VIF REPORT

Priority Issues for India in External Trade

Vivekananda
International Foundation

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Contents

Foreword

The *Economic Survey 2019* has clearly stated that to maintain 8 percent GDP growth and become a US$ 5 trillion economy by 2024-25. India must, inter alia, increase its share in international trade.

Increasing exports by order of magnitude will be a challenging task as India's exports have been sluggish in the last few years. A clear strategy and a determined effort would be needed to attain this goal.

Appreciating the role of exports in the growth of India as an economy as well as a major power, the Vivekananda International Foundation requested Ambassador V Seshadri to identify the key challenges facing India's external trade and suggest a roadmap to overcome the constraints. Amb Seshadri, who retired as India's ambassador to Myanmar has been involved with a number of studies on India's external sector. He made a detailed presentation at a seminar of experts at the VIF in which he outlined the current state of India's exports and how they can be improved. Based on those discussions, Amb V Seshadri has prepared the present report outlining priorities of India's external trade.

Examining the current, dynamic context of international trade, the report suggests eight key priorities for the government to enhance India's export performance. An executive summary lists some actionable points for the government.

Essentially, the report suggests that the government must take up the challenge of doubling India's exports through a proper roadmap. At the same time, it should exploit the untapped potential of increasing trade with India's neighbours. India cannot and should not avoid signing new FTAs and deriving more from the existing ones. India must also work proactively

to reform the World Trade Organisation (WTO) while ensuring its own interest, particularly in sectors like e-commerce. India also needs to engage with the US and China for increasing exports. The report outlines how India can potentially benefit from US-China trade frictions. India must be proactive on global trade issues.

We hope that Amb Seshadri's report will be found useful by the policy makers and also generate a healthy and productive debate.

New Delhi

Dr. Arvind Gupta
Director,
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Executive Summary

Priority issues for India in External Trade

1. Four broad concerns capture the current context surrounding India's external trade. First is our sluggish export performance for the last several years owing to global slowdown and also due to our declining competitiveness. With a share of 1.65 per cent in world goods exports today, India ranks 19th among all countries that is way below its size or GDP. India's merchandise imports has also gone past US$ 500 billion now. The trade deficit at US$ 176 billion in 2018-19 as a result is over 50 per cent of exports. The need for a strong push for manufacturing exports is compelling. A higher trade profile will also enable India to move away from its rather defensive and reactive approach to trade policy and to have greater influence in international trade negotiations.

2. Secondly, there are emerging strains in the international trading system with a weakening commitment seen towards multilateralism. New challenges are surfacing in trade law making, trade law implementation and trade law adjudication. Pressures are rising for WTO reforms particularly on the rules side. The Doha round appears dead, mainly due to reluctance of developed countries to reduce their farm subsidies. But the number of FTAs worldwide continue to surge - seemingly, the only way now for expanding market access. What do we do about RCEP? Should we sign more FTAs - with partners like EU, a post-BREXIT UK and a few others ?

3. Third, the Trump factor and his unilateral measures have unleashed a host of uncertainties unsettling international trade. India has also had its share of adverse impact. But could there however be opportunities stemming from a shift in trade and investments likely from China? And how do we deal with our two largest trading partners, US and China, each with its own issues?

4. Finally, new technologies, products and services, particularly flowing from the digital era, are also giving rise to proposals for trading rules for them such as in respect of e-commerce. Developed countries who have a head start in those areas are seeking freer trade in them. Developing countries like India feel they may get disadvantaged. How do we respond?

5. Against all this backdrop, the newly elected government will need to carve out its priorities for external trade for the next five years. This report identifies eight of them and sketches out possible action points

Priority 1. ***Devise an Action plan for doubling India's exports by 2024-25 and for implementing a well coordinated programme to efficiently regulate imports (APDEX for short)in a time bound manner*:**

The Action Plan could include

- Adopting a conducive industry policy and sectoral policies, a practicable labour policy and various investment facilitation efforts and outreach, all of which should encourage scaling up of export manufacturing and undertaking value addition within the country itself unlike at present;

- Putting in place necessary hard and soft trade-related infrastructure, including product clusters and port based SEZs, that can enhance competitiveness for our manufactured exports;

- Reducing transaction and transportation costs and significantly transforming trade/ logistics facilitation including documentation;

- Making special efforts to attract large and selected foreign investments in manufacturing and supply chains;

- Encouraging diversification of markets and making special efforts to open up difficult (like North East Asia) or distant markets ;

- Steadying agriculture exports and removing supply constraints;

- Diversifying our services exports;

- Providing cost effective export financing that does not fall foul of WTO rules, particularly when some of our existing schemes are under contestation, and ensuring exchange rate is conducive;

- Putting in place a robust standards and compliance mechanism that can pave the way for a Brand India; and

- Efficiently regulating imports to curb under pricing and other malpractices and stop sub-standard goods flooding the country in a variety of areas.

Several of the above suggestions may not be new and may have been tried before. But considering present circumstances with a stagnant share in world trade and our aspiration to emerge as a US$ 5 trillion economy by 2024-25, a redoubling of efforts and co-ordination is needed. It will also require an all of government effort both at the central and state government levels. Targets in each area will need to be broken up into sub-targets for different elements and in turn sub-sub-targets for their constituents and each of them carefully monitored. If past is any indication, political level direction and monitoring at high level will be essential to overcome vested interests.

Priority 2. ***Significantly expanding trade with neighbours***

South Asia (even if we include Myanmar) accounts for less than 1 per cent of our imports and 8 per cent of our exports. Significantly expanding two way trade with them should be both a trade and a foreign policy priority. Further, it resonates with our 'Neighbourhood first' policy. Making them part of supply chains will become feasible if we can make trade across land borders smooth and efficient. Co-ordinated dialogues will also need to be held with the concerned neighbouring countries for parallel actions from their side. Closer economic integration through expanded trade will have many positive spillovers including on the security aspect. When China is making inroads into these neighbouring markets, India expanding trade, investment and business ties with them will help strengthen BIMSTEC and also bring greater prosperity to our North East region.

Priority 3. ***Negotiating a beneficial and balanced RCEP***

RCEP negotiations are in the final stages when the difficult issue of arriving at a market access package gets tackled. With the kind of deficit that India has with most RCEP countries,

particularly China, those countries should show greater understanding for India's concerns and allow for adequate flexibility and longer phase-outs. In return they would get better access to a large emerging market in the medium and long term. Indeed an RCEP minus India would not be an ideal outcome either for India or for the others. Prospective foreign investors will also find it attractive to invest in India if it is a member of RCEP. India should therefore negotiate hard. It will be beneficial to align its market access concessions/demands in RCEP with APDEX.

Priority 4. ***Prioritising other FTAs and working to better implement existing FTAs***

The last FTA signed by India was with Malaysia in February 2011. India has no FTAs with trading partners to the west of India. When the FTA surge is continuing worldwide not being part of more FTAs becomes a handicap to our exporters. This report recommends identifying four/five potential FTA partners, apart from EU and UK, with all of which India could finalise FTAs in the next five years. Getting more from existing FTAs should also be a priority. Several steps have been suggested in the report including for Department of Commerce to publish a detailed annual review of implementation of each existing FTA. Mobilising stakeholder support for more FTAs will be difficult if we cannot get existing FTAs to work for us better.

Priority 5. ***Strategising to deal with the push for WTO reforms***

WTO reform proposals are getting submitted by different countries. They relate mainly to further disciplining subsidies, state owned enterprises, submission of timely notifications by governments, improving working of WTO committees and developing country categorisation. It is a pushback against countries like China (also India?) that are seen as having gained more as a result of loose WTO rules and their administration. Some plurilateral initiatives on investment liberalisation, SMEs etc., are also on the anvil. This report indicates a possible approach to them by India including seeking to maintain a developing country tag for the next ten years. Building issue based coalitions with like minded countries will be important. In any case, strategising for the twelfth WTO ministerial to be held in Astana in June 2020 when all these issues will come for a decision will have to be a key priority for the government.

Priority 6. ***E-Commerce***

Negotiations on international rules on e-commerce have already commenced among 76 countries which include developed countries, some developing countries and China. India has

decided not to join the negotiations at least at this stage. Examining the pros and cons, based on some expert views on the subject, this report recommends that the Indian government first focusses on, as a priority, putting in place a balanced and domestically suited e-commerce policy that should however be able to also attract foreign players to come and invest including in creating digital value chains. Once the policy is in place and there is greater clarity, India could then explore if there could be room for itself in the ongoing negotiations.

Priority 7. ***Engaging the US for greater understanding of our concerns***

India and US have had differences on their trade before but have managed to deal with them through dialogue. US is also India's single largest export market. Under the Trump administration, however, India has been unfairly name called as 'tariff king'. Frictions have also emerged with the US having taken some unilateral actions including higher duties on steel and aluminium imports and the withdrawal of the GSP treatment to India's exports. India in turn has imposed retaliatory duties on 28 items of import from US. While continuing the dialogue and managing the differences is a must what this report has proposed is that the dialogue could be more broad based so that it is also informed by broader geopolitical needs and compulsions. India needs to grow fast to be able to be an effective partner in ensuring that there is no dominance of any one country in the Indo-Pacific region. The report further recommends bringing out a full status paper of bilateral economic engagement covering not only trade and investments but also tourism, Indian students in US, sales of US companies in India, benefits for US pension funds and other portfolio investments from the Indian market etc.,making it evident that the economic ties do not lean only in the India direction.

Priority 8. ***Window of opportunity for India from US-China trade tensions***

It is not clear if the ongoing trade war between China and the US will see a resolution soon. However what is evident is that the trade and investment ties between them may not revert to be the same again. Some US and even Chinese investments are moving out of China. Trade has also seen diversions. The report has examined the following which need to be taken up as a priority by the government.

- India substituting for some of the products from China in the US market;
- India substituting for some of the products from US in the Chinese market; and

- India attracting US investors relocating from China and even Chinese investors who may be looking for alternative locations.

With China expected to be in a more accomodative mood towards third country partners at this time, India should continue taking up the issue of non-tariff barriers faced by Indian exporters in the China market. Similarly China should also be persuaded to show greater understanding for grant of sufficient flexibility for India in RCEP in view of the persistently high bilateral trade deficit between the two countries even without an FTA.

Conclusion

The report has identified in the foregoing eight priority areas for external trade for the newly elected government. Topping them is to double exports. Foreign investments and technology will be required here in supplementing domestic efforts. Evidence from China and South East Asia show that investment facilitation is key to securing foreign investments even more than further investment liberalisation. Can we work out a model that attracts foreign investments but does not crowd out domestic ones and rather enriches the latter in both cooperative and competitive ways? Perhaps the IPL model for cricket that hosts a few of the very best foreign players in each IPL team that has in turn strengthened the local bench strength carries a lesson here.

Furthermore, for monitoring the implementation of all the priorities, it is essential to have modern, timely and accurate trade data, both primary and some derived ones, on trade in goods and services as well as on foreign investments. In this digital era, DGCI&S and RBI should make these easily available in a disaggregated manner. Will they be forthcoming?

Finally, India has had a rich trade history that got sharply erased during colonial times. Can we chart the route towards re-establishing ourselves as a manufacturing and trading power?

Chapter 1

Introduction: The Context

There are several elements of concern that define India's current trading environment both domestically and internationally. Before drawing up what could be a possible set of priority issues on external trade for the new government, it is necessary to review the present context. This could be characterised under four broad heads which are themselves also inter-related to a lesser or greater degree:

- The sluggish export performance on the goods side for the last several years owing to global slowdown and to declining competitiveness of India's manufacturing exports. Promotion of exports at this time also becomes more difficult as the international trading environment gets tougher and some of India's own subsidy programmes have been contested under the WTO dispute settlement mechanism;

- Emerging strains in the international trading system with Doha Round more or less dead and a weakening of commitment seen towards multilateralism; new challenges are surfacing in trade law making, trade law implementation and trade law adjudication; and bilateral, regional and sectoral agreements/initiatives are gaining greater traction;

- The Trump factor impacting in so many different ways both bilaterally and otherwise including possible fall-outs from China-US trade dispute that could see China's surplus capacities seeking outlets in markets like India but also presenting opportunities; and

- The technology factor and how this is being used for freeing trade in some new areas by advanced countries even as developing countries may be disadvantaged.

