

## India's Approach towards Bilateral, Regional and Multilateral Negotiations

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## **Abstract**

*The emergence of mega Regional Trade Agreements (RTAs) in the global economy is expected to change the future contours of international trade regime. These mega RTAs will have a significant impact on current multilateral trade negotiations and geo-political scenarios of the global trading system. This is particularly relevant for those countries which are excluded from these agreements. Excluded countries are more prone to adverse economic consequences due to the current economic and trade developments progressing significantly in the Asia-Pacific region. Though India has been a strong supporter of World Trade Organisation (WTO) led multilateral trade liberalisation, even with its predecessor the General Agreement on Tariffs and Trade (GATT), it has also actively participated in numerous Free Trade Agreements (FTAs) in the recent past. Looking at India's engagement in FTAs and the multilateral framework, this discussion paper attempts to understand India's approach at the bilateral, regional, and multilateral-level in the context of potential effects produced by mega RTAs, specifically the Trans-Pacific Partnership (TPP), Transatlantic Investment Partnership (TTIP), and EU-Association of Southeast Asian Nations (ASEAN) FTA.*

## Introduction

India has been an important player in multilateral trade negotiations and has benefitted significantly from the WTO-led trade liberalisation platform – both in terms of volume of trade and revenues. India has been an active player in WTO dispute settlement mechanism as a complainant, respondent, and third party. Notably, India's approach towards multilateral trade negotiations is strongly driven by its various domestic and political developments.<sup>1</sup> Concurrently, India's engagement in bilateral and regional trade agreements was highly influenced by its changing perspective of foreign policy when India adopted a 'Look East Policy' in 1991, under the leadership of Prime Minister Narasimha Rao.

While at present India has a total of 15 active trade agreements and another 14 are being negotiated,<sup>2</sup> many researchers contend that the depth and coverage of India's bilateral and regional trade engagements are rather narrowly confined to trade in goods and quite shallow and vague in trade in services (Karmakar S 2013, Wignaraja, 2012). In other words, India's regional and bilateral trade agreements are not in consonance with 21<sup>st</sup> century RTAs, which comprise provisions of 'WTO-plus' and 'WTO-extra' issues and focus on deeper regulatory disciplines that foster 'global value chains and production sharing agreements' (Baldwin, 2011).

Studies also indicate that India's FTAs are sparsely utilised by traders and an average usage rate of FTAs is only 27 percent.<sup>3</sup> The low-level of utilisation of FTAs is mainly caused by four factors: a) the complexity of India's FTAs dampen the interest of trading community to use them; b) low-level of understanding about FTAs in the trading community, particularly among small and medium enterprises; c) high cost of compliance to obtain certificate of origin (CoO) to avail duty credit scrip usually exceed the benefits arising out of preferential tariff rates;<sup>4</sup> and d) lack of consultation with stakeholders, such as exporters, importers and freight forwarders.

On the other hand, the lacklustre progress in the WTO Doha Round of multilateral trade negotiations is forcing countries to adopt the route of regionalism and plurilateralism in order to continue the momentum towards freer trade. The new mega regional trade blocks, such as Trans-Pacific Partnership (TPP), The Transatlantic Trade and Investment (TTIP) and EU-ASEAN FTA, are likely to multilateralise their rules in trade and regulatory standards, so that they could maintain their economic hegemony in the global trading system. As developed countries continue to promote their national interest and rules-setting through mega RTAs, developing countries will find it difficult to accommodate the diversity of rules crafted by mega RTAs.

India is currently not a party to these mega RTAs, however India is a negotiating member of the Regional Comprehensive Economic Partnership (RCEP) while maintaining its active involvement in multilateral trade negotiations for WTO-led trade liberalisation. These developments reflect that India has adopted a multi-track trade policy of regionalism and multilateralism to strengthen trade and economic ties with its partners and is also eager to

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<sup>1</sup> Amit Shovon Ray and Sabyasachi Saha, India's Stance at the WTO: Shifting Coordinates, Unaltered Paradigm, Centre for International Trade and Development, 2009

<sup>2</sup> Department of Commerce, India, 2014, [http://commerce.nic.in/trade/international\\_trade\\_rta.asp](http://commerce.nic.in/trade/international_trade_rta.asp). Asia Development Bank, Free Trade Agreements by Country: India, <http://aric.adb.org/fta-country>

<sup>3</sup>The Economist Intelligence Unit, FTAs: fantastic, fine or futile? Business views on trade agreements in Asia, 2014

<sup>4</sup> *Ibid*

find new opportunities for comprehensive trade that will benefit its economic and development objectives. Therefore, the purpose of this paper is to analyse India's approach towards regional and bilateral trade agreements *vis-a-vis* India's multilateral negotiations in the context of the changing landscape of the global economy created by mega RTAs.

