

Implications of the Trans-Pacific Partnership (TPP) for India

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I want to thank the China Institute for WTO Studies CWTO, Ambassador Sun, Mr. Wang and the amazing group of dedicated and efficient officials of CWTO. I want to thank also Michael Zhao and Luke Cheng and Shuihua Cheng of ICTSD. All three of them are my colleagues, but do deserve my special thanks. Thanks also to speakers and other experts from different backgrounds who have come here; thank you all for coming here and participating in this forum to enrich it.

I say this because this forum is like a workshop for my project in which I want to focus on the implications of the Trans-Pacific Partnership (TPP) for India, as well as how various nations such as China, India and Brazil can combine their energies to make the emerging international trade system a better system for all countries—for themselves and many others who are not part of the large mega free trade agreements (FTAs), such as the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership (TTIP). This project is supported by DFID India, and I want to thank them for their support.

In this session, my main interest is to focus on the implications of TPP for India. By this, I want to clarify that I am not talking about India joining TPP. In my view, India is not ready to join such an agreement as yet. Further, even if it is ready to do so, all partners of TPP have to agree to allowing a new trading partner within the TPP, and in my understanding such a universal acceptance of India will not be possible in the near future.

The main point that I want to emphasize is that the conditions for market access for exports of India will be adversely affected with the kind of conditions emerging from TPP. Two very important steps are required for India to address this situation. One, it is imperative for India to improve its capacities, especially in the area of standards, because they will become higher and highly pervasive in their impact. Without such capacity building and associated policy improvements for this purpose, Indian producers will first suddenly, and then increasingly lose market access for their exports to the markets of countries negotiating mega-FTAs such as TPP and TTIP, which account for about half of world trade. Two, for sustained access to such markets, India and other countries need to develop a coalition to press for inclusive systems of conformity assessment to determine the acceptability of their product standards in exports markets. Without that, access to large parts of the global markets will be difficult even after upgrading capacities to meet higher standards.

Thus, I want to look at the implications of TPP in terms of how the conditions of trade will change for India as a result of TPP. Changes in trading conditions due to TPP will arise through market liberalization and the disciplines relating to standards in the different areas covered by TPP.

Subject areas covered under TPP, in addition to market access, include intellectual property rights, foreign investment, competition policy, environment, labour, state-owned enterprises, e-commerce, competitiveness and supply chains, government procurement, technical barriers to trade, transparency in health care technology and pharmaceuticals, and regulatory coherence.

Market liberalization will take place through tariff reductions for goods and opening markets in the area of services. On tariff reductions, India would already be moving ahead within the context of the Regional Comprehensive Economic Partnership RCEP, a mega-FTA with sixteen participants, of which seven are part of TPP and an eighth wants to join TPP. Significantly, RCEP contains one of the most competitive economies of the world, China, and a significant number of economies that have a large share of India's trade.

For tariff reductions, the additional part in TPP would be that the focus of attention would be on products covered by sectorals within the Doha Round Nationally Appropriate Mitigation Actions (NAMAs) negotiations, a demand that India has had difficulty agreeing to. This would mean preferential access to the markets of the U.S. and other TPP economies for India's competitors. Combine with this the likely developments over time under TTIP, and we see a similar loss of preferential access for India's products in the two largest markets of the world.

Though there will likely be strong trade diversion effects in some areas, such as textiles and clothing, most tariffs in the largest markets of the U.S. and EU are already low, and thus the greatest impact on loss of market access will come not from tariffs but from non-tariff measures related to the regulatory regime agreed in TPP and later in TTIP.

We know from leaked documents the kind of efforts being made in the area of intellectual property rights, but not very much in the area of technical standards as such. However, we do know some developments in this area that consider the likely disciplines that will arise in these new trade negotiations of TPP, which aims to build a 21st century trade and investment agreement.

Four aspects will determine the content of the likely results.

One is the prominent role of the U.S., and its concerns regarding building a set of rules that create a level playing field for its industry, reflecting the dominant concerns of its industry and other important stakeholders such as non-governmental organizations.

Two, the concurrent negotiations that are now being held under the TTIP between the EU and the U.S. These negotiations will importantly focus on standards prevailing in the EU and the U.S. Thus, the discussion on standards in TPP cannot be significantly disconnected from negotiations in TTIP or the prevailing standards and the system of standard setting in the U.S. In the U.S., the mandatory standards reflect private standards to a large extent. An important characteristic of private standards is that their content requirements keep increasing with time and competitive pressures. Moreover, it is inconceivable to have identical or even mostly similar standards amongst all countries. Therefore, either some form of equivalence or accreditation will have to be agreed amongst the countries. In general, FTAs tend not to emphasize inclusive systems of conformity assessment for standards. Special attention will have to be given to addressing such a possibility of exclusionary systems.