These are explained below in somewhat greater detail under each of these heads.

India's Sluggish Export Trend in Recent Years

India's merchandise exports grew sevenfold from US$ 44 billion in 2001-02 to US$ 306 billion in 2011-12 leading to a significant increase in India's share in the overall world exports from 0.67 per cent to 1.67 per cent. However, India's annual merchandise exports remained almost flat from 2011-12 up to 2017-18 at around US$300 billion, with also declines in a couple of years (see Table 1). Only in 2018-19 there has been some limited revival.

Table 1: India's merchandise trade trends 2011-2019

Year	Exports (in US$ bn)	Growth rate of exports (in %)	Imports (in US$bn)	Growth rate of imports (in %)	Trade deficit (in US$bn)
2011-12	306	22.5	489	32.3	183.6
2012-13	300.4	-1.8	491	0.3	191
2013-14	314.4	4.7	450.2	-8.3	135.8
2014-15	310.3	-1.3	448	-0.5	137.7
2015-16	262.3	-15.5	381	-15	118.7
2016-17	275.9	5.2	384.4	0.9	108.5
2017-18	303.5	10	465.6	21.1	162.1
2018-19	331	9.1	507	9	176.4

Source: DGCIS

Several factors were responsible for this sluggishness. World exports themselves[1] witnessed a slowdown (and in a couple of years decline) during this period, not unlike India's own export profile. This is the reason why despite India's export sluggishness it could manage to retain its share in world exports at for example at 1.69 per cent in 2014 and at 1.68 per cent in 2017.

Secondly, there were also supply constraints for India in a few areas including iron ore and certain agricultural products. India's agriculture and plantation exports attained a peak of US$ 34.6 billion in 2013-14, but became depressed thereafter and were US$ 30 billion in 2018-19.

1 World exports that totalled US$17.8 trillion in 2011 climbed slowly to US 18.5 trillion in 2014, but declined in the next two years to US$ 15.5 trillion in 2016 and were US$ 17.2 trillion in 2017.

Thirdly, excess capacities of metals and other products that have come up in China have affected world trade in them and our own base metal exports also experienced fluctuating fortunes.

India's petroleum product exports too underwent wide swings, due to oil price variations- they were the highest in 2013-14 but exports in subsequent years have been significantly behind that peak.

Our other manufactured exports[2] also had their travails. Textile exports have not been showing the earlier dynamism and recorded US$ 36 billion in 2017-18, behind the peak figure of US$ 37.1 billion in 2014-15.

India's Economic Survey 2017-18, had observed that international competitiveness of manufacturing in India has made no progress that is getting reflected in the declining manufacturing export to GDP ratio and manufacturing trade balance. India's share of exports to GDP has now become 11.4 per cent as against 16.7 per cent in 2013.

It is noteworthy here that despite the global slowdown certain countries like Bangladesh, Turkey and Vietnam could significantly increase their world trade share.

When it is recognised that India is second in the world in terms of population, seventh in terms of nominal GDP but nineteenth in terms of exports there is a great deal of catching up that needs to be done on exports. This can only happen when the supply side constraints in several areas are fully addressed apart from significantly improving India's trade and manufacturing competitiveness.

This task becomes more difficult at a time when several of India's export promotion schemes have been questioned by the United States[3] and other parties about their compatibility with WTO rules. Guatemala[4], joined by a few other countries, is also questioning the WTO compatibility of some of our domestic price support programmes and export subsidies in the

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2 For a fuller analysis of India's trade trends please see "India's international trade: Trends and Perspectives" by this author in pages 181-201, Vol.12, No.3, Indian Foreign Affairs Journal, July-September 2017.

3 See WTO document WT/DS541/4 dated 19 March 2018 in which US seeks consultations on (1) the Export Oriented Units Scheme and sector specific schemes, including Electronics Hardware Technology Parks Scheme,(2) the Merchandise Exports from India Scheme, (3) the Export Promotion Capital Goods Scheme, (4) Special Economic Zones, and (5) a duty-free imports for exporters program.

4 See WTO document WT/DS581/1, dated 25 March 2019, which is a request for consultations by Guatemala on India's (a) domestic support measures maintained by India in favour of producers of sugarcane and sugar, and (b) export subsidies for sugarcane and sugar.

sugar sector. If these programmes are eventually not found to be WTO compatible, suitable remedial actions will be necessary.

As for the services sector, India's exports grew from US$ 137 billion in 2011-12 to US$ 205 billion in 2018-19 and our share in world trade in services has also edged up to 3.47 per cent in 2017. But here the problem is the over dependance on the IT and IT enabled services sector and on the US market. Diversification remains a continuing need.

Challenges posed by Evolving Changes in the International Trading System

The multilateral trading system is facing uncertain times owing to lack of global consensus and clear direction. The last WTO Ministerial in Buenos Aires in 2017 was not even able to agree on a ministerial declaration. Apart from the ongoing negotiations on fisheries subsidies there are no other negotiations underway presently involving all WTO members.

A consensus on completing the Doha round eluded the Nairobi ministerial itself in 2015 and, regrettably, reviving it now seems unlikely. Developed countries were extremely reluctant to negotiate reducing their domestic support in agriculture[5] as per the Doha mandate while on the other hand pushed for very high degree of liberalisation from the developing countries on market access in goods and services. There is no sign this will change.

What however emerged at Buenos Aires were a few joint initiatives signed by interested countries on the issues of electronic commerce, investment facilitation and micro, small and medium size enterprises (MSMEs). Formal negotiations involving 76 interested countries have since also commenced on e-commerce since April 2019.

Moreover, in the last couple of years, informal discussions among certain WTO member states are throwing up proposals for WTO reform. Some of them are updates to keep up with the times but some are also inspired by a perception that certain countries, in particular China, have significantly gained from the assured market access offered by the WTO system even as they have been non-compliant with their commitments if not in letter atleast in spirit. Negotiations are being proposed for drawing up disciplines on state owned enterprises, tightening rules on subsidies, defining even developing country status and for better implementation and oversight

5 One can also see the editorial captioned 'Global trade after the failure of the Doha Round in the New York Times on January 1, 2016, or the FT view in The Financial Times, London, on 22nd December 2015 under the title 'The Doha Round finally dies a merciful death'.

of WTO agreements. Some of these proposals could help in making countries like China being less opaque and being fair with their trade governance that should be welcome for us. But it could also impact on flexibilities for developing countries like India.

Another area of concern relates to the dispute settlement system of WTO becoming dysfunctional as a result of US objections on fresh nominations to the Appellate body to replace outgoing members. While it was initially thought that US had objections in respect of the renomination of one member, the objections lengthened[6] under President Trump to certain rules and practices developed by the Appellate body. This position has further evolved and it is now very clear that US is using its blockage of approvals for Appellate body members as a lever to force WTO reforms[7].

International trade is also meanwhile getting increasingly regulated under bilateral and regional FTAs whose numbers continue to grow. India has not signed any FTA after February 2011 and the results from implementation of past FTAs have not been encouraging. Even so, it is becoming clear that in certain markets having an FTA is a necessary condition to have a level playing field for India's exports. India cannot also remain oblivious to the rising FTA trend, with several recent ones carrying commitments that are significantly WTO-plus and WTO-extra[8]. India has been participating in the negotiations for RCEP and concluding that successfully will be a major task for the government. The question also arises if India should be more active on the FTA front and seek to conclude further FTAs such as with EU or with countries in Africa or Latin America?

In the challenging present context as in the foregoing how should India be navigating itself? India held a mini-ministerial of some 22 developing WTO members in May 2019. While a few of them particularly from Latin America including Brazil did not sign on the final outcome, 17 others including China, Egypt, Indonesia, Malaysia, Nigeria and South Africa jointly issued

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6 See the section on 'US concerns with WTO dispute settlement' of the President's Trade Policy Agenda 2018, available at USTR website

7 USTR Robert Lighthizer expressed this confirmation to the US Senate Finance Committee on 12 March 2019 this year.

8 WTO plus refers to commitments deeper than rules/commitments in existing subjects covered by WTO. On the other hand WTO-extra refers to commitments not presently covered by the WTO acquis. Most recent FTAs in which these features could be found are in the EU-Japan FTA and the Comprehensive and Progressive Trans Pacific Partnership (CPTPP) agreement among 11 countries in the Asia Pacific region.

a statement that called for the Appellate body challenge to be addressed without delay, outcomes of joint initiatives to be conducive to strengthening of the multilateral trading system and for being consistent with WTO rules and for preservation of the special and differential treatment that were rights of developing countries. They further underlined that the WTO reform process needed to keep development at the core and also pointed to the need for correcting imbalances and asymmetries in the WTO Agreement on Agriculture.

The Trump Effect

President Trump came to office with an activist trade agenda aimed at reviving manufacturing in US with a 'America first' approach. He has subsequently followed up on his campaign promises like US withdrawal from the Trans Pacific Partnership (TPP) agreement. What is of particular relevance and concern to India is that in implementing his trade agenda, Trump has not hesitated to act unilaterally and use certain domestic trade law provisions in a manner that contravenes WTO rules. Raising tariffs has in particular become a favored tool ("I am a tariff man") to increase pressure on trading partners.

Of particular direct relevance to India has been the use of security provisions under Section 232 of US Trade Act that has been invoked to impose a 25 per cent tariff on certain steel items and a 10 per cent tariff on aluminium. The measure has been applied against most import sources, including India[9], from March 2018. India had sought a waiver without export caps and waited for more than an year before taking retaliatory action against what is clearly a WTO illegal measure. US has accorded a full waiver to Australia and has agreed to caps of 70 per cent of their previous level of import for a few other countries.

More recently USTR has terminated the GSP treatment[10] to products from India after the statutory notice following petitions from their dairy and medical devices industry. The US

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9 See PTI report "India's steel export to US down by 49% ; aluminium up 58% that has reported on the impact of the measure on India's exports- Business Standard, 16 April, 2019

10 As per Federation of Indian Exports (FIEO) out of India's exports of USD 51.4 billion to US in 2018, USD 6.35 billion value of exports went under the US GSP scheme. The most affected sectors by the withdrawal as per FIEO will be: (I) Imitation jewellery (average GSP benefit 6.9%), (II) Leather Articles (other than footwear) (average GSP benefit 6.1%), (III) Pharmaceuticals & Surgical (average GSP benefit 5.9%), (IV) Chemical & Plastics (average GSP benefit 4.8%) and (V) Agriculture: Basic & Processed (average GSP benefit 4.8%) that attract duties more than 3%. See FIEO Press release dated 1st June 2019.

Administration has made it appear as an outcome of a fair process of India not meeting its criteria of equitable and reasonable market access for the United States. But that criteria itself is nowhere sanctioned by the Enabling Clause of 1979 which is the legal basis for establishment of the GSP scheme under GATT that subsequently became also part of WTO. This goes against all the three essential characteristics of the GSP scheme- that it should be generalised, be non-reciprocal and be non-discriminatory.

A system of graduation of certain developing countries from a developed country's GSP scheme if they exceeded an established development threshold is an accepted practice. Similarly if a developing country crossed a set share in the imports of a particular product in the preference giving country then discontinuing GSP concession for that product for such a country too has a rationale. But demanding some reciprocal market access from a developing country, beyond its WTO commitments, for receiving continued GSP treatment was never a part. Para 5 of the Enabling clause explicitly states that " developed countries shall therefore not seek, neither shall less developed countries be required to make concessions that are inconsistent with their financial, development and trade needs".

President Trump has also been unfairly saying that India is a 'tariff king' even as India has brought down its tariffs unilaterally whenever its exports had shown momentum. On the other hand, India cannot disregard the fact that even with present tariff levels its imports far exceed exports. In any case India's applied tariffs are considerably below its bound tariff commitments on most products and certainly do not violate WTO rules. While India has always given due consideration to tariff reduction requests from the United States, meeting them wherever possible, bringing down tariffs on an MFN basis quite often benefits third countries, not the US. A tariff reduction for motorcycles, for example, may get to be used more by other more competitive suppliers like China, Japan or Korea and not so much by Harley Davidson from US.