## **India's Approach towards Trade Negotiations**

India aggressively pursued Doha Round trade talks and created intense pressure on developed countries on vital areas, such as agriculture and non-agriculture market access, to achieve higher economic growth through trade reforms. But, the slow progress under Doha and subsequent rounds propelled India to explore other possible ways to facilitate its economic integration with the world economy. Similarly, liberalisation of trade in services under the General Agreement on Trade in Services (GATS) of the WTO has not picked up pace due to lack of progress on vital issues, such as mutual recognition agreement (MRAs) and recognition of education qualification for easy movement of professionals.

It is clear that the 14-year old somnambulant Doha Round could not lead the broad agenda of trade liberalisation, under the aegis of WTO. As a result, many countries decided to adopt the route of regionalism to accelerate their economic growth.<sup>5</sup> India too adopted the similar path and aggressively pursued the route of bilateralism and regionalism

However, the tussle between India and the US and EU has finally ended with the Trade Facilitation Agreement being agreed for ratification at the Brisbane G20 meeting in 2014.<sup>6</sup> This has rejuvenated much optimism for the progress of multilateralism for many developing and least developed countries (LDCs).

India's regional trade policy is largely dictated by its foreign policy. Since the start of economic reforms in the 1990s, India adopted a 'Look East Policy' to integrate its economy with Southeast Asia. This is largely motivated by its geo-political, strategic and economic interests in Asia, in general, and South-east Asian economies, in particular, where the underlying idea was to harness the opportunities of merchandise and services trade with its trade partners in South-east Asia and to link the North-east States and the economy through a narrow corridor (popularly known as 'chicken's neck'). One of the major impediments to this policy is the poor state of logistics network of North-east States<sup>7</sup> as compared to other parts of the country. It was also believed that a close cooperation with South-east Asian countries will help in utilising its full economic capacity of natural resources.

Considering these factors, India entered into bilateral and regional trade negotiations around South Asia and South-east Asia, mainly with high growth economies. In 2004, India signed the South Asia Free Trade Agreement (SAFTA). Subsequently, it entered into more comprehensive trade agreements with advanced economies viz, India-Singapore Comprehensive Economic Cooperation Agreement (CECA) (2005), India-Korea Comprehensive Economic Partnership Agreement (CEPA) (2010), India-Japan CEPA (2011), and India-Malaysia CECA (2011). The nature and coverage of these trade agreements were relatively higher than its existing commitments in the WTO. These agreements covered vital issues, such as investment, government procurement, mutual recognition agreements on testing and standards of specified products, cooperation agreement in e-commerce, media and

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<sup>5</sup> Suparana Karmakar, Rulemaking in Super RTAs: Implications for China and India, 2014

<sup>6</sup> Geethanjali Nataraj *et.al*, The Changing Global Trade Regime and Emergence of Mega FTAs, 2015

<sup>7</sup> PWC, Gateway to the ASEAN India's north east frontier, 2014

Intellectual Property Rights (IPRs), and provisions regulating the free movement of professionals. In line with this approach, India is negotiating a number of agreements with highly advanced countries, such as India-EU FTA, RCEP, India-Australia CEPA, India-New-Zealand CECA and Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC).

## **Nature and Deviation in India's Trade Negotiations**

### ***Bilateral and Regional Trade Negotiations***

India's approach towards bilateral, regional and multilateral trade negotiations have been quite different, particularly dealing with certain set of issues. A comprehensive study<sup>8</sup> carried out by Asian Development Bank (ADB) remarked that India's FTAs are a combination of deep and shallow agreements. There are agreements (for instance, India-Korea CECA) where India adopted a rapid approach for tariff liberalisation only and very little attention given to services and other areas.<sup>9</sup> In recently concluded FTAs, India adopted comprehensive approach and they have covered selected issues, which go beyond its existing commitments of WTO.

In the first phase of its FTAs, India entered into bilateral and regional trade agreements with developing countries and LDCs. In other words, the agenda of its FTAs were the part of promoting South-South fraternity agreements, such as Asia Pacific Trade Agreement or APTA (earlier known as the Bangkok Agreement in 1975), Global System of Trade Preferences among Developing Countries or GSTP (1989), and South Asian Free Trade Area (SAFTA) or SAPTA (1993). It also has agreements with its neighbours like Bhutan and Nepal, which favoured these countries in terms of transit and market access.

