United Nations Economic Commission for Europe

Regulatory and Procedural Barriers to Trade in Belarus
Needs Assessment

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Note

The designation employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations.

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Preface by the Secretariat

Following discussions among member States on the future direction of the UNECE Committee on Trade, the Executive Committee (EXCOM) recommended at its thirty-fourth meeting of February 2010 that the Committee carry out, before 2013, three trade needs assessment studies in countries with transition economies (ECE/EX/5).

The Secretariat expresses its gratitude to Government of the Russian Federation for financing the studies through the Russian Voluntary Contribution Fund made available to the UNECE.

Executive summary

An upper-middle-income, landlocked country, Belarus has been implementing since the early nineties comprehensive reforms to consolidate a market economy. Ranging from macroeconomic stabilization to economic liberalization measures, these reforms emphasize regional cooperation as a stepping-stone towards global integration.

However, Belarus is yet to reap the full benefits in areas such as new export markets, and technology transfer, with its economy showing continued reliance on extractive industries and light manufactures. Furthermore, development gains are jeopardized by inflation, growing fiscal imbalances and reduced access to international capital markets, all of which suggest fragile macroeconomic stability.

These challenges come at a time when the global economy is still struggling to recover from the economic crisis, and when labour-intensive products have lost their competitive edge. This means that, as it forges ahead with its macroeconomic reforms, Belarus needs to concentrate on restructuring the economy to allow for greater specialization in technology-intensive production with high value-added. In so doing, it needs to go beyond the important requisite of developing its enterprises' productive capacities and address non-tariff regulatory and procedural barriers to trade. Otherwise, economic and trade-development efforts are likely to be defeated by high transaction costs, which reduce the competitiveness of enterprises in local, regional and international markets. Similarly, unless these barriers are addressed, Belarus will not be able to fully benefit from its participation in the Customs Union (CU) with Kazakhstan and the Russian Federation.

Based on the UNECE comprehensive evaluation methodology, this study highlights the need to address a number of behind and at-the-borders regulatory and procedural barriers to trade. These are spread across the international supply chain as follows:

- Many traders lack capacity in areas such as export-import processes, quality management and marketing. These traders also: lack up-to-date information on new/revised export-import procedures and regulations as well as on emerging trading opportunities; have limited access to trade finance; and can draw only on a narrow range of trade insurance services.

- The traders' ability to establish presence in new export markets is undermined by capacity shortfalls in the standardization, quality assurance, accreditation and metrology (SQAM) infrastructure. The lack of certifying testing laboratories; risk management methodologies to support the surveillance function; and systemic coordination between main stakeholders are among the areas that require immediate action.

- Documentary requirements are complex, time-consuming and costly to obtain. The management of these requirements demands considerable skill and resources, adding to the traders' overhead costs.

- Delays at the borders, particularly on the import side, are caused, in large part, by over-reliance on physical inspection by some border-control agencies and a lack of coordination among the agencies.

- The overland (road and rail) transport system seems to be unresponsive to client needs in terms of its ability to provide customer-oriented services at a competitive cost, and in terms of longer-term capacity.

- Beyond these barriers, the study points to a number of capacity shortfalls that cut across all the processes supporting international trade transactions. These shortfalls point to the necessity for immediate measures to:

- Foster participatory approaches to planning and policy formulation, which involve a dialogue between stakeholders from the public and private sectors.

- Consolidate and further develop inter-agency coordination at both the planning and implementation levels.

- Increase private-sector participation in the provision of transport and logistics services.

- Develop the information and communication technology (ICT) infrastructure to support greater use of internationally recognized electronic business standards and instruments.

The evaluation also reveals challenges to coordinating efforts with CU partners. A major challenge will be to implement the common technical regulations that were introduced in early 2012. Yet another relates to the CU partners' uneven capacities in the area of electronic business and the use of electronic documents. Addressing these challenges falls beyond the scope of this study, and would require a separate assessment targeting the CU as a whole.

This study proposes a number of action-oriented measures for supporting Belarus's efforts to address the identified barriers. These measures are clustered under two headings: i) trade facilitation and ii) regulatory cooperation and standardization policies. As the proposed measures require substantive financial resources beyond what is currently available to the government and market support institutions, the need for international assistance cannot be over-emphasized.

Moreover, in order to ensure the sustainability of these measures, UNECE is assisting Belarus to establish a plan that spreads the implementation of recommendations by priority over several years in cooperation with trade and development partners.

List of recommendations

Trade facilitation

1. Establish a public-private sector forum on trade facilitation
2. Foster inter-agency cooperation and joint-action at the border
3. Simplify trade procedures and streamline documentary requirements
4. Help traders and State agencies comply with e-document requirements
5. Create a system for mapping CU data requirements to international standards
6. Establish a coordinated approach to risk management at the border
7. Broaden the scope of trade information dissemination and facilitate access
8. Encourage greater competition among trade-related service providers
9. Develop the railway network

Standardization and technical regulations

<u>General</u>

10. Establish a national programme to help SMEs comply with quality standards and technical regulations
11. Establish a national quality forum
12. Develop a regulatory impact assessment (RIA) system
13. Adopt new risk management tools
14. Bolster Gosstandart's institutional capacity

<u>Metrology</u>

15. Develop compliance testing laboratories
16. Enter into mutual recognition agreements
17. Strengthen metrology and legal metrology
18. Strengthen the metrological system for food products
19. Strengthen Gosstandart's expertise and skills

<u>Market surveillance</u>

20. Improve procedures for fighting counterfeit goods
21. Establish a national notification system for hazardous goods

Map of Belarus

The boundaries and names shown on this map do not imply official endorsement or acceptance by the United Nations.

Contents

Abbreviations

AEOs	Authorized Economic Operators
ATA	Admission Temporaire
BAME	Association of International Freight Forwarders and Logistics
CEN	European Committee for Standardization
CIS	Commonwealth of Independent States
CET	Common external tariff
CROs	Common regulatory objectives
CU	Customs Union
DAP	German Accreditation System for Testing
EU	European Union
EurAsEC	Eurasian Economic Community
EXCOM	Executive Committee of the UNECE
EA	European co-operation for Accreditation
FDI	Foreign direct investment
GDP	Gross domestic product
IAF	International Accreditation Forum, Inc
IEC	International Electrotechnical Commission
ILAC	International Laboratory Accreditation Cooperation
IMF	International Monetary Fund
ISO	International Organization for Standardization
ICT	Information and communication technology
ITC	International Trade Centre
MOU	Memorandum of Understanding
NSC	National Statistical Committee of the Republic of Belarus
RAPEX	Rapid Alert System for Dangerous Products
R&D	Research and development
RIA	Regulatory impact assessment
SMEs	Small- and medium-sized enterprises
TIR	Transports Internationaux Routiers
SCCBY	State Customs Committee of Belarus
SQAM	Standardization, quality assurance, accreditation and metrology
STBs	Governmental standards of the Republic of Belarus
TBT	Agreement on Technical Barriers to Trade
TNC	Transnational corporation
TTFSE	Trade and Transport Facilitation and Southeast Europe Project
UN/CEFACT	United Nations Centre for Trade Facilitation and Electronic Business
UNECE	United Nations Economic Commission for Europe
UNIDO	United Nations Industrial Development Organization
USAID	United States Agency for International Development
WCO	World Customs Organization
WTO	World Trade Organization

Introduction

An upper-middle income landlocked country, Belarus stood out as the Commonwealth of Independent States' (CIS) [1] top performer in economic growth following the disintegration of the Soviet Union in 1991. It was the first CIS country to resume positive growth, with real gross domestic product (GDP) reaching 6 per cent in 2000, and averaging around 9 per cent since 2003. Unemployment affected only 1 per cent of the labour force in 2009, as compared to 4 per cent in 1996, and only 6.1 per cent of the population was found to be living in extreme poverty in 2007. Belarus has also established itself as one of the most income-equal countries in the world, with a Gini coefficient of 29 in 2007, and has historically maintained high human development indicators.[2]

This impressive economic performance record was accompanied by extensive State support, via public-sector wages, subsidies, income transfers and subsidized credit under government lending programmes. Just like other countries with economies in transition, Belarusian exports remain undiversified, dominated by oil and gas, along with a narrow range of manufactured products.

This development pattern carries a high degree of vulnerability to changes in government expenditures and oil price fluctuations. The magnitude of this vulnerability was highlighted in early 2007 that saw a sharp decrease in Russian energy subsidies; and again in 2008 by sharp declines in international demand in the wake of the global financial and economic crisis.

The government succeeded in cushioning this impact by securing external financing and stepping up lending by State-owned banks. These measures, along with subsidies and transfers, enabled the economy to grow by 10.2 per cent in real terms in 2008, up from 8.6 per cent in 2007. However, the initial boost generated by these measures seemed to have worn out, with GDP growth plummeting to 2 per cent in 2009.[3]

The only enduring impact of the emergency measures has been a heavy burden on the national budget. Subsidies and transfers represented 69 per cent of total government expenditure in 2008, up from 35 per cent in 1994, while the share of compensations for government employees increased from 3 per cent to 11 per cent during the said period.[4]

To address the financial and economic crisis, the Government devaluated the Belarusian ruble by 20.5 per cent in January 2009, and implemented a series of measures to stabilize the economy (e.g., curbing inflation, spending cuts, reforming the exchange rate regime, and reducing price controls). [5] The Government also resorted to external borrowing, and obtained a $3.63 billion loan from the International Monetary Fund (IMF) in 2009.[6]

The substantive cash injection that came with the IMF loan, together with the reform measures, enabled the economy to rebound and register around 7.6 per cent real GDP growth in 2010. But this growth came at the expense of soaring indebtedness levels. The general government gross external debt to GDP ratio reached 25 per cent in 2009, up from around 12 per cent in 2008 and is

[1] CIS member countries include: Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

[2] World Bank Development Indicators and United Nations Development Programme (UNDP) Human Development Indicators, different issues.

[3] Based on official statistics by the National Statistics Committee (NSC) of the Republic of Belarus, published at: http://belstat.gov.by/homep/en/indicators/main1.php.

[4] See World Development Indicators, World Bank.

[5] In January 2009, the government re-pegged the Belarusian ruble, previously de facto pegged to the US dollar, to a basket consisting of the US Dollar, Euro, and Russian ruble in equal proportions (IMF, 2010).

[6] IMF (2010), Republic of Belarus: Fourth Review Under the Stand-By Arrangement, IMF Country Report No. 10/89, Washington, D.C., IMF.

estimated to have reached 30 per cent in 2010, while the current account deficit is estimated at 16 per cent of GDP in 2010.[7] At the same time, export growth continued to lag behind imports, with the consequence of expanding the trade deficit (see chapter I), and, thereof, increasing the pressure on inflation rates and foreign exchange reserves.

A second round of emergency measures was launched in May 2011, with the devaluation of the ruble by 36 per cent.[8] However, expected benefits are likely to be undermined by the reduced purchasing power of ruble-denominated savings. With the currency devaluated by 56.5 per cent since 2009, the enterprises lack the resources to import the required spare parts and raw material for maintaining their operations, let alone for expanding production activities.

Access to external credit is also difficult with the government's inflation targeting policy creating upwards pressures on interest rates. At the same time, the enterprises are facing low level of demand in domestic markets, owing to the suspension of cheap consumer loans to households since May 2011. Under such conditions, the economy is expected to grow by 3.5 per cent in real terms 2011.[9]

The economy's incapacity to generate enough savings and exports forced the government into another round of external borrowing. In June 2011, it obtained a $3 billion from the Eurasian Economic Community (EurAsEC) regional development fund, which will be disbursed over a 10-year period and accompanied by a series of reform measures in the areas of privatization, fiscal and monetary policy. [10] But as the government is facing difficult loan repayments on the 2009 IMF loan, it has approached the IMF with a request for new credit.[11]

The need for further reform measures to achieve economic diversification is evident. This was highlighted by several studies, which offer numerous proposals for the consideration by the Belarusian Government and its development partners.[12] While differing in their scope and focus, the studies emphasize trade as a key element in the achievement of economic diversification. Supported by appropriate policies, trade could enable enterprises to achieve economies of scale and scope through technology transfers and new export opportunities.

Equally important is the necessity for targeted efforts to overcome non-tariff regulatory and procedural barriers to trade. Otherwise, Belarus' economic and trade development efforts are likely to be defeated by high transaction costs, which could reduce the enterprises' competitiveness in local, regional and international markets. These non-tariff barriers form the focus of the UNECE trade needs assessment study, which identifies regulatory and procedural barriers to trade based on a comprehensive evaluation methodology.

This study summarizes the findings of the needs assessment. It starts with a brief discussion of the main issues facing Belarusian trade policy makers in chapter one. This is followed by an overview of the UNECE evaluation methodology in chapter two. Chapter three highlights key procedural and regulatory barriers to trade facilitation, while chapter four looks into existing institutional

[7] Ibid.
[8] IPM Research Centre (2011), Belarusian Monthly Economic Review, No. 6 (105), June, Minsk: IPM
[9] According to estimates by the IMF Research Center (2011), Belarusian Monthly Economic Review, No. 8 (107), August, Minsk: IPM.
[10] Ibid.
[11] IMF (2011), Statement by the IMF Mission to the Republic of Belarus, Press Release No. 11/229, 13 June, Washington, D.C.
[12] See, for example, UNCTAD (United Nations Conference on Trade and Development) (2009), Investment Policy Review: Republic of Belarus, New York and Geneva, UN; UNDP (United Nations Development Programme) (2011), Belarus: The Human Development Implications of Trade Policy, Belarus, UNDP; UNECE (2011), Innovation Performance Review: Belarus, New York and Geneva, UN; and, World Bank (2010), Belarus Performance and Competitiveness, Belarus Economic Policy Notes, No.2, Washington, D.C., World Bank;

bottlenecks facing government agencies involved in the areas of standardization and technical regulations. The two chapters also identify priority needs, and propose practical, action-oriented recommendations for addressing these needs. The last chapter emphasize the need for a sequenced approach for implementing the proposed recommendations.

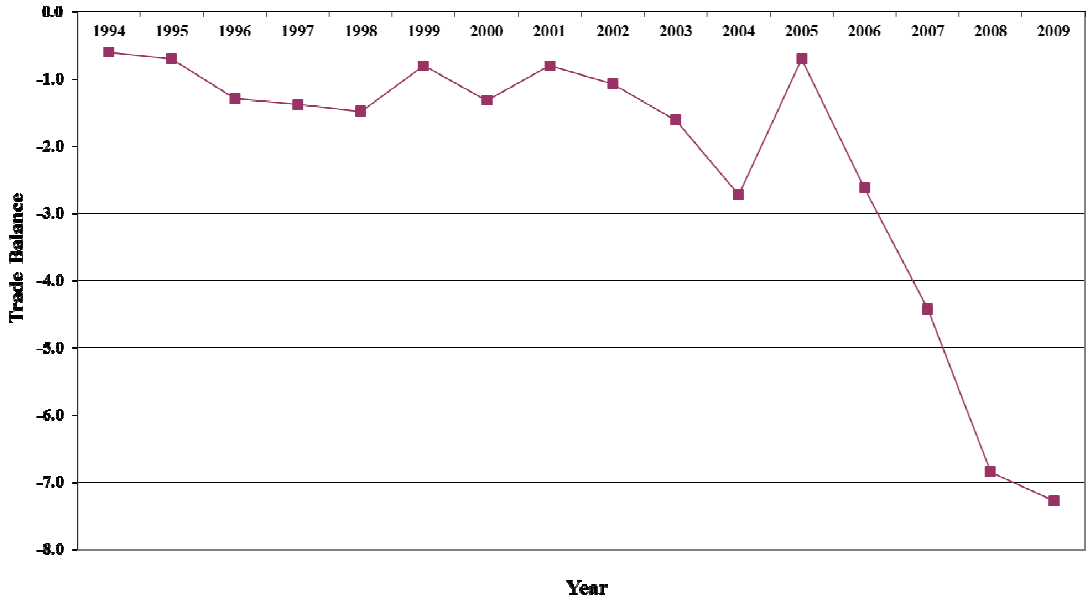
1. The Belarusian trade sector

This chapter introduces key policy issues facing Belarusian policy makers, with a view to set the context for a detailed analysis of procedural and regulatory barriers to trade. The chapter starts by providing an overview of the trade sector's performance, with a special emphasis on merchandize trade. An examination of major structural impediments to trade development and ongoing trade development efforts comes next, leading to a discussion of ongoing trade development efforts.

1.1 Trade patterns

The Belarusian economy has a high degree of trade openness, with a ratio of total merchandise trade to GDP standing at 102 per cent in 2009, as compared to 37 per cent in 1994. However, trade openness has been historically underpinned by an import bias manifested in a high ratio of merchandise imports to total merchandise trade, which fluctuated between 53 per cent and 57 per cent over the past decade. Hence, a persistent and expanding trade deficit that reached $7.3 billion in 2009 up from $557 million in 1994 (Figure 1.1). The share of this deficit in GDP has also increased from 4 per cent to 15 per cent over the same period.[13]

Figure 1.1
Belarus Merchandise Trade Balance ($billion)

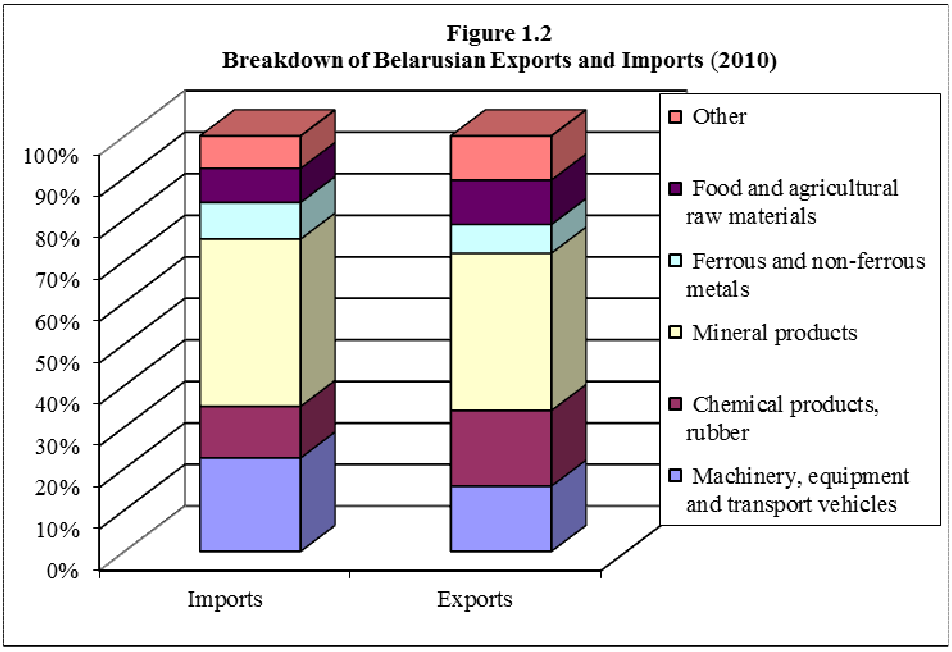


Source: Calculated based on World Bank estimates as reported in the World Development Indicators.

A review of the composition of the Belarusian merchandise trade reveals a highly concentrated structure. As shown in Figure 1.2, mineral products constituted the largest segment of merchandise exports and imports in 2010. Chemical products ranked second on the export side, followed closely by machinery, equipment, vehicles and transport equipment. On the import side, machinery, equipment and transport vehicles ranked second, followed by chemical products, albeit with a wide gap.

