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The Why and How of the RCEP

The ongoing negotiation for a sixteen nation Regional Comprehensive Economic Partnership Agreement (RCEP) is a challenge and opportunity rolled into one, for India. Forty nine percent of the World population lives in this region. The region contributes 29 percent (2013) to the global GDP and 27.2 percent (2013) to the global share of trade in goods and services.

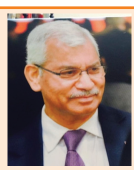
Challenges to Regionalism and Multileteralism

The three regional agreements, which at one point in time, were under active negotiations-the RCEP, the TTIP and the TPP, had more than 90 percent of world trade, between them. Thus, almost all major trading nations are covered in these three formations. The Trans-Pacific Partnership (TPP) has materialized in a modified form as the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP). It will become effective once all required ratifications are made. The USA chose to exclude itself from the TPP in line with many other self-exclusionary decisions which were taken by the US President on his assumption of the office. The remaining members in the CPTPP have diluted or shelved some of the critical provisions of the TPP in the absence of its erstwhile principal proponent. CPTPP will sooner or later come into operation, though, it is without the US today, and whether it will remain so, is difficult to predict, given the US President's flair for impulsive unpredictability. As far as the TTIP is concerned, with the ongoing Brexit process and the US-EU spat on trade and some other issues, further movement is unlikely in the short run.

The multilateral trading system despite its continued relevance to the developing world remains under acute stress and requires some serious review by the membership. It is unlikely to come out of the ICU anytime soon. The reasons for its ineffectiveness may not necessarily lie in the global economic situation alone, but also in the domestic politics of some important members and the growing diversity in the interests of the developed and the developing world. The trade war initiated by the US upon China and some other trading partners refuses to recede and consequences on the global economy are already palpable. A painful uncertainty and unpredictability in the direction and flow of the goods and services is being experienced. The currency markets are already in turmoil. The large exposure of Chinese exports to the US is bound to impact not just the Chinese economy but all those nations which are connected to China through global value chains. Noteworthy is the fact that the US is using trade as an instrument in its larger power game with China, therefore the trade war is likely to continue for much longer than initially visualized by some.

Eyeing Gains from China's Exit

India's exports have been showing erratic performance for some years now, current account deficit has increased significantly and India admittedly, seems to have lost competitiveness in some product areas of traditional strength. Oil prices keep rising and domestic currency depreciation has caused some concern. While the latter helps our export potential, the trade balance is bound to be under pressure because of the former. Therefore, efforts to expand markets, restore competitiveness and restore certainty in trade flows is an imperative for the Government. China has been reported to be vacating the low technology-low wage areas of manufacturing and is moving upwards in terms of the technology content of its products and services, facilitating greater value realization from its exports. In such circumstances an opportunity is being created for India and some other developing countries and RCEP comes as an important tool to fructify this opportunity before India.



RIS *Policy Briefs* are prepared on specific policy issues for the policy-makers.

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India's Sensitivities and Ambitions

There is no doubt the Indian Industry is wary of this agreement and a strong advocacy by the Government is necessary. Even at the cost of hurting some sensitivities it may not be out of place to argue that industry in India has often been late in responding to a rising challenge, unless they have been coaxed or unless the advocacy has almost reached a point of coercion. Our experience of market and product diversification both in goods and services has been a mixed bag. Similarly, conscious efforts to join value chains are few and far between. The use of investment opportunities in emerging manufacturing countries to build linkages with regional and global value chains, despite persistent advocacy, have not paid dividends. For example, the push for investment in the CLMV region of ASEAN, in the textile and garment sector and response to market diversification in the IT and ITES sectors, has met with very little positive movement forward.

India's domestic economic reform is a work in progress. Impressive developments such as improvement in the ease of doing business and introduction of GST (Goods and Services Tax) are expected to show positive results. However, manufacturing in India despite a sharp focus on it through 'Make in India,' 'Digital India,' Startup India' etc. has not shown the desired results so far and continues to be a cause of concern. Nevertheless, the Government's continued pursuit of reform and sustained respectable rates of growth, raise a certain confidence in the capacity of Indian economy to be able to bear the transformative disturbance that joining the RCEP might cause.

India has not been able to hook on to regional and global value chains in a significant manner and should be looking for opportunities of locating itself on these value chains. Global value chains are the current paradigm of manufacturing and an aspirant economy cannot let an opportunity go as these arrangements normally are for long periods with lead companies preferring not to change partners over longer period.

