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After Withdrawing from RCEP What Next?

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Dr Seshadri joined the Indian Foreign Service in 1978 and served in several diplomatic posts during his career that included Nairobi, Brussels, Bangkok, Tehran and Washington DC. He was also on deputation to the Ministry of Commerce from 1999 to 2003 when he was the Joint Secretary responsible for WTO matters.

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Dr. Seshadri had his college education in Bangalore and Hyderabad and secured his PhD. in Applied Mathematics from the Indian Institute of Science, Bangalore in 1978.

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Introduction

After seven long years of participating in the negotiations to conclude the Regional Comprehensive Economic Partnership (RCEP), India decided not to join the pact at the RCEP's Bangkok summit on 4th November 2019. This was at a time when the deal appeared more or less finalised among the other fifteen members (the ten member countries of ASEAN, Australia, China, Japan, Republic of Korea and New Zealand) which are now expected to sign the agreement, after some fine tuning and legal scrubbing, in February 2020.

Why did India Decide not to Join RCEP?

The Secretary (East) in the Ministry of External Affairs (MEA), briefing the Press immediately after the RCEP summit in Bangkok, cited[1] two main reasons. First was the current global situation, presumably meaning the international trading environment was very different today than when the RCEP negotiations began. Second, the outcome was not very fair and balanced for India. She did not however herself elaborate.

We have also seen reports about what Prime Minister Modi had conveyed[2] at the Bangkok summit. He had reportedly said that the RCEP outcome did not fully reflect the basic spirit and guiding principles[3] initially agreed for negotiating the RCEP; it had *inter alia* called for a comprehensive and balanced outcome and that RCEP will contribute towards equitable economic development among the participating countries. India had put forward certain specific proposals for consideration for bringing more equity and balance. And these were not addressed satisfactorily. The Prime Minister further said that when he measured the agreement with respect to the interest of all Indians he did not get a positive answer.

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1 https://www.mea.gov.in/media-briefings.htm?dtl/32007/Transcript_of_Media_Briefing_by_Secretary_East_during_PMs_visit_to_Thailand_November_04_2019

2 https://economictimes.indiatimes.com/news/economy/foreign-trade/india-decides-to-opt-out-of-rcep-says-key-concerns-not-addressed/articleshow/71896848.cms

3 https://asean.org/wp-content/uploads/2012/05/RCEP-Guiding-Principles-public-copy.pdf

The Union Minister for Commerce and Industry Piyush Goyal was quoted in a Commerce Ministry Press Release[4] saying that throughout the seven year long negotiations for RCEP India consistently stood its ground to uphold its demands particularly over controlling trade deficit, stronger protection against unfair imports and better market opportunities for Indian goods and services. The opening up of the Indian market must be matched by openings in areas where our businesses can benefit and India will not allow its market to become a dumping ground for goods from other countries.

Some days later there was also an article by the Union Home Minister Amit Shah in the Economic Times that gave more details[5] about the most prominent demands made by India which were regarded vital to India's interests. He mentioned these included changes in tariff differential, changes in base rate of customs duty from 2014 to 2019, changes in the Most Favoured Nation (MFN) rule, asking for exemptions to be built into ratchet obligations and respecting India's federal character in respect of investments. The Minister for External Affairs also addressed this issue briefly in his Ramnath Goenka lecture. He said[6] India negotiated till the very end and then took a clear eyed calculation of gains and costs. And at that time a no agreement was determined to be better than a bad agreement.

Did India raise some of the issues at the end as some reports have suggested or were they around for a while? This is again a difficult question to answer for someone not privy to the negotiations. But most of the specific changes sought by India that the Home Minister referred to in his article as well as for example the need for a well designed safeguard mechanism against surges in imports had been of concern to India and there is no reason to believe these may not have been earlier articulated.

What have not been mentioned but may also have contributed to the decision taken by India was the economic slowdown and a sombre mood within the country that *inter alia* had seen exports stagnating. There had also been stepped up domestic opposition to RCEP, both from several industry and farm segments, in weeks prior to the RCEP summit. Politically too, while RCEP received no mention in the election manifestoes of 2019 elections, opposition voices arguing against became louder among nearer the summit.

