

Alignment of Technical Standards Between West and East

While the number of non-tariff barriers in the world is rising, the EAEU is pursuing a decrease of NTBs – and alignment of technical standards with the EU. However, immediate benefits to European companies have not yet materialised.

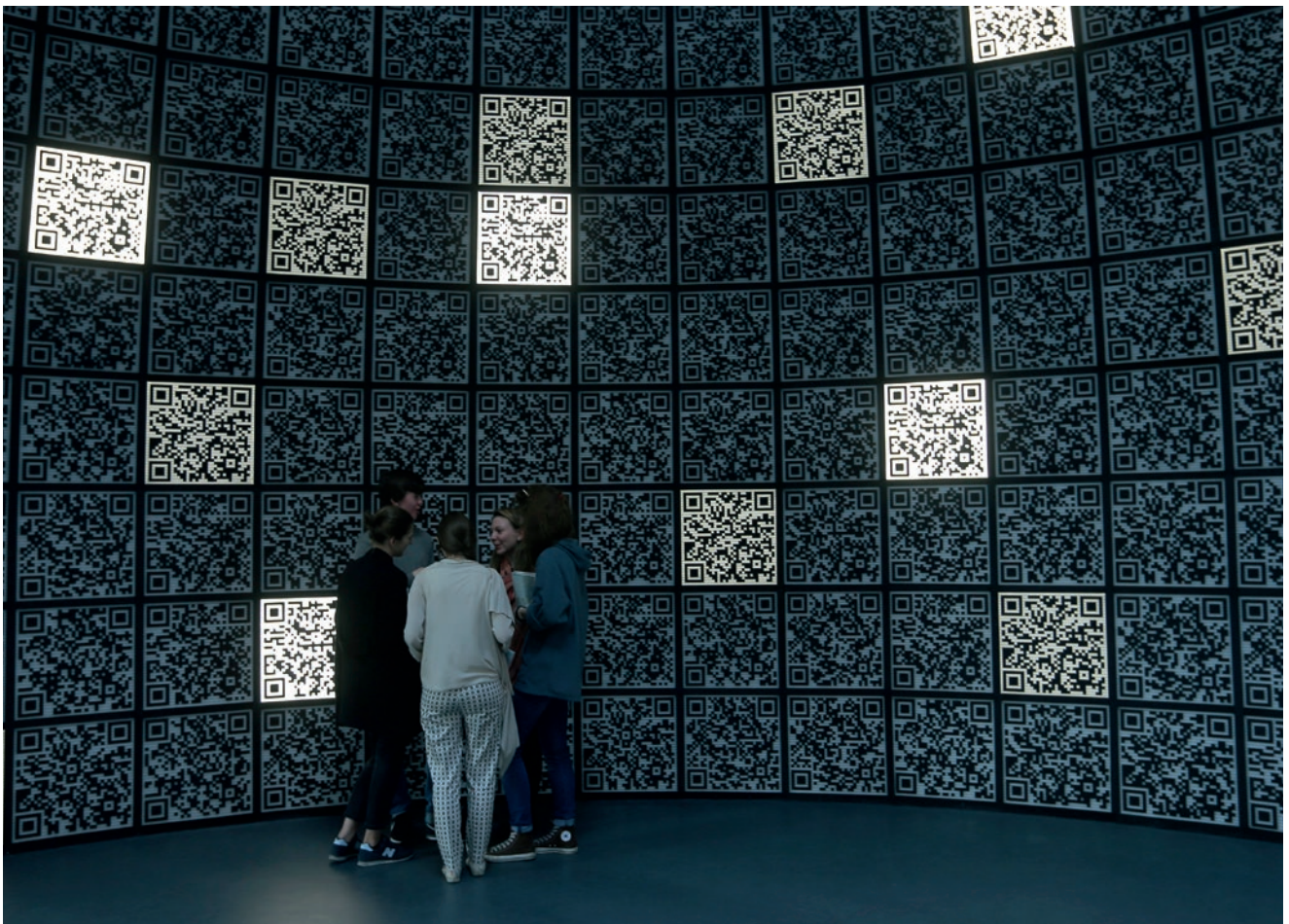


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Recent years have seen a rise in protectionist rhetoric, sanctions and counter-sanctions, and the increasing use of non-tariff-barriers (NTBs) in global trade. The world economy has been witnessing a continuous decrease in the use of customs duties over the past 15 years. For example, in the BRIC countries the average most-favoured-nation tariff has decreased from 17 percent in 2000 to slightly over eight percent by 2015. This has been achieved mainly under the influence of the World Trade Organisation (WTO). However, mainly as a means to counterbalance the effects of trade liberalisation, countries turned more and more to the use of non-tariff barriers. From 2009 to 2016 alone their implementation in overall global trade has increased more than fivefold – from 389 to 2421.