Need for Aggressive RCEP Agenda

India's present trade architecture with the RCEP countries can be divided into two segments. Those countries with whom India has a bilateral trade agreement and those with whom India does not have such agreements. India has trade agreements with all except China, New Zealand and Australia. India and China are also part of another regional preferential trading arrangement – the Asia-Pacific Trade Agreement (APTA). This agreement is much less ambitious and focusses on tariffs alone. Besides, other members are some developing countries and some LDCs. This agreement, to respond to global challenges, must expand its membership to include members such as Iran and Central Asia and deepen its provisions to include disciplines on non-tariff issues. Therefore, RCEP is the only available mechanism for India to setup a rules-based framework for trading with China. A plurilateral formation where other members also suffer from similar disadvantages, is better for negotiations than a bilateral mechanism or less ambitious preferential agreement based on Margins of Preferences alone.

In a purely geo-political context much is happening in this region by way of strategic co-operation. It is well-nigh impossible to perceive a situation where a country of India's size, ambition and economic heft keeps itself out of such a formation. Because of the aforesaid reasons India must continue to participate in the ongoing RCEP negotiations and pursue an aggressive agenda to address some of the outstanding issues of concern.

RCEP also provides an opportunity to take a comprehensive look at our domestic policies. Just as the industry is wary of the RCEP, Government Departments responsible for economic sectors, are equally resistant in committing themselves to potential reforms, which will be triggered by RCEP. While on the one hand, joining the RCEP appears an imperative, on the other it is not simple to do so. It would require negotiating skills of high order and commitment not just in the Department of Commerce but across all other departments relevant for the purpose, besides other non-government stake-holders, particularly the industry. Even the State Governments also need to be fully on board. Quantification of potential gains tends to marginalize the qualitative benefits which will flow from such a decision. The region, besides India, comprises 15 economies of which at least 11 are well-integrated in the global economy. They all have significant focus on international trade, substantially participate in regional and global value chains, and are well-integrated among themselves. They have all taken special measures towards trade facilitation and have pursued trade policies, which are outward looking and yet have been able to protect their domestic interests, where required.

The above arguments establish the compelling need for India to join RCEP. It can also open several market opportunities and help bring discipline on several undesirable aspects of China's Trade Policy. The ongoing Trade War between the US and China has brought back the concerns about the opaque, non-transparent and discriminatory policies of China on the center stage of global trade policy discourse. Further issues such as violation of Intellectual Property Rights and Technology Transfer Agreements, and market distorting prohibited, and actionable industrial subsidies given by China through dubious mechanisms, have been raised by the US and several other advanced countries from time to time. China' capacity to retaliate against US unilateral action against its exports is limited in view of the much lesser US exports to China. China is already feeling the heat of the US action and has begun to take measures to mitigate the consequences of US action. Its attention would soon divert to markets other than the US. In such a situation binding China into some disciplines will be a useful strategy.

Resilience and Reforms

Further, experience shows that Indian industry has responded to challenges valiantly and come out successfully from such challenges in the past. This resilience, accompanied with the government's resolve to push reforms forward, should position the industry to brave these challenges and come out stronger. Export subsidies can no longer help Indian industry in sustainable market penetration and expansion. In several sectors adoption of digital technology and trade facilitation may provide the key to competitiveness. Therefore, sector after sector needs to take a critical view of itself to re-invent its competitive strengths. The RCEP negotiations started in 2012 and there was enough time for the sector ministries and the industry to take measures for reforms. A significant amount of time, however, was lost. Nevertheless, in view of the initial pressures that RCEP may potentially bring on some sectors, the negotiations will have to find ways of accommodating such sectors so that some amount of protection is available during the course of implementation of the RCEP.

A large part of the negotiations so far has centered around the tariffs. In the initial phase parties began with two categories of tariffs for FTA and non-FTA partners, respectively. However, at some point a uniform approach to tariffs for all members was accepted. This gave away an important protection, which could have been available to India against non-FTA partners such as China. India's concerns have to some extent been accommodated now by the introduction of the concept of 80 per cent ± 6 which implies that for FTA partners, the coverage of tariff reduction/elimination would be 80 to 86 per cent, whereas for non-FTA partners the coverage could be 74 to 80 per cent of tariff lines Within this understanding India needs to carve out a course for itself so that the objective of integration, liberalization and concurrent short term protection of weaker segments of industry, is achieved. This objective can be achieved by asking for a long-term phase out of tariffs in relation to China. It is important to appreciate that among the entire membership of RCEP, India is the fastest growing economy with high rate of growth of the aspirational middle class. The partner countries might have been critical of India's sluggish pace of negotiations, but we need to recognize the leverage that is available to us in the form of this growing market. The other members of RCEP can think of excluding India from these negotiations, only at their own peril, because by doing so, they will keep the fastest growing market in Asia out of the ambit of RCEP.

The Art of Trade Negotiations

Having been threatened by US unilateralism, China should be more amenable to calls of cooperation and understand India's predicament. As a matter of fact one can already hear such calls for cooperation coming out of China, albeit on the multilateral platform. India must negotiate with greater confidence and craftsmanship and not be swayed by the threats of its partners. The stage for negotiations at the diplomatic level seems to have passed. Some critical parts of such deals can only be concluded at the highest political levels. Some straight-talking with the major proponents is overdue.