[13] See World Bank Development Indicators for Belarus, at: http://data.worldbank.org/country/belarus.

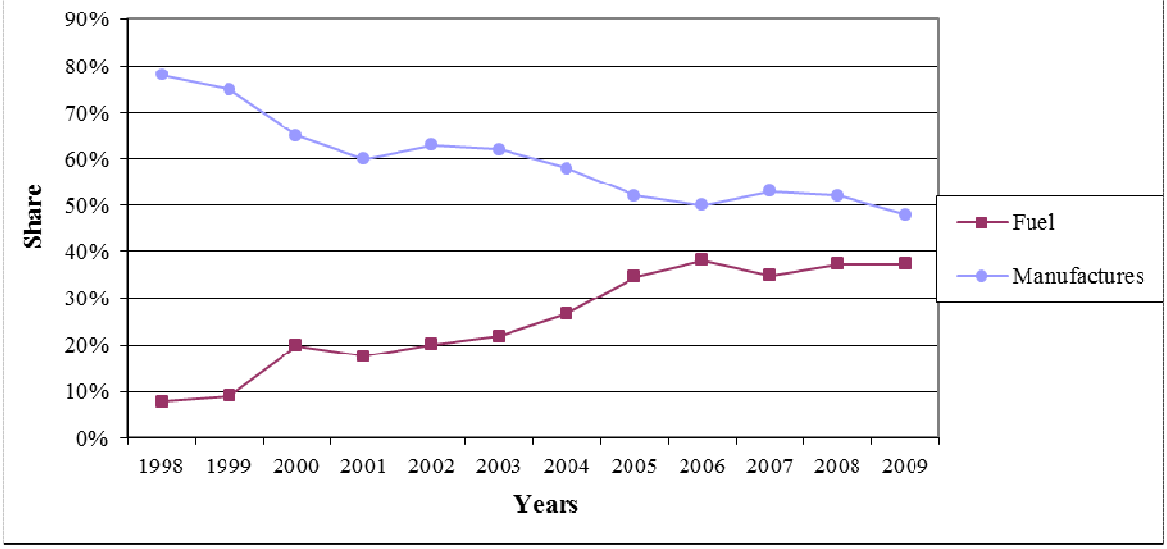
Figure 1.2
Breakdown of Belarusian Exports and Imports (2010)



Source: National Statistical Committee of the Republic of Belarus (2010, Statistical Yearbook of Belarus, Minsk.

It is worth mentioning that the period since late nineties has since a gradual shift in the composition of exports towards fuel s at the expense of manufactures, suggesting continuous deterioration in export competitiveness.[14] As shown in Figure 1.3, fuel and fuel products accounted for around 8 per cent of Belarusian total merchandise exports in 1998, as compared to around 78 per cent the share of manufactures. Thereafter, manufacturers' share of total merchandise exports has been assuming a declining trend.

Figure 1.3
Share of fuel (and fuel products) and manufatures in merchandize exports (1998-2009)
(as a percentage of total merchandise exports)



Source: World Bank, World Development Indictors.

[14] For an extensive analysis of Belarus' competitiveness, see, for example, the World Bank (2010), Belarus Performance and Competitiveness, Belarus Economic Policy Notes, No.2, Washington, D.C., World Bank

Yet another feature of the Belarusian trade sector is its heavy concentration with a limited number of partners, particularly the Russian Federation. While the share of the Russian Federation in Belarusian merchandize trade has been registering continuous decline trend since 1998, this trend does not reflect genuine diversification in trade partners. Rather, the decline was caused by increased competition in the Russian market. Belarusian exports to the Russian Federation, consisting mainly of trucks, tractors, milk and dairy products, meat, iron and steel and ethylene, represented 41 per cent of Belarusian exports in 2010 down from 65 per cent in 1998. On the import side, the share of the Russian Federation in total Belarus' imports remained stable, albeit some fluctuations, at 53 per cent and remained dominated by oil and raw commodities.

Belarus other main trade partners include the EU-27 and Ukraine, and exports to these markets are dominated by mineral products. Thus, even as Belarusian enterprises expand their outreach to new markets, they remain inherently incapable of venturing into new production activities. As shown in Figures 1.4 and 1.5, the European Union (EU)-27 ranked as Belarus' second trade partner in 2010, followed by Ukraine. However, Belarusian exports to Ukraine are dominated by mineral and agricultural products. In the case of the EU-27, in addition to mineral products and chemicals, exports include machinery and transport equipment.

Figure 1.4
Belarus main export partners (2010)

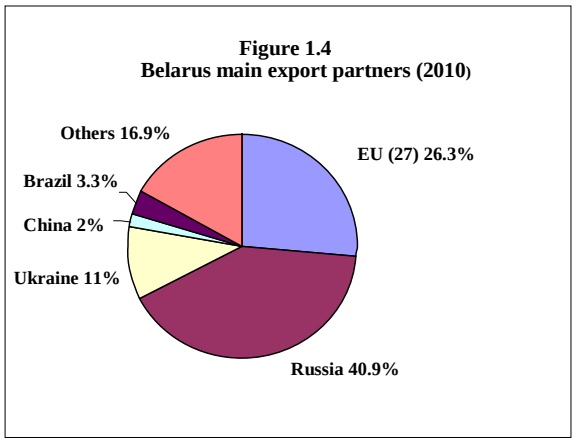
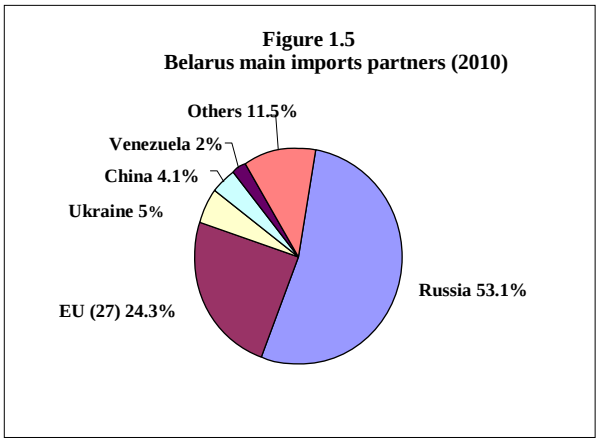


Figure 1.5
Belarus main imports partners (2010)



Source: International Monetary Fund, Direction on Trade Statistics.

1.2 Structural bottlenecks to trade development

No doubt that Belarus has registered significant structural transformation since 1991, with the agricultural sector's share in GDP decreasing from around 24 per cent in 1992 to 10 per cent in 2010. [15] However, as previously mentioned, this structural transformation was not paralleled by improvements in competitiveness. Thus, the limited export basket of Belarus is mainly due to the lack of economic diversification, so that expanding the export basked requires nothing short of a major industrialisation effort.

The industrial sector, which accounted for around 43 per cent of total GDP in 2010, is dominated by fuel (and fuel products) and machinery manufacturing, continuing a persistent trend. The two branches accounted for 22 per cent and 21 per cent of the industrial sector's total value added in 2010, respectively, followed by processed food (17.6 per cent), and chemical and petrochemical manufacturing (12 per cent).[16]

The services sector, which registered an increase in its share in GDP from nearly 29 per cent in 1992 to around 48 per cent in 2009, is dominated by internal trade and catering activities, transport and construction services. There is a lack of advanced business services, information and

[15] World Bank, World Bank Development Indicators.
[16] Ibid.

communication technology, and research and development;[17] all of which are critical for improving the industrial sector's productive capacity and, thereof, the achievement of structural transformation toward high-value added activities.

This lack of economic diversification is attributed to the limited contribution of the private sector to economic development, accounting for around 30 per cent of GDP in 2010, the lowest among transition economies. [18] Reform measures to develop the private sector (through, among others, reducing restrictions on foreign direct investment, suspending interest rate ceilings and adopting a competition law) were undermined by a slow privatization process. The privatization programme, which commenced in 1991, targets relatively small companies in trade and public catering (restaurants or food stands), agriculture, light manufacturing, construction, machine building and metal plants.

Small- and medium-sized enterprises (SMEs) are unable to provide a seedbed for entrepreneurial ship, because they are thin on the ground. At an 11.4 per cent share of GDP in 2009, Belarusian SMEs' are lagging behind their counterparts in the CIS region.[19] Available statistics show SMEs share of GDP in Uzbekistan standing at 16 per cent in 2003 and at around 43 per cent in Tajikistan.[20]

The SMEs are burdened with a cumbersome business and regulatory framework that continues to inflate their transaction costs despite the Government's comprehensive reform measures.[21] SMEs operate under import/export restrictions, administrative control over prices, high levels of tax, penalties, and restrictions on currency transactions, which force them to concentrate on activities with low sunk costs (i.e. requiring low initial investment). The weight of administrative formalities and procedures is reflected in the SMEs' emphasis on the need for legal advice on business laws (e.g., taxes, obtaining permits, etc.). Staff development, a critical requirement for improving production and overall managerial processes, ranks low on the SMEs priority list, suggesting a heavy focus on adapting to survive.[22]

Moreover, the majority of Belarusian SMEs are highly dependent on State-owned enterprises, which constitute the main outlet for their products. They are also heavily concentrated in the capital city, Minsk, suggesting more reliable and better quality infrastructure services.[23]

Foreign direct investment (FDI) flows, which stand as important element in stimulating economic diversification and technology transfer, constituted only 2.5 per cent of GDP in 2006-2007 in average. This comes despite the government's efforts to attract FDI by increasing the system-wide

[17] World Bank, World Bank Development Indicators

[18] UN (United Nations) (2010), The United Nations Development Assistance Framework (UNDAF) and UNDAF Action Plan for the Republic of Belarus for 2011-2015, Belarus, UN.

[19] IMP Research Centre (2010), Small and Medium Business in Belarus, Quarterly Review, 17th issue.

[20] Asian Development Bank (2005), Private Sector Assessment for Uzbekistan, Asian Development Bank; and, IFC (International Finance Corporation) (2009), Business Environment in Tajikistan as Seen by Small and Medium Enterprises, Washington, D.C., IFC

[21] The government implemented a series of reform measures in the areas of business registration, construction permits, hiring of labour, property registration, taxation and foreign trade. As these areas represent six out of the ten areas covered by the World Bank's Doing Business Indicator, Belarus overall ranking on the ease of doing business index moved up from 115 (among 178 economies) in 2008 to 68 (among 183 economies) in 2011. The most comprehensive measures were in the area of starting a business, with the creation of a one-stop shop for property registration and a broad administrative simplification program that set strict registration time limits and computerized records. World Bank (2010), Belarus Performance and Competitiveness, Belarus Economic Policy Notes, No.2, Washington, D.C., World Bank.

[22] A. Glambotskaya, E. Rakova and A. Kkriba (2010), Business in Belarus 2101: Status, Trends, Perspectives, Minsk, IMP Research Centre.

[23] Ibid.

cap on foreign ownership to 50 per and establishing 6 economic free zones.[24] This share is below the CIS average share of 4.1 per cent, as well as the 5.2 per cent average share of Eastern Europe and Central Asia over the same period. In addition, FDI inflows are highly concentrated in banking and telecommunications, along with retail and construction.[25] It is worth noting that the construction sector has only recently figured as a key recipient of FDI inflows, particularly in the aftermath of the five-year Programme for Social and Economic Development for the period 2006-2009.[26] It is also worth noting that the construction's share of FDI has come at the expense of machinery and equipment to construction. The share of construction and installation in total fixed asset investment increased by around ten points since 2006, while the share of machinery investment contracted by around 10 points.[27]

1.3 Ongoing trade development efforts

Trade liberalization has long been given priority by the Belarusian Government as a critical element for achieving broad-based export competitiveness and economic diversification. Belarus commitment to this development path finds its strongest expression in its efforts to join the World Trade Organization (WTO), which commenced in 1993.

While several hurdles must be cleared before the terms of its accession package could be finalized, Belarus has taken important steps to anchor its trade policy in international binding commitments through bilateral trade agreements. To date, Belarus has engaged in bilateral market access negotiations with 22 WTO members. The negotiations have culminated into mutual agreements on Belarus' future accession commitments in the area of goods and services with ten WTO members, including Armenia, Bulgaria, China, Cuba, Dominican Republic, India, Kyrgyzstan, Moldova, Panama and Turkey.

Most recently, Belarus has formed a Customs Union (CU) with Kazakhstan and the Russian Federation, which is based on the WTO principles of most-favoured-nation treatment, national treatment, transparency and the prohibition of quantity restrictions. The CU comes within the context of a broader effort by the Eurasian Economic Community (EurAsEC) to increase inter-regional cooperation among its CIS members. [28] The first of the EurAsEC remaining members to join the CU, which is expected to include all EurAsEC members, is Kyrgyzstan that announced its intention to join the CU in April 2010.

The CU involves the creation of a common external tariff (CET) in relation to third countries as a stepping stone toward the establishment of a single economic space by 2012, with freedom of movement of services, goods, labour and capital. The CET was enforced in January 2010, and was followed by the establishment of a unified system of non-tariff regulations and a mechanism for the distribution of import customs duties. At present, the three CU partners are discussing a draft agreement to eliminate remaining trade barriers (i.e. not included in the basic CU agreements), including trade remedies, levies and equivalent measures applied to imported and exported goods originating in CU territory. The draft agreement also envisages non-discrimination with respect to

[24] As of 2003, Belarus boasts six free economic zones, which have attracted foreign investment, especially from Germany, Poland, Russia, and the United States of America which stands as the sixth-largest investor. UNCTAD (2009), Investment Policy Review: Republic of Belarus, New York and Geneva, UN.
[25] UNCTAD (2009), Investment Policy Review: Republic of Belarus, New York and Geneva, UN.
[26] The programme seeks to achieve 11-12 per cent growth in residential construction over the 2006-2009, with a target of 20 per cent for 2010 (IMF, 2011).
[27] IMF (2011), Statement by the IMF Mission to the Republic of Belarus, Press Release No. 11/229, 13 June, Washington, D.C.
[28] EurAsEC was established in 2000 by the Belarus, Kazakhstan, Kyrgyzstan, Tajikistan and Russian Federation, with a view to stimulate economic co-operation between its members by developing, inter alia, free trade regime, unified customs area, common energy market and transport network. Uzbekistan became a member of EAEC in January 2006 (and suspended its membership at the end of 2008). In 2002 and 2003 Moldova, Ukraine and Armenia were granted observer status in EurAsEC.

the flow of goods within the CU territory, taxation and obtaining permits (licenses, standards, etc.).[29]

Currently, goods originating in the CU territory are exempt from customs duties and quantitative restrictions and equivalent measures. This exemption also applies to goods originating in third countries and released for domestic consumption in the CU territory. One exception being crude oil delivered to Belarus in volumes exceeding domestic consumption requirements, with customs duties imposed according to an intergovernmental agreement. In addition, a number of sensitive items, such as passenger cars, are covered by temporary exemptions.

The CU has provided new impetus for the liberalization of Belarus' foreign trade, with average tariff decreasing from 11.62 per cent before the CU to 10.69 per cent. Moreover, Belarus' extensive harmonization of its tariffs and non-tariff measures with its customs partners should help it align further its trade regime with the WTO rules and regulations. This is particularly since both Kazakhstan and the Russian Federation are advanced in their WTO negotiations.

Though it remains early to evaluate the impact of the CU on Belarus trade patterns, available statistics show increased trade between Belarus and its CU partners by 21 per cent in 2010 in relation to 2009. Table 1.1 shows that Belarus merchandise trade with Kazakhstan grew at higher rates than with the Russian Federation, on both the export and import sides. However, measured in absolute terms, Belarus trade with Kazakhstan remains modest, at $867 million as compared to $27,874 billion, the value of total trade with the Russian Federation. The Russian Federation, therefore, remains Belarus main trade partner, accounting for around 95 per cent of Belarus trade with the CU.

Table 1.1
Belarus merchandize trade with CU partners-2009-2010 *($US million*)

Trade Balance	**Trade with CU partners**			**Trade with the Russian Federation**			**Trade with Kazakhstan**		
	2010	2009	Growth	2010	2009	Growth	2010	2009	Growth
Total Trade	28,742	23,833	21%	27,874	23,445	19%	867	388	123%
Exports	10,280	7,032	46%	9,816	6,719	46%	464	313	48%
Imports	18,462	16,801	10%	18,058	16,726	8%	404	75	439%
Balance	-8,182	-9,769		-8,242	-10,008		60	239	

Source: National Statistical Committee of the Republic of Belarus.

In terms of the composition of Belarus' merchandise trade with its CU partners, available statistics from the National Statistical Committee of the Republic of Belarus shows exports to the Russian Federation as dominated by motor vehicles, tractors and trucks, ferrous metals, agricultural machinery, furniture including medical, meat and milk and dairy products, continuing a persistent trend. Exports to Kazakhstan feature the same product mix, in addition to refrigerators. It is worth noting that refrigerators used to be among Belarus main exports to the Russian Federation, until recently due to increased competition in the Russian markets. It seems that the CU created a new market for this product.

Thus, the CU has yet to stimulate investments in new production activities. This is only to be expected since the CU is still in its very early years, and in view of the economic crisis that has

[29] The initial formal step towards the CU formation was the execution on October 6, 2007 of the Agreement on Creation of the Single Customs Territory and Customs Union Formation and the Agreement on the Customs Unit Commission. The CU legal basis was consolidated with adoption of the Unified Customs Tariff and Unified Non-tariff Customs Regulations, and the execution of the Agreement on the Customs Code of the Customs Union on 27 November 2009. The Customs Code came into effect on 6 July 2010.

been besieging the Belarusian economy. Nonetheless, the CU performance record points to the necessity for complementary measures to stimulate new investments in production activities with higher value-added. Such measures are all the more necessary in order to avoid trade diversion. Available statistics shown in table 1.2 suggests that Belarus increased trade with CU partners came at the expense of its trade with EU (27). The year 2010 witnessed a decrease in the share of EU (27) in Belarus total trade in relation to 2009. This decrease was less pronounced on the import side, as Belarus imports from EU (27) grew by 15 per cent, as opposed to 10 per cent the rate of import growth from CU.

Table 1.2
Belarus merchandise trade with main trade partner *($US billion)*

Trade partners	**Total Trade**			**Share in Belarus exports/imports**	
	2009	**2010**	**Growth**	**2009**	**2010**
Total Exports	21,304	25,226	18%		
Customs Union	7,032	10,280	46%	33%	41%
Remaining CIS countries	2,284	3,220	41%	11%	13%
EU (27)	9,301	7,604	-18%	44%	30%
Rest of the World	2,687	4,123	53%	13%	16%
Total Imports	28,569	34,868	22%		
Customs Union	16,801	18,462	10%	59%	53%
Remaining CIS countries	1,423	2,048	44%	5%	6%
EU (27)	6,546	7,547	15%	23%	22%
Rest of the World	3,799	6,811	79%	13%	20%

Source: National Statistical Committee of the Republic of Belarus.

These observations notwithstanding, successful development experiences show that the impact of any trade regime rests upon a combination of factors. These include overall macro-economic conditions (e.g., the exchange rate regime, inflation and so on); the regulatory framework surrounding FDI (e.g., foreign ownership rights, the rules for technology transfer, etc.); the availability of enterprise support and trade promotion services; and the depth of the financial sector, to name a few.

At issue, therefore, is how best to consolidate ongoing trade development efforts with complementary measures to stimulate trade creation. These complementary measures are discussed in the chapters three and four. A list of the needs identified by the needs assessment is provided in the Annex.

