operation.
51%	Sectors in which FIPB approval is required if investment is above the sectoral cap: Single brand product retailing.
49-100%	Sectors in which FIPB approval is required if investment is above the sectoral cap: ISP without gateway, infrastructure provider (specified), electronic mail and voice mail; ISP with gateway, radio paging, end to end bandwidth.
49-74%	Sectors in which FIPB approval is required if investment is above the sectoral cap: Basic/ cellular services, unified access services, value added and other specified services.
49%	Automatic (with investment within sectoral caps): Air-transport services – scheduled (FDI); Basic / cellular services unified access services, value added and other specified services; ISP with gateways, radio paging end to end bandwidth; ISP without gateway; Infrastructure provider (specified), electronic mail and voice mail. Sectors in which FIPB approval is required if investment is above the sectoral cap: Asset reconstruction companies; cable network; Direct-to-home (DTH); Setting up hardware facilities; Commodity exchange; Credit information companies; Petroleum and natural gas – refining.
26%	Automatic (with investment within sectoral caps): Insurance. Sectors in which FIPB approval is required if investment is above the sectoral cap: Uplinking a news and current affairs TV channel; Defense production; Publishing of newspaper and periodicals dealing with news, current affairs;
20%	Sectors in which FIPB approval is required if investment is above the sectoral cap: FM radio.
FDI not allowed	Agriculture (excluding floriculture, horticulture, development of seeds, animal husbandry, pisciculture, aqua culture, cultivation of vegetables and mushrooms – specified and services – related to agro and allied sectors) and plantations (other than tea plantations); Atomic energy; Business of chit fund gambling and betting; Housing and real estate business; Lottery business; Nidhi companies (borrowing from members and lending to members only against security); Retail trading (except 51% in single brand product retailing); and Trading in transferable development rights.

Investment Flows into India

Economic liberalization programs and enabling policies have resulted in aggregate foreign investment into India increasing from USD $103million in 1990-91 to USD $61.8 billion in 2007-2008. In terms of overall impact of change in policy, the Foreign Investment Promotion Board (FIPB) data shows that the cumulative amount of FDI equity inflows from April 2000-February 2012 stood at USD $246.6 billion. The trend continues in the current period. For the available latest period, April-February 2011-12, the FDIs inflow was recorded at USD $28.4 billion.

The inflows are mainly in the form of equity. Recent data show that Indian corporate sector witnessed 118 private equity (PE) deals worth USD $2.01 billion during the first quarter of 2012. Sectors like e-commerce and domestic sectors have realized significant gains over the last few years.

The trend has helped India to be recognized as one of the most attractive investment destinations in the world. This is reflected by the 2012 A.T. Kearney FDI Confidence Index. The Index which examines future prospects for FDI flows based on assessment of the impact of political, economic, and regulatory changes on the FDI intentions and preferences of the leaders of top companies around the world, ranks India 2nd after China in a group of 25 countries, with the current ranking showing an improvement over its ranking in 2007, when it was ranked 3rd after China and the US.[31] There are also indications that the country can attract much larger foreign investment given its distinct advantages of large domestic market, rising disposable incomes, developed financial architecture and skilled human resources. However, any attempt to convert the potential to actual appears is tied to further liberalization of the foreign investment policy.

Investment Policy towards Pakistan

In April, 2012 India amended its investment regime to allow FDI from Pakistan.[32] As per Circular 2, 2012 of Consolidated FDI Policy of India, "a citizen of Pakistan or any entity incorporated in Pakistan can invest only under the Government route, in sectors / activities other than Defense, Space and Atomic energy."
Pakistan was previously barred from investment under the Foreign Exchange Management Act (FEMA) 1999 and the Foreign Exchange Management (Transfer or issue of any foreign security) Regulations, 2000.[29]

While the investment regime has been liberalized, the FDI policy still treats investment from Pakistan differently in the following aspects than it would investment from other countries, except Bangladesh:

- On the issue of the route of investment, the Consolidated FDI Policy stipulates that Pakistani citizens or any entity incorporated in Pakistan can invest in India only under the Government route (i.e. with a prior approval of the Government through Foreign Investment Promotion Board (FIPB)). Currently FIPB is overseen by the Finance Minister and its members are the Secretaries of Economic Affairs, Industrial Policy and Promotion, Commerce, Economic Relations and External affairs. Given the number of stakeholders involved the approval, the process may be time-consuming and cumbersome.
- The only other country this restriction applies to is Bangladesh. All other countries can invest via the automatic route, where no prior approval of the Government or Reserve Bank of India (RBI) is required. The investors are only required to notify the regional office of RBI within 30 days of receipt of inward remittance and file the required documents within 30 days of issue of shares to foreign investors.
- On the issue of procedure for setting up Project Office in India by a foreign company, with respect to Pakistan, the rule says **"**if the parent entity is established in Pakistan, such

[31] 2012 A.T. Kearney FDI Confidence Index

applications (for setting up a Project Office) have to be forwarded to the Foreign Exchange Department, Reserve Bank of India, Central Office, and Mumbai for approval".

- On the issue of conditions applicable to opening up of a Liaison/Branch/Project Office in India, the rule with respect to Pakistan says, "without prior permission of the Reserve Bank, no person being a citizen of Pakistan, can establish in India, a Branch or a Liaison Office or a Project Office or any other place of business".
- The FEMA regulations with respect to Pakistan even goes further and regulates the relationship between people of Pakistan origin employed by Indian companies (both listed and unlisted). The rule says that listed Indian companies are allowed to issue shares under the Employees Stock Option Scheme (ESOPs), to its employees or employees of its joint venture or wholly owned subsidiary abroad, who are resident outside India, other than to the citizens of Pakistan. Similarly, in the case of unlisted companies, the rule says that the Indian company can issue ESOPs to employees who are resident outside India, other than to the citizens of Pakistan.
- Besides the above, the rule also mentions that no person being a citizen of Pakistan shall acquire or transfer immovable property in India, other than lease, not exceeding five years without prior permission from the Reserve Bank. There are also other provisions that restrict Pakistani people/enterprises to acquire, dispose, repatriation of sales proceeds, inheritance of immovable properties in India, among others.
- Opening of branches/subsidiaries of foreign banks is determined by the policies of RBI. These also appear to exclude Pakistan, as described in Box 41.

Table 42: Presence of Foreign Banks in India
The Reserve Bank of India has allowed the presence of foreign banks in India either by setting up a wholly owned banking subsidiary (WOS) or opening up a branch. The preferred option being the former. The guidelines cover, interalia, the eligibility criteria of the applicant foreign bank such as ownership pattern, financial soundness, supervisory rating and the international ranking. The WOS is required to have a minimum capital of (India) Rs 3 billion and sound corporate governance. Also, the WOS must maintain a minimum capital adequacy ratio of 10 percent of risk weighted assets. RBI has also prescribed market access consistent with WTO, that is (i) reciprocity and (ii) single mode of presence. Foreign banks applying to the RBI for setting up their WOS / branch in India must satisfy RBI that they are subject to adequate prudential supervision in their home country, as required by the Basel standards. The WOS / branch will be subject to the same regulation by RBI as applied to private banks in India. Also, the setting up of the WOS/ branch in India must have the approval of the home country regulator. A critical factor which RBI will consider is the following: 'Economic and political relations between India and the country of incorporation of the foreign banks'. This factor, more or less, precludes the possibility of a Pakistani bank being able to open a WOS / branch in India, given the state of political relations between the two countries. Also most Pakistani banks today have negative international ratings.

The Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry, Government of India's Consolidated FDI Policy (effective from April 10, 2012), which is linked to the FEMA rules, also talks of similar provisions for people/enterprises from Pakistan. On the criteria to qualify as the person of Indian Origin (PIO), the policy says, a citizen of any country other than Pakistan. In the policy document, provisions made in the FEMA rules have been retained.

In sum, for Pakistan, the existing foreign exchange and investment rules in India appear to be very restrictive and cumbersome as it was the case also for investors from Bangladesh before 2008. Therefore, to facilitate investment from Pakistan, necessary changes need to be made in the FEMA rules and regulations, as well as in the Consolidated FDI policy. As of now, despite the recent announcement to allow Pakistan to invest in India, the official policy statements have not been changed and remain discriminatory in character.