At the same time, the Eurasian Economic Commission, the main governing body of the Eurasian Economic Union (EAEU), on the contrary has been quietly doing something quite remarkable that can make life potentially a lot more easy for European businesses selling their goods on the common market of the Eurasian Union. The Eurasian Commission autonomously has been working towards maximal approximation of the EAEU's technical regulation system to that of the European Union. This forms the "technical framework" for the creation of a Common Economic Space from Lisbon to Vladivostok.

Potential format of a Common Economic Space

Before assessing the scope for convergence of the technical regulation systems between the EU and EAEU, we first need

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to answer the question of what overall format an EU-EAEU Common Economic Space could have.

Despite the crises in EU-Russia relations, this concept in recent years has not only received notable public support from European and Eurasian business communities, especially from the unions' respective "core countries", but has also become the focus point of several distinguished research institutes in Europe.

At the same time, despite a growing support for the idea itself, few people indeed imagine what exactly could be meant by the concept of a "Common Economic Space". In fact there are only two realistic options.

In the first option, EU-EAEU mutual relations could be managed under a not so ambitious non-preferential trade and economic cooperation agreement, which would mirror the one that the Eurasian Union signed with China in May 2018. Tatyana Valovaya, the Eurasian Commission's minister for integration development and macroeconomic policy openly supports such a format, since a treaty of this kind would not entail the reduction in tariff barriers. This echoes the common belief that Eurasian enterprises would not yet be ready to face stronger European competition within a potential free trade area. It also moves in line with Russia's import substitution policy and the EAEU's overall demand for FDI and technological transfer.

At the same time such a format would significantly impair the scope for the reduction and harmonisation of technical barriers to trade (TBT). Most importantly, it would not suit the interests of European producers aimed at exporting more goods to the EAEU's domestic market.

The second option would be the compromise solution of an "asymmetric" free trade area from Lisbon to Vladivostok, rather like the EU's deep and comprehensive FTA with Ukraine. It would be asymmetric in the sense that the European Union would curb import tariffs on Eurasian goods from day one. Whereas the Eurasian Union would be entitled to transition periods from three up to ten years for less competitive industries, lowering customs duties step by step depending on the sensitivity of each sector. Since such an agreement would still be on trade liberalisation it could include chapters on the approximation of technical product standards.

Basic TBT system of the EU

While the system for setting technical standards in the EU is highly complex and has been changing over time, its basic, two-level system can be summarised as follows.

On the first level the EU's harmonisation laws, of which a few "horizontal" regulations or decisions cover the general methodology and institutional framework, and around 30 directives cover broad "sectoral" product groups such as "machinery," etc.

On the second level around 5,000 product-specific "harmonised standards" provide the technical means to assure the presumption of compliance with the essential health and safety requirements defined in the sectoral product directives. These standards are produced at the request of the European Commission by the three technical organisations (CENELEC for electrical products, ETSI for telecommunications equipment, and CEN for the largest number of other products). However these organisations produce on their

own initiative a far larger number of around 25,000 voluntary standards, often in collaboration with the International Standards Organisation (ISO), International Electrotechnical Commission (IEC), and the International Telecommunication Union (ITU).

When placing a product on the EU market covered by the EU's harmonisation legislation, the manufacturer has to draw up and sign an "EU Declaration of Conformity," in which he/she declares and ensures that the products concerned satisfy the "essential requirements" of the relevant product directive and that the relevant conformity assessment procedures have been fulfilled. By signing the EU Declaration of Conformity, manufacturers assume responsibility for the compliance of the product. Only then can a manufacturer affix the "CE" mark to the product. Products bearing the CE marking are presumed to comply with the applicable EU legislation and benefit from free circulation in the European single market.

EU's TBT system as a model

The EU's two-tier system, together with WTO agreements, serve as a model for the Eurasian Union. Its member states have agreed to harmonise their policies and regulatory systems in the area of technical regulations. While the process is not yet complete, the goal of this harmonisation is to ensure uniform requirements for the circulation of goods within the Eurasian domestic market through common technical regulations. These technical regulations are to be applied directly

in the territory of the member states, without complementary national legislation.