Learning from its existing FTAs helped India policy-makers to expand their FTAs network with other advanced countries, such as Japan, South Korea, ASEAN, and Singapore. These trade agreements were comprehensive in nature and they included trade goods, services, investment, government procurement, competition and trade facilitation. However, it is pertinent to note that new issues, such as government procurement, investment, competition, and trade facilitation are dealt in a very different manner in these agreements. For instance, India-Japan and India-Korea CEPAs cover three areas of WTO Singapore issues, such as trade facilitation, competition policy, and investment.<sup>10</sup> However, the issue of government procurement in India-Korea CEPA has been dealt separately. Other FTAs, such as SAFTA, only cover trade facilitation.

In this context, it is relevant to note that India's trade agreements with Japan, South Korea and Singapore reflect India's economic and strategic interest in East Asian countries in two major ways: First, India aims to attract more foreign direct investment (FDI) from these advanced countries and second, India is trying to plug into ASEAN Production Network' via ASEAN's member countries. Moreover, India has comparative advantage in services, particularly in terms of professionals and skilled manpower (e.g. doctors, nurses, and IT professionals). It could be exploited in countries like Malaysia and Japan given their contrasting demographic trends.

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<sup>8</sup> Ganeshan Wignaraja, The People's Republic of China and India: Commercial, ADB Working Paper, 2011

<sup>9</sup> *Ibid*

<sup>10</sup> Suparana Karmakar, Political Economy of India's Trade Negotiations Economic Significance of FTAs

Moreover, these comprehensive trade agreements include a dedicated chapter on investment focussing on protection of investments, investors, and commitments for liberalised market access in most sectors.<sup>11</sup> The inclusion of an investment framework, under these comprehensive trade pacts must be viewed in the context of India's FDI and regulatory framework, which has been considerably liberalised over the years. However, India's approach in on-going bilateral and regional trade agreements, particularly with BIMSTEC, RCEP, India-EU FTA and India-Australia CECA, is giving a considerable amount of attention to deep economic integration and focussing on crucial elements of new generation trade agreements.

Considering the sensitivities and protectionist tendencies in major constituents of India, especially different stages of economic development including lack of regulatory and institutional capacity in key economic sectors, India initially chose to make market access commitments only in goods trade and then gradually move towards services and investment, amongst others. Given the above developments it is palpable that India's regional trade strategy seems to be at formative stages and based on the learning-by-doing framework.

Furthermore, it has also evolved in the realm of its changing domestic and political imperatives. These imperatives refer to vested interest of political parties and their strong support of trade unions and business houses. For instance, a strong opposition by local political parties was made in support of rubber and palm oil producers in Kerala during the time of signing the India-ASEAN CECA and India-Malaysia CECA.

As noted above, India has had a mixed experience with its FTAs. India has gained in terms of trade in 'early harvest FTA programmes' because they were mainly confined to LDCs, although LDCs often lack the capacity to export a large extent to India due to their domestic constraints.<sup>12</sup> However, India has failed to gain in terms of trade when it entered into FTAs with advanced economies, such as Japan and South Korea. This is partly due to lack of due diligence in devising economic and trade policies. For instance, the CEPA with Japan and South Korea has caused an 'inverted duty structure' wherein certain final goods incur lower duty as compared their components.<sup>13</sup>

A study carried out by FICCI remarks that India's imports have increased at a higher margin than exports through its FTAs, thus widening India's trade deficit. For instance, India's imports from South Korea increased from US\$ 7.8bn before the CEPA (2007-08 to 2009-10) to US\$ 12.1bn after the agreement (2010-11 to 2012-13). Comparatively, India's exports to South Korea only increased during the same period from US\$ 3.4bn to US\$ 4.1bn causing the trade deficit to increase from US\$ 4.4bn to US\$8bn.<sup>14</sup>

Although India has experienced limited gains from its FTAs with advanced countries, it has propelled a debate on the usefulness of such trade pacts. It is equally important to note that the gains from FTAs are generally derived in long-term effects rather than short-term numbers. Gains from resource allocation, economies of scale and scope, and economic efficiency are generally accrued in the long run and should be monitored as India progresses

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<sup>11</sup> Anuradha R V Regional Trading Agreements: Need for a Coherent Policy Framework for India's Negotiating Strategy, Jindal Global Law Review

<sup>12</sup> Julien Chaisse, et.al, The Three pronged Strategy of India's Preferential Trade Policy, Connecticut Journal of International Law

<sup>13</sup> The Economic Survey, 2013-14, Page 135

<sup>14</sup> Singh, A Didar, 'Can India afford to stay out of FTAs?', The Financial Express, 28 August 2014, available at: <http://archive.financialexpress.com/news/can-india-afford-to-stay-out-of-ftas-/1283090>

with its bilateral and regional trade engagements – both existing and future (Trefler Daniel, 2001).