2. UNECE needs assessment methodology

This trade needs assessment is based on the UNECE evaluation methodology, which draws on existing evaluation methodologies and the secretariat's own experience to capture regulatory and procedural barriers to trade in goods.[30] The methodology comprises distinct sets of questionnaires targeting all the participants in the international trade supply chain, thereby capturing both behind and at-the-borders trade barriers that inflate the traders' transaction costs (time and financial wise) and undermine their ability to meet international quality standards.

Consistent with UNECE's mandate, the evaluation methodology features special emphasis on the legal and institutional framework related to trade facilitation, as well as technical regulations, quality assurance, accreditation and metrology (SQAM) system. The terms "trade facilitation" and "SQAM" are to be understood as follows:

- ***Trade facilitation*** refers to the extent to which import/export procedures, information and documentation requirements are rationalised, harmonized, simplified, streamlined and automated to reduce the costs associated with international trade, and increase overall efficiency and transparency.

- ***Standardization policies*** refer to policies and regulations concerned with the specific characteristics of products, such as its size, shape, design, functions and performance, or the way it is labelled or packaged before it is placed in the market. A ***Standard*** refers to a technical specification approved by a recognised national, regional or international standardization body and made available to the public for repeated or continuous application, with which compliance is either compulsory or not compulsory.

- ***Technical regulations*** are to be understood pursuant to the Agreement on Technical Barriers to Trade (TBT) as a "document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method".

- ***Conformity assessment*** is to be understood pursuant to the Agreement on TBT, as involving procedures used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

- Related to conformity assessment is ***accreditation,*** which refers to independent evaluation of testing and calibration laboratories, management systems, inspection bodies and so on, to confirm compliance with internationally recognized standards and requirements for risk reduction purposes.

- ***Metrology***, often referred to as "weights and measures", is the science of measurement. It involves, among other processes, tool setting and product-verification operations using diverse technologies. Although metrology is perceived as part of conformity assessment systems, it is itself an independent part of a regulatory system. It is therefore important to

[30] The UNECE methodologies drew on: World Bank (2010) "Trade and Transport Facilitation Assessment: A Practical Toolkit for Country Implementation"; WTO (2009) "Negotiations on Trade Facilitation: Self-Assessment Guide"; United Nations Development Programme (2008) "Trade and Human Development: How to Conduct Trade Needs Assessment in Transition Economies"; International Trade Centre (ITC) (2004) "Road Map for Quality"; ITC (2010) Non-Tariff Measures Survey Questionnaires, mimeograph; and the United Nations Conference on Trade and Development (2009) "Classification of Non-tariff Measures".

treat metrology from both perspectives. Metrology is to be distinguished from ***legal metrology***, which focuses on ensuring the quality and credibility of measurements used directly in regulation and in areas of commerce. Legal metrology is also concerned with ensuring due diligence in the treatment of traceability and preventing the misuse of the measurements.

By covering the above-mentioned areas, the UNECE evaluation methodology seeks to identify:

- Issues that traders and service providers face in exporting and importing goods, while highlighting sectors that are particularly affected;
- Existing constraints in regulatory, documentary and procedural requirements related to international trade transactions;
- The quantitative (time/money) and qualitative impact of barriers along the trade and transport chain;
- The availability and structure of logistical services (e.g. transport, forwarders, brokers) in the participating country, and any potential obstacles to the modernization/development of these services;
- Shortcomings in terms of operational efficiency of these and related services, and consequently the remedial actions to consider in both the short and long run;
- The availability, at reasonable cost, of internationally recognized testing, inspection and certification services;
- Shortcomings in the country's quality infrastructure (internationally accredited testing laboratories, conformity assessment, certification and accreditation bodies, as well as metrology institutions) and related expertise leading to additional costs and delays in export practices;
- The availability of institutional consultative mechanisms for the development and implementation of regulatory policies to ensure that the concerns of the business sector are taken into account;
- Gaps in participation in the activities of relevant international standards-development bodies.

As previously mentioned, the needs assessment was carried out in close consultation with the Belarusian NAC, which brings together representatives from all relevant ministries and public institutions under the leadership of the Belarusian Deputy Minister of Economy.

The questionnaires were addressed to around 120 stakeholders representing exporters, importers, relevant government officials, transport operators and logistics service providers. Traders, transport operators and logistics service providers were selected based on the level of their engagement in foreign trade transactions. Thus only those with major operations were interviewed, as explained below:

Exporters from the following sectors:

- Machinery (13 companies), Construction (8 companies), Chemicals (4 companies), Electronics (3 companies), Textiles (10 companies), Food industries (7 companies), Furniture industries (2 companies), Pharmaceuticals (3 companies), Wholesale (2 companies). The total annual export of these companies amounted to 1,910 million USD.

Importers from the following sectors:

- Machinery (9 companies), Construction (5 companies), Chemicals (3 companies), Electronics (3 companies), Textiles (11 companies), Food industries (5 companies), Furniture industries (3 companies), Pharmaceuticals (3 companies), Wholesale (3 companies). The total annual import volume of these companies amounted to 559 million USD.

Transport and Logistics service companies:

- International road carriers (10 companies). The total volume of freight of these companies amounted to 169.8 thousand tons; the gross annual value of goods transported amounted to 371.0 million USD;
- Railways - Belarusian Railways;
- International air carriers - JSC "Airline "Transaviaexport "; and
- International express delivery companies (2).

Government agencies

- State Customs Committee of Belarus;
- Border agencies (3);
- Ministry of Trade
- Ministry of Foreign Affairs
- State Committee for Standardization of the Republic of Belarus (Gosstandart)

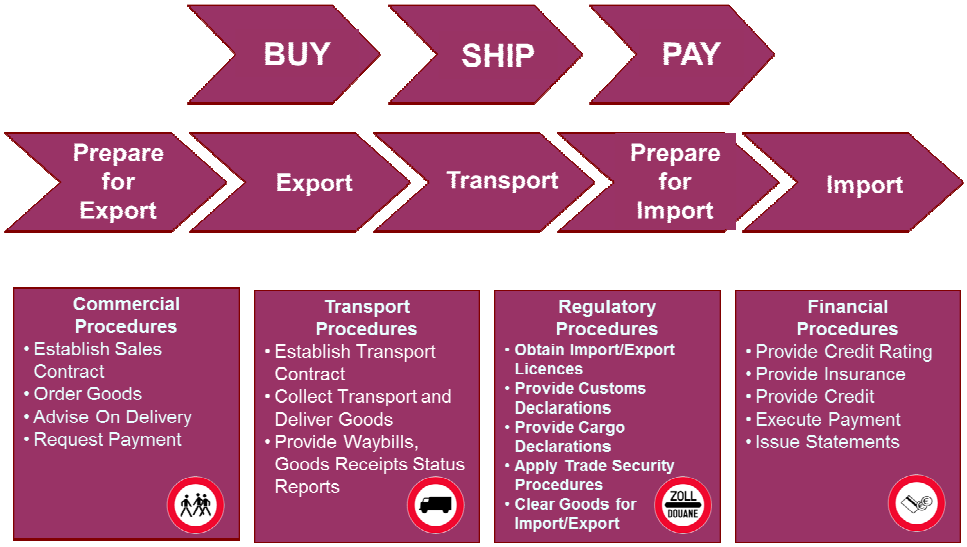
The stakeholders were approached during face-to-face interviews conducted by UNECE consultants in the fall of 2010, guided by the findings of a Desk Study on the procedural and regulatory framework underpinning international trade transactions in Belarus. The UNECE fielded a follow-up mission to Belarus early 2011 to solicit feedback on pertinent issues emerging from the fieldwork.

The results of the questionnaires on trade facilitation were analysed using the UNECE Buy-Ship-Pay Model reference model. The model offers a broad conceptualization of international trade transactions as proceeding along ***a single process in a supply chain***, rather than a series of fragmented activities spread across different actors. International trade transactions are grouped under three main operations, which correspond to the business processes undertaken by traders throughout the supply chain. These operations are:

- BUY – covering all commercial activities related to the ordering of goods;
- SHIP – covering all of the activities involved in the physical transfer of the goods, including regulatory procedures related to official controls;
- PAY – covering all of the activities involved in payment transactions

As shown in Figure 2.1, by clustering business processes along the above-mentioned lines, the model captures all trade-related business processes, including the establishment of commercial contracts (commercial procedures), the arrangement of inland and cross-border transportation of goods (transport procedures), the export and import formalities to meet regulatory requirements (regulatory procedures), and the payment for purchased goods (financial procedures).

Figure 2.1
UNECE international supply chain Buy-Ship-Pay reference model

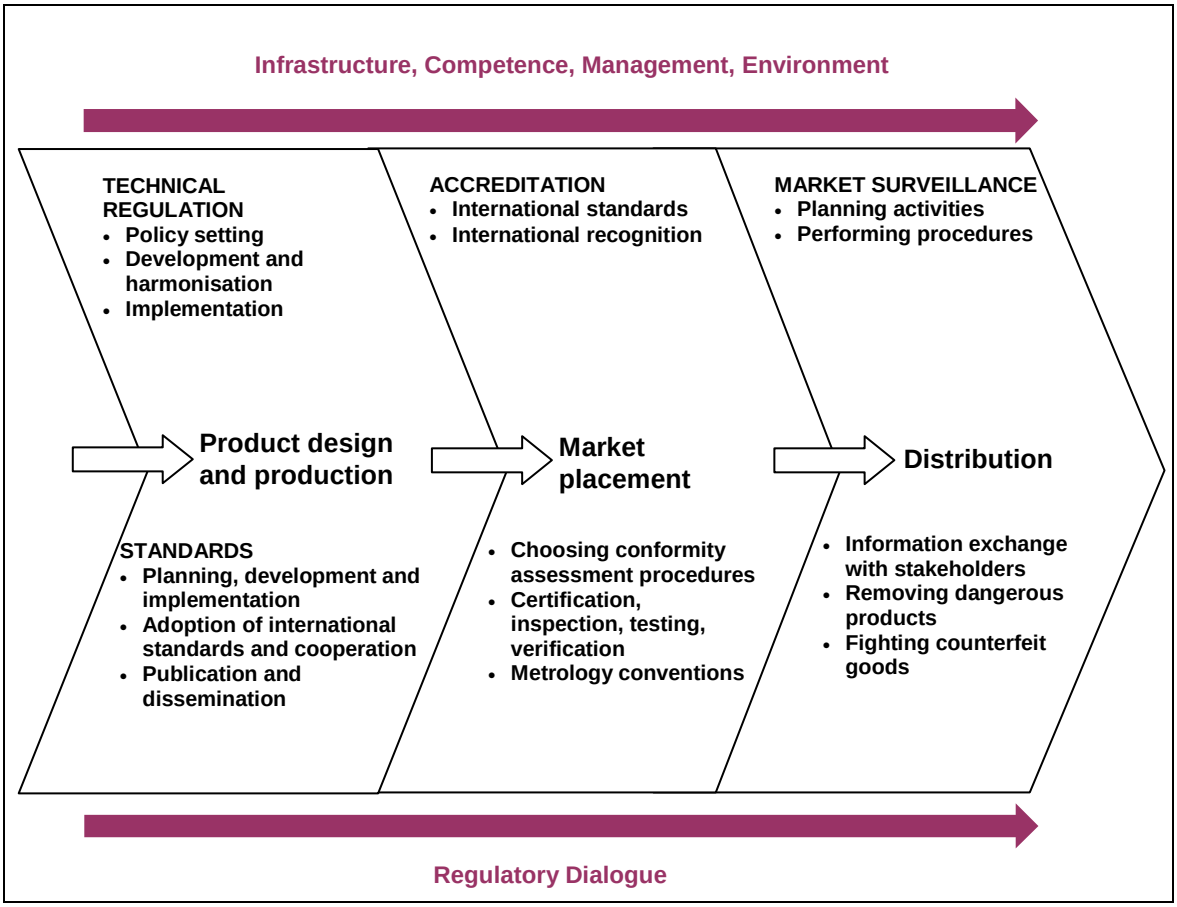


The emphasis is ensuring the overall improvement of the end-to-end value chain. This means that the different actors involved (including government agencies, intermediaries and traders) are examined in terms of their contribution to increasing the efficiency, transparency and predictability of trade, as opposed to their functional excellence.[31] Moreover, trade documents and procedures are measured against UNECE key principles on trade facilitation, including: transparency, communications, consultations and cooperation; simplification, practicability and efficiency; non-discrimination, consistency, predictability and due process; harmonization, standardization and recognition; and modernization and the use of new technology.[32]

Consistent with such a holistic approach to analysing international trade transitions, the results of the questionnaires on SQAM are analyzed using the product life cycle approach. As shown in Figure 2.2, this approach allows for analyzing the different regulations and institutions in terms of their contribution to the product life cycle, starting from product design, then to placing the product on the market and ending with its eventual distribution.

[31] For a detailed discussion of this Model, see UNECE Recommendation 18 (UNECE, 2001).
[32] UNECE (2006). Towards an Integrated Strategy for UN/CEFACT, Geneva, Switzerland.

Figure 2.2 Product life cycle and regulatory system processes



The challenges to an improved SQAM regulatory system are conceptualized as stemming from the quality of infrastructure (i.e. testing laboratories), levels of expertise and knowledge of officials (competence), management methodologies, and the overall regulatory environment.

3. Trade facilitation

Belarus has implemented significant reform measures to improve its business environment, which moved its overall ranking in the World Bank's Ease of Doing Business index up from 115 (among 178 economies) in 2008 to 69 (among 183 economies) in 2012. [33] The most comprehensive measures were in the area of starting a business, with the creation of a one-stop shop for property registration and a broad administrative simplification program that sets strict registration time limits and implements computerized records.

Still, the survey results show that there remains room for improvement, particularly in relation to cross border trade that also appears as the least-developed area in the World Bank Doing Business index (with a ranking of 152). This chapter identifies at the borders and behind-the-borders bottlenecks to trade facilitation using UNECE Buy-Ship-Pay Model.

3.1 Main actors and trade-related transport infrastructure

This section introduces the main government agencies and intermediaries involved in administering and servicing the Belarusian international trade supply chain, with a view to setting the context for a detailed discussion of the survey results.

Government agencies

Border control agencies

Border control functions in Belarus are carried out by the following six agencies: the Customs authority, border guards, transport authorities, veterinarian, sanitary and epidemiological inspection agencies. These agencies are involved at different stages of cross-border trade transactions and in various degrees, depending on the nature of imported goods.

The main player is the State Customs Committee of the Republic of Belarus (SCCBY), which conducts day-to-day customs operations through 11 customs houses, spread throughout the country. These houses are located at border control points (the location of which is specified by the Council of Ministers), and behind-the-border control points in temporary storage facilities and Customs warehouses (as specified by the Council of Ministers and SCCBY).[34]

In addition to supervising the implementation of customs policy as set out in the Customs Code, and ensuring compliance with trade obligations established under bilateral and international trade agreements, SCCBY drafts customs legislations. Legislations with direct impact on businesses are presented to the public during workshops and are published on the SCCBY institutional website for feedback.

The SCCBY also decides on measures for facilitating cross-border trade. These measures draw to a certain extent on the results of the SCCBY surveys which it conducts via its institutional website, and are decided jointly with the State Border Guard Committee (the SBGC) in consultation with the private sector through the "Working Group of the Public Council". In principle, the Council, which is attached to SCCBY, brings together representatives from the

[33] World Bank (2012). Doing Business Report 2012.

[34] By law, internal points can be located in airports, river ports, railway junctions, and enterprise premises, and international post offices and other places specified by the Council of Ministers and the State Customs Committee. It is worth noting that Customs clearance points may be maintained by any legal person, with permanent residence in Belarus. Such a person is to provide Customs bodies with office space to conduct customs clearance. Article 20 of the Customs Code of the Republic of Belarus, 3 February 1993.

business and customs, and other government agencies are often invited to the Council's meetings. The Council's recommendations are presented to legislative and executive authorities and, once approved, are integrated into customs legislation.

The SCCBY liaises with other agencies through the "Commission for Trade Facilitation", which brings together all relevant together public stakeholders (SCCBY, SBGC, the Ministry of Transport and Communications, the Ministry of Finance, the Ministry of Health, and the Ministry of Agriculture and Food). The Commission also decides on issues related to inter-agency coordination at the main borders, and its decisions are binding. Most recently, the Commission decided to handover transport controls at the border crossing points to the SCC and the SBGC officers. At the time of writing the study, the procedure was yet to be launched in a pilot test phase.

Other government agencies

Supporting the Belarusian international trade supply chain along with SCCBY are the Ministry of Economy, which coordinates country-wide simplification, streamlining and standardization of trade-related rules and procedures, including the migration to non-paper based systems. Then there is the Ministry of Foreign affairs, which ensures that trade-facilitation efforts proceed in accordance with WTO-administered multilateral trading system. Other government authorities include the Ministry of Finance, which oversees the payment system; the Ministry of Transport, which is responsible for ensuring the quality and safety of the transport system; and, the Ministry of Commerce, which coordinates trade regulations with main trade partners.

Intermediaries

Belarusian Chamber of Commerce and Industry

With its six regional branches and 32 affiliate offices, the Belarusian Chamber of Commerce and Industry, which is a non-governmental entity, is responsible for a number of regulatory procedures, including:

- Issuing certificates of origin.
- Certifying the authenticity of documents used in international trade, in addition to translating and certifying translated documents.
- Assisting traders in settling disputes arising from international trade activities.
- Assisting traders in preparing documentary requirements for customs clearance including, customs declarations, transaction passports, etc.
- Promoting Belarusian trade through, among other activities, organizing trade fairs abroad, and assisting enterprises in identifying new sources of supply and outlets for their products.
- Providing information on business opportunities abroad and on trade regulations in Belarus and abroad.

Customs agents

Belarusian traders have a choice of 80 customs brokers. However, the majority (up to 83 per cent) are located in the capital city of Minsk, where trade activity is concentrated. Key services offered by customs brokers include:

- Advice on customs regulations, classification of goods (HS coding), foreign exchange and trade laws, calculation of the optimal amount customs fees and taxes, appropriate customs regime.
- Advice and assistance with obtaining permits, certificates of conformity, licenses, etc.

- Preparation of documentary requirements for customs clearance, including: customs declarations, transaction passports.
- Advice and assistance with the preparation of trade agreements with foreign enterprises.

Insurance companies

Trade insurance services are provided by one company only, "Beleksimgarant", which is a State-owned company established by a Presidential Decree with an exclusive right to issue trade insurance.[35] The company offers export risk insurance contracts, which cover losses resulting from the importers' non-fulfilment of their obligations under trade agreements as a result of insolvency and political instability. Losses resulting from early termination of export contracts are also covered. In addition, Beleksimgarant issues import insurance contracts against damage or total loss of cargo in transit.

Insurance contracts are issued in close consultation with the Ministry of Finance, which sets the basic rates based on the level of political risks. Political risks levels are established in consultation with the Ministry of Foreign Affairs drawing on information by the Organization for Economic Cooperation and Development and the International Union of Credit and Investment Insurers (commonly referred to as the Berne Union).

Transport infrastructure and logistics service providers

Belarus transport system comprises a comprehensive railway network, covering around 5,512 kilometres in length, of which 874 kilometres are electrified; multiple international airports (Minsk International Airport, Minsk-1 and Gomel Airports); ports equipped to handle general cargo(Gomel, Bobruisk, Brest and Mozyr); and, a network of motor routes that extends for 86,000 kilometres.