It is also not clear how and when the ongoing US-China trade dispute may get resolved. If the penal tariffs imposed by US against Chinese imports continue, China may try to divert the affected exports to third countries including India, something that needs to be monitored with great care. But a longer China-US standoff could also lead to some change in trade patterns creating opportunities for third countries in the US and Chinese markets. Likewise there could also be investment movements, of both foreign invested enterprises and local Chinese ones, from China to third country locations. India could be a candidate if it could offer attractive packages for such investors to make a move.

The Technology factor

How should trade rules apply to a new technology product or a new service or a new mode of delivering a product or a service? From trade law approaches taken so far by developed countries their preferred mode is to have free trade in them that suits the head start they have in the adoption of such new technologies. India had this experience from joining the Information Technology Agreement in 1996, that quickly brought tariffs down to zero on all ITA products of participant countries.

The agreement was touted to make positive contributions to global economic growth through reduction in costs of inputs into information and communications technology services, integration of more countries into the export markets of IT products and global diffusion of technology. It eventually turned out that ITA handicapped developing countries from developing their indigenous electronics and IT manufacturing capacities that required a much longer gestation period. The rapid tariff elimination arrangement gave added advantage to those who were already ahead in manufacturing and technology in this sector while it made the climb more difficult for the rest who were seeking to catch up..

Another aspect was that even as newer IT or telecom products came into the market with updated technologies such as smartphones, which were not in the reckoning when ITA was signed, these came to be claimed as covered by ITA. Giving it such a meaning would in effect mean that a sectoral plurilateral locks up the commitment of a signatory for not only existing products at the time of signing the agreement but for all future developments in that sector. For developing countries like India with a large market this was not felt to be a correct interpretation which is why India had to introduce some protection to the domestic industry in newer products to spur domestic manufacturing. India has however been taken recently to dispute on this issue to WTO by Japan which has requested for consultations.

In respect of trade in services or investment, the market access commitment of a country for allowing trade or investment is recorded in the form of a 'positive' or a 'negative' list. A negative list is also deemed to be of a higher standard. But the question does arise, if a country has committed on a 'negative' list, if it can be assumed that services or sectors made possible by newer technologies unknown at the time of signing on the 'negative' list becomes automatically included in the country's commitment since those new technology enabled services or sectors will not be figuring in the negative list. It is very interesting to note that even a developed country like Japan, when it was faced with this issue in certain FTAs while

recording its commitment on services, added a caveat stating it "reserves the right to adopt or maintain any measure relating to services other than those recognized or other than those that should have been recognized by the Government of Japan owing to the circumstances at the date of entry into force of this Agreement."

This issue of how trade laws should approach new products or services also becomes complicated in the context of e-commerce on which new disciplines are beginning to be negotiated among 76 interested countries[11] at the WTO. Initial proposals from EU and US are seeking a high level of commitment both on the regulatory front and on market access. They propose making zero duties on digital transmissions permanent. They also propose free movement of data and prohibit any regulation that requires computing facilities to be locally located. They further disallow mandatory disclosure of source code in a software as a condition for the import of a product or service containing the software.

It needs recognition here that digital transmission technologies have advanced significantly in recent years which have enabled some services that earlier needed commercial presence (Mode 3 in GATS), such as retail or cab mediation services, to be now delivered on a cross border mode (Mode 1). Several digital products that needed physical delivery earlier can now be sent as electronic transmissions including films that can now be streamed through the net. 3D printing through electronic transmissions could also create a difference in tariff treatment between a like physically imported product and its 3D counterpart. In a sense therefore many of the existing GATT and GATS commitments, that were taken when the Uruguay Round concluded in 1994, may need revisiting if it has to be ensured that there is coherence and no unintended commitment creeping in because the same service or product can now be delivered through digital transmissions[12].

On the regulatory front as well it needs appreciation that the more technologically advanced countries have the capacity to decipher a security/source code even without a mandatory disclosure requirement in case it is deemed necessary for security or other reasons. Free

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11 These negotiations are to be organised within the WTO and will be open to all the members to join at any given time.

12 In a working paper for the Centre for WTO studies on " Technology nuetrality: Implications for services commitments and the discussions on e-commerce" R.V. Anuradha has examined in detail implications when supply of a service becomes feasible through a mode not conceived during the earlier held negotiations on commitments or when technology leads to a service that can either be classified as a new service or a variation of an already scheduled service.

movement of data again gives an advantage to countries which have the capacity to mine, manage and monetise them. Should the developing countries not have regulatory flexibility as well in line with their capacities than a multilateral agreement carrying uniform 'high standard' provisions for all?

The present context therefore is loaded with challenges. The next five years could be transformational to our trading profile if we can draw up the right priorities and plans and implement them. Chapter 2 suggests a priority list of eight issues/themes for action for the government. The chapters 3 to 10 sketch out in some detail certain of the key aspects in each identified priority theme. Finally, chapter 11 carries some concluding remarks.

Chapter 2

A Priority List for the New Government

Against the present challenging context as described in the previous chapter, several priority actions on external trade suggest themselves. Some of them could be implemented in the near term and others stretched over a medium term during the five year period of this government. A suggested set of priorities is listed below:

* Prepare and implement an Action Plan for Doubling Exports by 2024-25 and for efficiently regulating imports (APDEX for short). This includes putting in place all necessary hard and soft trade related infrastructure that can enhance competitiveness, value addition and quality; bring about diversification of products and markets; attract foreign investments including in supply chains; making efforts for reducing barriers for our exports;

* Significantly expanding two way trade with neighbours;

* Negotiate a beneficial and balanced RCEP deal that is also in consonance with APDEX and get ready for it domestically;

* Evolve a forward looking FTA strategy that aligns with the APDEX , prioritise further FTA negotiations and make them happen. Undertake a serious effort to better implement existing FTAs;

* WTO Reforms- come up with a workable strategy in collaboration with like minded countries;

* Electronic Commerce- devise a balanced and workable domestic framework both for e-commerce and data management ; based on that perspective explore if we can still join the ongoing WTO negotiations among interested countries on e-commerce;

* A continuing dialogue with the US that can generate better understanding of India's concerns and compulsions on trade and trade policy issues particularly in the larger bilateral context that have several commonality of interests; and

* Benefit from window of opportunity from US-China trade tensions.

Each of the eight aforementioned priorities require careful consideration and time bound action plans. In subsequent chapters we sketch out the key elements or issues in each one of them.

Chapter 3

Doubling Exports & Efficiently Regulating Imports

At 1.65 per cent, India ranks 19th in world exports that is way below its size or even GDP. With India's growing imports that has gone past US$ 500 billion now, and with merchandise trade deficit at US$ 176 billion that is over 50 per cent of exports, the need for a strong push for exports is compelling. A host of thinkers and opinion makers have in recent times underlined the need for the government to take urgent action to boost India's competitiveness and exports (Box1) .

The BJP election manifesto itself had flagged "work towards doubling the total exports" as one of its 75 action points. Even the Congress party in the opposition, in its manifesto, had sought to make exports a key driver of growth and added that no country has achieved high economic growth without high growth of exports. Prime Minister Modi himself, when he laid the foundation stone for Vanijya Bhavan last year, called[1] for doubling India's share in world exports to at least 3.4 per cent even as he did not indicate a target date then.

It needs also highlighting that for a large country like India a higher trade profile is an essential attribute that will also significantly enhance the room for foreign policy manoeuvring regionally and internationally. Moreover, a higher trade profile will enable India to move away from its rather defensive and reactive approach to trade policy and to have greater influence in international trade negotiations.

Doubling exports in around five years time would however mean an annual rise of at least 15 per cent. Putting together an action plan and implementing it will no doubt be challenging particularly in the current difficult trading environment. But considering the all round chorus

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1 See PIB Press Release "Prime Minister lays foundation stone of Vanijya Bhawan" dated 22 June 2018

Box 1. Calls for Boosting Competitiveness and Exports

1. "To achieve the objective of becoming a USD 5 trillion economy by 2024-25, as laid down by the Prime Minister, India needs to sustain a real GDP growth rate of 8%. International experience, especially from high-growth East Asian economies, suggests that such growth can only be sustained by a "virtuous cycle" of savings, investment and exports catalysed and supported by a favourable demographic phase. Investment, especially private investment, is the "key driver" that drives demand, creates capacity, increases labour productivity, introduces new technology, allows creative destruction, and generates jobs. Exports must form an integral part of the growth model because higher savings preclude domestic consumption as the driver of final demand." -**Economic Survey 2019**.
2. "Clearly the next government has its task cut out. It will have to carefully navigate the intensifying trade war between US and China while putting in place measures to boost competitiveness and exports"- Editorial on "**Trade troubles**" in the **Indian Express**, 17th May 2019.
3. "India's options on the trade policy front are limited by the pace of its development and the competitiveness of its industry" - Sanjay Baru in an article "Listing of Masood Azhar can open a new phase in India-China relations" in the **Indian Express**.
4. "The next stage of reforms needs to play out in the market for factors of production such as land, labour and capital. Unless these areas see reform, Indian manufacturing and services are unlikely to be globally competitive. Legislative powers over factor markets particularly land and labour are divided between Centre and states. Therefore comprehensive reform requires both levels of government to work together and remove onerous regulations"- **Times of India** editorial titled "It is now or never" 30 May 2019.
5. " No other set of issues will shape India's future global trajectory more than a pragmatic reorientation of India's trade strategy and the reformation of its negotiating structures"- C. Rajamohan, from an article titled " "Diplomacy and disruptions"- **The Indian Express** 25 May 2019.
6. " On exports Kumar said India's share in global exports is just 1.7 per cent, which is unacceptable and it should be increased significantly to push the economy"- A PTI report on the speech by Shri Rajiv Kumar, Vice Chairman, NITI Aayog at a function on accelerating economic growth- see news item " There wont be hire & fire policy: NITI"- **Business Standard**, 9 June 2019.

calling for greater competitiveness and for India to significantly enhance its manufacturing activity it is hoped that evolving a national consensus for it and generating the political will for necessary reforms both at the state and central level will be somewhat easier. In this context it is very welcome and timely for Prime Minister Modi to have stressed on how exports are vital for employment and development and to have called upon states to focus on export promotion

in his recent address at the Niti Aayog . It is essential that this is actively followed up by all concerned.

Elements in a Possible Action Plan APDEX

The action plan will need to include a conducive industrial policy[2], sectoral policies[3], labour reforms, attractive taxation and easier credit that will encourage making of value added products in India, facilitate location of supply chains and promote foreign investments. A trade supportive industrial and logistical infrastructure will be crucial. Planning and implementing sector specific industrial clusters[4] such as for aluminium, copper, petrochemicals and plastics, pharmaceuticals, food processing, auto components, lamps and electrical fittings, machine tools, medical devices and even toys in ideally suited locations would be essential. Similarly, SEZs in specific sectors like marine fisheries, textiles and garments, gems and jewellery and footwear could help revive competitiveness and encourage more value addition taking place within the country in these traditional sectors. What can make our existing units scale up and modernise would also be important here. Similarly, increasing digital content of India's exports[5] and enhancing use of digital skills and digital technologies can help to achieve increased competitiveness. Special efforts are also needed for diversifying our services exports beyond IT & IT enabled services to education, medical, tourism, construction and consultancy services.

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2 A draft Industrial policy paper was in circulation earlier. It is not clear if a final version will be released soon. The draft called for establishing global linkages and enhancing industrial competitiveness. It also called the tenor of labour laws as overly protective discouraging employers to stay away from labour intensive sectors.

3 There are several sectoral policies that have been launched in recent years like the National Steel Policy (2016-2031), the Automobile Mission plan (2016-2026) and the New Electronics policy (2018). These will need integration with the overall new industrial policy. CII has also announced the Championship Manufacturing Industries 2025 identifying 28 specific areas under nine broad sectors in which India has the potential to be No.1 or No.2 nation globally and could create 100 million jobs in about a decade's time. Additionally, strategic sectors like non- ferrous metals, defense manufacturing etc., will need due factoring in for a large nation like India.

4 It is very welcome that the new Minister for Commerce and Industry Shri Piyush Goyal has already asked officials to work with state governments to identify 50 manufacturing clusters across the country- See the Business Standard report titled "Goyal focus on exports, industry', 8 June, 2019

5 A trade expert Rashmi Banga has examined the share of value added by digital services in several manufacturing sectors and finds that the shares are much lower in the case of India compared to China and other countries. See " Is India digitally prepared for international trade" by Rashmi Banga, RIS Discussion paper# 235 , Research and Information system for developing countries, New Delhi, November 2018.