### ***Multilateral Trade Negotiations***

India's stance at the multilateral trading stage can be well understood before it started its economic and trade reforms. India's position at the Uruguay Round (UR) emphasised securing the UR objectives and it strongly reinforced the issues of implementation raised by a number of developing countries.<sup>15</sup> India's approach at the WTO was calculated and focussed on protecting its domestic interest in the initial years of the UR negotiations, considering its legacy of protectionist policy regime post-independence.<sup>16</sup>

Economic and trade reforms of the 1990s brought a major change in India's trade policy and it started on a path of aligning its trade policy stance with the core disciplines of the WTO. As part of this process, India adopted unilateral trade liberalisation in manufacturing goods and reduced significant amount its tariff rates.

India's position at the WTO differs depending on the issue at stake because of its domestic and political compulsions. India has always stressed for special and differential treatment (S&DT) to address its domestic development concerns, in particular agriculture. In the context of non-agricultural market access, India has consistently emphasised that developed countries give less than full reciprocity in reduction of commitments on the part of developing countries.<sup>17</sup>

On services, India demanded increased market access through a greater degree of trade liberalisation in trade in services for Mode-1 (cross border supplies) and Mode-4 (movement of natural persons) to ensure a balanced outcome on commitments across several services. In recent trade negotiations, it has been seen that India's policy stance has slightly deviated from Mode-4 to Mode-1 and Mode-2. This is mainly due to technological advancements that have made the movement of professionals less important, while increasing the importance of cross-border services and investment in services (Mode-3). In addition, the rising cost of labour and scarcity of skilled labour has created domestic pressure to liberalise Mode-1 and Mode-2.<sup>18</sup>

Based on the above, it is clear that India has adopted a multi-track policy to deepen its economic integration with the world economy. India's approach towards bilateral, regional, and multilateral trade talks is largely dictated by domestic imperatives;<sup>19</sup> both economic and political, including supporting its large low-income population and responding to constituency groups and political parties.

At the same time, India's policy stance at the WTO has also changed in the recent past on several issues but it is still linked with several 'domestic issues' as opposed to international obligations and pressures. For instance, India has often put the argument of 'infant industries'

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<sup>15</sup> Ray, Amit Shoovan, 'Shaping the Coordinates of India's Trade Policy Architecture: Domestic versus International Drivers', ISAS Working Paper, No. 126-21, April 2011

<sup>16</sup> *Ibid*

<sup>17</sup> Suparna Karmakar, Political Economy of Trade Negotiations : Economic Significance of FTAs, European Trade Study Group

<sup>18</sup> *Ibid*

<sup>19</sup> *Ibid*

and ‘stage of economic development’ to protect various sectors from global competition under the rubric of the WTO.

However, the current wave of mega RTAs and their potential economic effects may create, in addition to reactionary foreign policy, serious imbalances in the demand and supply of key products through trade diversion or erosion of preference on the Indian economy. Due to the influence of domestic economic and political factors on India’s foreign trade policy, the potential effects of mega RTAs on the Indian economy will be significant for India’s approach to bilateral, regional, and multilateral trade negotiations.

## **Mega RTAs and Exogenous Supply-Demand Shocks to India**

It is challenging to estimate the potential exogenous supply-demand shocks of the mega RTAs on the Indian economy and how they might influence India’s approach towards bilateral, regional, and multilateral trade negotiations. It is mainly because of two reasons: First, these mega RTAs are still under negotiations and adequate information is not available on the nature, scope, and coverage of these deals. Second, mega regional negotiations are beyond the existing WTO mandate and are highly concentrated on ‘golden standards’, such as regulatory standards, IPRs, environmental and labour standards.

Nevertheless, existing literature provides a fair amount of insight to understand the impact of mega RTAs. Most of the studies concentrate on two key questions: a) the impact on member countries; and b) the impact on the rest of the world. The potential impact of any agreement depends on two factors: ‘net trade creating’ or ‘net trade diverting’.<sup>20</sup> These might lead to the creation of a stumbling bloc or building bloc for bilateral, regional, and multilateral trade liberalisation<sup>21</sup> (Bhagwati and Panagariya 1996; Panagariya 1996, 1998; Robinson and Thierfelder 1999).

It is important to note that the demand and supply shocks depend upon the extent of integration, trade elasticity of those products, and other global factors. In this context, a study conducted by CUTS International (2015) attempted to assess the potential impact demand and supply side shocks to these mega regional countries on key sectors of India.<sup>22</sup> The results of economic model scenarios show that each of these mega RTAs might cause trade diversion in many sectors, although not as significantly as expected.