The railway network is at the centre of the Belarusian transport system, which connects the various regions, links the ports to the hinterland, and connects the country with its neighbours. It should therefore come as no surprise that railway constitutes the most commonly used mode for transporting mechanise trade. It facilitates the flow of over a third of the total volume of freight transport, with 70 per cent of the total rail freight comprising oil and petroleum products, construction materials, chemicals and mineral fertilizers.

The railway network is owned by the national rail company (BŽD / BČ), which operates in accordance with the Agreement on International Goods Transport by Rail (SMGS). The company carries out 182.2 million tons of cargo (30 million of exports, and 152.2 million of imports) on average per year. Major destination countries are Brazil, Britain, China, Finland, Latvia, Lithuania, Netherlands, Poland, the Russian Federation and Ukraine.

Belarus also boasts a developed freight forwarding industry, which comprises an assortment of companies, specialized in international air, sea and road/rail forwarding, and their services are well appreciated as suggested by the results of the UNECE evaluation. Around 60 per cent of the respondents said that they use the services of freight forwarding companies to export their products (48 per cent use several companies and 12 per cent use one company only).

The respondents also reported that they are satisfied with the quality of the services offered by these companies, though some noted that more could be done for improving multi-modal transport services. Those who do not use freight forwarders (the remaining 40 per cent) explained that they are relieved from handling the transport of their exports by the buyer, who takes this operation upon himself.

[35] Decree of the president of Belarus, August 25, 2006, N 534.

Traders are also serviced by an assortment of international road carriers and international express delivery service providers. Around 60 per cent of the surveyed international road carriers (10 major companies) provide "from door-to-door" services, and all companies follow UNECE TIR (*Transports Internationaux Routiers*) and World Customs Organization (WCO) ATA (*Admission Temporaire;* in English Temporary Admission) procedures. [36]

The past few years has seen Belarus launch new initiatives to capitalise on its geographic location as a gateway to CIS countries and the EU. These initiatives seek to improve transit traffic conditions, and include: the Programme for Ensuring Efficient Use of Transit Potential of the Republic of Belarus for 2006 – 2010; the draft Programme for the Development of the Transit Potential of the Republic of Belarus for 2011 – 2015; the Roads of Belarus; Strategy for the Development of the Transit Potential of the Republic of Belarus for 2011 – 2015; and, the Concept of Belarus' Transport System Development until 2025.

Most recently, the government launched a five-year programme, the National Transit Potential Programme, which stipulates the construction of 50 state-of-the-art logistics centres over the period 2011- 2015; improving the system of international transportation; and, and introducing new management information technologies at border control agencies.[37] The plan constitutes an important step in improving the country's logistics industry, which has been historically dominated by a few companies.

The government has also set up an Interagency Working Group in 2011 to oversee the development of the country's transport and logistics infrastructure and associated services, encourage innovation and attract FDI. This group serves as a counterpart to the Interagency Working Group is the Association of International Freight Forwarders and Logistics (BAME), also established in 2011, to promote and protect the interests of freight forwarders and logistics companies.

However, these efforts risk being undermined by capacity shortfalls in the railway industry. Despite the success and importance of this transport mode, the companies questioned, including the customers of the largest service provider (the national Belarusian Railways), indicated problems with the quality and the safety of the rolling stock as well as a lack of timeliness in the loading and delivery process. This all leads to increased delivery times, costs and even breaches of contractual obligations.

3.2 Trade-facilitation procedures and reform efforts

This section provides a brief overview of existing trade-related procedures. These are clustered under four categories, and are complemented by a brief discussion of ongoing reform and development efforts.

At the border procedures

As previously mentioned, customs clearance is carried out by customs agents or freight forwarding companies, acting on behalf of traders, or by traders themselves. Generally, importers are required to notify Customs, and submit documentary requirements established by law within half an hour after the arrival of goods to the authorized clearance point (see Annex I). Thus in principle importers are unable to begin clearance procedures prior to the arrival of their shipment,

[36] The ATA system is an integral part of the WCO's Istanbul Convention of 1990, and the TIR system is an integral part of the UNECE Convention on International Transport of Goods Under Cover of TIR Carnets (commonly referred to as the TIR Convention) of 1975.

[37] The programme is based on the transit potential development strategy of Belarus for 2011-2015, which was approved in August 2010. Also see, the Council of Ministers Decision № 1249, of 29 August 2008 on "The Program for the Development of Belarus Logistic System for the period until 2015".

and there is an established priority treatment for perishable goods, international mail and express freight.

As regards customs procedures, traders can choose from 17 types of procedures: release for home use; export; customs transit; customs warehouse; processing on customs territory (inward processing); processing outside the customs territory (outward processing); processing for home use; temporary importation (access); temporary exportation; re-import; re-export; duty-free trade; destruction; abandonment to the State; customs free zone; free warehouse; special customs procedure (customs procedure determining the requirements and conditions of use and (or) disposal of several types of goods in the Customs territory or outside the customs border).

Placement of goods under any of these procedures is decided by SCCBY on the basis of the customs declaration. If the documents are in order, the SCCBY would issue a certificate allowing the trader to place goods under the declared customs regime.

A trader wishing to expedite the release of imported cargoes could resort to the pre-arrival documentary examination procedure. This could be done by submitting a prior import declaration before the arrival of shipment so that customs could conduct documentary examination in advance. The prior declaration procedure should be carried out at least 15 days before the scheduled date of the shipment's arrival, and traders are to provide certified copies of commercial and transport documents accompanying the imported goods at least 2 hours before the shipment arrives at the border crossing point.

Customs would then notify the trader whether or not further documentary examination and/or physical inspection is required before the arrival of shipment. If the documents are in order, and upon payment of customs duties and charges, the trader is provided with an identification number, which he has to include in the bill of lading presented at the border crossing point. The trader should present the goods for clearance within one hour after notifying the arrival of the shipment. Otherwise, the cargo would be detained by Customs.

Traders could also speed up customs clearance by applying for *bona-fide* status, provided, among other requirements, that they have been active traders for at least three years, are debt free and are financially solvent. As of mid-2011, Belarus had over 600 *bona-fide* traders, who enjoy a number of benefits, including: exemption from import duties under transit procedure; exemption from physical inspection; and, priority treatment in customs clearance procedures. It is worth noting that Belarusian *bona-fide* traders are provided with the opportunity to retain their privileged status under the Belarus-Kazakhstan-Russian Federation CU by applying for Authorized Economic Operators (AEOs) status.[38]

These trade-facilitation measures aside, the SCCBY follows international standards, including the General Agreement on Tariffs and Trade (GATT) Customs Value Code, and the WTO Harmonized System, and relies on risk management to expedite customs clearance. Risk management methods include using automated systems for generating risk profiles, so that customs officers conduct physical inspection only when alerted by the system. Moreover, inspection of containers is carried out using real time X-ray systems, and is unloaded and reloaded to containers only in cases of physical inspection.These automated systems co-exist with risk indicators. For example, damage to the protective cover of the transporting vehicle is considered as an indication of poor safety conditions, thereof, warranting physical inspection.

Customs clearance is completed within 2 days at most after the arrival of the shipment, and can only be initiated after the completion of quarantine, phytosanitary, veterinary and other types of border control, if imported goods are subject to such controls by law. Mistakes detected in filled

[38] Initially AEOs were expected to deposit EUR 1 million to confirm their status, but later the amount of the deposit was reduced to EUR 150,000.

out customs declarations are difficult to correct, and subject traders to financial sanctions (by Customs).

The Customs decision as regards to the clearance of goods is communicated to the trader or his representative in writing (in the form of an import permit). It is worth noting that the clearance process may be extended for a longer period, if the Customs deems it necessary, as established by law, even if the trader is using the prior declaration procedure. In this case, goods are placed in temporary storage facilities at the Customs for a period not exceeding 60 days. A special procedure exists to relieve the trader from storage costs, whereby the goods are transported to the importer under customs control. However, this procedure is costly to business. In case of dispute, the decision of the State Customs Committee can be appealed to court.

But then Customs is only one actor in the clearance process, which may involve up to six agencies, including Customs, depending on the type of goods. Some border crossing points impose additional formalities, and it is often the case that control agencies carry out inspection procedures separately. It is worth noting that control procedures for inspecting compliance with quality standards and technical regulations are conducted at the named places of origin and destination, and not at the border crossing points.

Cooperation between the six border control agencies is a dominant theme in several laws.[39] However, coordination is undermined by the absence of a coordinated approach to risk management. Not all agencies operate on the basis of risk management, and each has its own procedures, which, as will be shown later, cause significant delays at the borders. To address this issue, Belarus will be implementing a new procedure, "two agencies at the border", which involves transferring some control functions from transport, sanitary, veterinary and phytosanitary to Customs and border guard agencies. In addition, the SCCBY will be launching a new system of border control, which allows border control agencies to inspect imported goods simultaneously. The pilot phase of the said system will be launched at the main crossing point with Poland in the near future.

Documentary systems (paper and electronic) and procedures

Belarus has taken important steps toward simplifying and streamlining the documentary requirements established by law (see Annex), including through migrating from paper-based to paperless systems. However, this process has been proceeding in an uneven manner, spearheaded by customs.

Automated documentary systems

The process of automating and modernizing documentary systems is spearheaded by the SCCBY as part of its customs modernisation effort. SCCBY has seen to it that all customs-related documentary requirements follow unified formats, designed in accordance with international standards, in particular, the UN Layout Key.

SCCBY has also made important steps towards migrating to electronic documentation. Electronic submission of customs declarations (for both imports and exports) to customs via internet, as well as transit declarations and pre-arrival notifications, are established procedures. The submission of electronic documents can be undertaken by the traders themselves, using a special software, or through designated agencies. Shipping documents (invoice, bill of lading, contract of carriage, etc.) are all submitted in paper form (original accompanied by notarized copies of the originals). The government is entertaining the idea of introducing electronic submission of key documentary requirements for shipping.

[39] See, for example, Resolution of the State Customs Committee and State Border Committee, № 23/28 of April 2009, and the Law on State Border, the Law on Road Transport and Auto Transportation.

In addition, the SCCBY is in the process of integrating its information system with that of the EU; a process that also involves the harmonization of electronic customs documents. Most recently, Belarus has acceded to the revised Kyoto Convention (January 2011), and has signed seven of the ten annexes to the Convention, which will be implemented over the next three to six years.

The CU has provided new impetus to the migration process. The CU Customs Code is based on the provisions of the revised WCO Kyoto Convention, which features a special emphasis on the application of information technology. Preparations are underway to develop new electronic documents in accordance with CIS interstate and Russian standards as well as international standards (WCO Data Model and UN/CEFACT Core Components).

The ultimate goal of these efforts is to create a common, integrated IT system for the CU that uses advanced information technologies to facilitate interstate data exchange, and the exchange of electronic documents between border control agencies.[40] The entire process is coordinated by the Coordination Council for Information Technologies,[41] working under the Customs Union Commission (the CU regulatory body), and features:

- The introduction of standardized electronic customs documents forms (since 1 January 2011).
- The development of common guidelines on the use of electronic customs documents.
- The use of paper-based customs forms together with the electronic documents to expedite the processing of customs documents.
- The automation of customs procedures at the national level.
- The standardization of customs forms across CU partners.

Then there are the new declaration standards, based on eXtended Markup Language (XML). XML is closely related to Internet and eBusiness technologies and is a suitable choice to integrate traders and administrations of very different sizes and technology capabilities, as is the case in the CU. The Customs Union Commission emphasised that the development of these new electronic documents was based on international standards such as the WCO Data Model and UN/CEFACT Core Components. However, the extent to which the final specifications are based on the international standards could not be established because this would require a detailed analysis that was outside the remit of this study.

There are also plans to unify procedures with CU partners. Belarus and the Russian Federation will be introducing common pre-arrival clearance procedures throughout the CU territory similar to those adopted by the EU.

In addition, and within the context of the CU, the Belarus, along with its CU partners, is taking the necessary steps to implement joint control of goods transiting the CU territory, and integrate the three countries' payment systems. Future plans involve creating common database for licenses issued by CU partners, and Belarus is in the process of creating a national database for licenses issued by the different governmental agencies in the country. Below is a more detailed discussion of existing documentary systems and procedures.

[40] See, the Agreement on the Application of information technologies in the exchange of electronic documents in the foreign and mutual trade between the Customs Union countries (21 September 2010); the Agreement on the establishment, operation and development of an integrated information system of foreign and mutual trade between the Customs Union countries (21 September 2010); the decisions of the Custom Union Commission N 60 on 19 Nov. 2010, St. Petersburg, which stipulates creating an integrated information system for foreign and mutual trade of the Customs Union; and, the decisions of the Custom Union Commission № 304, 25 June 2010, which calls for the development of classifiers for use in filling out customs declarations.

[41] For details on the tasks of this Council, see the decision of the Customs Union Commission's № 495. of 8 December 2010

Paper-based documentary procedures

Respondents reported experiencing particular difficulties in obtaining certificates of origin, and the classification of goods (required for completion of customs declaration) as well as conformity certificates (Section 3.3). This section discusses documentary requirements and procedures for obtaining certificates of origin and the classification of goods. Procedures for obtaining conformity certificates are discussed in the next chapter.

Certificates of origin

Certificates of origin for exports are issued by the Belarusian Chamber of Commerce and Industry, if required under trade contract or under international trade agreements with trading partners. The certificates are issued following the national rules of the importing country, and as a rule, importers are not required to provide a certificate of origin if the customs value does not exceed $US 3,500 dollars. Certificates of origin are mandatory for imported goods if:

- Goods from the particular country of origin are granted tariff preferences; or
- The country of origin implements restrictions on its imports from /exports to Belarus.

Traders can also provide a declaration of origin, *in lieu* of a certificate of origin, to provide the necessary information for determining the country of origin. Commercial documents can be used as the declaration if they feature a clear reference to the country of origin.

In case of failure to provide the necessary documents for establishing the country of origin, or in case of errors in the submitted documents, the Customs has the right to deny entrance of goods to the declared customs regime. This is particularly if Belarus imposes restrictions on or prohibits imports from the country in question. In this case, traders are given an entire year to provide the required documents for establishing the country of origin, while preserving the right to benefit from tariff preferences and the return (offset) of previously paid customs duties.

As regards certificate of origins accompanying imported goods, these are accepted by Belarus, if the trading partners use the same criteria adopted by Belarus for determining the origin of goods. Otherwise, the country of origin is determined by the Belarusian Chamber of Commerce and Industry.

Classification of goods and customs valuation

Belarus' classification system, also used by other CIS countries, is similar to the WCO Harmonized Commodity Description and Coding System (HS). To avoid misclassification of goods and miscalculation of customs value, which carry financial sanctions for the traders, traders could request the State Customs Committee for preliminary decisions on the HS code.

The decision on HS code usually takes 90 days to complete from the receipt of the query, together with the documentary requirements, in return for a certain fee, and the preliminary decision is valid for 3 years. The assessment of the declared customs value is carried out at the customs clearance point or after placing the goods under the declared customs regime, i.e. at the customs inspection. The assessment is carried out in two stages, as follows.

Stage one, involves:

- Review of the selection and application of the method of determining the customs value of imported goods;
- An assessment of the correctness of the structure of declared customs value;
- A review of the documentary evidence.

Stage two, involves:

- An assessment of the correctness of the declared customs value of goods definition;
- Comparison of the declared value with the up-to-date information on prices available to the customs authorities.

It is worth noting that not all imported goods go through the two stages, and the decision to carry out additional assessment (i.e., phase two) are based on such criteria as: the total volume of imported goods, the reputation of the importer (exporter), availability of evidence pointing to the unreliability of the declared customs value, and so forth.

Transport procedures, including transit transport

Belarus customs transit procedure follows international standards including the UNECE TIR procedure and WCO ATA procedure. Thus, Belarus allows the free movement of goods across its frontiers and their temporary admission into Customs with relief from duties and taxes, if goods are covered an ATA carnet.

In addition imports carrying the TIR carnet are transported without intermediate reloading, between a customs office of departure and a customs office of destination, and without the payment of duties and taxes (that would normally be due at importation or exportation) provided that part of the journey is made by road.

Goods accorded the right to transit are usually exempted from customs duties and charges, and the transit period is calculated by the Customs office based on transit distance (tow thousand kilometres per month). For goods transported by rail, the transit period is established by the customs office of departure in accordance with the legislation of the Customs Union taking into account the regulations of the Agreement on International Goods Transport by Rail (SMGS). In addition, and pursuant to established laws, control on goods in transit is limited to ensuring compliance with regards to declared quantity, list, gross weight and net weight.[42]

The placement of goods under the customs transit procedure is allowed if the following conditions are fulfilled:

- The imported goods are not prohibited from entering into the territory of the Customs Union.
- Submission of documents establishing compliance with the regulations on movement of goods across the customs border of the Customs Union.
- The customs control and other forms of State control, where needed, have been conducted at the place of arrival.
- The submission of the transit declaration.
- Completion of measures for ensuring compliance with the customs transit in accordance with Article 217 of the CU Customs Code.
- The identification of goods is carried out as stipulated under Article 109 of the CU Customs Code, "Identification of goods and vehicles, buildings and other places".
- For goods transported under customs seals, containers should be approved for the transport of goods in accordance with the Customs Convention on Containers.

The transit route is established by the Customs office of departure, which also identifies the timing and place of delivery. The Customs Authority may decide to escort transit consignments by motor vehicle, the costs of which are borne by the trader, in the following cases:

[42] See Presidential decree № 168 of 20 March 2006 "On the principle of freedom of transit in the Republic of Belarus".

- The risk management system ranks the imported goods as risky
- The carrier's failure to summit the guarantee of payment of import customs duties and taxes according to Chapter 12 of the CU Customs Code or if the provided guarantee is insufficient.
- The carrier's repeated non-fulfillment of established obligations while transporting goods under the customs transit procedure.
- The carrier's failure to comply with the established rules concerning the payment of customs taxes and duties in accordance with Article 227 of the Customs of the Customs Union.
- In response to official request from the customs declarant.

3.3 Major bottlenecks to trade facilitation in Belarus

This section discusses the major bottlenecks to trade facilitation emerging from the UNECE questionnaires, and highlights major areas requiring immediate action. The bottlenecks are grouped under the three clusters introduced in the previous chapter, namely: at the border procedures; documentary systems; and, transport procedures, including transit.

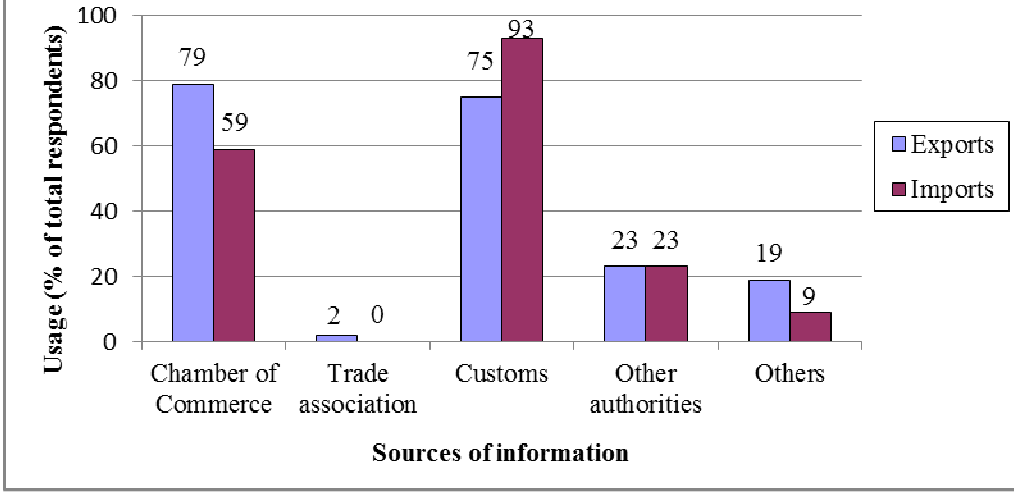
Major bottlenecks to trade facilitation

Decision-making processes and sources of information on trade-facilitation rules and procedures

Decisions on trade-facilitation measures are based on preliminary impact assessments, carried out by relevant government authorities in consultation with other government agencies. These consultations are conducted on an *ad hoc* basis (e.g., working groups or consultative councils), and enterprise representatives are seldom involved. There is, therefore, a need for creating permanent mechanisms for facilitating continuous consultations and for ensuring increased involvement of enterprises in the decision-making process.