India's Five most Prominent Demands

Coming then to the five most prominent demands specifically mentioned in the Home Minister's article, it is not clear what he may have meant by changes in tariff differential but as far as this author is aware India had asked right from the beginning for greater flexibility on tariff reduction in relation to China and with those other countries within RCEP with whom (Australia and New Zealand) India already did not have Free Trade Agreements (FTA). And this would have automatically meant also a differential in relation to cumulating provisions in the rules of origin for these countries because the two have to be in harmony to be meaningful. It is evident what was in the final RCEP text was not satisfactory to India on these aspects.

4 https://commerce.gov.in/PressRelease.aspx?Id=6732

5 https://economictimes.indiatimes.com/news/economy/foreign-trade/view-by-saying-no-to-rcep-pm-modi-has-kept-india-first/articleshow/72028437.cms

6 https://www.mea.gov.in/Speeches-Statements.htm?dtl/32038/F

Granting MFN provisions and ratchet obligations in trade in services too could be problematical if unqualified. MFN provision means any concession granted to any third country, even some of India's neighbours, would have to be immediately granted to RCEP members. Similarly, ratchet obligation means any autonomous liberalisation by India gets locked in at least for RCEP members. For a developing country like India it is very difficult to make such a commitment and may even constrain autonomous liberalisation.

Such clauses have also not so often been found in Asian FTAs. One study[7] has quoted that out of eight FTAs that it studied of China, seven do not have MFN provision and where it was there, in the China-New Zealand FTA, there are sectoral exemptions. In services incidental to agriculture and forestry, for example, China limited its MFN obligation in this FTA to only similar treatment accorded to other Organisation for Economic Cooperation and Development (OECD) countries. The study further noted that many FTAs with MFN provisions had qualified them by clauses[8] limiting their extension or allowing exemptions.

The remedy for India in RCEP would therefore have been to list its non-conforming measures and also take exemptions which were considered necessary. More can be said here however only after knowing what exemptions and non-conforming measures India may have wanted to inscribe and what if any were objections from other members.

As for seeking a change in the base year to 2019 against 2014 for tariff reduction, this is because of a substantial change in our tariff levels in the interim. And this is where one can perhaps read into the Secretary (East)'s statement about changed international situation which have prompted some countries, worried about increasing imports of items in which certain countries have surplus capacities, to protect themselves with increased tariffs. Also, as far as India itself, some of the electronics imports have sky rocketed that have prompted us to put tariffs on them. The government obviously did not want those changes to be eroded by agreeing to RCEP.

Normally, however, in tariff negotiations as in the case of our own Comprehensive Economic Partnership Agreements (CEPA) with Korea or Japan or India-ASEAN FTA[9], the base year is decided to be

7 Please refer here to Chapter 8 on 'Service rules in regional trade agreements: how diverse or creative are they compared to multilateral rules' by Pierre Latrille in a book on 'Regional Trade Agreements and the Multilateral Trading System' edited by Rohini Acharya, Cambridge University Press 2016. The article has devoted sections also on MFN treatment and ratchet obligations. It notes that ratchet obligations are a structural feature of the NAFTA family of agreements and non-existent in GATS and other family of agreements and if present are formulated in weak and in best endeavor terms. MFN and ratchet obligations in RCEP apparently have been imported from CPTPP by several common members to the two agreements but in CPTPP too there are several notified non-conforming measures and exceptions by the parties..

8 Both India's CEPAs with Republic of Korea and with Japan have an MFN clause in the services chapter which only requires a party giving a more favorable treatment to a third party in future to consider giving a similar treatment to the CEPA partner if requested. It further qualifies this by saying giving such similar treatment should maintain the overall balance of commitments by each party under the CEPA.

9 The base years for tariff rates in India-Korea CEPA, India-Japan CEPA, India-ASEAN FTA and India-Malaysia CECA were 2006,2007,2007 and 2008 respectively, close to the year of their commencement of negotiations. In the India-Singapore CECA in which tariff reduction schedule was determined on an increasing margin of preference methodology the base rate was taken as the rate on the day of import. Singapore may have preferred this considering we were then steadily reducing our rates of applied duty For import into Singapore itself this made no difference it being a virtually duty free state.

around the start of the negotiations. It can however be argued that particular circumstances required appropriate remedies and India making this proposal is not a bar, since countries finally look at the overall balance of an FTA and there is the dictum in these negotiations that nothing is agreed unless everything is agreed.