Chapter 10 Investment Policy of Pakistan

Foreign investment policy [33] of Pakistan is given legal cover under the following:

- Protection of Economic Reforms Act,1992
- Foreign Private Investment (Promotion and Protection) Act,1976

Prohibited Sectors

The prohibited sectors are as follows:

- Arms and ammunition
- High explosives
- Radioactive substances
- Security printing, currency and mint
- Alcoholic beverages or liquors

Sectoral Policies

The categorization of the current Investment Policy by sectors is as follows:

Table 43: Categorization of Sectors in Investment Policy

Manufacturing or Industrial Sector	Non-Manufacturing Sector	Other Sectors
	Services Sector	Tourism
	Infrastructure Sector	Housing and Construction
	Social Sector	Information Technology

Table 44 indicates the foreign investment policy by sector.

Table 44: Foreign Investment Policy in Different Sectors

Sector	Limit of Cap/Equity	Conditions
Manufacturing/Industrial*	100%	Automatic
Services	100% with minimum equity of Rs 150 million	Subject to obtaining approval from concerned agency/agencies**
Infrastructure (including development of Industrial Zones)	100% with minimum equity of Rs 300 million	Subject to obtaining approval from concerned agency/agencies**
Social Sector***	100% with minimum equity of Rs 300 million	Subject to obtaining approval from concerned agencies**

* tourism sector, housing and construction and information technology are treated as industry in the investment policy
** including relevant departments of provincial governments
*** including education, technical training, human resource development, hospitals, medical and diagnostic services.

Investment Incentives

- Plant and Machinery importable at 5% customs duty
- Full repatriation of capital, capital gains, dividends and profits
- Facility for obtaining foreign private loan (with no guarantee by Government of Pakistan). However loan agreements have to be approved by SBP
- Access to working capital from local banks
- Royalty/Technical fee payments face no restrictions, but agreements must be registered with SBP. Fixed tax rate is 15%.

[33] This chapter is based largely on the website of the Board of Investment (BOI), Government of Pakistan.

Agreements

- The government of Pakistan has signed agreements on Avoidance of Double Taxation with 60 countries
- Pakistan has signed Bilateral agreements with 46 countries on Promotion and Protection of Investment, with the following provisions:
- non-discrimination between local and foreign investors
- free transfer of funds
- a dispute settlement mechanism
- compensation the event of war, calamities and emergency

Level and Composition of Foreign Investment

- Total foreign investment cumulatively since 2001-02 in Pakistan is USD $27.8 billion, with the following shares

Table 45: Foreign Direct Investment Shares (2001-02)

FDI	(%)
Greenfield	83
Privatization Proceeds	10
FPI	7
Total	**100**

- Main sources of investment are USA (22%), UK (11%), UAE (15%), China (3%)
- The major sectors of investment are telecom (27%), banking (19%) and oil and gas (19%)

Investment Policy with Respect to India

- Pakistan does not explicitly follow a discriminatory policy of investment with respect to Indian residents or companies unlike India's investment policy. It is likely, however, that special impediments are created at the time of issuance of No Objection Certificates (NOCs) or approval by concerned agencies.
- Pakistan does not have a comprehensive agreement with India on the Avoidance of Taxation (see Section below) or a Bangladesh type of Agreement on Promotion and Protection of Investment with India.

Avoidance of Double Taxation Between India and Pakistan

Pakistan has signed full-scope treaties/conventions with 60 countries on the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes in income. Pakistan has agreements on avoidance of double taxation with two South Asian countries – Sri Lanka and Bangladesh.

Pakistan does not have a full-scope treaty on avoidance of double taxation with India. Instead, there is a Limited Purpose Treaty in the form of a SAARC Limited Multilateral Agreement signed by all member countries signed on November 13, 2005. The standard articles of a typical full-scope agreement are compared with the Limited agreement of SAARC below:

Table 46: Standard Articles of a Typical Full-Scope Agreement compared to the Limited Agreement of SAARC