Information on trade-related rules and procedures is disseminated through various channels, including government agencies and trade associations. By and large, traders obtain the information from the institutional website of government agencies (around 92 per cent of the surveyed exporters and 82 per cent of the importers), with SCCBY standing out as the most solicited source of information (Figure 3.1). Trade associations provide virtually no assistance to traders in obtaining up-to-date information, while diplomatic missions abroad along with resellers was cited by 19 per cent of interviewed exporters and 9 of importers.

Figure 3.1
Sources of information on trade-related regulations and procedures



However, traders reported the lack of information on trade-related rules and procedures in regional and international export markets, and the problems that Belarusian exporters face in ensuring compliance with these rules and procedures. Such information is obtained on an ad *hoc basis* from registered exporters complaints, and consultation mechanisms created by business associations at the initiative of traders. Respondents also noted that, to date, no institutional mechanism (i.e., governmental authority or special consultative body) exists to advice traders on the usage of e-commerce.

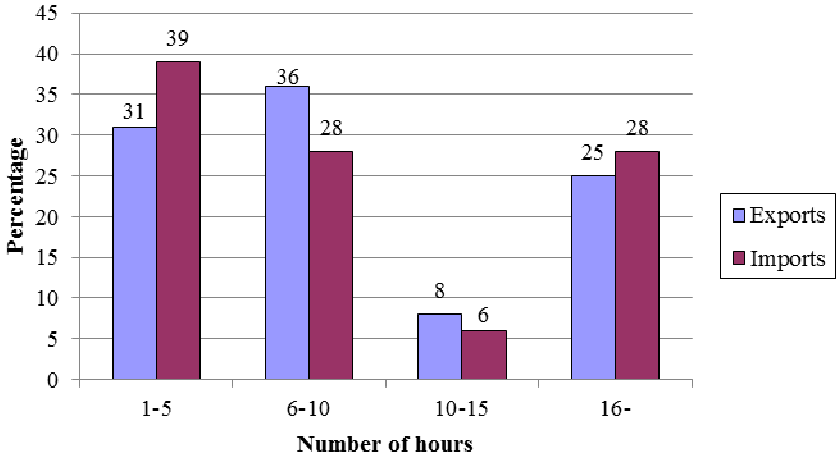
In addition, sseveral respondents noted that they are not regularly involved in consultations on issues affecting foreign trade, customs regulations, export formalities, and new or revised regulatory requirements.

Documentary systems (paper-based and electronic)

Traders reported that **documentary requirements are difficult and time-consuming to establish and obtain**. On average, questioned companies indicated that they need about 10 hours to fill in the paperwork required for processing export and import transactions, with the preparation of documentary requirements for customs making up 9 of these 10 hours, in the case of importers.

The difficulties faced by traders in completing documentary evidence required by Customs has to be measured against their accumulated experience in the foreign trade transactions and the availability of in-house skills. As shown in Figure 3.2, around 31 per cent of questioned exporters and 39 per cent of importers said that they invest less than 5 hours in completing Customs-related documentary requirements, suggesting a certain level of expertise. Then there are those who spend 16 hours or more to prepare the same set of documents, representing 25 per cent of the questioned exporters and 28 per cent of the importers.

Figure 3.2
Time required for preparing customs documentary requirements
(as percentage of total respondants)



Indeed, most respondents noted that the time invested in preparing customs related documentary requirements is a function of their familiarity with these documents. This is especially since filling out the customs related documentary requirements is linked to obtaining other documentary evidence. Thus new comers to export-import transactions may spend 2 weeks and, in some cases up to 1 month, preparing customs documents, since obtaining a certificate of origin requires from 2 to 4 weeks. Once established, traders could obtain a verified copy of this certificate for customs clearance in 1 day only.

Thus the process of preparing documentary requirements constitutes a costly part of the international trade value-chain, especially for small and medium sized companies (SMEs) and can act as serious entry non-tariff barrier to trade. Complicated procedures require well trained, often specialized staff which is certainly available in large companies but not affordable for SMEs.

Typically, the most time consuming documentary evidence to establish and obtain are those associated with obtaining the proper valuation of goods and correct commodity classification under the HS Code, which serve as the basis for the computation of and assessment for the corresponding duties, taxes and fees. Interestingly, even though around 70 per cent of the surveyed enterprises are aware of the possibility of obtaining preliminary decisions on the HS code from Customs, only about half of them reported using this service. The drawback this service appears to be the fee charged by Customs as well as the long waiting time for a decision, which can take up to 60 days. In general, questioned stakeholders expressed the opinion that too much and too detailed information is requested for determining the HS code. Some traders also raised the valid point that the Belarusian HS code, which is also used by other CIS countries, differs from the one used by the EU, which also creates problems.

Importers also cited obtaining a certificate of origin as a major non-trade barrier. A certificate of origin is not only difficult to obtain in the first place; it is issued in paper-based format only (in two copies: one for the manufacturer and one for the exporter), and is valid only for a limited period. Traders also reported experiencing difficulties in obtaining confirmation of certificates of origin from importing countries, particularly if the country(ies) in question follow different procedures for issuing certificates of origin. In addition, some exporters said that they experience difficulties in obtaining certificates from veterinary and phytosanitary authorities, and quality confirmation certificates from some importing countries.

The difficulties associated with obtaining certificates of origin and goods classification aside, the interviews revealed sector specific problems. As show in box 3.1, textile manufacturing industries

depicted documentary requirements under the customs regime for processing as particularly taxing, while exporters and importers of technology intensive products and spare parts said it is with significant difficulties that they fulfill the documentary requirements.

Box 3.1
Sector-specific obstacles associated with documentary requirements

According to interviewed **textile manufacturers**, importing under the customs regime for processing requires indicating the rate and total use/consumption of raw materials following a complicated procedure. For example, the preparation of specific statistics on indicators of consumption is very difficult. In case of errors, the importer must resubmit all documents, as corrections to the originally submitted documents are not accepted.

Exporters of technology intensive goods (equipment, bearings, etc.) are required to submit certificates of origin; a description of the technological production process with an indication of each material used; a description of the recycling process of all materials used (with their number often reaching up to 50); certificates of raw materials including separate forms for raw materials in accordance with the HS Code. When **importing technology intensive goods** (e.g. car parts) an importer must do the customs clearance for each component. To avoid paying additional fees, customs requires proof that components transported separately from the main cargo are part of the same equipment. Customs authorities, noted the respondents, often require too detailed information.

Similar problems are faced **by importers of tools and spare parts**, who must document the weight of goods, net weight and gross weight, in addition to including a technical description, list the goods' materials (which are sometimes a trade secret), show photos, and sometimes describe the process used by the foreign manufacturer. In some cases, an independent examination is carried out. It is worth noting that information about the technical characteristics of the goods is required for the release of cargo even if goods in question are transported under customs transit procedures.

As regards the use of electronic documents, most of the interviewed traders and all of the international road carriers, air-carriers, railway operators and express service delivery providers use electronic means (mainly via emails) for submitting trade documents. The results of the survey also reveal significant progress in migration to paperless systems. Electronic transit documents are used by both importers and exporters. Moreover, and according to the SCCBY and a major service provider, about 95 per cent of exports are declared using electronic customs declarations. The processing of an e-export declaration, according to an exporter, can be completed in less than 40 minutes, as long as the necessary supporting documentary evidence is well in order.

But the use of e-customs declaration is not popular among importers, with only 34 per cent of imports declared electronically according to SCCBY. This limited use is partly explained by the fact that electronic submission of customs declaration for imports has only been introduced in 2010, whereas electronic export declaration has been an established service since 2008.

Yet, traders reported important impediments to wider use of electronic declarations for imports. They indicated that the nature of import transactions, subjected as it is to more tariffs and documentary requirements, sets the limits to the possibility of using e-import declarations. For example, phytosanitary certificates should be stamped on the declaration and this makes it impossible to submit the customs declaration in an electronic form. Another problem raised by respondents (including traders and customs agents) relates to the difficulty of transferring data from the electronic transit declaration to the electronic import customs declaration, suggesting that the two systems are not yet fully integrated.

Beyond the above-mentioned obstacles to increased use of electronic import declaration, the survey results point to the necessity of increasing the choice of service providers supporting

submissions of electronic documents. At present, only three agencies are designated to provide such services, while the special software used for establishing electronic documents is provided by four companies only.

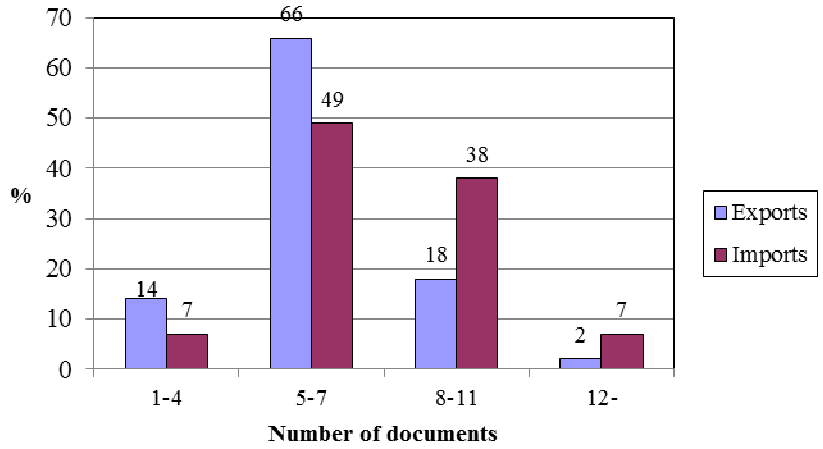
The challenges associated with migrating to paperless documentary systems have come to be compounded with the question of unifying documentary requirements at the sub-regional level within the context of the CU. In addition, both the content of the customs declaration and HS codes adopted by the three CU partners differ from those of the EU to the detriment of the imperative of facilitating trade with EU countries.

At the border procedures

Waiting times at the Belarusian border crossings can be long due to the **complicated administrative control of documentary requirements, and the large amount of additional documentary evidence requested by the different border control agencies**. As per established procedures, documentary requirements are usually verified to ensure data integrity, consistency and compliance. The delays arise when border control agencies insist on verifying all documentary requirements. This is particularly the case of documentary evidence requirements accompanying imports. Around 81 per cent of the importers who participated in the questionnaire indicated that more than more 70 per cent of their shipments are subjected to a complete documentary verification (in the sense that all accompanying documentary evidence are verified) by customs. Those who reported that only 10 per cent of their shipments are subjected to a complete documentary verification by customs represented 12 per cent of the questioned importers.

Further contributing to delays at border crossing points are the additional documentary evidence (e.g., trade contract, invoice, carrier contract, etc.) requested by the different control agencies, which should be submitted in paper form. It is worth noting that for some agencies, i.e., customs, the additional documentary evidence requested do not go beyond those established by law, but it is up to each agency to decide as to the type of additional documentary requirements that are needed. This renders the entire customs clearance process unpredictable, not least because the trader has no means to learn in advance the type of additional documents that may be requested at the border crossing point. As shown in Figure 3.3, respondents reported that they have to submit from 8 to more than 12 documents for around 45 per cent of their import transactions and for 20 per cent of their export transactions.

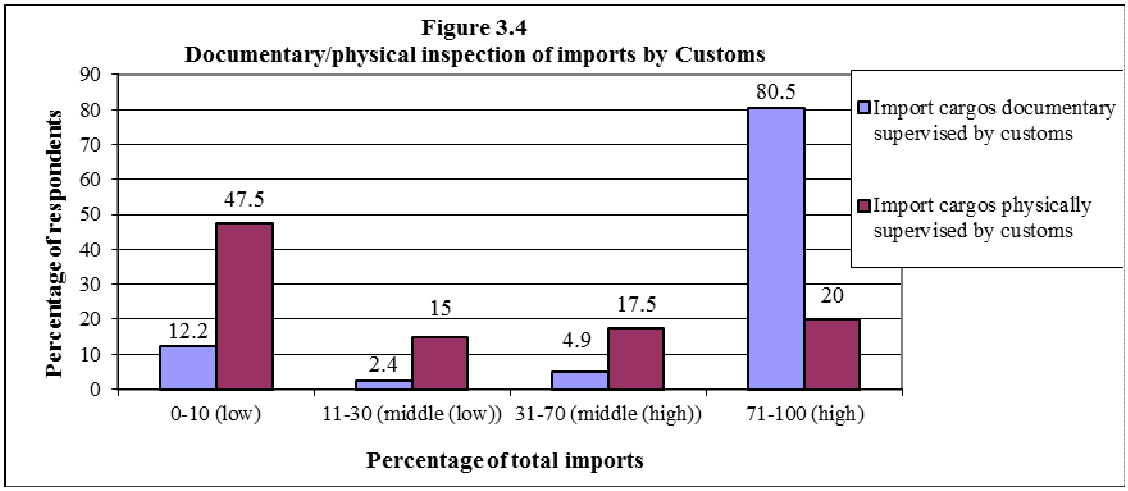
Figure 3.3
Number of documents for completing customs clearance
(*as percentage of total respondents*)



It is not only the number of additional documents that can undermine trade facilitation, but also the process of obtaining these documents, which, as previously shown, is complicated and time-consuming. Traders, particularly importers, also **drew attention to over-reliance on physical inspection by some border control agencies**.

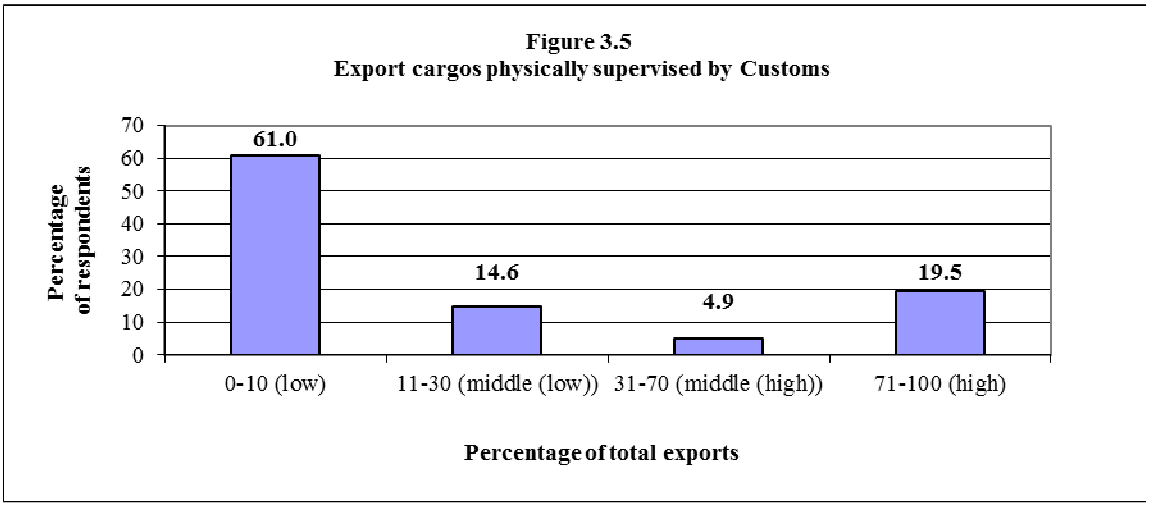
The results of the survey suggest that Customs is the least border control agency to resort to physical inspection. Almost half of the surveyed importers noted that only 10 per cent of their shipment is subjected to physical control by Customs. Those who reported higher incidents of physical inspection by customs, in the sense of exceeding 70 per cent of their shipment consignments, constituted 20 per cent of the total number of interviewed importers (Figure 3.4).

Figure 3.4
Documentary/physical inspection of imports by Customs



In contrast, around 61 per cent of the exporters who participated in the questionnaire said that only 10 per cent of their shipments is subjected to physical inspection by Customs. Interestingly, those who reported higher incidents of physical inspection by customs, in the sense of exceeding 70 per cent of their shipment consignments, also represented 20 per cent of the total number of interviewed exporters (Figure 3.5). Cases where consignments are subjected to physical inspection by Customs mainly relate to new products or those subjected to more than one tariff regime.

Figure 3.5
Export cargos physically supervised by Customs



The SCCBY draws attention that aggregate statistics (i.e., on the national level) show that the percentage of imports/exports subjected to physical inspection by Customs is limited. The SCCBY emphasizes that while documentary evidence is checked in every case, goods are subjected to physical inspection in less than 2 per cent of the cases, since customs apply automated systems for risk analysis.

It is worth noting that even as importers took issue with physical inspection by Customs, around 81 per cent advised that they consider physical inspection by Customs as effective. The problem, it seems, stems from physical inspection conducted by other, non-customs, border control agencies. Around 27 per cent of surveyed exporters and 36 per cent of importers reported being also subjected to physical inspection by other border control agencies, including phytosanitary, veterinary control, transport authorities.

But then the decision to conduct physical inspection is often triggered by errors in submitted documentary requirements. Any issue concerning the compliance, validity, authenticity and integrity of the documentation may justify the physical inspection of goods. The results of the survey shows that lack of or incomplete documentary requirements stand as a major cause of delay for around 46 per cent of the importers, and 8 per cent of the exporters. Thus while the average time for clearance of goods by Customs takes 2.5, according to surveyed operators, total clearance, i.e. by all relevant border agencies, could reach up to 24 hours, as submitted documents are incomplete documents or contain -inaccurate information.

The lengthy border clearance time was confirmed by international road carriers, with 6 out of the 10 interviewed companies reporting, who reported being substantially slowed down by and requests for additional documents and physical inspection. The operators reported that they are often slowed down by phytosanitary control authorities, and that around 40 per cent of their drivers are delayed by vehicle screening procedures by transport control authorities.

Traders and cargo carriers should therefore familiarize themselves with documentary requirements. This is not to suggest that instances of physical inspection can reduced by ensuring due diligence in preparing documentary requirements, in as much as to point out that the border control agencies' reliance on physical inspection is a symptom of capacity shortfalls on the part of traders that render them more prone to committing errors.

Errors in documentary requirements aside, other government agencies may request the inspection of certain products, such as those requiring sanitary or phytosanitary certificates. The fact that not all of the other control agencies operate on the basis of risk management means that they are more likely to rely on physical inspection to establish the validity, consistency and compliance, suggesting that more needs to be done to develop the risk management systems of these other border control agencies

It is worth noting that even as the traders face serious delays at border crossing points, they prefer taking customs clearance procedures upon themselves instead of using the services of customs agents. Around 85 per cent of the interviewed traders reported handling customs clearance on their own (i.e., in-house), and 18 per cent said that they subcontract one customs agent. Then there are those who call upon the services of several agents, and these constituted 24 per cent of total respondents to the UNECE questionnaire.