Three, the major emphasis in developed markets on social standards will be reflected in the system of disciplines that will be agreed upon. These include, importantly, environmental and labour standards. Both environment and labour are part of the subjects addressed under TPP.

Four, investment agreements are now part of major trade agreements, and these subjects are also covered by TPP. The kind of disciplines covered by Investment Agreements would also be reflected in the trade agreements. In that sense, the thrust of disciplines in the Investment Agreements would indicate those in the trade agreements that are supposed to be addressing 21st century issues. These include, inter alia, social standards.

They also indicate another development that is going to happen in the negotiations. That is the inclusion of standards disciplines by reference. An example is the EU and U.S. joint statement on principles for Investment Agreements, which by reference includes a voluntary code of standards for multinational enterprise. Through this method, standards that are outside the realm of mandatory consideration and are voluntary would, through the agreement, acquire a legal basis and mandatory nature. This would add to the increasing content of standards, which are otherwise developed in limited contexts.

So, we will have two types of standards with higher content. The first are more generic in nature, such as environmental and labour standards. Their impact would be on many sectors of the economy, i.e., there would be a wide-scale impact. The second would be product-specific standards, with higher levels of content requirements and increasing over time through their link with developments in private standards.

Both these would affect the market access in TPP and subsequently TTIP markets, especially for those nations that are outside those agreements. Combine this with a growing presence of supply chains in international trade, and we see that the scope of the effect on market access becomes larger than just the direct exports to the markets of TPP or TTIP.

Countries that are outside the TPP need to prepare for such changes. India would need to do so as well, especially because trade and investment play an important role in India's growth performance. Moreover, these countries would need to work together to have a coalition that presses the negotiating nations to develop inclusive systems, rather than exclusionary systems. This is of utmost importance, because without inclusive systems, exports will continue to face problems even if the domestic producers are able to develop capacity to meet the content of standards arising in the TPP markets.

A number of points have been raised to say that that the impact of TPP is not likely to be large. These include views that: the negotiations are not progressing and will not succeed; the Indian firms, especially those in the export markets, are capable enough to meet the evolving standards required; and India is negotiating in RCEP and this, rather than any other negotiations, are key for it.

Let us consider the last point first. Except for Mode 4 in services, most other standards in TPP are likely to be higher than RCEP. Given that half of RCEP's members will also be part of TPP, even in several RCEP countries' markets, the relevant standards would effectively become those from TPP. The trade and investment coverage of TPP is about 30 per cent, and with TTIP it is about half of global share. With supply chains, this coverage will be very much larger. India wishes to now focus on manufacturing, and in that context it is worth noting that a recent study has shown that share of foreign inputs in value added of Indian exports for categories in industry from code/sector numbers 62 to 105 range from about 20 per cent to 30 per cent, except for watches and clocks, and for structural clay products which are less. In the case of petroleum products and fertilizers, it is respectively about 64 per cent and 46 per cent. These sectors,

with about one fifth to two fifths foreign content in their exports, account for the major growth thrust in manufacturing areas for India.

Regarding the success of TPP, the negotiations are progressing, but slower than what most partners would like them to be. The political situation is such that Trade Promotion Authority (TPA) is unlikely before the mid-term elections in November, and the negotiations cannot pick up pace and move towards conclusion without the TPA. So, the time period to watch for progress in the TPP would be next year. And it is possible that the president of the U.S. would press for its conclusion within the remaining period of his term.

Important points have been made with respect to difficulties faced by different countries (Malaysia, Vietnam, etc.). Also, the U.S. has problems. These are issues that will require flexibilities to be introduced. This happens in a conclusive sense only in the last phase of the negotiations, although discussions have been going on with respect to the extent and types of flexibilities that will help reach some type of comfort level with the result. For example, the Office of the United States Trade Representative USTR recently said that the U.S. would be sensitive to major concerns of others, such as the problem that Malaysia has with respect to its constitutional requirements for Bumiputera policy.

Consider now the point that our export-oriented firms are capable enough to meet the standards. This seems to belie the fact that we do have problems with standards in exports markets. India wishes to focus on growth in manufacturing, and its industrial policy initiatives show a desire to upgrade domestic capacity to produce more knowledge-intensive and modern products. Both foreign direct investment and foreign markets play a crucial role in achieving such objectives. Significantly, foreign trade is envisaged to play an important role for India in its growth aspirations. I refer to the government's Economic Survey 2013–2014, which states that: "India should aim to increase its share in world merchandise exports from 1.7 per cent in 2013 to a respectable ballpark figure of at least 4 per cent in the next five years for which exports should grow by a CAGR of around 30 per cent." For such a momentum to be achieved and sustained, India must assess the requirements that will change for access to significant parts of the global market and upgrade its domestic capacities to be able to effectively meet these standards.

This is important because of the likelihood of TPP coming into being after some years, and because the factors that indicate what will be in TPP will become more and more important in future commercial interaction through global trade and investment.

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