Strive for Value Added Exports

It needs recalling here that there are several items today that get exported in primary or raw material form in substantial quantities that could instead go as value added products. These include cotton and cotton yarn than fabrics, made-ups or high end garments, leather than its products, ferro alloys and primary steel than steel products, aluminum ingots than aluminium tubes, structures or foils, copper cathodes than copper plates or copper wires, basic polymers than plastic products, dimensional stones than polished granite, cut and polished diamonds than studded jewellery and raw shrimps than in their processed form. Table 2 gives the export levels in 2018-19 of some of these items. Exports of naphtha, a feedstock, rather than downstream petrochemicals, also were exported up to US$ 9 billion in 2018-19.

Table 2 A sample list of items exported in primary form in 2018-19

HS Code	Product description	Exports by India (in US$ mn)
3617	Frozen shrimps and prawns	4291
2516	Granite cut into blocks	809
2601	Iron ore and concentrates	1318
3901&3902	Primary polymers of ethylene and propylene	2113
41	Hides and Skins	723
5201 &5205	Raw cotton and cotton yarn	5809
7202	Ferro alloys	2144
7207	Semi-finished products of iron and steel	1109
7403	Refined copper	312 (was 2447 in 2017-18)
7601	Unwrought Aluminium	4282

Source: DGCIS

Steadying agriculture exports and removing supply constraints

Agriculture exports which accounted for around 7 per cent in our export basket in 2010-11 have grown to around 10 per cent now but their performance at individual product levels

have shown wide annual variations because of supply constraints. Better management here, improving their storage and preservation and getting on to more agro processed items hold considerable potential.

Strengthening hard and soft infrastructure

The Sagarmala programme[6] and the Bharatmala pariyojana programme will need rapid implementation and fine tuning in accordance with sector specific needs. The hard infrastructure will need to be supplemented with a supportive soft infrastructure with a target oriented trade facilitation action plan that reduces transaction costs by at least ten per cent over a five year period. Considering that India is at the 80th position[7] in the World Bank's ranking of countries on trading across borders (that is no doubt a significant improvement over the 146th position earlier) a great deal of attention is required here.

Reducing transportation and transaction costs

There is a National Trade Facilitation Action Plan 2017-20 (TFA) under implementation in order to fulfill India's commitments under WTO Trade Facilitation Agreement. It inter alia notes 'Studies show that current transaction costs for import and exports are around 15% of the costs of goods. The cost of transport and logistics sector is at a high of 14.4% of the GDP. Variation in lead times of containers shows that unreliable and unorganized transport services is giving rise to hidden costs. Reduction of cost by even 10% will lead to growth in exports'.This National Action Plan has to be extended with time bound targets so that we are significantly TFA compliance plus by 2025. It is worth recalling that a senior Commerce Ministry official[8] had recently written about ten simple steps that could significantly improve our trade. All of them need urgent consideration.

Cost-effective export financing

Providing supportive export financing would be another key element. However we need to avoid export subsidisation that falls foul of WTO rules. It is very welcome here that the

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6 A report on the subject notes that the setting up of 15 multi modal logistics parks as part of the Sagarmala programme could be transformational in cutting logistics costs.

7 See "Quantum Leap in Trading Across Border parameter of Ease of Doing Business rankings released by World Bank " PIB release 31 October 2018

8 "Ten customs reforms that will lift our trade" by Ajay Srivastava, The Hindu Businessline, 29 April, 2019

Minister for Commerce and Industry has already noted that timely and efficient availability of export credit is critical and is one of the key drivers that boosts export during a recent meeting when finance ministry officials and financial institutions were present.

Timely GST refund and making duty drawback systems working without any delay will also be very beneficial in bringing efficiency to exports.

Yet another related aspect is the management of exchange rate in a manner that keeps up with the real rate and movements of other currencies and does not disdvantage our exporters in relation to their other competitors.

A robust standards and compliance mechanism ensuring quality imports/exports

Putting in place a standards and compliance infrastructure for ensuring quality imports and exports would also be key towards developing an India made brand. This requires strengthening of necessary infrastructures available with BIS including in the form of accredited laboratories and certification agencies and compliance supervision mechanisms that includes the element of traceability. Expanding capacity building for making available approved technicians will be necessary. All these steps will however have to be a phased movement since producers of like products for the domestic market also have to be brought up to meet the requirements that will have to adhere to the principle of national treatment.

Efficiently regulating imports

A time bound action on standards and technical regulations will also enable India to more efficiently regulate its imports and stop sub-standard goods flooding the market in a variety of areas[9] ranging from electrical goods to toys and from auto spares and cycle parts to several consumer items. Regulating imports will also have to address the problems of under-invoicing and false declaration of goods that have hurt our industry[10]. SMEs have been particularly hit hard in this regard who, unlike their larger counterparts, are also not organised enough even to be able to seek remedies in the form of anti-dumping or safeguards actions.

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9 A very comprehensive account of how such goods coming from China have affected Indian industry in a range of sectors may be found in the Parliamentary Standing Committee report on "Impact of Chinese goods on Indian Industry" which was submitted in July 2018.

10 See for example "How Chinese goods are choking Indian industry and economy: The hard numbers" appearing in the Business Standard, 28 July 2018 which again is based on the Parliamentary report.

Market development and export promotion

To boost exports, India will need to work on developing newer markets particularly in Africa and Latin America and consolidate its presence in existing ones. Tailored efforts will also be needed to have a greater share of market presence in more difficult markets like China, Korea and Japan, latter two being current FTA partners. Our main apparatus for export promotion, the export promotion councils, also need review in their ability to deliver an export doubling.

Time bound action and broken down targets

Finally, each of the elements identified in this chapter for drawing up an Action Plan for doubling may have been tried earlier too and, on some, actions may also be underway. What could make a difference this time is if the implementation is well co-ordinated with an all of government effort, with time bound action, broken down targets[11] and regular monitoring. Targets in each area will need to be broken up into sub-targets for different elements and in turn sub-sub-targets for their constituents and each of them carefully monitored. If past is any indication, political level direction and monitoring at high level will be essential to overcome vested interests.

The identified elements are also not exhaustive but only indicative and an Action Plan could be more encompassing. A few more elements are also identified in the succeeding chapters.

Even as this report was under preparation, a High Level Advisory Group (HLAG) led by Dr. Surjit Bhalla is learnt to have submitted a report[12] to the government recommending a host of measures and a roadmap for doubling India's goods and services exports. As per reports these include tax cuts, increasing capital base of Exim bank, reviewing FTAs, amnesty schemes for attracting infrastructure funding and some sectoral suggestions. All these therefore are timely inputs that can enable the government to come up with a well rounded action plan as it presents the Trade policy for 2019-24.

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11 It is very welcome that the Commerce and Industry Minister has urged the logistics industry to try cutting logistics costs to 9 per cent as against the present average of 14 per cent by 2022. The logistics industry will now need to break this down to the various sub-elements contributing to the cost and have target reductions for each one of them in a systematic manner and monitor them. (see the newsitem " Cut logistics cost to 9 % of GDP Goyal tells states", The Hindu, 27 June, 2019)

12 See for example the PIB report "Surjit Bhalla Committee on Trade and Policy " , 25 June 2019

Chapter 4

Significantly Expanding Trade with Neighbours

Our South Asian neighbours account for less than 1 per cent of our imports notwithstanding the FTAs and Duty free/Quota free arrangements that we have with them. India's exports on the other hand are around 8 per cent of our exports. It is submitted that enhancing two way trade with them is a sound economic and foreign policy objective. It is also in harmony with the "Neighbourhood first" policy of the government. Looking around the world, several regions have harnessed the potential of intraregional trade to prosper together with their neighbors. There are many studies and reports[1] that have analysed how India's trade with its neighbours can be strengthened.

Table 3 India's trade with South Asian neighbours and Myanmar in 2018-19

	Afghani-sthan	Bangla-desh	Bhutan	Maldives	Nepal	Pakistan	Sri Lanka	Myan-mar	Total of South Asia	Total to world
India's exports (in US$ mn)	715	9214	657	223	7764	2067	4708	1205	26553	330070
India's imports (in US$ mn)	435	1035	370	20	504	495	1473	521	4861	514034

Source : DGCIS

India has land border trade with several of them. If trade through these borders can be made more efficient and smooth they could pave the way for cross border supply chains that could

1 One such recent report is "A Glass half full: The promise of regional trade in South Asia" by the World Bank in September 2018

benefit from attractive wage differentials and complementarities. India could be the finishing country for several products but Bangladesh or Myanmar, which enjoy duty advantages in third country markets could be finishing country for certain others. This will require significant modernisation of trading systems, harmonising transit and transportation arrangements, sharply reducing transport and transaction costs and ensuring zero delays at the border. Bangladesh, Myanmar and Nepal could be particular candidates for this initiative. At a time when China is making inroads into these markets, India expanding trade, investment and business ties with them will help strengthen BIMSTEC and also bring greater prosperity to our North East region. This also aligns with the government thinking[2] on strengthening BIMSTEC and connectivity with these partners. A recent article[3] titled "Don't miss the BIMSTEC bus" bemoaned that while in 2016 the group's trade stood at US$ 1.1 trillion, India's share was a mere 2.4 per cent and India has not capitalised on the BIMSTEC market.

In our border trade with Myanmar, for example, formal trade is minuscule while informal or clandestine trade is many times over. Streamlining border trade arrangements and making formal trade easy and quick could transform the situation particularly when we are building the India-Myanmar-Thailand trilateral highway that has the potential to become an economic and development corridor. On this again there are several analytical reports including one by this author[4].

Working these out will however need certain additional elements beyond APDEX in Chapter 2. It will require not only the Ministry of Commerce and Industry and the Ministry of External Affairs to work together but also our security agencies, Ministry of Finance, the Reserve Bank of India, Ministry of Road Transport and the governments of concerned border states. Co-ordinated dialogues will also need to be held with the concerned neighbouring countries for parallel actions from their side. Where necessary, we could also try and make the extension of grants and technical cooperation assistance by us, which is substantial to these countries, to be supportive of trade and investment initiatives by the private sector.

If we can do it successfully and in a win-win fashion, border trade has the potential to transform and usher in development and employment on both sides of the border that could also help address the militancy in the North-East and militants taking shelter across the border.

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2 See newsreport "Jaishankar roots for BIMSTEC over SAARC", Times of India, 7 June 2019.

3 "Dont miss the BIMSTEC bus" by Manmeet Ajmani, Vishruta Choudhary and Devesh Roy, Sunday Business Standard, 16 June 2019

4 "Transforming connectivity corridors into development corridors by V.S.Seshadri, Report published by Research and Information System for developing countries", 2014

Chapter 5

Negotiating a Beneficial and Balanced RCEP

India has been participating in the negotiations underway since 2013 for arriving at a Regional Comprehensive Economic Partnership (RCEP) agreement. RCEP has sixteen members that include the ten member countries of ASEAN and its six dialogue partners, Australia, China, Japan, Korea and New Zealand apart from India. They account for half the world population, 30 per cent of world GDP and 25 per cent of world trade. So far, twenty five rounds of negotiations have been held; there have also been seven ministerial inter-sessional meetings and two RCEP summit meetings[1] all of which have been attended by India. At the second summit in November 2018 the leaders reaffirmed their commitment 'to conclude a modern, comprehensive, high quality, and mutually beneficial RCEP in 2019'.

RCEP negotiations are understood to be at an advanced stage with seven out of 16 chapters already finalised[2]. The crucial chapters on market access are however still awaiting finalisation. RCEP presents a challenge for India particularly because of China that already has a huge presence in the Indian market even without an FTA. Moreover Indian exports have not derived as much gain from our existing FTAs with Korea, Japan and ASEAN countries. Instead, our FTA partner countries have been able to make greater ingress into our market. Agriculture would also be a sensitive issue for us in the negotiations in view of the presence of competitive agricultural suppliers like Australia, New Zealand and Thailand.