In particular, the potential impact on India’s exports is significant when TPP, TTIP and EU-ASEAN FTA are in force. In the combined scenarios of three mega regional, exports decline in the case of grains and crops (-0.2 percent); processed food (-1.6 percent); textile and wearing apparel (-1.7 percent); light manufacturing (-0.2 percent) and heavy manufacturing (-0.2 percent), over their base levels. At the same time, the exports of extraction (0.3 percent), utility and construction (0.4 percent), transport and communication (0.7 percent) and other services (0.9 percent) are higher compared to the base level. Furthermore, it is expected that

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<sup>20</sup> A. Ganesh Kumar and Gordhan Kumar Saini, *Economic Co-operation in South Asia: The Dilemma of SAFTA and Beyond*, 2007

<sup>21</sup> *Ibid*

<sup>22</sup> CUTS International, *Mega Regional Trade Agreements and the Indian Economy: An Analysis of Potential Challenges and Opportunities*, 2015



India's imports from mega RTA partners might decline and the potential impact of ranging - 0.1 percent in extraction sector and 1 percent in the case of grains and crops sector.<sup>23</sup>

Due to preference erosion potentially created by mega RTAs, India may lose market access in those member countries, thus forcing India to consider searching for alternative markets through bilateral and regional arrangements. Besides these factors, trade and regulatory standards like 'golden standards and platinum standards' might have adverse economic effects on India's exports.

In addition to the adverse effects of these mega RTAs pushing India into new and alternative trade arrangements, the multilateral level, based on the economic simulations, looks to be the best option for India. As noted above, India has been and will continue to play an active role at the WTO, particularly by pursuing developing country focussed interest. This role might be even more necessary given the new trade regimes created by mega RTAs.

## **The Way Forward**

Given the context of India's bilateral, regional, and multilateral trade negotiations, it is clear that India's strategy is driven by its domestic and political developments. In the initial phase of its economic integration, India entered into bilateral and regional trade pacts with developing and least developed countries that were confined only to trade in goods and transit treaties. However, in the recent past, India has negotiated more comprehensive trade pacts with advanced countries, such as Japan, Singapore, and South Korea, covering a broad set of areas, such as trade in services, investment, government procurement, competition, and trade facilitation. On the multilateral front, India has adopted a different approach on those issues (e.g. government procurement, investment, and trade facilitation) where it has taken a less liberal policy stance compared to its bilateral and regional FTAs.

In this view, the changing geo-economic landscape where mega RTAs could dominate the global economy in general, and Asia-Pacific in particular, has signalled India to adopt a more dynamic approach towards its foreign trade. It is an appropriate time for India to engage actively in multilateral trade talks in order to push the Doha Round negotiations towards an equitable conclusion for developing countries. Although, considering the slow rate of progress at the WTO and the potential negative impact of mega RTAs on the Indian economy, India should aggressively pursue new and comprehensive trade agreements, in addition to the current arrangements, in alternative markets in Central Asia, Africa, and Central and South America.

In this context, India's engagement in the RCEP trade bloc of 16 Asia-Pacific countries provides an opportunity to both strengthen its ties to regional value chains to produce high-value products as well as ensure that its economic and development needs are being met in the context of mega RTA influence. The RCEP aims to cover a broad range of issues, such as trade in goods and services, economic and political cooperation, investment, competition, and intellectual property rights.<sup>24</sup> It is the one of the largest trading blocs and account for around a

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<sup>23</sup> *Ibid*

<sup>24</sup> Asit Rajan Mitra, RCEP pact: India set to host regional trade deal talks in Dec, *LiveMint*, June 2014

third of the world Gross Domestic Product (GDP) and 27.4 percent and 23.0 percent of world's goods and services trades, respectively.<sup>25</sup>

For India, the RCEP appears to be the most promising trade bloc to pursue its economic and trade integration agenda. This agreement offers ample opportunity for India in terms of gaining preferential access in Asia-Pacific markets and facilitate its integration with regional production networks by creating spaces for its producers in regional value chains.

As India continues to engage with its trade partners through new and more comprehensive trade arrangements at the bilateral, regional, and multilateral-level, all stakeholders involved must take note of the imbedded domestic economic and political interest of the Indian society that will influence its foreign trade strategy. Nevertheless, the imperative for India to find opportunities in the looming challenges of mega RTA-based tariff preferences and high trade standards should propel India to enhance its trade relations as well as upgrade its own standards while continuing to support its domestic economic and development needs.

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<sup>25</sup> Amitendu Palit, *The RCEP Negotiations and India*, Institute of South Asian Studies and National University of Singapore, June 2014

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