In order to facilitate access into the Chinese market a conducive non-tariff ecosystem needs to be negotiated with China. Most of India's trade agreements have been relatively shallow in nature. China's average industrial tariffs are 8.5 percent by no means less, therefore, tariff reduction/elimination is an important part of the strategy but that alone will not be enough. A deeper understanding will involve going into subsequent layers of non-tariff policies, regulatory mechanisms and legal frameworks. Practically speaking after the tariff reduction, a frame work of technical/sanitary and Phyto-sanitary regulations, procedures, conformity assessment systems, accreditation framework, mutual recognition arrangements, sectoral regulations and their compliance frameworks, should be negotiated for assured market access. Most front-line trading nations negotiate specific annexes for the product areas of their special interest to obviate any surprises, once the agreement has come into force. China's record of fulfilling its commitments of the past has not been particularly encouraging, therefore building a framework of non-tariff ecosystem around products of our interest is necessary.

Most of the time India's approach to trade negotiations has been typified by a defensive stance. This is because of the huge diversity in our economic and industrial architecture and consequent complexity arising out of our multilayered positions on the same issue. Additionally, it can also be attributed to multiple perspectives with which different government departments approach a set of issues and are not able to synchronize their positions. On the one hand, some sectors continue to seek government support to cover their inefficiencies, on the other some potential winners will need support. India can ask for a long-term tiered approach to tariff reduction/elimination. It can seek front-loading of concessions from a trading partner like China. It can specifically pick those tariff lines where it has greater interest to integrate into regional value chains in the list of front-loaded items. India should negotiate annexes to the main agreement on sectoral regulatory frameworks and processes/protocols. The idea is to not only agree on concession schedules but to also freeze processes and regulatory rules for assured transparency. A large part of Chinese economic activity is still conducted via state owned enterprises, creating discrimination and opacity. India too conducts its economic policies in some areas, utilizing public sector undertakings but their expanse and remit pail in significance when compared with the Chinese State Enterprises. India can agree to a limited commitment on State Enterprises and an evolutionary pathway for further disciplines could be articulated. This could exclude some of the critical socio-economic areas to begin with. This approach will facilitate a long-term domestic reform agenda. Similarly, a strong Competition Regulatory Framework needs to be built into the RCEP. A closely related element is the Market Economy Status for China. Some of the participants have already granted China such status and there is no reason why China will not expect it from the entire membership. One of the prime reasons for China to enter into twenty-four trade agreements with other developing countries has been to gain legitimacy to its market economy status. China's status as a non-market economy has been a controversial matter under discussion in the WTO and India will find support in keeping the issue alive from some members.

India must implement an extensive programme on technical regulations based on international standards. This will facilitate access to partner markets and protect domestic industry from cheap imports. A stronger framework for intellectual property law enforcement is necessary in view of its growing relevance due to the focus on technology products and the need to curb imports of cheap low-quality products.

Evolutionary Services Architecture

India has very forcefully articulated its concerns on services related market access issues. Its apprehensions on these concerns getting marginalized by the rest of the membership are justified on the basis of experience of the past. But we need to recognize the futility of an overbearing focus on the issue of Movement of Natural Persons. In times when even short term movements are also under severe challenge in hitherto the most liberal jurisdictions, such an effort is wasteful. Regional demography and continued focus on domestic services reforms will position us to take advantage of regional demands. Therefore, we should build an evolutionary architecture to be reviewed periodically. A good number of Indian companies are global players and many more would like to be so. Indian companies have been investing the world over. Therefore an investment and establishment focused services agenda should serve us well. Similarly, Mode 2 services offered within India require greater attention in terms of regulatory, legal and human resource related domestic reforms. These include, Tourism, Healthcare, Education and Skill development. We need to, however, appreciate that there is no scope for any barter between our services related demands and the goods related demands of others. Our experience of the earlier agreements shows that the committee system has not been used adequately. The objective of creating these provisions is to make available an ongoing mechanism to the participating countries for deliberating and finding solutions to market access and interpretative issues which arise from time to time. Therefore, a working committee system with periodic meetings is a backbone for collective resolution of disagreements. Supported by a sound dispute redressal system this will facilitate the working of the agreement.

Each agreement has its organic linkages and elements which are unique to its requirement both in terms of substantive content as well as mechanisms conceptualized to materialize the intent behind the agreement. There is a lot to learn from recently negotiated agreements such as TPP, US-Mexico-Canada and several agreements where EU is a party. Needless to say, a trade agreement is only a commercial contract among parties and they are free to include any provisions which serve the objectives behind the agreement as long as they do not conflict with the international law. RCEP has the potential to be a game changer for India but requires rigorous background work and craftsmanship.

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