Seen from another perspective, a regional initiative like RCEP does not come about often. As

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1 The Joint leaders statement after the second RCEP summit held in Singapore in November 2018 can be accessed from the ASEAN website

2 The seven chapters are Economic and Technical Co-operation, SMEs, Customs procedures and trade facilitation, Govt. procurement, SPS measures, Standards & Technical Regulations and institutional provisions.

it is, the negotiations are now in the seventh year. Consensus building among sovereign nations takes time. For another similar initiative to emerge, if at all it will, it will take a similarly long period if not more. It would therefore be in India's interest not to miss the bus, if it can manage it, in the larger context of greater regional economic engagement. India enjoys very good political and people to people relations with most countries in the region. It will be in its interest to bring the economic and business relations up to the same level. Invariably, one helps to reinforce the other. It also chimes well with the overall "Act East" policy of the government.

With the kind of deficit that India has with most RCEP countries, particularly China, those countries should also show greater understanding for India's concerns and allow for adequate flexibility and longer phase-outs of tariff concessions. In return they would get better access to a large emerging market in the medium and long term.

A key aspect to also keep in view is that the markets in East and Southeast Asia are increasingly open but mainly for FTA partners who are plugged into them. Non-participants in such arrangements will not have a level playing field. Even a market like China, which accounts for over 10 per cent of global imports, is more or less duty free for ASEAN countries, free of duties for Pakistan for several textile products, and getting increasingly open to Korea and Australia. China is also stitching up FTAs with other countries in a steady fashion. This aspect may not be so relevant for countries exporting raw materials or primary products to China since tariffs on them are in any case low. But competition for a country like India will get severe if it wants to compete in manufactured industrial goods or consumer items. Being part of an FTA is becoming a necessary condition to be able to compete in those markets, even as it will not be a sufficient assurance that its goods will find buyers for which other market promotion aspects will also need tackling.

Even foreign investors, including those looking for locating different units of their supply chains, will find India a more attractive country to invest if it is part of RCEP. India will therefore have to look at the issue in a balanced manner keeping in view its own planned growth trajectory and ensuring that there will be adequate market access openings when it is able to generate competitive manufactured items.

Even from an import point of view extending the same tariff concessions that we have done in existing FTAs to a wider set of partners makes imports more competitive even as we will benefit from more market access from reciprocal concessions from a wider set of partners.

Of course, some countries have special strengths in certain areas such as China's dominance in several sectors in the Indian market. These will need to be addressed appropriately in the negotiations. A possible approach to deal with China in the market access negotiations in RCEP has been suggested by this author in a detailed study[3] sponsored by the Confederation of Indian Industry.

Moreover it will be essential to try and negotiate in a manner that we align our RCEP commitments with our domestic policies and action plans, particularly the Action Plan we may draw up for our doubling exports and for regulating imports. It needs also mentioning here that in several FTAs concluded in recent years, countries have taken upto 20 years to stage their tariff reductions on sensitive items even as they may eliminate tariffs on certain items much earlier. As a country which has a substantial trade deficit with RCEP countries, India should try and secure long phase-outs for its sensitive items extending upto 20 or even 25 years. And as far as exports are concerned, apart from tariffs, we must use the RCEP negotiations to get some of the prevailing non tariff barriers in RCEP countries addressed through bilateral side letters which should also be made part of the RCEP text.

Finally, India also needs to get ready for RCEP. Preparatory efforts are needed for making full use of additional market access that will become available from RCEP. Special efforts will also be needed by our exporters and corporates to better understand and imbibe the culture of doing business in difficult markets like China, Korea and Japan and what business strategies may work in each of them. At the same time, strategies also need to be readied and acted upon for facing higher import competition at home. A possible way we could prepare ourselves on these matters has also been outlined in Chapter 5 of the report[4] on RCEP commissioned by CII.

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3 The CII study readied in September 2018 is titled 'RCEP: A possible approach considering China's already large presence in the Indian market' . Report can be obtained from the International Trade Division of CII

4 See Chapter 5 titled "Parallel Domestic Actions", in the CII sponsored report on " RCEP: A possible approach to deal with China's already large presence in the Indian market"

Chapter 6

Prioritising other FTAs and Working to Better Implement Existing FTAs

The last FTA signed by India was with Malaysia in February 2011. India's portfolio of bilateral FTAs is currently limited and comprise those with Sri Lanka, Singapore, Korea, Japan and Malaysia. India is also part of the South Asia Free Trade Agreement (SAFTA) and has an FTA with the ASEAN region. If RCEP is successfully concluded it will be another regional FTA enveloping much of East and South East Asia. On the other hand, India has no FTAs with its trading partners to the west of India. While negotiations have been undertaken with EU, EFTA, Canada, Israel, GCC and a few more regions/countries, these have not reached a successful conclusion. India however has preferential trade agreements with Chile and MERCOSUR. Further, India is a member of the regional Asia Pacific Trade Agreement (APTA- Bangladesh, China, India, Laos and Korea are members) which will however be more or less reduntant if RCEP comes into force.

Generally speaking, worldwide, several countries are using FTAs as a means to try and secure their trade with existing major trade partners and for enhancing trade with others. With the Doha Round negotiations stalled, 'high standard' FTAs are steadily rising. This is notwithstanding the reversal in the stand of US which withdrew from TPP. But US under President Trump appears averse only to regional FTAs. The US administration has already notified its intent in October 2018 to bilaterally negotiate FTAs with Japan, EU and the UK and as of now negotiations between US and Japan have already commenced.

TPP itself has gone ahead with eleven members without the US and the revised agreement has been rechristened as "Comprehensive and Progressive Trans Pacific Partnership" (CPTPP). Although bereft of 22 provisions from the original TPP, relating mainly to the chapters on IPR and investment, CPTPP still provides for a high level of market access with duty elimination

over 98 per cent of tariff lines and the commitments are also fairly deep in the services sector. CPTPP has come into force at the beginning of this year for seven countries. For the rest, it will come into force after their respective ratification. Yet another recent FTA carrying high standards of liberalisation is the Japan-EU FTA that has come into force from February 2019. After two decades in the making, an FTA has also been signed by MERCOSUR and the EU on 28th June 2019.

Over the years, the European Union, EFTA, and countries in South East Asia, North East Asia and Latin America have been very active on the FTA scene with most of them today being members of ten to fifteen or even more FTAs. However certain larger developing countries- Brazil, Egypt, India, Indonesia, Nigeria, Philippines, Thailand and South Africa, apart from least developed countries - have been relatively less active in forging FTAs particularly of a cross regional kind.

What should be India's strategy? Should India continue to pause as it has done since 2011 in concluding more FTAs or it should get active again? It is submitted that India cannot remain oblivious to the growing trend of FTAs. Rather than be overtaken by it and denied a level playing field in markets to the west of India, it needs to be more active and steadily enhance its market access through the FTA route. This, it is felt, will also lend support to its objective of doubling exports which cannot be done without more market access.

What is needed is to identify a priority set of further FTA partner countries with which FTAs could be sought to be negotiated. Box 2 outlines certain relevant aspects to be kept in view in this regard. It may be best if India can identify four or five potential FTA partners, apart from EU and UK (after BREXIT), with which we should seek to finalise FTAs during the next five year period. One way may be to follow a hub approach and pick one suitable country each from East Africa, West Africa, Latin America, Central Asia and a grouping like Southern Africa Customs Union and use the FTAs with them for also reaching out to neighbouring markets.

A possible FTA with US, our single largest export destination, has also been publicly debated in the country from time to time. But the likely high expectations on market access in agriculture and the possible demands on IPR and other areas, in the name of high standards, have possibly restrained any movement forward. Should the US agree to an FTA only on industrial tariffs with minimal coverage of agriculture, just as EU is presently seeking from US[1], then such an FTA may be worth exploring.

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1 "EU says it is ready to launch US trade talks but without agriculture" by Philip Blenkinsop, Reuters, 15 April, 2019.

Box 2. Why should India conclude more FTAs and with whom?

1. Tariffs are a source of revenue and are also meant to give a degree of protection to domestic industry. As an economy develops and becomes more competitive however the needed level of tariff protection declines even as other indirect and direct revenues make up for lost revenue.
2. As India makes further progress it will find it to be in its own interest to bring down tariffs in order to encourage domestic industry to become competitive. It can do this unilaterally for which however it may not get matching reductions from other countries. It can also do it through crafting FTAs with markets that hold substantial potential. Such reductions can be phased over a period keeping in view the expected rise in competitiveness of the domestic industry.
3. But crafting just one or two FTAs may not bring optimal gains. This will only unduly benefit those few FTA partners and will not bring in competitively priced imports. What may be ideal is to offer more or less the same set of tariff concessions to a larger set of partners so that there is greater competition among FTA partners on the one hand while India would also receive reciprocal tariff concessions from more FTA partners.
4. Several countries that account for a large share of our exports are already members of numerous FTAs. For accessing those markets, particularly for agricultural or manufactured products (as opposed to raw materials or primary products), it may be necessary to have an FTA if we need our exporters to have a level playing field. In certain advanced countries our exporters were receiving GSP concession which helped overcome the disadvantage to some extent. As our development progresses the continuation of GSP treatment can however no longer be assured, as has become evident vis-a-vis US now.
5. FTAs have the ability to attract investments and also promote supply chain links. This can significantly expand if India can also successfully facilitate trade with our South Asian neighbours as dwelt upon in Chapter 4. A more economically integrated South Asia/ BIMSTEC will be a bigger attraction.
6. Concluding FTA with one partner can induce other potential partners to join in the race to have an FTA with India so that they do not lose out on a large market like ours. A virtuous competition could result.
7. There are demands by some FTA partners for having 'high standard' FTAs that have not only deep WTO plus concessions but also WTO extra commitments. These will need close examination for their implications and prospective partners will need to be made clear what our red lines are. India should be able to leverage its large market size to persuade potential

partners against making unacceptable demands. At the same time it needs to be recognised by us that some of the WTO plus or WTO-extra provisions can also help in facilitating/ promoting trade and investments that should be welcomed.

8. There appears to be substantial domestic support for early conclusion of the bilateral trade and investment agreement with EU (BTIA) which has long been under negotiations. EU has the largest number of FTAs/PTAs worldwide (40) that makes it very unfavorable for our exporters to access this large market without an FTA. A renewed effort is necessary to see if this can be quickly concluded.

9. As for identifying other potential FTA partners there are a host of factors to be looked at including a) size of the partner's market; b) its tariff levels particularly in products of export interest to India and prevalent non-tariff barriers; c) openness to services imports; d) openness to inward and outward foreign investments and potential for the country to be part of a supply chain; e) portfolio of FTAs already entered into by that country; f) proximity and logistical connectivity vis-a-vis India; g) ease of doing business; h) current status of India's business engagement with that country;g) readiness to enter into an FTA within the scope of our red lines; i) local presence of Indian community and h) status of bilateral relations.

10. Finally, a word about the negotiating team for FTAs. It may be worthwhile to have a separate FTA negotiating team in the Department of Commerce rather than each FTA being handled by the concerned territorial divisions. While country specific inputs from the latter will be crucial for the negotiations, FTAs have become very specialised and technical and our negotiators need to be fully familiar with the flexibilities and variations in different FTAs being concluded worldwide to secure an optimal outcome.

Getting more from existing FTAs

From Table 4 which gives figures for India's trade with ASEAN, Republic of Korea and Japan in recent years it is evident that these FTA partners have been able to gain far more significantly than India. In particular the market shares of Korea and ASEAN have risen appreciably. On the other hand, the shares of Korea and Japan in India's exports have actually declined significantly.

There are already some analytical studies[2] available about the impact of existing FTAs on

2 See for example the CII report on "India's existing free trade agreements: An impact analysis on Merchandise trade" , August 2018.

