RCEP – Merits and Implications to India

Asokan R Raja
Executive Director
Centre for Indian Trade and Export Promotion
(formerly Jt.Dy. Director General, FIEO
(set up by Ministry of Commerce, Govt. of India)

The RCEP includes some of the world's wealthiest economies (for example, Australia, Singapore, New Zealand) along with the largest (China, Japan, India, South Korea) and small low-income economies (such as Cambodia, Myanmar, Lao PDR). Not only do RCEP members have different visions of world trade, but also different qualities of domestic economic institutions, regulations and comparative advantages. It is exceedingly difficult to hit common ground among members even on basic issues core to all FTAs, such as elimination of tariffs and effective Rules of Origin (ROOs).

Apprehensions over granting each other 'extra' market access by agreeing to a common programme of tariff cuts, or services and investment rules, have, therefore, been major hurdles to progress. Matters haven't been helped by the growing scepticism regarding FTAs and their benefits, following the US withdrawal from the Trans-Pacific Partnership (TPP) in early 2017—an agreement that includes several RCEP members.

At a time when the World Trade Organisation (WTO) is sluggish and struggling to deliver, the RCEP can recharge global trade prospects by positing a template for 21st-century trade that accommodates the smaller players in global trade as well.

Service exports

Employment visa curbs and other restrictions in several key markets, including the US, UK, and Australia mean that India will not give up its demand for greater market access for its professionals. Yet, most RCEP countries remain non-committal in this area.

While India is gradually opening its market through a combination of bilateral and multilateral FTAs and easing its FDI rules – it has not been returned the favour, especially in the case of China.

India has been insisting on capitalising on its pool of 'skilled' labour force to gain from improved access to employment opportunities. This has been expected to come about by increasing the ease of movement of professionals through the liberalisation of what is called Mode 4 in services trade. In the context of RCEP, this is primarily where Indian comparative advantage lies.

It is suggested, the provisions on Mode 4 that were agreed upon as part of the FTA between ASEAN and New Zealand, Australia, should be included in the RCEP

Trade with China

China's trade surplus with India increased pushing India's trade deficit to unsustainable levels.

China's exports to India are almost six times that of India's, with stiff tariff and non-tariff barriers blocking Indian imports and investment – be it pharmaceuticals, agro-based exports, or IT.

Further, China has excess capacity in its manufacturing sector financed by state-owned enterprises.

Local producers fear that any further market opening – especially to China – will handicap India's industrial growth.

Despite the prospect of integrating India's economy with established global supply chains we are more reluctant to be more flexible in our dealings with RCEP countries.

Apparels

Emerging economies like Turkey, Republic of Korea, and Vietnam, which are among the top global apparel exporting countries, are actively engaged in trade agreements. China was a top global apparel exporter even before it joined the WTO, but with its accession to the WTO in 2001, its apparel exports have further increased and today, China is both a leading exporter and importer of apparels.

While India continues to be among the top exporting countries, in recent years, India's apparel exports have stagnated. In the financial year 2017-18, exports of apparel from India declined by 3.8% and 7.6% in dollar and rupee terms respectively. It is, therefore, important to investigate the impact of trade agreements on India's trade in apparels.

Unlike India most apparel exporting countries have trade agreements with major importers of apparels such as the EU or the US or both (as is the case of the Republic of Korea). The EU and the US have high autonomous tariffs on apparel imports, but they offer zero or preferential tariffs in their trade agreements. The impact of these trade agreements on India's most exported (for example, t-shirts and singlets), and most export competitive (that is, a product which has revealed comparative advantage, for example, silk shawls and scarves), apparel products *vis-à-vis* India's competitors that have trade agreements with major apparel importing countries like the EU and the US.

Suggestion:

India has a large export surplus in apparel. However, of late, there have been concerns with respect to:

- advantages of other exporting countries which have trade agreements with key markets;
- India's inability to increase exports after tariff reduction through bilateral trade agreements with countries such as Japan; and
- likely increase in imports without increase in exports if tariffs are lowered under trade agreements such as the RCEP.

There is a need for more research to investigate how India can use its trade agreements to increase market access for the domestic firms in key export destinations. Since tariffs may no longer be an instrument to protect the domestic industry, it is also important to examine the issues faced by the apparel industry in India and design policies to improve their competitiveness and efficiency.