Respondents who undertake customs clearance in-house explained that they find customs agents' fees too high, given the low level of competition, and noted that it is often he case that agents pass on the risks associated with errors in customs clearance procedures to the enterprises. Some of the enterprises that handle customs clearance in-house are licensed customs agents and provide customs services to other companies.

Traders who use the services of customs agents explained that they lacked qualified staff. Contracting customs agents, they noted, is critical for speeding up cargo release from customs and for avoiding financial penalties, which are imposed in case of wrong assessment of customs values, mistakes in the classification of goods and so on.

The traders' apprehension vis-à-vis customs agents can also be attributed to the law on customs agents. Other than the requirement of establishing civil liability insurance (worth $US 275,000),

the law does not provide a clear definition of the customs agents' responsibilities. These responsibilities are usually defined under the terms of contract agreements between the trader and the customs agents, thereby putting the trader in a disadvantaged position. In the sense that contract may be established in such a way that transfers the responsibility of the agent's poor performance to the trader.

Transit trade procedures

As previously mentioned, transit conditions have much improved during recent years and, at this time, transit traffic through Belarus is mainly destined for the Russian Federation. Problems reported by respondents relate to the necessity to post bonds as well as the costs and delays resulting from the requirement to use customs escorts and designated routes.

Respondents also drew attention to delay resulting from the existing procedures for document submissions when transporting goods via the Russian Federation. Although data exchange between Russian and Belarusian Customs was established in 1996-1997, respondents highlighted that documents exchanged between the two authorities are not systematically transmitted in an electronic format. Traders often have to submit transit customs declarations both in paper form and in an electronic format, since the electronic documents are not always accepted as legally valid. This problem was noted by international road carriers, who also reported experiencing difficulties in obtaining transit permits from the relevant Russian authorities.

It appears that the situation has begun to change from the beginning of 2011 within the context of the CU. The exchange of transit information has become a priority, both for internal (to the CU) and for external transit, and transit data exchanges with Kazakhstan have recently been established. Data should be now sent from the customs office at border entry points to its customs headquarters and from there to the customs office of exit. Moreover the last customs offices at main border entry points between Belarus and the Russian Federation were closed on 1 July 2011.[43]

Stakeholders are positive about recent developments in the area of data exchange with Russia but remain more skeptical with regard to the third member of the CU, Kazakhstan, as its IT system is not fully compatible with the IT systems of its CU partners. At the time of the interviews, the Belarus State Customs Committee indicated that the initial tests with Kazakhstan were still ongoing and areas for improvement were to be identified during the course of 2011. As this is the first year of operation, it is too early to make an assessment of this new procedure. 2011 will be a trial year and adjustments may follow.

In addition, discussions are underway with regard to transit within the CU territory, with a view to developing an appropriate transit framework. All CU member States agree that for transport operations originating and/or ending in third countries and passing through the territory of the CU, both the TIR Convention and the CU transit procedure can apply. However, the CU member States have yet to find a consensus on whether or not the TIR procedure can or should be applied to the transport of foreign goods between two Customs offices of member States when the transport does not cross the territory of any third country, e.g. goods traveling from a Russian seaport to a destination in Kazakhstan or from the Kazakh-China border to a destination in the Russian Federation or Belarus. The information received during interviews indicates that Kazakhstan favors the use of the TIR Carnet in such situations, whereas Belarus and the Russian Federation favor allowing the free circulation of foreign goods once they have entered the CU and have been cleared by a CU customs authority.

[43] Customs inspections have been taking place on the external borders of the customs union as of 2010, but customs officers still checked (on an occasional basis) cargo transported from one member country to another.

Another problem, repeatedly emphasized by different stakeholders pertaining to transit through Belarus and across the CU territory, is the residency principle that was still being applied for imports into the CU. This principle means that goods imported by CU members are not cleared and taxed at the point of entry into the CU's territory, but rather at the point of destination, thereby preventing the removal of customs controls at borders within the CU territory. The residency principle will be abolished following the establishment of the single economic space, which will see the alignment of national VAT rates.

A discontinuation of the residency principle would not only simplify customs clearance but would also generate increased competition for Belarus, removing differences in the taxation of imports within the CU. This means that factors such as import clearance times, fees for import or the availability of logistics facilities would become even more important, at least within the CU territory.

Financial procedures

Respondents drew attention to the difficulties they face when dealing with international payments. Exporters reported that most of the problems concern the receipt of advance payments from countries that implement currency restrictions. Moreover, only 25 per cent of the surveyed companies use trade financing, and the most popular types trade finance used by these companies are export insurance contracts are letters of credit for import. The companies said that they find the costs of trade finance too high, and described the process of obtaining trade finance as cumbersome, particularly those concerning documentary credit.

Some importers singled out the requirement of obtaining government permission to effect payments in foreign currency as a significant procedural barrier, noting that the process can take up to 3 weeks. Moreover, importers must provide a certificate testifying that similar products (i.e., to the ones imported) are not available in domestic markets. The said certificate is obtained, in return for charges, from the National Centre for Marketing and Price Study of the Ministry of Foreign Affairs.

At the same time, the surveyed businesses seemed to be concerned about the lack of affordable trade finance instruments and the high costs of documentary letters of credit and insurance services for foreign contracts. Foreign currency restrictions and procedures for obtaining government permissions to pay suppliers in foreign currency, as well as the long request periods, were among the problems most cited. In addition, trade insurance is available from one company alone which makes insurance costly and difficult to obtain.

Proposed measures for improving trade facilitation

Belarus has taken major steps to improve trade-facilitation conditions. At the time of writing the report, most of these steps were yet to be fully implemented, so that it was not possible to ascertain their success. Nonetheless, the assessment suggests that there remains room for improvement.

1. Establish a public-private sector forum on trade facilitation

Delays at the main border crossing points are often caused either by the traders' failure to satisfy the documentary requirements or by the specific regulations of other border control agencies and State bodies. Yet consultations with the private sector seem to be limited to issues concerning customs clearance.

It is therefore essential to establish a broad mechanism that would involve all relevant government and private sector stakeholders, and ensure continuous discussions before, during and after the implementation of new procedures and regulations. Such a mechanism should serve as a vehicle

both for public/private dialogue and for dialogue between the different private sector stakeholders, whose needs and priorities differ by sector, stage of development and location.

UNECE Recommendations on national trade-facilitation bodies provide guidance and practice examples of best practices for developing or consolidating such a broad mechanism.[44] Successful experiences suggest that attention must be given to avoiding (as much as possible) the creation of a new institution. One appropriate approach is to aim for a "Forum on trade facilitation", which brings together all relevant parties in an ad hoc working group format. The forum could be housed in any market-support institution (whether governmental or private sector) that has extensive outreach. It would then need to be mandated with tasks such as:

- Providing a national forum to discuss actions for facilitating formalities, procedures and documentation used in international trade and transport.
- Making submissions to the government in relation to trade and transport-related rules and regulations.
- Making recommendations on future logistics investments in infrastructure, ITC and other pertinent areas.
- Increasing awareness of the methods and benefits of transport and trade facilitation.
- Representing Belarus at regional and international forums on trade facilitation.

2. Foster inter-agency cooperation and joint-action at the border

The analysis shows that a major reason for lengthy border-crossing times is the lack of coordination between the six agencies responsible for clearance procedures. This problem persists despite the existence of several mechanisms including: the State Customs Committee of Belarus and the State Border Guard Committee which take joint decisions); the "Commission for Trade Facilitation"; and the "Working Group of the Public Council".

This suggests that there remains room for improvement. In particular, inter-agency cooperation should be expanded beyond customs clearance procedures to include procedures by other agencies as well as behind-the-borders procedures and regulations. The above-mentioned proposed Forum for Trade Facilitation could constitute a step in this direction, and Belarus could draw on internationally recognized best practices in cross-border trade to improve inter-agency coordination.[45]

But before adopting best practices, the current "as is" conditions should be analysed. Belarus could, for instance, draw on the WCO Time Release Study, which is widely used for analyzing either customs operations alone, or the performance of all agencies involved in border clearance and it is this last option that is needed in Belarus. Belarus could also draw on the Trade and Transport Facilitation and Southeast Europe Project (TTFSE) methodology, which was designed for the specific purpose of measuring long queues at border stations in the Balkans.

Just as important as the physical flow of goods are the information flows. If integrated, these could facilitate the task of controlling the day-to-day flow of goods, simplify procedures and improve overall transparency and efficiency. In this respect, the ECE's/CEFACT Business Process Analysis

[44] See Recommendation No.4: "National Trade Facilitation Bodies" (TRADE/CEFACT/1999/11), and its supporting document: "Creating and efficient environment for trade and transport" (TRADE/CEFACT/2000/8).

[45] See Organization for Security and Cooperation in Europe (OSCE)-UNECE (2012) "Handbook of best practices at border crossings-A trade and transport facilitation perspective", Vienna and Geneva: OSCE and UNECE. See also UNECE "International Convention on the Harmonisation of Frontier Controls of Goods", available on the UNECE website at: http://www.unece.org/fileadmin/DAM/trans/conventn/harmone.pdf.

(BPA) methodology offers an important tool for establishing the "as-is" information flow conditions throughout the supply chain.[46]

3. Simplify trade procedures and streamline documentary requirements

Existing documentary requirements (most of which need to be fulfilled before the goods arrive at the border) could benefit from further streamlining and harmonization. Applying the BPA would be a first step in this direction. Examples of the kind of recommendations that we would expect to come out of such a business process analysis include:

- Revision of regulations for **dealing with discrepancies**, including by enhancing provisions for conditional release, so as to prevent goods from being held at the border for an undetermined period of time and to allow sanctions to be enforced after the event through simple administrative routines;
- Introduction of more restrictive guidelines for **physical inspection**, introducing modern risk management tools, and taking into account the requirements of all border agencies involved.
- Revision of regulations and practices so that procedures can be carried out more quickly, e.g. when advance notification has been provided or **express shipments** are processed;
- **Simplification of the rules for the Harmonized System (HS) classification of goods** and their valuation for customs purposes as well as the provision of certificates of various kinds.
- In addition, Belarus may decide that it wishes to encourage its CU partners to review the **residency principle** within the CU.

4. Help traders and State agencies comply with e-document requirements

As Belarus forges ahead with its Customs partners to streamline, simplify and harmonise documentary requirements within the CU territory and migrate to a paperless environment, attention should be accorded to ensuring that the business community is prepared for this (for example with physical centres where SMEs could seek assistance in providing data for Customs formalities using e-documents). At the government level, there is a need for establishing a Single Window platform to facilitate automated data exchange between the Belarusian State agencies, so that traders only need to submit their data once.

5. Create a system for mapping CU data requirements to international standards

Automating and standardizing of data between Belarus and its CU partners can create a framework for cross-border data exchange between CU members and their trading partners, including the EU and countries in Central Asia. However, this can only be done after ensuring that CU information structures comply with international standards such as the World Customs Organization Data Model (WCO DM) or the UN/CEFACT Core Components (UN/CEFACT Core Component Library, ISO 15000).

The first step would be to establish an information system for mapping CU trade data to international standards. This would provide the data definitions and formats for external interfaces in order to facilitate cross border data exchange for customs, transit and commercial purposes.

[46] For a detailed explanation of the BPA, see ECE, ESCAP (Economic and Social Commission for Asia and the Pacific), UNNExT (UN network of Experts for Paperless Trade in Asia and in the Pacific) (2009) "Business Process Analysis Guide to Simplify Procedures". Bangkok: United Nations Publications.

Although the automated exchange of data among CU partners falls under the responsibility of the Customs Union Commission, Belarus still needs to undertake such an exercise in order to map its own already existing data to the requirements within the CU, as well as to the requirements of its trading partners outside of the CU. Such a mapping would assist both domestic and non-CU trading partners in adapting their information- processing systems to the CU standard specifications. It would also contribute to clarifying data requirements and formats between CU members and their trading partners. During the interviews, SCCBY stressed its readiness to cooperate with the EU and exchange data, especially advance information, whether through the CU or as an individual country.

6. Establish a coordinated approach to risk management at the border

A major reason behind the delays at the main border-crossing points is the sheer number of risk mitigation requirements imposed by border-control agencies. As these requirements are agency specific, and are often indispensable for protecting public health and safety, their negative impact on cross-border trade could only be addressed by establishing a coordinated inter-agency approach to risk management.

The first step toward such an approach would be to agree upon a mutually recognized set of risk-assessment criteria and joint procedures. The business process analysis (recommendation 3) enables such an undertaking, as it involves identifying and prioritizing risks in terms of their magnitude.

In designing its risk-management approach, Belarus could draw on the example of New Zealand's Joint Border Management System, which features a common methodology for risk assessment, common IT systems and an agency-wide coordinating structure.[47] International best practices[48] suggest that developing such a system requires:

- Training for the management staff of regulatory authorities and regulators on the use of risk management tools in regulatory systems. This should be supplemented by learning from the experience of other countries through continued participation in international meetings, study tours, twinning projects, etc.

- The establishment of a Commission, or other coordinating body, to develop guidelines for the application of risk management in all border control and regulatory agencies.

- The promotion of a collective and coherent approach to managing risk in regulatory systems across government agencies. The adoption of common risk management and mitigation approaches and tools, agreed across agencies, in all trade-related regulatory work, including in the development of regulations, the choice of conformity assessment options, the planning and implementation of market surveillance actions, etc.

- That trade-related regulatory agencies, based on the training above, develop risk profiles for their areas with accompanying lists of prioritized areas for regulatory reform/review based upon the classification of work areas as being either high-risk and requiring focused, risk-based regulation or low-risk with the possibility of partial or total deregulation (thus freeing up resources for controlling high risks).

[47] Further details of this system are available on New Zealand's Customs Service Website at: http://www.customs.govt.nz/Pages/default.aspx

[48] For an overview of best practices in border management, see, for example, McLinden, G. et al. (eds.) (2010). Border Management Modernization: A Practical Guide for Reformers. Washington, DC: The World Bank.

- Implementation of a combination of measures in order to bring results; one intervention alone will not significantly change the situation for traders. For example, the possibility of submitting electronic customs declarations has not lowered the reliance on physical inspections or changed the interventions made by other border agencies.

7. Broaden the scope of trade-information dissemination and facilitate access

All trade documents, procedures and regulations should be continually updated and published through a central, authoritative website and far enough in advance to allow traders and service providers (such as transporters) to prepare for their implementation. At present, this function is undertaken by various State agencies. Equally important is the need to familiarize traders with the implications (required capacities and benefits) of different trade documentary requirements and procedures. Government agents enforcing regulations also need guidance, to ensure a predictable trade environment. It is therefore recommended to broaden the information dissemination function to include the publication of technical manuals and guides in order to enable enterprises (as well as government enforcement agents and other government authorities) to comply with/implement trade procedures and regulations. Such guides should also include case studies that highlight the problems facing traders in export and import markets. This service can be provided by an existing service provider or by a trade-facilitation forum (see Recommendation 1) with the assistance of international development partners.

8. Encourage greater competition among trade-related service providers

Elimination of the monopoly now enjoyed by certain entities is crucial for increasing the supply of trade-related services, reducing transaction costs and improving the quality of the services. Nonetheless, there should be strict controls, perhaps through licensing or accreditation, of service providers that are entrusted with the direct transmission of sensitive data to customs and other clearance agencies.

9. Develop the railway network

As Belarus forges ahead in developing its railway network, it needs to invest in both the hardware and software infrastructure. As it was beyond the scope of this needs assessment to delve into the specific needs of the railway system, it would be worth conducting a follow-up study that focuses on that. Such a study could also consider adopting Intelligent Railroad Systems, which incorporate communications technologies into train control, braking systems, grade crossings, and defect detection, as well as into planning and scheduling systems.[49]

[49] Such systems are being developed in the United States of America. See, *The Changing Face of Transportation,* published in 2000, and expanded upon in the Federal Railroad Administration's *Five-Year Strategic Plan for Railroad Research, Development, and Demonstrations*. Both reports are available on-line at: http://www.bts.gov/publications/the_changing_face_of_transportation/ and; http://www.fra.dot.gov/us/content/225.

4. Regulatory and standardization policies

Belarus, like other countries in the region, is implementing a series of reform measures to move away from a system of mandatory and home grown standards towards one that is based on international standards and best practice. These efforts are taken within the broader context of completing preparations for accession to the WTO, and for fulfilling commitments under the CU with Kazakhstan and the Russian Federation.

Reform efforts have been successful in many respects. The SQAM system, is more integrated, with all regulatory functions, previously handled by different agencies, now performed under the supervised one entity; namely, the State Committee for Standardization of the Republic of Belarus (Gosstandart) that was established in 2006.[50] Gosstandart's mandate, as set forward by legislative acts,[51] involves:

- Coordinating and supervising the implementation of common governmental policy in the areas of technical regulations, standardization, metrology, conformity assessment, and efficient use of fuel and energetic resources.
- Ensuring continuous development and efficient functioning of the national system of technical regulation and standardization; the system of accreditation system, the system of measurements unity assurance, and the system of conformity assessment.
- Preparing annual work programmes in the areas of standardization and technical regulations development, taking into account proposals by relevant institutions, and submitting them to the Council of Ministers for approval.
- Formulating State policy on the efficient use of fuel and energy resources, organization of development and implementation of national concepts and programs for energy saving;
- Carrying out overall surveillance and inspection of construction works to ensure compliance with national regulations and standards.
- Interfacing with regional and national conformity assessment bodies.

Gosstandart operates through a web of over 50 organizations that are spread across the country. These agencies can be grouped under four clusters:

- Specialized institutions:
  - Belarusian State Institute for Standardization and Certification (BelGISS,)
  - Belarusian State Institute for Metrology (BelGIM)
  - Belarusian State Institute for qualification raising and staff retraining in the field of standardization, metrology and quality management (BGIPK)
  - Belarusian State Center for Accreditation (BSCA)
- Regional Centres for Standardization Metrology an Certification (CSMC)
- Department of Energy Efficiency
- Department for Construction Inspection and Surveillance

[50] Gosstandart was established by Presidential Decree No. 289 of 5 May 2006 "On the Structure of the Government of the Republic of Belarus". The Decree stipulated the creation of Gosstandart through merging the Committee for standardization, metrology and certification (under the Council of Ministers of the Republic of Belarus); the Committee for energy efficiency (also under the Council of Ministers of the Republic of Belarus); and, the Department of the state constructional surveillance (under the Ministry of Architecture and Construction of the Republic of Belarus).

[51] Most notable among these acts is the Law of the Republic of Belarus "On Technical Regulations and Standardization" of 2004.

Gosstandart ensures regular dissemination of information on new technical regulations and national standards through its monthly "Information Index of technical normative legal acts". In addition, Gosstandart maintains a compendium of national and international standards and technical regulations through the National Fund. The Fund publishes an annual "catalogue" of national and international technical regulations and standards, and provides regular information on modifications to and suspension of technical regulations. The dissemination of up-to-date information on standards and technical regulations is also undertaken by BelGISS, BelGIM, as well as regional and district centers that sell updated information on standardization, metrology and certification. Companies and organizations also receive regular updates from Gosstandart in the form of email newsletters.