It is not clear how the fifth prominent demand, of other RCEP members respecting federal character in India's investments, was translated in the form of any textual amendment we may have sought. Could this have something to do with cases like the ongoing arbitration proceedings in which the India-Japan CEPA provisions have been invoked in a dispute between Nissan Company of Japan and the Tamil Nadu Government over incentives apparently offered by the latter? Could another provocation have been what we are perhaps witnessing currently in Andhra Pradesh where a new state government is turning against deals struck by its predecessor? We have generally been more expansive in taking commitments in the past on what investment measures are covered in an investment protection agreement with our CEPA with Japan, among some of our agreements, going the farthest. Arbitration realities have however ushered in a more cautionary approach. More details would however be necessary before being able to assess to what extent the demand we may have put forward in RCEP may have yet found resonance with current international practices and have given a reasonable level of comfort and protection to investors coming to invest in India. We could not also have lost sight of the need to adequately protect Indian investors in regional locations covered by RCEP.

RCEP was admittedly a Tough Negotiation for India

From all indications it does appear India negotiated hard. RCEP negotiations were one of the most challenging trade negotiations for India in view of the number of countries involved, the range of issues covered and the China factor. The Indian negotiator would also have been the most unenviable person in the negotiating room since representatives of all other members, barring perhaps from Cambodia, Laos and Myanmar (CLM), were far more personally familiar with each other as well as their trade practices and policies, being part of APEC. All these countries were also more export oriented. Further, they have been part of various APEC initiatives and action plans implemented over the last two decades in respect of trade and investment facilitation that have significantly reduced their transaction costs and enhanced efficiency in a range of areas from simplification/electronification of documentation to port logistics. Peer pressure among them coupled with competition at the same time have helped greatly improve their logistic and trade facilitation indices. Even if India was ready to intensify reform measures in these areas it would have needed some time to measure up close.

Why did Other Countries Not Show Accommodation?

We do not know why other countries did not agree to be more accommodative towards India and show flexibility in resolving some of the specific issues raised by it. The final RCEP statement only said, "India has significant outstanding issues, which remain unresolved. All RCEP Participating Countries will work together to resolve these outstanding issues in a mutually satisfactory way. India's final decision will depend on satisfactory resolution of these issues". It however gave no definitive commitment on actually resolving them.

A large emerging market like India as a member of RCEP would have been much better for the other RCEP countries. Even as it was, India accounted for over 2.5 percent of world imports and had significant potential for further expansion. However, India, with adverse trade deficit with eleven of them, deserved a more flexible treatment at least for some period of time to get more competitive and have a more level playing field. It would certainly be interesting here to have further details on what India may have specifically put forward for instance on avoiding surges with safeguards (including with automatic triggers for agriculture products and for products in which there are widely known surplus capacities in some countries in this region) and the specific proposals that may have been put forward to address NTBs facing India's exports in specific sectors like pharma, auto parts etc., Similarly what changes were sought by India on MFN clause or ratchet obligations or what kind of demands were made on India in sectors like dairying or other agricultural products would have given a better appreciation of whether the differences would have been bridgeable and whether the other countries would come around and accept India's demands either soon or in future.

It is however possible that certain other factors may have been responsible for the approach taken by other countries:-

a) An expectation by RCEP countries that despite the deal not meeting several of its concerns, India would still come around since in the final analysis it will recognise what not being part of RCEP would mean to it[10]. A related calculation may have been that RCEP gave India an opportunity to be part of the dynamic East Asian group of countries and India should not mind paying a price of some increased imports for joining such a regional group; (a similar thinking was noticed in a recent briefing paper[11] by the Institute of South East Asian Studies on India's withdrawal from RCEP that *inter alia* questioned "Does India have the resilience and political appetite to absorb domestic hits to advance the regional common good?"- it is not made clear in the article why the agreement could not have been made win-win and why India should not have minded taking some hits. If it was designed in a win-win manner the regional common good could have been greater.

b) The China factor. India's key concern was a possible surge in imports from China particularly in view of its already large presence in the Indian market and the fact that China held surplus production capacities in several areas including steel, non-ferrous metals and certain other sectors. Further China had also been quite reluctant to deal with non-tariff barriers relating to India's exports. To address the former, tariff differential and safeguards would have been very essential and would have required to be China specific if not expressly at least in its operation. And it is not clear to what extent China was ready to yield. Other RCEP countries wanted India to discuss these issues with China bilaterally. India did hold such separate discussions with China but there is no indication about how far these discussions went including as a result of Mamallapuram etc. Nor is it known whether other RCEP countries took any initiative to persuade China in this regard.