Full-Scope Agreement*	SAARC Limited Agreement
Article 1 : Personal Scope	Article 1 : General Definitions
Article 2 : Taxes Covered	Article 2 : Persons Covered
Article 3 : General Definitions	Article 3 : Taxes Covered
Article 4 : Fiscal Domicile	Article 4 : Resident
Article 5 : Permanent Establishment	Article 5 : Exchange of Information
Article 6 : Income from Immoveable Property	Article 6 : Assistance in the Collection of Taxes
Article 7 : Business Profits	Article 7 : Service of Documents
Article 8 : Shipping and Air Transport	Article 8 : Professors, Teachers and Research Scholars
Article 9 : Associated Enterprises	Article 9 : Students
Article10 : Dividends	Article10 : Training
Article11 : Interest	Article11 : Sharing of Tax Policy
Article12 : Royalties	Article12 : Implementation
Article13 : Capital Gains	Article13 : Review
Article14: Independent Personal	Article14 : Amendments
Article15 : Dependent Personal Services	Article15 : Depository
Article16 : Director's Fees	Article16 : Entry into Force
Article17 : Artistes and Athletes	Article17 : Termination
Article18 : Government Service	
Article19 : Non-Government Pensions and Annuities	
Article20 : Professors and Teachers	
Article21 : Students and Apprentices	
Article22 : Other Income	
Article23 : Avoidance of Double Taxation	
Article24 : Non-Discrimination	
Article25 : Mutual Agreement Procedure	
Article26 : Exchange of Information	
Article27 : Diplomatic Agents and Consular Officials	
Article28 : Territorial Extension Article29 : Entry into Force Article30 : Termination	* For example, with Sri Lanka

Therefore, while a typical full-scope agreement has 30 articles the limited SAARC agreement has 17 articles. In particular, tax treatment of different types of income in Articles 6 to 23 is missing in the SAARC agreement. This agreement does not focus on the problem of double taxation but is aimed primarily on the exchange of information to prevent tax evasion. Pakistan also has a long standing Air Transport Agreement with India. In the event Pakistan and India open up investment in each other's country then it will be necessary for the two countries to sign a full-scope Agreement on Avoidance of Double Taxation.

Chapter 11 Policy Brief for the Ministry of Commerce

The previous chapters have highlighted the trade and investment restrictions in India and Pakistan, generally and with respect to each other. By adoption of different approaches it has been demonstrated that the volume of trade between the two countries could rise substantially if some of the major NTBs could be relaxed and more steps are taken to facilitate trade.

Summary of Principal Findings

The overall trade regime of India appears to be more restrictive than many other developing countries, especially on agricultural items. The licensing and permit regimes are complex. SPS and TBT measures are applied strictly and there is a multiplicity of agencies. Anti-dumping and countervailing measures are used actively. Transportation restrictions apply on some goods.

The survey of Pakistani exporters to India revealed problems with issuance of visa, bottlenecks in transportation infrastructure on land routes, delays in obtaining certification and release of consignments by Customs, problems of limited banking channels, complex requirements for meeting SPS and technical requirements and lack of access to information on marketing opportunities and export potential in India. Table 45 indicates the principal problems faced by such exporters.

Turning to Pakistan, it is clear that NTBs are not as wide ranging as India and are applied less rigorously. Primary reliance is placed on tariffs and SROs as the mechanisms for protecting domestic industry. Import licensing is limited and is used primarily for safety, security, religious and health reasons or for availing concessionary tariffs. Some items are subject to ministerial/agency approval. State trading is primarily in agricultural items. SPS-related legislation is relatively outdated and not applied strictly.

Indian exporters to Pakistan also highlighted visa restrictions, restrictions on goods that can move on the land route, shortage of railway capacity, lack of harmonization of the classification of goods, delays at customs and difficulties in financial transactions.

By and large, problems identified by the exporters in the two countries are similar in nature. This indicates that there are significant mutual benefits that can be realized by the adoption of reciprocal and common arrangements.

Short-Run Measures

During the on-going negotiations with India, prior to the granting of MFN status, Pakistan may seek the following from India as short-run measures:

- Ensure effective streamlining and simplification of the system of issuing visas to businessmen under the revised visa protocols signed by Pakistan and India in September 2012 to facilitate trade and economic relations.
- As already indicated by India, to the extent possible, the process of meeting SPS and TBT requirements should be simplified, by accepting certification by PSQCA and Pre-shipment agencies. In addition, India needs to set up a testing and quarantine facility close to the border. The current certification requirements every two years also need to be relaxed.
- More efficient and less documentation-intensive process of handling by Indian Customs. Efforts at minimizing problems of transportation of goods from the border to destinations in India are also necessary.