Gosstandart is actively involved in the development of common standards for the CU and is a member the Euro-Asian Council for Standardization, Metrology and Certification (EASC) of the Commonwealth of Independent States (CIS). It also participates in a number of international and European specialized organizations in the areas of standardization, metrology and accreditation. Belarus is a member of the International Organization for Standardization (ISO);[52] a member of the International Electrotechnical Commission (IEC);[53] an associate member of the International Laboratory Accreditation Cooperation (ILAC); an affiliate member of the European Committee for Electrotechnical Standardization (CENELEC); an affiliate member of the European Committee for Standardization (CEN); and an associate member of the European Organization for Accreditation (EA).

Yet, just like any other country, Belarus is faced with the challenge of keeping the SQAM system up-to-date and ensuring that technical regulations and standardization polices do not burden national and foreign enterprises. As shown below, addressing this challenge is likely to be undermined by capacity shortfalls in the quality assurance infrastructure; competency shortfalls within government institutions and enterprises; and, the lack of systemic coordination between relevant stakeholders.

4.1 Technical regulations and standardization

The Belarusian system of technical regulations and standard setting provides an exemplary model for other countries with economies in transition. The system features an emphasis on harmonization with international regulations, particularly those of the EU, an effort to ensure a genuine participatory approach, and a pre-occupation with transparency; all of which are critical for eliminating non-trade barriers to trade. However, Gosstandart's efforts are challenged by capacity shortfalls at both the planning and implementation levels. Below is a brief description of achievements to date, and unaddressed capacity shortfalls.

Priority needs

Technical regulations

In Belarus, the Law of the Republic of Belarus "On Technical Regulation and Standardization" of 2004 provides the basic legislation of technical regulations. The Law is based on the provisions of the WTO Agreements and the European Union (EU) New Directives, and was amended in 2006 with the passing of the Law of the Republic of Belarus "On Amendments and Additions to Certain Laws of the Republic of Belarus on the Matters of Technical Regulation, Standardization and Conformity Assessment", which stipulated amendments to 48 laws and codes to bring the entire SQAM legal system to international best practices.

[52] Belarus participates in the work of 58 (out of 210) ISO Technical Committees, and in 107 (out of 519) subcommittees.

[53] Belarus participates in the work of 9 (out of 94) IEC Technical Committees and in 18 (out of 80) subcommittees.

Other legal documents include, the Law of the Republic of Belarus "On Ensuring the Uniformity of Measurements" of 20 July 2006; the Law of the Republic of Belarus "On Conformity Assessment with the Requirements of Technical Normative Legal Acts in the Field of Technical Regulation and Standardization" of 2010; and, since the onset of the CU, the Agreement on Common Principles and Rules of Technical Regulations, adopted by the CU Commission on 18 November 2010.[54]

The objectives of technical regulations are geared to serve the overarching strategic goals set for the SQAM system. These include, among others: ensuring public safety; safeguarding the environment; promoting energy efficiency; promoting competition; attracting foreign investment; and, integrating the Belarusian economy into international markets

Consistent with international best practices, before venturing into the development of a new technical regulations, Gosstandart conducts a regulatory impact assessment (RIA) to determine whether government intervention is required, and whether it is the most effective way to achieve national objectives.[55] The development of technical regulations involves consultations with the private sector through sector-focused "National Technical Committees (TCs) on Standardization" that bring together relevant State authorities, research and development institutions, and enterprises. The TC's are chaired by enterprise managers or heads of research institutions, and to a limited extent Ministers or deputy ministers, and their work is coordinated by Gosstandart which approves their members.

The TCs, which are formed as needed, participate in the preparation of the annual plans for technical regulations development, as well as in developing technical regulations. To date, Gosstandart has formed 36 sectoral TCs in priority fields covering, among others: quality management, standardization in metrology, wheeled vehicles, tractors and machinery for agriculture and forestry, medical devices, electrotechnics and electronics, social responsibility, information technology, and architecture and construction.

Most of the technical regulations are elaborated by means of indicative reference to standards. This method involves mentioning only the essential safety requirements (or other requirements in the general interest) with which products put on the market must conform in the text of the technical regulation. Yet, there are some regulations that contain technical requirements in the text of the regulation, following the method of exclusive reference to standards. Under this method, a standard or excerpts of a standard is reproduced in the text of the regulation, so that compliance with the standard becomes mandatory.

As a rule, Gosstandart base national technical regulations on international standards, with a special emphasis on European Standards (ENs). This is done through referencing to international standards in the text of the technical regulation. In this case, the international standard in question is often adopted as national, and is marked as STB EN, with STB referring to the governmental standards of the Republic of Belarus.

The latest technical regulations plan, “Technical Regulations Development Plan” for the period 2009-2011,[56] stipulated the development of 33 technical regulations covering different products/services and risks. The implementation of the Plan was put on hold in January 2011, as Belarus shifted its focus onto the preparation of common technical regulations for the CU.

The formulation of these common technical regulations is guided by the agreement on common principles and rules for technical regulations. Belarus will be preparing 6 (of the 24) common

[54] Also sometimes referred to 'single' or 'common' principles.
[55] The procedures for developing technical regulations are elaborated in Gosstandart’s "Code of practice". For details visit Gosstandart website at: http://www.tnpa.by/TechnicalCodesEN.php.
[56] The Plan can be found at: http://www.gosstandart.gov.by/txt/Programm-work/docs/plan01.pdf.

technical regulations. The common regulations being developed by Belarus cover inter alia the safety of low-voltage equipment, toys, packaging, cosmetic products, agricultural and forestry tractors and trailers, fertilizers, labelling of food products and electromagnetic compatibility of equipment. Each new technical regulation has its own implementation plan, which highlights the relevant authorities and institutions that need to be involved and the responsibilities and actions that need to be undertaken by each party.

It is worth mentioning that CU members are using UNECE Recommendation L as a reference framework for the harmonisation process. As shown in Box 4.1, the recommendation provides a voluntary framework for facilitating the harmonization of horizontal technical regulations (i.e. those that apply to all products or all services or all organizations depending upon the context) or those related to specific sectors and products.[57]

Box 4.1
UNECE Recommendation L

UNECE Recommendation L emphasizes the establishment of common regulatory objectives (CROs), preferably through recourse to applicable international standards, as a key element for harmonization, and sets out the principles and procedures that need to be followed. The Model also helps countries specify how conformity should be determined, and defines other pertinent issues, such as compliance clauses and market surveillance provisions. Once this framework is agreed on a bilateral or multilateral basis, the countries can transpose these arrangements into domestic national technical regulations. The products that comply with these regulations could then use their domestically obtained conformity assessment testing or certification, with no further assessment requirements, to export their products to participating importing countries.

The results of the survey reveal a number of challenges at the planning and implementation levels. At the planning level, efforts to modernize the Belarusian system of technical regulations are complicated by the limited availability of international standards in the Russian language. As it may take up to one year to complete the translation of an international standard into Russian, the entire standards setting process is slowed down. The planning process is also held back by the lack of expertise skills in the areas of strategic planning at the middle and low-level management; the limited funds available for standards development agencies to coordinate the work of the TCs and organize the necessary meetings; and, by the private sector's limited experience in the area of technical regulations.

At the implementation level, the modernization effort is complicated by the difficulties associated with ensuring continuous cooperation among the various stakeholders (most of them have different interests), and, as shown in the next section, the lack of the required necessary infrastructure (e.g. for conformity assessment and for market surveillance).

Standardization

As previously mentioned, standards development is coordinated and supervised by Gosstandart in its capacity as the national standardization body. Gosstandart Committee for Standardization develops standardization annual plans, approves the requirements specification for standards and the standards. The development of national standards is undertaken by a number of independent bodies, including, among others: the National Institute for Standardization and Certification (BelGISS); the National Metrology Institute (BelGIM); and, Institutes of the Academy of Sciences.

[57] http://www.unece.org/trade/wp6/SectoralInitiatives/START/START.html.

In developing national standards, commonly referred to as the governmental standards of the Republic of Belarus (STBs), the standards development bodies follow the typical stages defined in ISO/IEC Directives. On the basis of the approved annual standardization plan, or pursuant to a request by the private sector, the standardization body prepares the requirements specification, which is then approved by the State Committee for Standardization. The standardization body subsequently prepares implementation plans for developing individual standards, which are executed with funds from the State.

In preparing the implementing plans, the standardization body solicits feedback from main stakeholders within the context of the TCs through formal notification letter. The main stakeholders that should be consulted are defined in the requirements specification, and these stakeholders are kept abreast throughout the preparation of the draft standard, which is also made available online for public comments. If necessary, brainstorming meetings are organized to reach consensus.

Once completed, the draft standards are assessed by Gosstandart's Scientific Committee for eventual approval by Gosstandart. When a standard is approved, BelGISS prepares it for publication and dissemination. Businesses can obtain national standards (for free or in return for fee) from BelGISS. The Institute maintains a depository of national, regional and international standards, the "Standards Fund", which can be accessed free of charge both offline and online.

Alongside the STBs, Belarus, and just like the other members of CIS, also adopts as part of its system of national standards, the regional GOST standards, which are maintained by the Euro-Asian Council for Standardization, Metrology and Certification (EASC) of CIS. The GOST standards, which are being reformed by EASC to ensure a move from a mandatory to a voluntary system, cover energy, oil and gas, environmental protection, construction, food processing, among others. As of mid 2011, the Belarusian system of national system of standards comprised 25,000 standards, including 20,700 GOST and 4,300 STBs.

Belarus has achieved considerable progress in modernizing its system of national standards, with over 70 per cent of the Belarusian standards harmonized with European and international standards. Consistent with Belarus' strive for economic diversification, priority is given to harmonizing standards for export-oriented, import-substituting and innovative industries. As shown in Table 4.1, the highest level of harmonization is observed in machine-engineering manufacturing (79 per cent), with agriculture and foodstuff and consumer industry proving to be particularly challenging, with the level of harmonization standing at 26 per cent and 10 per cent, respectively.

Table 4.1 Harmonization of Belarusian National Standards

Field	Level of harmonization
Machine-engineering	79%
Electronics, radio-electronics & communication	72%
Chemical & petrochemical products	67%
Building materials & articles	59%
Forest & wood-processing	57%
Automotive industry	40%
Agriculture & food	26%
Consumer products	10%

Notable progress has also been achieved in the fields of energy efficiency and energy labeling, whereby national standards are developed on the basis of EU technical legislation. Efforts are underway to development 136 technical regulations on such topical issues as use of renewable energy, local and alternative fuels, use of highly economical energy-heat generating and industrial

machinery, electrical and household appliances, lighting equipment, engineering products, etc.; energy efficiency in buildings; energy management and energy audit of organizations; performance evaluation and promotion of energy saving measures in industry.

Yet, the UNECE evaluation points to a number of shortfalls at both the planning and implementation levels. At the planning level, the necessity of increasing the participation of the private sector in standards development cannot be over-emphasized. Officials drew attention to the private sector's low level of interest in contributing to standards development. They noted that where such interest is high, the private sector's participation is undermined by a lack of expertise skills in the area of standards development. Other factors highlighted by respondents relate to the absence of unions capable of financing the development of harmonized standards, particularly in the food industry; the low level of demand for harmonized standards, particularly in the field of consumer products, given the enterprises' low productive capacity; and, the lack of funds for upgrading testing laboratories.

The respondents also reported that the formulation of national standards is held back by the shortage of publications on international standards and technical regulations in the Russian language, and slow dissemination of new standards. Interviewed enterprises highlighted that they do not receive information on international standards in a timely manner.

There are also challenges associated with harmonizing the Belarusian system of standards with CU and CIS partners. While the member countries agree on the necessity of harmonizing common standards with European and international ones, they may differ in terms of priority sectors to be harmonized. This is a result of CU and CIS countries being at different stages in terms of industrial modernisation.

Recommendations

General

10. Establish a national programme to help SMEs comply with quality standards and technical regulations

Larger industries are usually well placed to participate in the work of the Gosstandart Technical Committees by virtue of their resources and extensive involvement in foreign trade. They also have the required capacity for ensuring compliance. This is not so for SMEs.

It is recommended that Gosstandart put in place a national programme to assist SMEs throughout the entire compliance process. Assistance for developing such programmes is provided, for instance, by the EU, United States Agency for International Development (USAID), United Nations Industrial Development Organization (UNIDO) and the International Trade Centre (ITC). But such programmes only yield the expected benefits if they focus on specific sectors or issues.

Thus, when designing its national programme for supporting SMEs, Gosstandart could consider targeting those sectors where compliance is the most problematic, or where new technical regulations need to be developed. Gosstandart could also consider housing such a programme under a special unit, which would need to be established and provided with the required staff and training materials.

11. Establish a national quality forum

Increasing inter-agency coordination is a challenge that is common to all countries, including those with developed SQAM systems. Of much importance is ensuring the involvement of all stakeholders from the start and throughout the design phase of any SQAM development initiative, so that they can contribute their expertise and develop the required capacities for successful implementation.

One way to achieve this would be to establish a national quality forum for regulators (to find out what the stakeholders' needs are and to identify any unintended consequences of regulation), and for private sector stakeholders (to exchange views and experiences). The forum could also act as a think-tank and publish country-wide or sector-focused studies on issues of particular interest to stakeholders, and facilitate enterprises' access to specialized training programmes (either by establishing partnership agreements with regional and international institutions or by directly providing training services).

12. Develop a regulatory impact assessment (RIA) system

Ascertaining the full cost of implementing regulations, or the regulatory impact on enterprise competitiveness and public sector effectiveness, is a challenging task, even for the most competitive regulatory authority. Belarus is no different. The regulatory system could benefit from developing uniform guidelines for conducting RIAs.[58] Such guidelines could take a variety of forms, starting gradually from simple financial cost estimates, including minimizing the burden of regulatory red tape on businesses, to a comprehensive economic and social cost-benefit analysis. Complementary training should also be given to regulators on regulatory impact-assessment methodologies.

13. Adopt new risk management tools

Gosstandart's system of risk management could be further improved by integrating generic and sector-specific risk management tools for (i) choosing areas that require regulatory intervention; and for (ii) compiling information on potential environmental and health hazards. The focus should be on determining maximum tolerated risk levels; setting objectives that meet national concerns; articulating specific criteria for risk assessment and applying homogeneous safety criteria for comparable risks.

UNECE has worked extensively in this area, with the participation of experts from member countries, including Belarus. Belarus may want to consider implementing the UNECE recommendations, "Risk Management in Regulatory Systems" and "Crisis Management in Regulatory Systems". [59] The former sets out the general principles of performing the main risk management functions within a regulatory system, while the latter offers specific guidance for implementing crisis management.

14. Bolster Gosstandart's institutional capacity

Gosstandart needs to be strengthened with additional resources to ensure timely translation of international standards into Russian. There is also a need for supporting middle and lower-level management with advanced training on planning and implementing technical regulations.

4.2 Metrology, conformity assessment and accreditation

A key drawback in the Belarusian quality assurance system is the lack of the required infrastructure, particularly testing laboratories. This drawback, not only increases the transaction costs for enterprises, but also undermines Gosstandart's ability to implement its mandate.

There are also the challenges associated with coordinating quality control activities and development efforts with CU partners. A major concern is related to the implementation of the common technical regulations, which will be gradually introduced as of February 2012. Respondents noted that some of the products covered by the common technical regulations are not subjected to mandatory conformity assessment under the Belarusian system. Thus Belarus should carry out the required certification procedures before placing the products in question on the

[58] See, for example, OECD (2009) Regulatory Impact Assessment: A Tool for Policy Coherence.

[59] The two recommendations are still in the preparatory phase. Drafts are available on the UNECE website at: http://www.unece.org/trade/wp6/riskmanagement.html

market of the CU territory, at a time when the existing testing laboratories are not equipped to do so. This challenge comes in addition to the one emerging from the fact that the test reports and certificates of conformity issued by Belarusian test facilities and conformity assessment bodies are not recognized by Western European countries. Below is a brief discussion of achievements to date and priority needs.

Belarus quality assurance system: ongoing development efforts and achievements to date

Conformity Assessment

Conformity assessment falls under the privy of Gosstandart in its capacity as the National body for Conformity Assessment. Gosstandart activities in this area are based on the Law of the Republic of Belarus "On conformity assessment with the requirements of technical normative legal acts in the field of technical regulation and standardization". The law sets out the principles of conformity assessment in Belarus, including:

- Harmonization with international and intergovernmental (regional) approaches in the field of conformity assessment;
- Identity provision of rules and procedures for products conformity attestation;
- Fulfillment of requirements on confidentiality of data received in carrying out works on conformity assessment.

As established under this law, Gosstandart implements, among other functions, the State policy in the field of conformity assessment; develops and approves accreditation rules and conformity attestation rules, regulatory procedures; contributes to the development of the drafts for legislative and other normative legal acts regarding conformity assessment; and, performs accreditation or delegates functions on accreditation to accreditation body.

At present, the Belarusian system of conformity assessment consists of 17 basic technical codes of good practice and a range of technical normative legal acts, which together establish the order of certification of ensure the uniformity of services. The national system of certification, the BelSt system, provides for obligatory and voluntary certification. Consumer goods, as well as goods and services which may cause the danger for life, health, property and environment are subject to obligatory certification.

Certificates of conformity to BelSt are issued by the certification bodies which are accredited by Gosstandart to act on its behalf. The issuance is implemented following technical evaluation of the goods to ensure their compliance to Belarus safety regulations. The evaluation procedure may include evaluation of technical documentation, surveillance visits, sampling, analysis, type testing in accredited laboratories, factory audits and in certain cases certification of quality management system.

Most recently, and in an effort to reduce administrative barriers to trade, Belarus has introduced a revised version of the Law of the Republic of Belarus "On Assessment of Conformity to Requirements of Technical Legal Instruments in the Sphere of Technical Regulation and Standardization", which restricts on introduction of mandatory certification. In particular, the Law, implemented in July 2011, stipulates that compulsory certification could be introduced only in the framework of technical regulations or in case of existing national standards for the products.

In addition, since December2010, Belarus has been working to effect a transition from compulsory product certification by a third party to declaration of compliance with safety requirements directly by manufacturers, importers and sellers, fully entrusting them with responsibility for

safety and quality of goods.[60] These new developments have significantly reduced the range of goods subject to mandatory certification by more than 30 per cent.

The year 2011 has also witnessed progress in providing for recognition of Belarusian product testing in foreign laboratories. Belarus has adopted an ordinance which stipulates that in the course of issuance of Belarusian certificates of conformity and adoption by Belarusian importers of declarations of compliance for certain products, protocols of testing by European Notified Bodies for conformity assessment, issued as part of the procedures for CE labeling (building materials, personal protective equipment, etc.) may be used.

In the framework of the Customs Union, Belarus has drafted Single List of Products Subject to Mandatory Compliance Evaluation (confirmation) within the Customs Union with the Issuance of Common Documents, which was adopted in June 2010. As such, manufacturers and importers can now carry out compliance confirmation for products in one of the product certification bodies within the Customs Union receiving the certificate or registering declarations of conformity under common forms of the Customs Union, which are valid throughout the Customs Union. Having documents, one has no need to obtain national documents on conformity assessment in each country of the Customs Union.

Accreditation

Key reform efforts in the area of accreditation have involved the establishment of an independent accreditation body in 2008, the Belarusian State Centre for Accreditation (BSCA).[61] The Centre is responsible for the national accreditation of testing, inspection and calibration laboratories, certification bodies for products, services, systems and personnel, and for establishing agreements with relevant international organizations.[62] As of October 18, 2011 the National Accreditation System has certificates of accreditation of:

- 2341 test laboratories;
- 102 certification bodies;
- 205 control laboratories; and,
- 52 calibrating laboratories.