10 This thought trend was seen voiced by certain delegates from RCEP countries in some think tank events which was participated in by this author

11 " What India's withdrawal from RCEP means for ASEAN, India and the Indo-Pacific Concept" by Tang Siew Mun, Media Commentary,ISEAS, Singapore . See https://www.iseas.edu.sg/medias/commentaries/item/10706-what-indias-withdrawal-from-rcep-means-for-asean-india-and-the-indopacific-concept-by-tang-siew-mun

Meanwhile a spate of Articles on RCEP appear in Indian Press

We have seen a good number of articles in recent weeks written on India's decision not to join RCEP. Trade generally does not attract so much analytical and sustained focus in India's Press, so this was welcome. Some articles felt India deciding not to join was the right one. Certain others termed it was a loss of opportunity. A few like the Indian Express editorial of 6th November felt that the government should have used its formidable political capital to blunt the opposition to RCEP, and push its way through. More significant and welcome was perhaps the soul searching evident in several writings on what should the country now be doing next, if not RCEP. Some have suggested that the country should now focus first on further industrialisation and developing competitiveness before proceeding to stitch up any more FTAs. Certain other articles have also wondered if RCEP can still happen somehow? A few have even suggested that India's focus should continue to be negotiating a better deal to join RCEP.

What next? Looming Challenges

How should India strategise in this context? Before coming to RCEP itself a few overall points on broad challenges facing India currently on trade and what could be our priorities may be relevant here. Most worrying is the sluggish export trend. India's total merchandise exports have been hovering at around US$ 300 bn since 2011-12. With a 1.65 per cent share in world exports, India is nineteenth in rank, not a comfortable place to be in. A point that sometimes gets overlooked in all this discussion is that achieving exports is far more difficult than being able to regulate imports. The former not only depends on the competitiveness of the Indian export product in question but also access conditions in the export market, both in terms of tariffs and non-tariff aspects, and acceptability of the product among possible buyers. Regulating imports in contrast remains within the administrative control of the importing country even as WTO rules have to be observed.

Our second challenge is the very troubled situation currently facing the international trading system. The Doha round is dead, the dispute settlement system of the World Trade Organisation (WTO) is facing a collapse, new WTO reforms are under discussion but these are mainly on rules, investment facilitation and e-commerce. For securing more market access only FTAs presently provide a viable opening. And the FTAs generally are getting more comprehensive and sophisticated with some commitments and disciplining demanded on domestic policy making. Further, every additional FTA concluded anywhere in the world (on top of the 300 FTAs already in force worldwide) generally means also less access for non-signatories. From this perspective, being part of RCEP had some advantage for us in that it was relatively less intrusive about domestic policies. More importantly, it could have improved our access not only with China, Australia and New Zealand with which we had no FTAs at present but also incrementally with our existing FTA partners within RCEP. Secondly, coming within the larger Asia Pacific region it was perhaps better to be in than out. Being out will not necessarily safeguard India from external supply chains in East and South East Asia that will henceforth be further reinforced by RCEP and which can target their exports to India.

The third was the Trump effect, the 'America First' approach and readiness to use unilateralism such as GSP withdrawal from India. But the US-China trade war also presented opportunities to third countries if they could leverage it to advantage. Moreover, Trump's unilateralism has led to countries scurrying for insurance cover from protectionism through finalising other deals such as Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), or we could even ascribe it to the hurry enacted in the end game of RCEP.

Fourthly, the technology factor. After International Trade Administration (ITA)-1 and ITA-2, framing rules for digital trade (e-commerce) has been receiving priority internationally. This is even as the regulatory issues surrounding digital trade and how should data be fairly dealt with are not fully understood. It is not clear how the finalised RCEP text has dealt with this issue even as it is learnt there may be a chapter on the subject in the text. It is also to be seen if this chapter will be subject to dispute settlement provisions of RCEP.

Possible Priorities to meet the Looming Challenges

Against the aforementioned challenges, a few months ago, this writer had in another Vivekananda International foundation (VIF) report[12] suggested a set of eight priorities in international trade for India for the coming years. While they will not be repeated here, which incidentally included negotiating a balanced and beneficial RCEP and getting ready for it, three of those priorities are particularly relevant in a discussion of what next: a) prepare and implement an action plan to double exports in the next five years; b) draw up and implement an FTA strategy; and c) Implement a credible and robust system of regulating imports.