Table 4: Trade with FTA partners- Japan, Korea and ASEAN (in US$ million)

	2009-10	2010-11	2012-13	2014-15	2016-17	2018-19
Imports from Japan	6734 (2.34)*	8632 (2.33)	12412 (2.53)	10131 (2.26)	9755 (2.54)	12773 (2.48)
Exports to Japan	3630 (2.03)	5091 (2.04)	6100 (2.03)	5386 (1.74)	3846 (1.39)	4862 (1.47)
Imports from Korea	8576 (2.97)	10475 (2.83)	13105 (2.67)	13529 (3.02)	12585 (3.27)	16759 (3.26)
Exports to Korea	3421 (1.91)	3727 (1.49)	4202 (1.40)	4603 (1.48)	4241 (1.51)	4705 (1.42)
Imports from ASEAN	25798 (8.95)	30608 (8.28)	42866 (8.74)	44715 (9.98)	40617 (10.57)	59316 (11.54)
Exports to ASEAN	18114 (10.13)	25628 (10.26)	33008 (10.99)	31813 (10.25)	30962 (11.22)	37471 (11.35)

Source: DGCIS

* Figures in parentheses indicate share of exports/imports in India's overall imports/exports that year

India's trade including some by this author[3] and how the implementation can be improved. These could be through

a) undertaking of several facilitative measures by both the government and the industry to make FTA utilisation easier and better;

b) improving India's competitiveness in several products that will enable it to make greater use of the market access available from the FTAs; and

c) seeking revisions in the FTA provisions or in its administration by the FTA partner through a review of the FTA.

As for b) this will need to be addressed by the roadmap for doubling exports proposed in Chapter 3. In respect of c) this issue is under negotiation with Korea. Similar efforts are needed with ASEAN and Japan. Alternatively, the percieved shortcomings in the respective FTAs and their implementation (and these have been identified in the studies referenced in the footnotes)

3 See reports on appraisal of implementation of India's CEPAs with Republic of Korea (February 2016) and Japan (September 2016) and the CECA with Singapore (March 2017) by V.S. Seshadri, all published by Research and Information System for Developing Countries, New Delhi

can also be addressed through the ongoing RCEP negotiations. In respect of a) itself, there are several simple steps that can be taken on a more immediate basis.

First and foremost the Department of Commerce and the various export promotion councils and industry associations should take action in making exporters familiar with the various provisions in the FTAs. Simply making the texts of these rather technically worded agreements on line is not enough. As an illustration one can cite the manner in which countries like Australia, Canada and New Zealand are making their industry aware of new FTAs. The websites of their trade ministries have provided, for example, detailed information and advice in simple language about the recently concluded CPTPP, almost as handholding exercises, which are eminently worth emulating.

Secondly, it is very important for the DGCIS to publish figures about the FTA utilisation rates periodically, if necessary in collaboration with FTA partners. This is critical information that should be made widely known. In fact, if this information is collated sectorwise and published this will also enable remedial efforts to be taken for laggard sectors.

Thirdly, every effort should be made to issue certificate of origin with the least amount of delay and cost involved for the exporter. In recent FTAs such as in CPTPP and Japan-EU FTA, innovative ways have been attempted to simplify this process including by allowing self-certification by authorised exporters. Attempts should be made to incorporate such revisions in our own FTAs.

Fourth, there are provisions for technical cooperation to be provided by Korea and Japan in the respective CEPAs with them in a range of areas (Chapter 13 in each of them). It is very important to make full use of these provisions towards assisting our exporters to overcome language barriers and become more familiar with those country's standards and compliance mechanisms, labelling and packing requirements, trading and distribution arrangements and for possible extension of other support including links with their import associations.

Fifth, active follow up will be necessary in respect of provisions in the CEPAs for mutual recognition arrangements in a number of services sectors. Similarly, working to ease regulatory barriers for India's Pharma exports would also be very important.

The Department of Commerce could also be tasked to come out with a detailed annual review (far more detailed than in the Department's annual report) of the implementation of each FTA that could then be discussed with all the stakeholders. It will be very difficult to mobilise stakeholder support for more FTAs if we cannot get existing FTAs to work for us better.

Chapter 7

Strategising to Deal with the Push for WTO Reforms

From all available indications, it appears that the twelfth WTO ministerial meeting in Astana in June 2020 will be faced with several crucial decisions regarding the future[1] of the multilateral trading system embodied by the WTO.

Several issues for the Astana WTO ministerial

The issues are several. Will WTO remain predominantly multilateral or will it have a substantial plurilateral segment encompassing the many joint initiatives mooted by interested countries on investment facilitation, SMEs etc., which came up at the eleventh ministerial? What will be the decision on the various reform proposals that are getting submitted by different countries, be it on subsidies, state owned enterprises, timely notifications by governments, improving working of WTO committees and developing country categorisation? Will the Astana ministerial basket them all together with a directive for holding negotiations on them or will it decide to deal with them progressively[2]? What about the Doha Round issues? Will they simply be forgotten? Or will at least certain of them be revived? What about settling the urgent issue of refilling vacant positions in the Appellate Body? Will this get resolved in the coming months or will it get clubbed with bringing improvements to DSU and be deferred till the ministerial and be made part of the basket for further negotiations? And how would the ongoing negotiations

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1 Even in the WTO mini-ministerial in Delhi from 13-14 May 2019, WTO Director General Azhevedo said "The decisions members take on the issues I've raised today will determine the future of the global trading system. Equally, a failure to confront these issues would also determine the path forward in what could be a very negative way. I personally don't believe that the status quo is an option."

2 WTO Director General Azhevedo said at the mini-ministerial 'members seemed to prefer not to attempt to create a package of reforms as it would be better to work to change and adjust progressively, "harvesting what we can when we can"'

on e-commerce, taking place among the 76 interested countries , be integrated into the WTO system, if at all?

The mini-ministerial hosted by India

The mini-ministerial hosted by India in May this year of 22 developing countries discussed several of these issues. Their final outcome did not oppose joint initiatives *per se* but urged that they should be conducive to strengthening the multilateral trading system and be consistent with WTO rules. Secondly, on WTO reforms, they agreed to work collectively to develop proposals even as they affirmed that such reform must keep development at its core and promote inclusive growth.

As for special and differential treatment provisions in WTO agreements, the meeting asserted that these were rights of developing members that must be preserved and strengthened. Understandably, it did not dwell on the sensitive issue of their categorisation. Referring specifically to the WTO Agreement on Agriculture, the mini-ministerial pointed to the need to provide adequate policy space to the developing Members to support their farmers through correcting the asymmetries and imbalances in this Agreement on priority. It also urged all WTO Members to quickly address the issue of filling the vacancies in the Appellate Body, while continuing discussions on other issues relating to DSU functioning.

India's approach and possible priorities

India has a large stake in WTO rules remaining friendly towards its development needs, in particular for implementing the roadmap for doubling its exports and towards alleviating farmer's distress, enhancing farmer's incomes and ensuring food security of its large population. At the same time India needs to recognise the changing international needs and reality. It would also be in its interests to preserve multilateralism to the extent feasible. In this context it could show openness to considering newer issues in the form of joint initiatives if they have substantial support and are not particularly adversarial to us. Keeping these in view India's priorities could be listed as below:

* Maintaining the developing country tag for India at least for the next ten years. It would be grossly unfair if India with a per capita GDP of only US$ 1792 is denied this status while countries like Brazil (US$ 9135), China (US$ 8309), Turkey (US$ 10746) and several others have been benefitting from this tag till now. Even in respect of trade indicators, India's trade per capita remains only at US$ 368[3] which is far below most

3 The GDP per capita and trade per capita numbers cited have been taken from WTO Trade Profile 2018

of these countries. Simply because India is a large country and is a member of G-20 or because it has a trade share above 0.5 per cent cannot lead to a conclusion[4] that it need not be regarded a developing country. This will be grossly inequitous ;

* Ensuring that its subsidy and domestic support programmes do not get unduly constrained in the move towards WTO reforms even as it can agree to more transparency;
* Maintaining the ability to use trade remedies as at present particularly in the context of certain countries' exports when their prices at times defy market economy considerations;
* Narrowing the scope for invocation of security exemptions to curb the tendency of some WTO members abusing this clause for extraneous considerations. Instances such as US invoking security exemptions and imposing tariffs on aluminium and steel (and threats to impose auto tariffs) or Pakistan to be able to deny MFN treatment to India, presumably on security grounds, should all be made inadmissible;
* Getting the inequities and imbalances in the WTO Agreement on Agriculture to be addressed ;
* Showing more openness to certain of the issues being considered for joint initiatives, particularly investment facilitation (the e-commerce issue is dealt with in the next chapter); and
* Returning the dispute settlement system of WTO to its normal functioning as soon as possible.

Need for Issue Based Coalitions

In gathering support for its positions it has to be recognised that the interests of developing countries have diversified over the years. India will therefore need to strive hard and develop issue based coalitions even as it continues to mobilise overall support of developing countries for ensuring that the WTO rules remain inclusive in approach. As for getting the dispute

4 US has presented a draft for the WTO General Council decision (WT/GC/W/764) dated 15 February, 2019 which inter alia states that following categories of members will not avail of special and differential treatment that is made available for developing countries: i) OECD member; ii) G-20 member; iii) a member classified as "high income" by the World Bank; iv) A country that has more than 0.5 per cent share of global merchandise trade.

settlement system back on track India needs to work with like minded countries as it did in November 2018 in cosponsoring a combined proposal along with EU and China. But this is an issue in which every country, both developed and developing, should be having an equal interest and not one to be used as a leverage. We should therefore while working for it, not be spending undue diplomatic capital on it. At the same time, when several alternatives are also getting discussed such as going back to the GATT panel days or a DSU minus US, India will need to try and ensure that WTO gets back its celebrated DSU with full participation of all WTO members, with some streamlining of its rules and procedures as considered necessary.

During the next one year, strategising for the Astana ministerial will have to be a key priority for the government.

Chapter 8

E-Commerce

In describing the context in Chapter1 we have already given an idea of the complexities surrounding framing WTO rules for digital transactions and e-commerce. But negotiations on them have already commenced among 76 countries which include developed countries, some developing countries and China. India has decided not to join and our Permanent Representative to WTO in Geneva, Shri J.S. Deepak, in his intervention at the Trade Negotiations Committee of the WTO, was critical[1] of the movement from an explorative study phase of the subject to now negotiations when most developing countries including India were not ready for binding rules on e-commerce. In reacting to the proposal by EU on the subject he reportedly cautioned that that the high standards being proposed for the rules could decimate goods and services tariff rules and both GATT and GATS could wither away in the process.

At the recently held G-20 summit in June 2019 too, India stayed out of the 'Osaka track' event of several summit leaders on digital economy. The declaration adopted by this event, that did not also include Egypt, Indonesia and South Africa, *inter alia* renewed their commitment to achieve a high standard agreement on e-commerce with the participation of as many WTO members as possible

Domestic needs and interests should be guiding factors

Our domestic policy on e-commerce and data regulation are still in the making. Once the domestic policy is in place, there will be greater clarity in approaching possible international trade rules on the subject.

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1 "India warns WTO about EU's proposal for e-commerce rules" bu Asit Ranjan Mishra, Live Mint, 5th May 2019

The newly elected government has already begun some consultations with the stakeholders on the draft e-commerce policy that has been available in public domain since February this year. The draft addresses several aspects including infrastructure development, market places, regulatory issues, stimulating domestic digital economy and export promotion through e-commerce. Of particular relevance to trade rules, it proposes regulating data flows, locating computing facilities in the country, setting up a dedicated data authority and treats data generated in the country as a national asset.

In a recent meeting with the e-commerce players, the Minister for Commerce and Industry Shri Piyush Goyal was to discuss[2] issues like strength and weaknesses of Indian companies who may benefit from e-commerce, threats from large foreign competition, level playing field and anti-competitive practices such as predatory pricing. Again, with some of the Indian technology companies he was to discuss likely increases in costs and efficiency losses due to data localisation and timelines that will be necessary to create a data infrastructure domestically including data servers to enable companies to comply with data localisation rules and developing Indian data servers.

In the meeting itself some companies reportedly[3] also put forth their concerns related to RBI data storage requirements and processing guidelines. Some of the industry representatives were also known to have requested that the Data Protection Bill by MeitY should have more clarity around classification of data and the manner of cross border flow of data. E- commerce companies also presented their concerns on the draft which they felt had not been prepared on an adequately consultative basis.

It is very important to do a full cost benefit analysis exercise before the policy is finalised for digital trade that is truly multi-sectoral in scope and ever widening. Creating a level playing field that is enabling to allow Indian companies to grow is important even as presence of foreign companies can ensure keeping up with technology and innovation. We need to also ensure that the country will have the wherewithal in data infrastructure for policy implementation. The Minister has asked the industry representatives to give their views on the draft e-commerce policy within ten days.