The development of the Belarusian accreditation system entered a new phase in 2011 with the implementation of Law "On Assessment of Conformity to Requirements of Technical Legal Instruments in the Sphere of Technical Regulation and Standardization" of January 5, 2004, which delegates the accreditation of conformity assessment bodies to a single national accreditation body; namely BSCA. The development of the national accreditation system is also guided by Regulations of the European Parliament and Council № 765/2008/ES to ensure harmonization with European systems.

As part of its effort to implement the above-mentioned laws, BSCA drafted the Technical Common Practice Codes (TCPC), which established the basic provisions of the Belarusian accreditation system.[63] The system also adopts and implements the requirements of international instruments in the field of accreditation.[64]

[60] As per the Directive of the President of the Republic of Belarus of 31 December 2010 № 4.

[61] The Centre was established following the recommendation of DAP (the German Accreditation System for Testing), which carried out the first independent evaluation of the Belarusian accreditation system. The Centre took over from the State Committee for Standardization, and assumed all the functions related to the accreditation of conformity assessment bodies designated to work with different agencies and sectors.

[62] A detailed account of BSCA's mandate is available on the institution's website at: www.bsca.by.

[63] The code contains: TCPC 50.01-2011 National Accreditation System of the Republic of Belarus. The main provisions (to replace the STB 50.01); TCPC 50.10 National Accreditation System of the Republic

Yet another important body is the Council on Accreditation of the National Accreditation System, which consists of representatives from the National Accreditation Body, the National Authority for Conformity Assessment of Belarus, ministries, agencies and other stakeholders, which ensures objectivity and impartiality in development and adherence to the national accreditation principles and policies, and in confirming to international requirements. Most recently, the Council has established the Appeal Commission of the National Accreditation System of the Republic of Belarus.

Metrology

Under the Belarusian metrology system, legal metrology applies to a broad range of measurements, including measurements performed in trade and transactions between buyer and seller; measurements performed for tax purposes; measurements performed for customs and banking purposes; environmental protection; and expert examinations. [65] The task of ensuring the uniformity of measurements is carried out by the Belarusian State Institute of Metrology (BelGIM),[66] commonly referred to as the National Institute of Metrology, assisted by 15 regional centres for standardization, metrology and certification (see Figure 4.1).

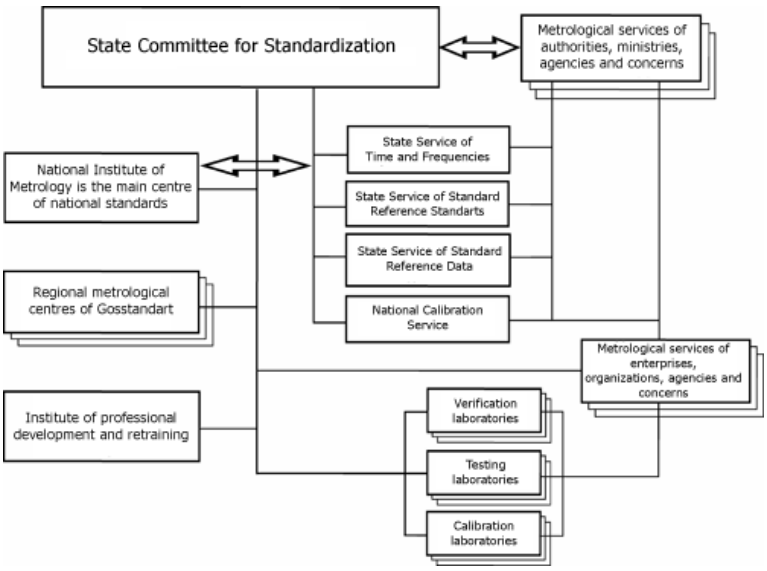
of Belarus. Rules of accreditation (with the abolition of the STB 941.1, 941.2 STB, STB 941.3, TCPC 50.11, 50.12 TCPC, TCPC 50.13); and, TCPC 50.15-2011 National Accreditation System of Belarus. Roster. Conduct of business (to replace the STB 941.4).

[64] The requirements currently adopted by Belarus are elaborated in: STB ISO / IEC 17011-2008 conformity assessment. Requirements for accreditation institutions of conformity assessment bodies; STB ISO / IEC 17021-2010 National system of conformity of the Republic of Belarus. Conformity assessment. Requirements for bodies providing audit and certification of management systems; STB ISO / IEC 17024-2008 conformity assessment. General requirements for bodies conducting certification of personnel; STB ISO / IEC 17025-2007 General requirements for competence of testing and calibration laboratories; STB EN 45011-99 General requirements for bodies conducting product certification; and P STB ISO / IEC 17043-2011 conformity assessment. Basic requirements for proficiency testing.

[65] The remaining measurements covered by legal metrology, include state inspection and condition diagnostics of vehicles; safety of hazardous industrial locations, fire safety and radiation safety; measurements performed for geodesic and map-making purposes; hydrometeorological measurements; measurements involved in providing postal and telecommunication services; testing and monitoring of conformity of products and raw materials with the legal requirements of the Republic of Belarus; defence and public security; measurements performed for life security purposes and health measurements; occupational safety; state metrological surveillance; metrological control; inspection of prepackages; veterinary measurements performed for laboratory and diagnostic purposes; manufacture and use of gaming and gambling machines; and, measurements of achievement in international and national sport events. Ibid. Article 16.

[66] BelGIM is responsible for the development of normative and methodical documents in metrology; provision of reproducibility of units of measurements and their dissemination; performance of state tests, verification and metrological attestation of measuring instruments and testing equipment; carrying out metrological attestation of measurement techniques, metrological examination of normative documents in metrology; performance of other functions stipulated by the legislation.

Figure 4.1 The National Metrology System of Belarus[67]



BelGIM also performs type approval, along with 4 regional centers, based on Organization of Legal Metrology standards. Just like other countries in the region, the Belarusian metrological system could benefit from further development to satisfy European and international export requirements.

As the development of the metrological system is a rather costly enterprise, the need for regional cooperation gains significant importance. Belarus is already coordinating its metrological development efforts with regional partners within the context of the Euro-Asian Cooperation of National Metrological Institutions (COOMET), which brings together 18 metrological institutions from Europe and Asia.[68] The CU with Kazakhstan and the Russian Federation is yet another vehicle for coordination, which, by virtue of its smaller membership, renders consensus building, pooling resources and embarking on coordinated action less challenging. In order to foster its contribution to regional initiatives and enable it to reap expected benefits from regional coordination, Belarus has to address a number of capacity shortfalls which are discussed below.

Recommendations

15. Develop compliance-testing laboratories

While Belarusian traders currently use testing laboratories located in the Russian Federation, Belarus may want to consider establishing testing laboratories on its own territory. Both the type and number of testing laboratories need to be decided in consultation with its CU partners to avoid duplication of effort, and ensure an even distribution of testing laboratories within the CU territory. Belarus might wish to explore the viability of establishing testing laboratories for products with high export potential.

16. Enter into mutual recognition agreements

In addition to the establishment of compliance testing laboratories, Belarus might also consider entering into new mutual recognition agreements (MRAs) with European and other partners. One option would be to further diversify the non-governmental MRAs between Belarusian conformity-

[67] As presented by Gosstandart at: http://www.gosstandart.gov.by.

[68] COOMET brings together the national metrology institutions of Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Germany (Associate Member), Kazakhstan, Kyrgyzstan, DPR of Korea (Associate Member), Cuba (Associate Member), Lithuania, Moldova, Russia, Romania, Slovakia, Tajikistan, Uzbekistan and Ukraine.

assessment bodies and their counterparts in target markets, as such agreements help increase mutual confidence and facilitate formal agreements between governments.[69]

Non-governmental MRAs could provide a useful addition to government to government MRAs; an avenue that Belarus is already following.[70] As it forges ahead to implement the option of government to government MRAs, Belarus needs to proceed with care as these agreements may have some disadvantages. For example, implementation tends to be resource intensive and requires a complex legal infrastructure.

17. Strengthen metrology and legal metrology

The existing system of metrology and legal metrology could benefit from:

- Expanding the system's etalon base (i.e. range of measurement standards).
- Drawing a plan to ensure full accession of Belarus to the Metre Convention (Belarus has been an associate member since 2003).
- Building a network of reference laboratories, including the supporting legal framework, training of personnel, and required equipment.
- Training of personal in the verification of measurement instruments. The list of fields under the EU Measurement Instrument Directive could provide guidance on the instruments to be covered.
- Strengthening the research capacity of metrology laboratories, so that they can develop new measurement methods.

18. Strengthen the metrological system for food products

This system could benefit from:

- New equipment and methodologies in food-product testing, as the current equipment allows for controlling only 20 per cent of the parameters regulated by the EU Directive 96/23/EU of 29 April 1996. The EU is an important, potential market for Belarusian food products.
- Targeted training in type approval and verification of measurement instruments in food-product testing.
- Investments in metrological facilities and equipment, and particularly those required for controlling food products in conformity with EU Directives.

19. Strengthening Gosstandart's expertise skills

Gosstandart staff could benefit from: (i) targeted training on new standards and certification approaches and the use of suppliers' declarations of conformity; (ii) internationally recognized training in the area of accreditation; (iii) and assistance in establishing an accreditation system for inspection bodies.

4.3 Market surveillance

The function of market surveillance is undertaken by Gosstandart, guided by relevant national legislative acts, which are compliant with EU legislation.[71] In addition to compliance with

[69] The Belarusian accreditation body has signed bilateral cooperation agreements with its counterparts in Estonia, Georgia, Kazakhstan, Latvia, Lithuania, Moldova, Poland, the Russian Federation, Slovakia, and Ukraine.

[70] Gosstandart has signed mutual recognition agreements (MRA) with members of the CU, Czech Republic, Islamic Republic of Iran, Lithuania, Libya, the Republic of Moldova, Syria and Ukraine.

[71] These laws include: Law of the Republic of Belarus "On technical rationing and standardization"; Law of the Republic of Belarus "On consumer rights protection"; Law of the Republic of Belarus "On the

essential safety standards, the proper application of the conformity assessment procedure, and the content of the declaration of conformity, market surveillance bodies carries out inspections, to visually inspect products, and to test samples of products.

These inspections are carried out on a non-regular and regular bases, with the former undertaken where deemed necessary, as established by law. Regular inspections are set according to the level of risks (high, medium or low) assigned to businesses that have been operating for more than two years. Businesses falling under the high risk group are subject to annual checks; those falling under the medium level risk group are inspected once every three years; and, businesses falling under the low risk group are inspected once every five years.[72]

Special attention is accorded to controlling and monitoring food items. The certification of finished foodstuff, as well as the quality and safety management system at the enterprise are subject to regulations covering the quality and safety of food and feed, hygienic registration of products, veterinary and sanitary monitoring and State monitoring of compliance with the requirement of technical regulations and standards.

Market surveillance activities are decided by the State Control Committee, and take the form of half-year plans that are sent out to all surveillance authorities. Legal measures are taken to address instances of non-compliance, including banning non-compliant manufacturers and importers from selling their products domestically. In addition, for domestic goods destined for exports to CIS region, concerned countries are notified through the "Opasnaya produktsiya".

Priority needs

The needs assessment revealed a lack of capacity in the area of risk management. The market surveillance authority does not have a specialized unit in the area of risk management. Nor does it have enough inspectors. Beyond the need to establish such a unit and equip it with the required expertise skills, information management systems and methodologies, Belarus needs to improve existing procedures for fighting counterfeit products and establish a national notification system on hazardous goods.

Recommendations

20. Improving procedures for fighting counterfeit goods

Belarus might consider adopting UNECE Recommendation M on "Use of Market Surveillance Infrastructure as a Complementary Means to Protect Consumers and Users against Counterfeit Goods". This Recommendation provides a reference framework for guiding national and regional efforts, covering both legislative and administrative procedures, in the area of counterfeit goods.

21. Establishing a national notification system on hazardous goods

The assessment points to the need for strengthening reactive market surveillance. This could be achieved by establishing a national notification system that would identify hazardous products

assessment of conformity with the requirements of technical normative acts in the sphere of technical rationing and standardization"; Law of the Republic of Belarus "On sanitary and epidemic well-being of the population"; Law of the Republic of Belarus "On food and feed quality and safety for human health"; Decree of the President of the Republic of Belarus "On accomplishment of controlling (monitoring) activity in the Republic of Belarus"; Enactment of the Council of Ministers of the Republic of Belarus "On confirmation of rules of the procedure of executing state monitoring on conformity with the requirements of technical regulations and the rules of the procedure of state metrological monitoring"; and, Offences Code of the Republic of Belarus, international normative acts on specific types of goods, interstate standards, state standards of the Republic of Belarus, technical conditions.

[72] As per the Decree of the President of the Republic of Belarus "On accomplishment of controlling (monitoring) activity in the Republic of Belarus".

(and their sources) from complaints, accident reports, enquiries, and incoming notifications. Such a system would go a long way in enabling Belarus to participate in inter-regional warning systems against dangerous and hazardous goods, such as the EU's Rapid Alert System for Dangerous Products (RAPEX) or other systems that may eventually be established within the CU.

5. Concluding Remarks

This study is a first step in supporting Belarusian trade development efforts. It showed that while Belarus has gone a long way in addressing technical and regulatory barriers to trade, there remains room for improvement. The study identified a number of procedures and regulatory barriers throughout the international supply chain and has proposed practical measures for addressing them.

These measures need to be complemented by concerted efforts to develop Belarus' production and export capacity. Priority should be accorded to assisting SMEs in developing their technological capability - that is their ability to efficiently specialize in technology-intensive activities with high value-added. As it is beyond the scope of this study to propose specific measures, it suffices to mention here that developing such capacities requires adopting a sector-focused development strategy. Such a strategy should ensure synergies between trade, industry, labour and other policies, with a view to creating macro-economic incentives to increase foreign exchange availability, stimulate investments, increase exports and address supply-side constraints at both the enterprise and industry levels.

Because the implementation of the proposed recommendations requires greater resources than are now available to the Belarusian authorities and market support institutions, the need for technical and financial support is evident. Moreover, given the broad range of areas that the recommendations address, it would be difficult to implement the proposed measures in a single undertaking. As a follow-up to this assessment, the UNECE is working with the Belarusian National Advisory Committee to develop an implementation plan for the medium and longer term that sequences implementation of the recommendations by priority.

In implementing the proposed recommendations, Belarus may consider adopting a sectoral approach. For example, in the case of establishing testing laboratories, priority needs to be given to those sectors that are deemed essential for developing the economy's productive capacity, or those which are already benefiting from productive capacity building initiatives.

Annex: Documentary requirements for export-import activities

Documentary requirements for customs clearance

Customs documents

- Customs Declaration (see box A.1);
- Document for placement under the customs procedure;
- Declaration of Customs Value;
- Preliminary decision on the classification of goods in accordance with the HS (optional);
- Preliminary decision on the country of origin (optional);
- Customs receipt voucher;
- Adjustment of customs value and customs duties;
- Documentary evidence of the enforcement of tax liability;
- Certificate of Approval vehicle for the transport of goods under customs seals and stamps (the carriage of goods under customs seals and stamps);
- Form of customs payments and interest on foreign raw materials, components;
- Declaration placing the goods under the customs regime of free circulation prior to the submission of customs declaration and the tax obligation to pay import duties and taxes (for "Bona Fide" traders).

Box A.1
The Customs Declaration must contain

- Declared customs regime;
- Information on the person submitting customs declaration or on the customs agent (representative), the sender and the recipient of the goods;
- Information on vehicles;
- Information about customs regulations and (or) customs procedures, under which the goods were previously placed;
- Information on the goods: the name, description, HS code, the name of the country of origin, the name of the country of origin (destination), description of packages (number, shape, markings and serial numbers), quantity of goods in kilograms (gross weight and net weight) or in other units, the statistical value and the customs value;
- Information about the calculation and payment of customs duties (rates, tariff preferences and exemptions, deferral and installment payment of customs duties, the amount of customs duties, taxes and fees, official exchange rate);
- Information on foreign trade transaction and its basic conditions;
- Information on permits and (or) licenses for import or export of goods (if required);
- Information about the manufacturer of the goods;
- Information verifying compliance with the conditions for placing goods under the declared customs regime.

Commercial documents

- Contracts of sale or other contract entered into in the commission of foreign trade transactions;
- Invoice (Invoice) pro forma;
- Packing List, Shipping List;
- Specification, Inventory of goods.

Transportation (shipment) documents:

- Bill of Lading, Consignment Note, CMR (if necessary), Airway bill, etc.;
- The train transmission list of railway vehicles;
- General Declaration.

Other documents:

- Permits and (or) licenses for import and (or) export of goods restricted for transfer through the customs border in accordance with the legislation;
- Documents certifying conformity of products with the technical regulations in the field of technical regulation and standardization (for goods subjected to mandatory conformity);
- Certificate of Origin (as per form "A" form ST-1, a general form, a form required by law and (or) international treaties of the Republic of Belarus);
- Other documents containing information about the country of origin of goods from the manufacturer, seller or consignor of the goods required by the State Customs Committee;
- Bank guarantee, guarantee agreement, mortgage;
- Documents conforming payments of customs duties and customs fees;

Proof of information about the customs applicant:

- State registration certificate, a notice of assignment payer account number;
- Proof of entitlement to benefits in the payment of customs duties, established by legislative acts;
- Documents justifying the declared customs value and the chosen method of determining the customs value, listed by the State Customs Committee;
- Papers, confirming information about the product on which the HS classification of goods was carried out.
- Proof of information about customs agent (permit (license) to operate in the area of customs, the contract orders to make customs procedures, documents confirming the authority of a person to commit customs operations).
- The credentials of an individual to perform customs operations.
- The documents that identify goods.

Simplified documentary procedure involves following documents: specifications; invoices, bills accepted by the pro forma; receipts, cash vouchers; other primary documents, reflecting the fact that foreign trade transactions was made by the customs applicant.

Documentary requirements for carriers

Transportation by road

- Documents on the vehicle transportation;
- Transportation (shipment) documents;
- A document accompanying the international postage for their transportation, certain acts of the Universal Postal Union;
- Commercial documents for the transported goods which are available to the carrier;
- License of the authorized State bodies for import of goods restricted for transfer through the customs border;

Transportation by sea

- A general declaration;
- Cargo Declaration;

- Ship's Stores Declaration;
- Declaration of personal belongings of the crew;
- Crew list;
- List of passengers;
- Document accompanying the international postage for their transportation, certain acts of the Universal Postal Union;
- Transportation (shipment) documents;
- Commercial documents for the transported goods which are available to the carrier;
- License of the authorized State bodies for import of goods restricted for transfer through the customs border;

Transportation by air

- Standard paper carrier under the international treaties of the Republic of Belarus in the field of civil aviation (general declaration);
- Document containing information carried on board an aircraft goods (freight bill);
- Document containing information about the board's Stores;
- Transportation (shipment) documents;
- Commercial documents for the transported goods which are available to the carrier;
- Document containing information about carried on board the passengers and their luggage (passenger list);
- Document accompanying the international postage for their transportation, certain acts of the Universal Postal Union;
- License of the authorized State bodies for import of goods restricted for transfer through the customs border;

Transportation by rail

- Transportation (shipment) documents;
- Transfer sheet on railway rolling stock;
- Document containing information about the stores;
- Document accompanying the international postage for their transportation, certain acts of the Universal Postal Union;
- Commercial documents for the transported goods which are available to the carrier;
- License of the authorized State bodies for import of goods restricted for transfer through the customs border.