Action Plan needed for Doubling Exports

The first priority is drawing up an action plan for doubling India's exports in the next five years. The VIF report[13] had suggested possible elements in such a plan including the policy actions that would be necessary for scaling up existing export capacities, for bringing value addition in many items in the existing export basket a good portion of which is going in primary form, steadying agriculture exports that have expanded their share in India's export basket and inviting foreign investments for new products including from possible supply chains, joining the export basket. All this also required greatly improved soft and hard infrastructure, reducing transportation and transaction costs, a more robust standards and compliance mechanism for ensuring quality exports, easy export financing and market development and export promotion.

The Government was already working on several fronts like the Bharat Mala programme, the Sagar Mala programme, skill development programme apart from the Make in India initiative. There were also moves for setting up product clusters and Special Economic Zones (SEZs) with the idea of boosting exports. The Surjit Bhalla led High Level Advisory Group (HLAG), it is understood, has also submitted several recommendations for doubling India's exports. Most importantly the recent move to significantly reduce corporate taxes and the preparation of a "national infrastructure pipeline" from 2019-20 to 2024-25 under a Rs.100 lakh crore infrastructure plan are most timely and

12 https://www.vifindia.org/sites/default/files/priority-issues-for-india-in-external-trade.pdf

13 See Chapter 3 of VIF report at https://www.vifindia.org/sites/default/files/priority-issues-for-india-in-external-trade.pdf

encouraging here, as is the disclosure[14] by Finance Minister Nirmala Sitharaman that as many as 12 global companies have shown interest in moving from China to India.

So coming out with an action plan by the Government for the next five years to double exports, in consultation with all ministries and state governments and industry stakeholders, should be possible within a short time frame. In fact, working towards doubling exports also formed one of the 75 Action Points of BJP's election manifesto. But if this has to make a difference with earlier efforts this has to be on a mission mode and not just left with targets but those broken down into sub-targets and sub-sub-targets with time bound implementation, with assigned responsibilities and periodical oversight and allocated resources. The urgency needs also national and political recognition. Just as getting this done some years earlier may have been relatively easier, doing this five years later may be more difficult than doing it now. And such a plan could be attractive for investors looking to move from China.

Need for an FTA Strategy

But expanding exports also required increased market access. Those who may argue that this can be attempted even with India's existing FTAs need to recognise that with countries worldwide entering into more FTAs India's overall market access has been steadily diminishing. And one reason (there are other reasons as well) for our existing FTAs not delivering enough is that they are not deep enough compared to what our competitors have with those partners. Market access for some years now has entered a more dynamic and competitive phase and those not active in it have to settle for declining access.

So an FTA strategy needs to be developed by India. This should include making a renewed effort to see which of the pending FTA negotiations can be brought to quick closure including the one with European Union (EU). It also needs decision which other countries India should target, and what criteria should be adopted to select possible candidates. Some countries have followed an hub approach in this regard. The VIF report makes certain suggestions here[15]. No less important will also be how to get more from existing FTAs particularly with ASEAN, Korea and Japan through the reviews that are known to be presently underway.

RCEP could have helped here. Even a country like China is more or less duty free for ASEAN countries. Pakistan's FTA with China allows it to export several textile products to that country undermining India's access in China for these products. China is also signing more FTAs. And its average MFN tariff is over 8 per cent. So if India is looking to export manufactured exports to China, against primary goods that normally attracts lower duties, an FTA is important even as a bilateral FTA is inconceivable now for several reasons. And even foreign investors, including those looking to locate units of their supply chains, would have found India a more attractive country to invest in if it was part of RCEP. And FTA dynamic is also such that as a country concludes more FTAs, those left out will come forward and show greater interest and perhaps even flexibility.

14 https://indianexpress.com/article/business/economy/fm-12-global-companies-showed-interest-in-moving-from-china-to-india-task-force-in-contact-6144773/

15 https://www.vifindia.org/sites/default/files/priority-issues-for-india-in-external-trade.pdf. Please see Chapter 6.

Mechanism for efficient Regulation of Imports

The third priority is to put in place a more robust system of standards and regulations for imports and ensuring their compliance. All major countries rely not only on tariffs but also on standards and regulations to properly regulate imports but somehow India has not got this adequately in place yet. A number of national standards conclaves have been held and attempts are being made to move in this direction. But more persuasion is needed to get on board some domestic industry segments that have shown resistance. Taking action to meet the necessary infrastructure and skill capacities would be also important. A time bound action plan is clearly required that will also have a phased programme for the domestic industry, including SMEs, to conform. China for example has the China Compulsory Certification system whose compliance is helped by 22 sectoral standards and compliance agencies. Effective regulation of imports also needs strict oversight over underpricing and underinvoicing of imports, fraudulent declaration about rules of origin, circumvention of right tariff classification etc.