Once the technical regulations of the EAEU come into force, relevant national requirements can no longer be applied. In practice, this process may take time and there remain some inconsistencies, e.g. simultaneous listing of common harmonised standards (interstate standards) and differing or modified national standards.

The system of technical regulation in the Eurasian Economic Union is regulated by Section X of the EAEU Treaty, which states as one of its principles the "harmonisation of interstate standards with international and regional standards", as well as Annexes 9, 10 and 11 to the Treaty. Appendix 9 states that "the relevant international standards are applied as the basis for the development of technical regulations of the Union". The process of preparation of draft technical regulations goes as following. The "developer" of the draft technical regulation, which is usually either the CIS-based standards organisation in Minsk, or an EAEU member state institution, prepares the first draft, which is considered by a working group including representatives of standardisation bodies, industry and business. As a next stage, the Eurasian Economic Commission sets in motion committee work, a publication of the draft on its official websites, and public consultations. The text, as revised through these processes, is submitted by the Board to the EEC Council for decision.

The main prerequisite for harmonisation and approximation of technical regulations between the EU and the EAEU is that most of the 46 adopted technical regulations and 11,000 standards that are listed under them are "identical" in text and content to the EU's technical regulations and European standards, as well as to international standards which also coincide with the European ones. Thus, 31 technical regulations of the EAEU, which entered into force in the period from 2012 to 2015, were developed on the basis of EU sectoral directives and horizontal regulations. From 60 to 80 percent of the EAEU's technical standards are identical to European/international standards, depending, of course, from regulation to regulation. The total number of Eurasian interstate standards developed on the basis of international and European standards by the beginning of 2018 was 5,821. For example, the EAEU technical regulation "On the safety of low-voltage equipment" practically coincides with the corresponding EU directive. From 978 standards under this technical regulation, 841 are identical to IEC/CENELEC standards. The remaining 137 standards are "modified" based on European/international standards, i.e. with a deviation in text of no more than 20 percent.

In June 2017, CEN and CENELEC signed a Memorandum of Understanding with the Eurasian Economic Commission. This MoU provides for "further harmonisation of interstate and national standards of the Eurasian Economic Union Member States with international standards and in the absence of those international standards with European standards".

Necessary future steps

So, does this approximation process bring immediate benefits to European companies selling their goods on the market of the EAEU? Unfortunately, not yet. Certificates on European technical product standards are not accepted in the EAEU. Even those that are identical to the EAEU's interstate standards. Some Eu-

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European testing methods can be taken into account when conducting conformity assessment in the Union. However, even this is all at the discretion of the national certification body that issues the certificate and according to its competence.

The next big step in the possible agenda for reducing the burden of technical barriers to trade between the EU and the EAEU could be the signing of a Mutual recognition agreement (MRA) over conformity assessment. Within such an agreement, the parties, while retaining their own distinct technical regulations and standards, agree to mutual recognition of each other's conformity assessment bodies to certify conformity with the importing party's regulations or standards on the territory of the exporting party.

European exporting enterprises would benefit from the possibility to obtain certification of conformity of its products by an accredited conformity assessment body accredited at home under MRAs, without further intervention of an agency in the Eurasian importing country. Naturally such MRAs are symmetrical, and European companies would have to accept the assessment of conformity with its own regulations and standards of imports from the EAEU to be conducted in an EAEU member state. For this to be acceptable there has to be high trust in both the technical professional skills of the accredited conformity assessment bodies and their clear independence from political orientations.

A study by the Munich-based ifo Institute found that the creation of a free trade area "from Lisbon to Vladivostok" to-

gether with a deep reduction of NTBs would be highly beneficial to the European side. For example, in such a scenario Germany's export could rise by almost 60 percent and the economy could gain an additional 90 Euros GDP per capita.

Yet, the conditions for an MRA between the EU and the EAEU may seem a distant possibility, not only due to the political crisis in EU-Russia relations, but also to Brussels' unwillingness to accept the EAEU conformity assessment of European regulations and standards. At the same time, the Eurasian Economic Commission is currently getting ready to sign MRAs, and even cross-recognition (acceptance of equivalence) of technical product standards, with some of the third-part countries that the Eurasian Union has free trade agreements with. This can happen as early as 2019.

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This article is based on the recent report "Technical Product Standards and Regulations in the EU and EAEU – Comparisons and Scope for Convergence" by Michael Emerson and Jurij Kofner, IIASA. pure.iiasa.ac.at

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