To improve competiveness and help industry to integrate into global value chains after signing of trade agreements such as the RCEP, the government could focus on policies and incentives that helps companies to grow and increase scale of operation, leads to skill development, supports technology adaptation, reduces logistics and input costs, and improves the ease of doing business. The apparel industry should be encouraged through the right policies and support mechanisms to invest in technology and research and development (R&D), improve quality standards, and move into high-value manufacturing and integrated production processes.

Need exclusion from Tariff Elimination / Reduction for several items due to Competition from China

Trade Ministers from the 16 RCEP countries, which includes India, China, the 10-member ASEAN block, Japan, South Korea, Australia and New Zealand, decided in Singapore on Tuesday to give up the year-end deadline for a 'substantial package' and instead focus on concluding the trade deal by 2019.

The RCEP, which includes goods, services, investments, e-commerce, government procurement, once completed could be the largest free trade bloc in the world covering about 3.5 billion people, 30 per cent of the world's Gross Domestic Product and 40 per cent of world trade.

In the inter-ministerial consultations conducted by the Commerce Ministry, the Heavy Industry, Textiles and Steel Ministries have continued to seek exclusion of items pertaining to their respective sectors from tariff elimination/reduction obligation at the RCEP.

The Steel Ministry, for instance, is insisting on excluding the entire range of finished steel products from the pact.

India need to strongly oppose inclusion of stainless-steel flat products in the RCEP agreement. The move will open flood gates of Chinese imports into India through zero duty access making operations for domestic producers non-viable.

A case in point is the existing FTA of India with Korea and Japan. Though the FTAs were envisaged to promote trade between the two countries, much of the trade post-FTA has been one-sided and India has substantial trade deficit with both Korea and Japan.

Similarly, the Heavy Industry Ministry has apprehensions about the effect of RCEP on the automobile industry and manufacturers of machinery.

The Textiles Ministry, too, wants a large number of items to be insulated from the RCEP pact as it fears competition from China and ASEAN nations such as Vietnam and Philippines.

These Ministries are especially worried as there is pressure on India to take on commitments for eliminating tariffs on more than 90 per cent of items for most RCEP partners while allowing slightly lower commitments for countries such as China, which pose a huge challenge to the Indian industry.

Under UN's Harmonised system of product classification, with product clusters in 21 sections like textiles, chemicals, vegetable products, base metals, gems and jewelry etc., reveals that trade balance has worsened for 13 out of 21 sectors. In fact, value added sectors like chemicals and allied, plastics and rubber, minerals, leather, textiles, gems and jewellery, metals, vehicles, medical instruments and miscellaneous manufactured items fall in this category. Trade balance has improved in sectors like animal products, animal and vegetable fat, wood and articles, paper and paperboard, cement and ceramic, arms and ammunitions.

If India is not part of the RCEP agreement, Indian exports will face tariffs in the region whereas all other countries that are part of the grouping wouldn't and the competitiveness of Indian products would take a serious hit.

It is no secret that China enjoys a surplus in manufacturing and dumps its products in various parts of the world, including India. Reduction of tariffs would provide a means for escalation for China's dumping activities. Not only will this prove to be a menace to Indian manufacturing industries but also to small and medium entrepreneurs.

Also, China is a low-cost production centre, which flourishes on state subsidized production. India has thus lost its comparative advantage and tariff and non-tariff barriers in China are not favourable for Indian Exports, thus causing a deficit in trade. Giving greater market access to China under the RCEP could further skew the trade balance.

Besides China, India also has conflict of interest in giving greater market access to Australia and New Zealand, whose major imports to India include those of agriculture and dairy manufactured products.

The present structure of the RCEP would mean the displacement of the local agriculture and dairy manufacturers, some of the most important industries of the Indian Economy. Apart from China, India has a trade deficit with about seven countries who are a part of the RCEP, including Thailand and Indonesia.

Even though India has made endeavours to connect with the Regional Value Chains (RVC) in the Asian and Oceanian regions, they have not been met with equal enthusiasm from the regional counterparts. The Asia-Pacific Economic Cooperation (APEC) has not yet initiated India into its realm. APEC might have enabled India for harmonization of tariffs and business standardization, in accordance with its provisions. This in turn could have established a base for the execution of RCEP trade provisions with the required structural support.

Success or failures of FTAs should not be assessed only through the lens of balance of trade, but also with respect to their impacts on the product value chain. It should look at consumer surplus, producer surpluses or profits, and the overall change in social surpluses caused due to such policy interventions.