International trade practices and policies are constantly evolving and India needs to keep up, not to be left behind. India ended the use of Quantitative Restrictions on balance of payments grounds in 2001 only after a WTO dispute was raised against India and it was lost. India is now changing its export schemes after it has lost another WTO case. But on stitching up more FTAs or on standards no external pressure may really come. India needs to itself decide how best to move forward.

Finally, there is the question if India will still get to be part of RCEP. The Home Minister's article conveyed the confidence that considering India's growing stature, RCEP members can't afford to ignore it for long and will come around to agree to Government of India's (GOI) terms. Countries like Japan and Australia too are very keen for India to join RCEP apart from certain ASEAN countries but whether they will agree to accept all of India's demands and get the others to do so remains to be seen.

Well-crafted FTAs should be seen as part of reform and not undermining domestic industry or agriculture. Irrespective of what may happen to RCEP, India needs to move ahead with its own plans for internal reform and doubling exports as outlined earlier. RCEP too could have worked for us only if it had found a place as part of reform for restructuring and becoming competitive and not looked at as likely to undermine our industry or agriculture. Adequate protection is certainly warranted for some of these areas. This writer for example had recommended in a CII study[16] he had the opportunity to lead, on a possible approach to deal with China in view of the already large presence of that country in our market, a phased and extended approach in industrial tariff reduction that was also more back loaded. But such protection without timeframes for reform by the industry will only entrench inertia to change. As a beginning, therefore, the government will need to look at tariff increases undertaken by India in recent years on a whole range of products and lay out a clear time table for industry restructuring by when those tariffs will return to earlier levels. This by itself is a very significant reform the other RCEP countries will favorably note.

16 A gist of the outcome of the CII study could be seen outlined in the following RIS policy brief on 'Emerging dynamics on RCEP' by this writer. See https://www.ris.org.in/sites/default/files/policy%20brief-85%20v%20s%20sheshadri.pdf

Careful but also creative handling can help in FTA negotiations. Agriculture certainly needs more careful handling in a large country like India where there is a great degree of livelihood dependence on this sector. But there is also a long pending need for reform in this sector to reduce this dependence through encouraging movement of some labour to greater productive employment in non-farm sector as in other countries. There should therefore be no outright rejection of proposals where openness to trade could bring better results in this regard even as it will require careful examination. Some prospective FTA partners may show interest in securing at least limited market access in certain farm products. India itself is a significant producer of certain items with exportable surpluses such as in rice and securing even limited TRQs for our agriculture exports will be an advantage.

Dairy sector is a case in point. The dairy sector itself, which became a flash point during RCEP negotiations, is a case in point. For example, for a country like New Zealand, insisting on some market access in this sector where it has considerable strength may seem quite reasonable. Otherwise it would have been very difficult for them to defend the deal nationally. The question is could India have dealt with this request by: a) limiting the market access to a few products in the dairy sector and only upto a limited tariff rate quota; and b) the TRQ quantities itself to be determined not on the basis of the size of the large Indian market but moderated on the basis of reciprocity for India's real market access in that country.

The dairy sector is in any case highly protected in several countries around the world, in even advanced countries like Canada or Japan or Korea. Some FTAs not only have very limited TRQs for several dairy items but carry a whole range of import stipulations including a) how they can be imported only in bulk and not in retail form; b) how the Tariff Rate Quotas (TRQ) have to be divided for the four quarters during an year; c) how the TRQs will be auctioned or there will only be limited authorised importers; and so on[17]. In India, if it is determined that only a few large cooperative dairies should be allowed import through specified ports, that is an aspect that can perhaps be negotiated. And just as butter oil aid from EU was used by National Dairy Development Board (NDDB) in the building up of the Indian dairy industry several decades ago, can certain regulated and limited lower priced imports by cooperatives be used as a means of improving their finances (and while not affecting domestic prices) to usher in technological change to this sector? If that would be possible, such limited TRQ imports could be seen as part of reform rather than something that will hurt our dairy farmers.