Table 47: Problems of NTBs & Trade Facilitation (HIGHLIGHTED BY EXPORTERS)

	Problem Pakistani Exporters to India	Highlighted Indian Exporters to Pakistan
A. Issuance of Visa		
• Too much documentation	✓	✓
• Getting sponsorship	✓	-
• Delay in obtaining visa	✓	-
• Limited Duration of Visit	✓	✓
• Limited number of cities	✓	✓
• Police reporting	✓	✓
• No multiple visa	✓	✓
B. Transportation Infrastructure and Logistics		
• Restricted list of goods by land route		✓
• Shortage of railway wagons	✓	✓
• Modal change at border	✓	✓
• Absence of Alternative land Routes		✓
C. Testing and Quarantine Facilities		
• Absence of Border Facilities	✓	✓
• Delays in Certification due to Strict Application	✓	-
• Problem of Non-Transparent Processes	✓	-
• Multiplicity of Agencies	✓	-
D. Inter-State Movement		
• Problems in movement of consignment from one State / Province to another	✓	✓
E. Labeling and Packaging		
• Delays in Processing	✓	-
• Too many requirements with some costs	✓	-
F. Customs		
• Delays in clearing consignments	✓	✓
• Side payments	✓	-
• Lack of Harmonization of Product Classification	-	✓
• Security Checks	✓	✓
G. Banking Transactions		
• Problems in opening L/Cs	✓	✓
• Problems / Delays in receipt of payments	✓	✓
• High cost of transactions	✓	✓
• Absence of Agreement on Trade in Services	-	✓
H. Information Flows		
• Lack of Possibilities of e-filing	✓	-
• Lack of Portal on Lists, Tariffs, Membership of Chambers, etc.	✓	✓
• Too few Trade Fairs	✓	-
I. Mind Set		
• Limited import possibilities from Pakistan in India	-	✓
• High tariffs and NTBs on potential exports from Pakistan	✓	-
• Security Concerns	-	✓
J. Transit Facilities		
• Absence of Transit Facility to Afghanistan	✓	-
✓ indicates presence		

Pakistan should clearly be willing to reciprocate with similar measures, especially related to the following:

- Enhancing in the railway wagon capacity and signing of a bilateral railway protocol
- Setting up testing, warehousing and other facilities at the border
- Expanding the list (beyond the existing 137 items) of items that can be exported on the land route from India
- Harmonizing the classification of goods between the Customs departments of the two countries, especially with regard to items on the Negative List of imports from India.

Medium Run Measures

In the medium run, a number of measures can be undertaken by the two countries, which could greatly facilitate trade.

Transportation: Opening of more ICPs and land routes at the border, especially at Khokhrapar.

Banking: Opening of bank branches in India requires the fulfillment of a number of relatively difficult conditions. On top of this, RBI, at least, implicitly discriminates in the granting of approval for a branch/ subsidiary by a bank from countries like Pakistan. The improvement in banking channels will greatly facilitate trade between the two countries.

There are two options. Either the countries wait for the South Asia Agreement on Trade in Services (SATIS) or arrive at a bilateral arrangement, whereby there is reciprocity in the opening of branches.

Investment: As shown in Chapter IX, India has an openly discriminatory investment policy with respect to Pakistan. Despite recent statement that investment by Pakistani residents and companies will be allowed in India, this is yet to be reflected in the Foreign Investment Policy of India, announced earlier this year. Pakistan's FDI policy is generally more liberal and contains no specific restrictions against investment from India. It is important that, sooner than later, India officially withdraws the discriminatory clauses in its Investment Policy as a confidence building measure. Perhaps, over the next few years, the two countries can move towards the establishment of Bilateral Trade and Investment Commission, not only to facilitate economic relations but also to create an institutional framework for dispute settlement.

Avoidance of Double Taxation: As investment flows start between the two countries, it will be necessary to sign a bilateral agreement on the avoidance of double taxation. Such an agreement does not exist today, as indicated in section 10.7 and the SAARC multilateral agreement is inadequate.

Capacity Building Measures

A number of important capacity building measures will need to be undertaken to effectively manage the granting of MFN status to India and the implementation of the final phase of trade liberalization under SAFTA, both of which are likely to occur at, more or less, the same time. In particular, the following institutions need to be strengthened.

National Tariff Commission: A number of Pakistan's industries are likely to be impacted, first, by the move from a Positive List to a Negative List, second, by granting MFN status to India, and, third, the reduction in customs duties to 5% on all items, excluding those in the Sensitive List of SAFTA of Pakistan.