With a view of the comprehensive coverage areas of the RCEP, India can utilize the platform to negotiate not only tariffs where its interests lie for incorporation into the RVC's, but also for the initiation of regulatory mechanisms for rectifying access-related issues.

Under the RCEP, India can negotiate an agreement on non-tariff barriers, which have earlier prevented growth of Indian exports to China. Another point of consideration would be India's participation in the RCEP vis-a-vis the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), a multilateral FTA to reduce tariff and non-tariff barriers between members. The CPTPP was a result of President Trump's withdrawal from the Trans Pacific Partnership (TPP) and Japan's continued efforts for it coming into effect as the main policy of the Abe government.

Inflexibilities on Japan's part with regards to the RCEP maybe attributed to its dedication of the CPTPP that also negotiates tariffs as a significant part of the FTA.

It is interesting to note that CPTPP member states include the RCEP member of Australia, New Zealand, Malaysia, Brunei, Vietnam and Singapore. India is not a part of the CPTPP. After the required ratifications, the CPTPP will come into effect wherein its members that overlap with several from the RCEP will have implemented preferential agreements, possibility at the cost of India.

It is very important for India to remain within RCEP as we are not part of the other two mega regional trade agreements of Trans-Pacific Partnership and Transatlantic Trade and Investment Partnership.

IPR provisions

Japan and South Korea are proposing intellectual property provisions referred to as TRIPS-plus, which go far beyond the obligations under the WTO's agreement on Trade-Related Aspects of Intellectual Property Rights

The proposed provisions seek to extend pharma companies patent terms beyond the usual 20 years (patent term extensions) and require data exclusivity that limits competition by encouraging monopoly. These will hit our access to affordable medicines.

Issues related to Intellectual Property Chapter, particularly pacts that constrain our farmers' ability to produce, preserve, exchange and sell seeds need to be rejected. If India makes any agreement like the International Union of New Plant Varieties (UPOV) 1991 (that favours multinationals and is against farmers' interests), it will kill the livelihood of our farmers.

Thus, there are several consequences that may arise in both the short and long run, and they need to be considered in RCEP.

Rules of Origin

Draft Consolidated Text of Non-Preferential Rules of Origin, G/RO/W/111/Rev.511, February 2010. Part IV of the WTO Agreement on Rules of Origin mandates WTO members to harmonize non-preferential rules of origin. The harmonization work has not made any progress since 2007 because of differences in core policy issues. See WTO Document, Report of the Committee on Rules of Origin to the Council for Trade in Goods, G/L/1127, 21 October 2015, at para. 3.

Even if imports are physically identical, they constitute different trades if they are certified as originating goods under different RTAs

The Common Declaration with regard to Preferential Rules of Origin of the WTO Agreement on Rules of Origin (Common Declaration) states that 'in cases where the criterion of change of tariff classification is applied, such a preferential rule of origin, and any *exceptions to the rule*, must clearly specify the subheadings or headings with the tariff nomenclature that are addressed by the rule'. The Common Declaration applies to lawful exceptions to CTC rules and should not be interpreted as to permit any exception to CTC rules. Paragraph 3(a)(i) of the Common Declaration with regard to Preferential Rules of Origin, Annex II of the Agreement on Rules of Origin, Annex 1A of the WTO Agreement.

But lower level of ambitions in services and investments, a key area of interest for India, does not augur well for the agreement that seeks to be comprehensive in nature.

Asia accounts for more than 50 per cent of the world's automobile production, 62 per cent of liquid display screen, 86 per cent of smart phones and 100 per cent of digital cameras. Much of this production is based on production networks: that is, value chains that criss-cross the region, with the various stages of the production of each good taking place in different countries, depending on the comparative advantage of each.

Rules of origin — which specify under what circumstances a good may be said to originate from a country, thereby qualifying it for lower tariffs negotiated in preferential trade agreements — stand in the middle of these two developments.

Simplifying rules of origin could offer some gains to ASEAN economies. This could be helpful in areas like machinery and automobiles, and in light industries like apparel, footwear, and prepared foods, because these sectors play a significant role in exports and account for generation of more employment.

Globally, the average threshold on domestic content is 40-60% for getting originating status to a product. India should ensure that the last country from which a product is exported as a finished product should attain maximum value addition. We need origin norms with Bangladesh because China circumvents its textiles from there. In such a case, stricter rules of origin with China will be of no help to us.

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