Creative possibilities for negotiations in the industrial sector. Even among industrial products, perhaps certain types of steel and non-ferrous metals could be allowed to be imported in limited quantities as TRQs than saying no-no to any such import if that will improve our negotiating position. Is it possible for such imports to be made available only in the respective product clusters for our SMEs at international prices for them to be able to manufacture value added products from them for export. What needs to be appreciated and creatively used is the wide flexibility available within FTA making in consultation with the FTA partner. The yarn forward rule designed by the United States for garment

17 It is also interesting that in the Japan-EU FTA which came into force from 1st February 2019,certain TRQs particularly relating to cereals can be administered by the Ministry of Agriculture, Forestry and Fisheries or its successor as a state trading enterprise using a simultaneous buy-sell mechanism. Japan may collect the import mark up for goods imported under TRQ. The amount of the import mark up however shall not exceed the permitted goods under Japan's schedule under the WTO agreement.

imports under FTAs is a good example here that encourages greater use of American made fabrics for making garments seeking entry into US market under FTAs or other concessional arrangements.

Approach for Dealing with Services in FTAs

This brief has not dealt with trade in services at all even as it has great importance in FTA negotiations. While this writer has not examined this sector in any depth in his recent writings, his earlier appraisals of implementation of India's FTAs with Singapore, Japan and Korea brought out that India had not benefitted to any significant degree under Mode 4 (movement of natural persons) even as there were separate chapters on them in each of these FTAs. In fact, India's Comprehensive Economic Cooperation Agreement (CECA) with Singapore[18] can be termed as the most Mode-4 friendly agreement in that the text even explicitly ruled out any economic needs test. But the actual practice on the ground today for obtaining visas for short term visits of India's professionals to that country cannot be more divergent. A good Mode 4 text, without some assurance on the immigration side, may end up without real benefit. In any case it should not be exchanged for more tangibly written down concessions in other modes, much less as a means of compensation for possible potential losses on the merchandise side.

Should India be approached for Reconsidering RCEP - Possible Guiding Elements

Finally, should India be approached again to join RCEP, sooner or later, what could be the guiding elements in our consideration? Since this writer is not aware of the details of the finalised RCEP text or of India's proposed specific amendments to that text, the answer can only be general.

First and foremost is that India should simply not be expected to take some hits for regional good but other RCEP members need to show certain accommodation for working out win-win solutions. For India itself what should be a key benchmark, if we do soon adopt an action plan to double exports in the next five years, whether the RCEP text with the amendments that may be accepted can significantly enhance our chances of achieving this doubling target.

Secondly some tariff differential and cumulative delay, and a longer tariff reduction schedule going upto 15 to 20 years will be essential vis-a-vis non-FTA partners even as India may agree to bring the domestic tariff increases in recent years down to earlier levels within a brief period. Thirdly, a properly designed safeguard system separately for farm products, for industrial products that have surplus capacities in the region and for other items would be necessary. Fourthly, the balance in the services sector should be seen within itself than seen as balancing with some possible trade-offs with potential losses on the goods side. Such an approach in earlier FTAs have not secured real benefits on the services side with possibly also tilting the balance against us on the goods side. Moreover, several other RCEP countries are fairly strong in a number of services sectors under Mode 3 (commercial presence) and Mode 1(cross-border trade) and available statistics also do not indicate India has any trade surplus with countries in this region on services unlike with the United States .

18 https://www.ris.org.in/india-singapore-ceca-appraisal-progress

Conclusion

This brief has tried to situate and understand India's decision not to join RCEP particularly amidst the imperatives of certain looming challenges relating to international trade. Whether India gets to be in RCEP or not, this brief places importance on India quickly taking action on: a) drawing up and implementing an action plan to double exports in the next five years; b) devising an FTA strategy; and, c) devising and implementing an efficient and robust system of regulating imports. Should other members of RCEP meanwhile decide to be more accommodative towards India[19] and its demands, and signal their willingness to discuss a win-win deal for India, this should be welcome. But the decision to join should be assessed based primarily on whether it can significantly contribute to doubling India's exports in the next five years. Also to bear in mind are whether we can keep our imports within manageable limits and whether it will be possible to integrate RCEP implementation within our domestic reform process. In all this, our negotiators too need try and come up with creative solutions for which industry needs to lend a helping hand.

19 There are reports that Japan is still not considering to join RCEP without India but whether other countries share this perception is unclear. Please see https://economictimes.indiatimes.com/news/economy/foreign-trade/japan-wont-sign-rcep-if-india-doesnt-join/articleshow/72287757.cms

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