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2 Commerce & Industry Minister meets industry stakeholders on e-commerce and data localisation, 17 June 2019, Press Ionformation Bureau

3 "Commerce minister holds meeting with e-commerce and tech companies", PIB Release, 18th June 2019

As for e-retail, the Minister has made clear[4] that the government would not allow multi-brand retail trade by foreign e-commerce companies and that they could only be agnostic platforms. FDI policy on multi-brand retail, cannot be circumvented by using the e-commerce route. This aspect has been referred to in a broader manner by Ambassador J.S.Deepak when he said rules on e-commerce cannot undermine commitments under GATS.

The opposing views on joining e-commerce negotiations While we shall await finalisation of a national e-commerce policy, which the government has already taken up on priority, the government will no doubt be also faced with external pressure for India joining the ongoing negotiations on e-commerce between 76 interested countries. There are clearly opposing views among some of our experts on this. One expert favouring India's participation writes[5] that in due course more countries are bound to join the negotiations and views like those of India's would increasingly be hard to gather support. While admitting that the push for negotiations is coming from countries that have a comparative advantage he adds that WTO desperately needs a new lease of life and e-commerce talks provide just that.

Another expert in favour has expressed concern[6], based on some industry feedback, that staying out of the talks could affect India's trade relations with key export markets like the US and called for the new government to review India's stance. The same expert points to India as a member of RCEP participating in the negotiations on e-commerce with the final agreement being slated to have a chapter on the subject.

A third expert has argued[7] that India becoming part of the negotiations will help our MSMEs in being able to fully benefit from the e-commerce platform.

There are even more compelling views for India to chart its own course than be guided at this stage by rules that may get to be agreed in the negotiations. One expert who has extensively written on the subject points out how[8] India's competitive advantage is data and its huge data

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4 "No global company in multi-brand retail: Piyush Goyal", Economic Times, 18 June 2019

5 "Why is India refusing to join WTO e-commerce talks" , Amitendu Palit,The Financial Express, March 7, 2019

6 "We should join WTO e-commerce talks", by Arpita Mukherjee, The Hindu Businessline, 17 June 2019

7 "India needs to join WTO talks on e-commerce, for MSMEs' sake, by Pradeep S Mehta, live Mint, 4 April, 2019

8 See for example "India and e-commerce: it is now or never" by Abhijit Das, Financial Express, June 5, 2019.

advantage should be developed for economic development and not to be given away for free. He has also rebutted, many of the criticisms about staying out including the concern that Indian IT services exports may get affected. This last part however is premised on the notion that countries will honour their existing GATS commitments, which cannot be taken as given in these days of unilateralism.

Yet another paper analysing the issue points[9] to how international digital platforms have in the past seriously misused the data their consumers handed over in trust even as they did little to add value locally or create jobs. They authors have therefore argued that local jurisdiction is best suited to protect the users of digital platforms. They further point to how India has proved itself to be a financially sustainable destination for data. They consider that India 'has a once in a century opportunity to use the data economy transform from a collective of billion consumers to a large economy".

A third expert conveying a similar view has examined[10] whether India is digitally prepared for international trade on several parameters and in comparison with both the developed and some developing countries. He concludes that control over cross-border data flows is necessary to maintain a comparative advantage in international trade in the digital era and it was necessary to preserve policy space in the ongoing multilateral trade negotiations at the WTO.

Keeping these perspectives in view it may on balance be a good idea to first focus on putting in place a balanced and domestically suited e-commerce policy that will still attract foreign players to come and invest including in creating digital value chains. Once the policy is in place we could then explore if there could be room in the ongoing negotiations for the perspective developed by us. Meanwhile it will be very important to keep up our outreach particularly towards our developing country partners in the WTO, several of whom are not fully aware of the implications and may share many of our own concerns and aspirations.

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9 See the paper on " In rising e-commerce storm India rises to protect its ship" by Samir Saran and Kanchan Gupta, Observer Research Foundation website

10 "Is India digitally prepared for international trade" by Rashmi Banga, RIS Discussion paper # 235, Research and Information system for developing countries, New Delhi.

Chapter 9

Engaging the US for Greater Understanding of Trade Concerns

Relations between India and the United States cover a wide spectrum of areas and they have been steadily growing including on many strategic issues. On trade, however , there have always been some differences be it relating to bilateral trade matters or on national positions regarding multilateral or other trade negotiations. The two sides have nevertheless managed to discuss and contain differences on bilateral trade matters so that they did not spill over to other issues. Regular trade policy dialogues have also been taking place. Under the Trump administration however, India has been unfairly name called as tariff king. Frictions have also emerged with the US having taken some WTO-illegal actions including the resort to security exemptions while imposing duties on steel and aluminium imports (and giving waivers for these duties to some and not to others) and the withdrawal of the GSP treatment to India's exports. India has also been taken to dispute in WTO in relation to subsidies.

President Trump, who has come to office with an activist and 'America first' agenda, has of course taken similar actions against several other countries, including some of its western allies. But mentioning India and China in the same vein[1] on certain instances appear to show a lack of appreciation of how the context surrounding bilateral trade in the two cases are quite different. If anything, US should be helping India, which has a large overall trade deficit, to grow fast to be able to be an effective partner in ensuring that there is no dominance of any one country in the Indo Pacific region.

Recent trends in bilateral trade between the two countries, as shown in Tables 5 and 6, do not reveal any particular need for US to be taking precipitate actions. US exports of merchandise

1 See for example the newsitem " Donald Trump picks on India again while announcing new steel, aluminium tariffs" by Yashwant Raj, Hindustan times, 9 March, 2018

Table 5 : India US Trade in Goods ($ billions)

	2013	2014	2015	2016	2017	2018
India's exports to US	41.8	45.4	44.8	46	48.6	54.4
% change	*3.2*	*8.5*	*-1.2*	*2.8*	*5.7*	*11.9*
India's imports from US	21.8	21.5	21.5	21.7	25.7	33.1
% change	*-1.3*	*-1.4*	*-0.2*	*0.9*	*18.7*	*28.9*
India US Trade in Goods	63.6	66.9	66.3	67.7	74.3	87.5
% change	*1.6*	*5.2*	*-0.9*	*2.1*	*9.8*	*17.8*
Trade surplus for India	*20*	*23.9*	*23.5*	*24.3*	*22.9*	*21.3*

Source: For both Tables 5 & 6: Website of Embassy of India, Washington DC, which in turn is based on US Department of Commerce figures

Table 6 :India - US Trade in Services ($ billions)

	2013	2014	2015	2016	2017	2018
India's exports to US	20.4	22.4	24.6	25.8	28.1	28.8
% change	*8.5*	*9.8*	*9.8*	*4.9*	*8.9*	*2.2*
India's imports from US	13.3	15.2	18.4	20.6	23.7	25.8
% change	*8.1*	*14.3*	*21*	*12*	*15*	*8.6*
India - US Trade in Services	33.7	37.6	43	46.4	51.9	54.6
% change	*8.4*	*11.6*	*14.4*	*8*	*11.6*	*5.2*
Trade surplus for India	*7.1*	*7.2*	*3.6*	*5.2*	*4.4*	*3*

goods have grown well in the last two years rising from US$ 21.7 bn in 2016 to US$ 33.1 bn in 2018 and the bilateral trade deficit for it has declined from US$ 24.3 bn to US$ 21.3 bn. There are also clear indications that US exports of petroleum products, civilian aircrafts and defense items to India will continue to rise.

It may also be relevant to mention here that while India has imposed anti-dumping duties on nine products imported from US, the latter has anti-dumping duties[2] applicable against 24 products from India apart from imposition of countervailing duties on several items.

US exports of services to India have also grown from US$ 20.6 bn to US$ 25.8 bn during this period and the trade deficit for US on the services account is now only US$ 3 bn.

2 As seen from the latest semi-annual reports semi-annual reports submitted by India and US to the WTO.

Without going into the details here of the several issues under contention that include those relating to medical devices, dairy products, tariffs on motorcycles, free flow of data, work visas and GSP withdrawal, the two sides should try and see if certain solutions could be found or at least some progress made even if the issues cannot be altogether resolved. It may perhaps be necessary also for the discussions to be more broad based so that the trade dialogues dont just become purely transactional in nature and are informed by the broader geopolitical needs and compulsions. In this regard EAM Dr. Jaishankar's briefing after Secretary Pompeo's visit when he said[3] that he urged for a constructive and pragmatic approach for the trade issues to be addressed effectively strikes the right chord that need following up.

Getting more US companies, including technology companies, to invest in India[4] should be seriously attempted particularly at a time when some may be relocating from China (US stock of investment in India is only around US$ 44.45 bn as per US Bureau of economic analysis which is much less than its investments in several other countries) . Expanding bilateral trade to newer areas and creating value chains should also be the focus. Should US help India in becoming a member of APEC, this will again be beneficial both to India and the region. India could then become part of APEC's trade and investment facilitation initiatives and mutual recognition arrangements that have contributed greatly to the economies of ASEAN and other APEC members.

A Status Paper on India-US Economic Engagement

India may also have to mount a greater outreach to lawmakers and opinion makers in the US and explain the full reality about India's trade and investment scenario. The government could also consider coming out with a White paper or a status paper that brings out fully the mutual gains from not only bilateral trade and investments but also from tourism, Indian students in US, sales of US companies in India, benefits for US pension funds and other portfolio investments from the Indian market and so on. Such a paper, it is surmised, will bring out the richness of the bilateral economic engagement while making it evident that this is far from leaning only in the India direction.

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3 See "External Affairs Minister's remarks during Press Interaction with Secretary of State of the United States of America" , 26 June 2019, MEA website

4 See for example " There is a silver lining for India in Donald Trump's trade war" by Amit Kapoor, Economic Times, 22 June 2019

Chapter 10

Window of Opportunity for India from US-China Trade Tensions

The US-China trade war has been underway for close to fifteen months now and there is no sign of a settlement. There were times when a deal seemed likely, or the temporary truce in force may continue, but what eventually happened were only further escalations and a widening covering more issues including relating to Huawei and similar companies. With his unpredictability, Trump may still agree to a deal any time keeping in view his re-election or other considerations. But the position of China also seems hardened.

In any case, US-China trade and investment ties may never get to be the same again even if a Democrats administration were to assume office next. USTR Lighthizer himself said[1] in a US Congressional hearing earlier this year, " I am not foolish enough to think that there is going to be one negotiations with China that is going to change all their practices" and added "The reality is this is a challenge that will go on for a long, long time."

At the same time, it has to be recognised that US-China trade and investment ties have been over three decades in the making and are today very wide ranging and intertwined, with China functioning as the factory for several manufactured goods for the US and for the world. Moreover, US invested enterprises in China export not only to the US but sell a great deal domestically in China and export a fair share of their products also to third countries. Table 5 captures to some extent their trade and investment ties.

So, even if US companies are considering to shift their investments back to US or to third countries to avoid getting in the way of bilateral crossfires this may be measured and not apply

1 See for example "US Trade chief sees long-term China challenges, continued tariff threat" by David Lawder, Reuters, 27 February 2019

Table 7: US-China Trade Arithmetic (in US$ bn.)

	Merchandise trade (2017)	Trade in services (2017)	Local sales of US/China invested enterprises
US exports to China	129.9	57.63	455.8
US imports from China	505.5	24.94	25.6
Deficit/surplus for US	-375.6	+32.69	+430.12

Source: WITS data and China white paper of 25 September 2018

* 59% of trade surplus of China with US, as per China customs was on account of foreign invested enterprises in China in 2017 and 61% due to processing trade.

to all of them. But because of the size of their trade and investments, securing even a portion will be substantial and it will be very important for India to see if it can in any way benefit from this opportunity. There are three possible ways in which the opportunity can be looked at:

* India substituting for some of the products from China in the US market;
* India substituting for some of the products from US in the Chinese market; and
* India attracting US investors relocating from China and even Chinese investors who may be looking for alternative locations.

The trade opportunity

The trade opportunity in both markets have already received much attention in India and there are also several studies that have been made including from CII[2] and the Ministry of Commerce[3]. Interestingly, the FIEO President Ganesh Kumar Gupta is also quoted[4] to have

2 CII had in a study titled " US-China trade opportunities for India" released in August 2018, had examined 818 product lines in which the US had raised tariffs for imports from China in the first phase starting on 6 July, 2018. It found that these included pumps, parts of military aircraft, parts for electrodiagnostic apparatus, passenger vehicles, valve bodies and parts of taps in each of which India was already exporting more than US$ 50 million and that their exports can be increased with concerted efforts.