The series of changes by the end of 2012 could lead to a spate of requests from a large number of import- substituting industries who fear displacement and seek safeguard measures against 'serious injury'. A summary of the provisions for Safeguard measures in Pakistan and under SAFTA are given in Box 11.1.

NTC has handled only one safeguard investigation on a surge in imports of footwear. This investigation was terminated without any action.

Industries of the following type are more likely to fear or experience injury:

- Which had no products in the Positive List but are not now in the Negative List
- Which have products currently in the Negative List but will be subject to competition from India following the granting of MFN status; with the displacement likely to be greater in products which are major exports of India
- Products on which there are relatively high tariffs currently and are outside the Sensitive List of SAFTA, such that the duty will fall to 5 percent by end 2012.

Table 48: Safeguard Measures
Under the WTO Agreement on Safeguards, the Governments of Pakistan has promulgated the Safeguard Measures Ordinance, 2002, and Safeguard Measures Rules, 2003. The intent of the ordinance is to take 'Safeguard' action (i.e. restrict imports of a product temporarily) to protect a domestic industry from a sudden increase in imports of any product which has caused or is causing, or which is threatening to cause, serious injury to the industry. The action taken may either be in the form of imposition of a safeguard duty or restriction of imports through quotas. It must be established that this increase in imports is due to the effect of WTO obligations assumed by Pakistan (like granting MFN status to India) or due to unforeseen developments. A case can only be initiated by an applicant giving evidence of a surge in imports and serious injury thereof, in terms of a fall in sales, employment and profitability. In safeguard actions there should be consistency with tariff bindings committed by Pakistan with WTO. There has been only one safeguard investigation by NTC on the alleged surge of imports of footwear. This investigation was terminated without any action. The SAFTA Agreement in Article-16 allows safeguard measures if any product, which is subject to concession under the agreements, is imported into a Contracting State in such a manner or in such quantities as to cause, or threaten to cause, serious injury to domestic production. Subject to an investigation by the competent authorities of the Contracting State, conducted in accordance with the provisions in the articles, suspend temporarily, for a maximum period of 3 years, the concessions granted under the provisions of this agreement. Safeguard action will be non-discriminatory and apply to all contracting states. A Contracting State may take a provisional safeguard measure for duration of up to 200 days.

Industries which potentially have the above characteristics are as follows, and will be further analyzed in a subsequent analysis:

- Vehicles and Transport Equipment
- Pharmaceuticals
- Chemicals
- Jewellery
- Metals and Articles
- Machinery
- Engineering Goods
- Electrical Appliances
- Prepared Food stuffs
- Personal Care Items

The 2002 Safeguard Measures Ordinance requires completion of investigation within four months of its initiation. The NTC must reach a provisional conclusion within 45 days. Therefore, it is likely that the NTC may have to initiate a number of investigations within the next year with fast completion times. It will need a much larger cadre of professionals to do the technical analyses required under the Ordinance. It is appropriate that the law now provides for an Appellate Tribunal under the Anti-dumping Duties Ordinance of 2000. A similar provision should be incorporated in the Safeguard Measures Ordinance.

Customs: It will significantly facilitate trade if Customs could make arrangements for e-filing of documents at border posts. Also, even Pakistani exporters are not satisfied with the services provided by the Pakistan Customs. These need to be improved.

Pakistan Standards and Quality Control Authority: The laws and rules regarding SPS and TBT measures need to be updated and the capacity of the agency enhanced, with testing/certification facilities at the Wagah border. The standards will need to be strictly applied if large scale imports of pharmaceuticals and food items start trading from India after Pakistan grants MFN status to India.

Trade Development Authority of Pakistan: TDAP will have to be more proactive in organizing Exhibitions and Fairs for Pakistan exporters of various products in different cities of India to better provide Pakistani traders with export opportunities.

Ministry of Commerce: The Ministry may need to set up a portal on Pakistan-India trade providing access to laws, agreements, list of trade associations and their members, and trade statistics. It can also support efforts to promote the relationship between the Pakistani and Indian Chambers of Commerce.

In conclusion, Pakistan and India are moving into a decisive stage of their trade relations. It is essential that both countries facilitate their bilateral trade on the basis of the principle of reciprocity and mutual cooperation, for the benefit of the people of both countries. This will require an environment in which there are no stresses in the political relations and security concerns are not heightened.

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