3 The Commerce Ministry also has reportedly prepared an internal study that has identified 151 items it can export to China to replace US imports. Additionally the Ministry has also identified around 203 product lines in which US imports from China and India's exports to the world is significant on them- see the newsitem "India draws up plan to gain from US-China trade war, by Amiti Sen, 16 June 2019

4 See the news item " India to benefit from US-China trade war: Experts" PTI, appearing in Economic Times, 16 May 2019.

said that " China was more willing than ever before to provide better market access to India on a wide range of agriculture and processed food products. India would be getting better access to Chinese market as China would like to prove to its citizens that the tariff war has little or no impact on it".

It is of course not just India but several competitor countries both in East and South East Asia and Latin America that are eyeing at possible gains. So competition will be tough. In fact in the first four months of 2019 exports from Vietnam to the US of garments, furniture, fish, computers, mobile phones etc., have all surged[5] while imports into US from China of these items have seen a decline.

The opportunity for India in the US market could also now get dented because of the recent GSP withdrawal by US to India. Even so, MFN duty rates in US are not very high, barring certain items, compared to the penal duties applicable on Chinese imports. India will therefore need to work out implementation plans, as part of its doubling roadmap, to secure a good part of the increased opportunities available for agriculture and processed food exports, chemicals, certain machinery items and parts, transport equipment and parts, jewellery items as well as garment and footwear from either markets.

Attracting Relocating US Investors

Attracting US investors wanting to relocate offers even larger prospects. Here India, because of its large domestic market, offers a better attraction than many other possible locations. Equally, having got used to Chinese charm in attracting investors and offering them incentives, the expectations will be high. The government can identify and hold dialogues with a few select big players in some sectors and see if they can be successfully persuaded. Two experts have argued[6] that India can do this by focussing on "becoming a new powerhouse as a global hub for exports with a major positive impact on competitiveness and job creation". The well known economist Arvind Panagariya has also said[7] that "it is an opportune time for India to do whatever it will take to bring these multinationals to Indian shores".

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5 See the newsitem " Vietnam reaps rewards of US tariffs on China, in Financial Times, 24 June 2019

6 "How India can capitalise on US-China trade war" by Jayant Das Gupta and Harsh Vardhana Singh, Economic Times, 28 May, 2019.

7 See The Hindu Businessline, by PTI, 26 June, 2019

Investments from Chinese Companies

The trade tensions is also seeing Chinese firms wanting to expand their already widening investments overseas[8], thanks also to some weakening in their drivers of competitiveness. A private Indian consulting firm has identified six sectors for possible investments from Chinese companies based on FDI potential and relevance for Chinese investments: Electronics, Apparel, Industrial parks & townships, E-commerce and Fintech, toys and building materials. There could be others. But as pointed out by a Vietnamese scholar[9], while Chinese investments have brought benefits there have been some complaints as well that such investments are low in technological content, use outdated technology, engaged in price transfer and beset with innumerable delays. While therefore they should be welcomed safeguards and monitoring will be required to ensure they conform to approved norms and regulatory standards.

Getting China to Address Non tariff Issues

Under pressure from US on trade, China could be more accomodating with other trading partners, as suggested by FIEO President Mr.Gupta. Whether due to this or with a view to relenting on our persistent demand with China, because of the large and growing bilateral trade deficit, a first consignment of 100 tonnes of non-basmati rice was shipped to China last year. There are a whole host of products ranging from vegetables and fruits to sugar,bovine meat, maize and Pharma items on which regulatory barriers can be considerably eased for our exports to China (see Box. 3). These need to be actively pushed. In the impending RCEP too we should be seeking side letters ensuring not only tariff reductions but also regulatory market access for all these items of our interest.

China Should Help in Breaking RCEP Deadlock

And breaking the deadlock on RCEP negotiations should be another item on which we could try and see if China could show greater accommodation in the present context. The

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8 See for example " Bag a bargain:India can benefit from the US-China trade war if it plays its cards well" by Dharmakirthi Joshi and Pankhuri Tandon from CRISIL, which appeared in Indian Express on 21st May 2019, in which they say the Chinese are already moving their production plants to other countries and India figures in the list of probables.

9 "Chinese FDI in Vietnam: Trends, status and challenges", by Lam Than Ha, ISEAS Perspective, Report No. 34/2019, Institute for South East Asian Studies, Singapore.

Box 3. Redressing our NTB concerns with China: Need for a strategy

India's goods trade with China has been growing over the years but largely in one direction. China's exports to India reached a peak of US$ 76 bn. in 2017-18, registering a 16.4% share in our imports. The bilateral trade deficit reached a peak of US$ 62 bn. that year.

India's own exports to China reached a peak of US$ 18 bn. way back in 2011-12 but subsequently contracted. They were US$ 13 bn. in 2017-18 and rose to US$ 16.7 bn. in 2018-19, but still not the peak of 2011-12.

Imports from China into India declined somewhat in 2018-19 from the previous year to US$ 70 bn. but, interestingly, imports into India from Hong Kong, that largely serves as a re-exporting port, shot up from US$ 10.7 bn. in 2017-18 to US$ 18 bn. in 2018-19, helped largely by a steep rise in mobile phone parts and certain electronic items. India's trade with Hong Kong went from surplus to a significant deficit as a result. So there is really no let up in the rise in imports.

India's exports to China have been pricipally raw materials and products in primary and intermediate forms. Imports from China into India have been predominantly value added manufactures.

Admittedly, India's manufactured products are to a significant extent constrained by lack of competitiveness in the China market. But that does not reflect the full story. India's pharma products that get exported worldwide, certain engineering items in which we hold competitiveness and several of our agricultural items have found entry into China difficult.

In an earlier study by this author relating to RCEP, during which several of our stakeholders were contacted, they had conveyed that non-tariff measures and the opaque mechanisms prevalent were restricting India's exports to China. China, it is learnt, has not even given full access to the several items that formed part of the bilateral agreement signed in February 2000 in the context of China's accession to WTO.

The government of India have bilaterally taken up the issue of NTBs on various occasions with very limited success. A strategy needs to be evolved , if required with an element of reciprocity, should this situation persist. At the same time, getting our own dossiers for each product up to date with details about dates when various applications were made, time taken for responses and their nature and explanations given will be important. This will also be useful if going to WTO with a dispute is considered necessary.

In a recent think tank event in India involving interaction with a visiting Chinese delegation, when this topic about the high level of deficit and the non-responsiveness to NTBs was broached their bland response was that the disparity in trade was a natural consequence of different levels of industrialisation in the two countries. No response was given on the NTBs.

This disparity is not all pervasive. India's exports of certain engineering and Pharma items to some of the developed markets run into billions of dollars as against our paltry exports of those items to China, limited by market access conditions there.

Getting bilateral agreements signed for a few of our products at least, confirming that they meet the CCC (China compulsory certification) standards or their SPS requirements, and making these agreements to be part of the RCEP text, would also be important so that this opportunity is not lost.

two countries have been having bilateral discussions on China's market access demands from India in RCEP that is standing in the way of the overall RCEP deal making progress. A meeting has also been held[10] in early June this year. China should certainly show greater understanding here in view of the persistently high and growing bilateral trade deficit even without an FTA.

Using the trade war opportunity to advantage on the many fronts described in the foregoing should therefore be among the key priorities over the next five year period.

Finally, there are also questions about what China may do with surplus capacities if its exports to US sees a significant decline. They may attempt to push them towards third markets such as India. We will therefore need to monitor this situation very carefully and take quick remedial action when necessary.

10 "Indian, Chinese officials hold dialogue to break deadlock in RCEP trade negotiations" by Amiti Sen, The Hindu Businessline, 11 June 2019

Chapter 11

Concluding Remarks

The report has identified eight priority areas of action in Chapter 2 for the present new government during the next five year period. In the subsequent eight chapters each of these areas have been sketched out in some detail. Topping them all are the actions required to double our exports and to efficiently regulate imports.

'Export or perish' used to be a slogan at one point of time. " Export or diminish" may be more appropriate at the present stage. Higher exports will usher in rapid development. Reduced growth in exports will not only constrain development but also diminish India's economic profile and stature.

Shouldn't India continue to be regarded a developing country in the WTO context? Why should India raise tariffs and go back to import substitution era? Is it not better we stay out of RCEP rather than be faced with increased imports from China? Why is India not part of the 'Friends of WTO reform'? Isn't India getting isolated on trade policy issues? By remaining out of electronic commerce negotiations are we also not shutting ourselves out from being able to participate and make changes to suit our interests? Will restricting cross border data flows not affect exports of our IT services companies?

These and many other legitimate questions will be raised both from within the country and externally. The government will need to find answers and arguments for them even as the preceding chapters indicate possible ways to proceed. The answers will however be credible only if we have time bound action plans and implement them. Temporarily increasing tariffs on a few select items or a certain sector, as has also been done in the recent budget, will be understood if we have a structural adjustment plan to increase domestic production but with strict time lines for the sector to catch up and become ready for tariff reversal with no delays

permitted (imposing tariffs is far easier than phasing them out). The government on its part will also need to fulfill its part of the bargain in sharply reducing transaction costs, improving transport connectivity and ensuring ease of doing business.

In doing all this, the message must clearly go of India being welcome to foreign investments, not the other way around even in e-commerce. Foreign investments and technology will be required in supplementing domestic efforts. A foreign investor is looking for policy stability, ease of doing business and a fair opportunity for profit making. If India can provide a degree of comfort on this, both at the level of central and state governments, taking care to address the many trade and investment facilitation bottlenecks, nothing will stop them coming, even for exports if that is made competitive. This has been the experience in east and south east asia and India should be no exception. And the lesson to learn from these countries is that investment facilitation is more important than further investment liberalisation. A laggard on the former cannot make up with the latter. Investment regimes of several of these countries are less liberalised than India.

Our successful holding of IPL every year in cricket and the impact it has had on boosting the bench strength of our national and state level cricket teams is possibly a lesson too. Selecting a limited number of the very best of foreign players to each of the IPL teams through a bidding process and teaming them up with Indian players, both established and upcoming, and letting them perform under IPL regulations has been a win-win-win-win for the foreign players, the Indian learners, the large number of Indian cricket lovers and the cash rich BCCI. Can this model for cricket, obviously with adaptations required, be tried out for commerce and investment?

A leading industry thinker and a former CII President also bemoaned some time back[1] that he has seen some Indian industrialists who have invested overseas and were also moving their residences to Dubai, Singapore or London. While some could have done it for personal or family reasons or some business advantage, but if they were doing it looking for ease of doing business, it would be important to see if we can reverse this trend.

For monitoring all that has been suggested in the foregoing chapters, it is also essential that we have a modern, timely and accurate data available on trade. Further, in a digital era, it should be possible for DGCI&S to not only make primary data available but also some derived data such

1 See the Indian Express interview with Naushad Forbes, 27 April 2019, in which he said that he has heard about 150,000 Indian industrialists who have moved to these places in the last many years and ,anecdotally added, he has seen people investing overseas when they should be investing here (India).

as a) domestic value added in export of goods; b) utilisation rate for our exports to all our FTA, PTA and GSP giving partner countries preferably at the sectoral level; and c) services content in our exported manufactured goods. Likewise, the RBI should be able to publish data in a disaggregated form of trade in the services sector and actual FDI inflows and outflows, both at the country level and at the sectoral level. Furthermore, there are wide variations between trade figures put out by DGCI&S and their counterparts in several countries for bilateral trade with those countries. While small variations are understandable, larger or chronic variations can be an indication of under-pricing/over pricing at one end or other anomalies. Getting to the bottom of this and taking remedial actions where necessary, would be also important.

In conclusion, India has had a rich trade history that got sharply erased during colonial times. Can we re-establish ourselves as a manufacturing and trading power?

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Dr.Seshadri was the first resident Ambassador of India to Slovenia, Ljubljana from 2007 to 2010. He then went on to serve as India's Ambassador to Myanmar, in Yangon from 2010 till 2013. On return to India he held the position of Vice-Chairman of the think tank Research and Information System for Developing Countries (RIS), New Delhi from 2014 upto 2017. Thereafter he was also associated with CII in connection with a study project relating to RCEP.

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