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THE PIVOTAL MOMENT: HOW INDIA'S FTA STRATEGY POST-RCEP REDEFINED INDIA'S EXTERNAL TRADE ENGAGEMENTS?

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The article chronicles the shift in India's approach to negotiating trade agreements post-2020, especially since choosing to exit from the Regional Comprehensive Economic Partnership Agreement (RCEP). While integration with the Southeast Asian countries remains appealing for India, especially in finding a foothold in regional value addition, the article explains the fundamental concerns in exploring and implementing the Look East policy, particularly in view of China's rise as a global economic and political power. The article further explores why developing domestic resilience and removing certain disabilities is crucial to preparing India for more ambitious trade agreements. The article further argues that in order to consider meaningful trade agreements with advanced countries, notably the West, India will have to fundamentally reconsider its long-entrenched position on several trade topics, including certain non-trade issues, while ensuring that necessary and sufficient policy space is preserved.

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I. INTRODUCTION

The RCEP is perhaps one of the largest trade agreements in the Asia–Pacific region. It comprises the Association of Southeast Asian Nations (ASEAN) countries and five large economies of the region — Australia, China, Japan, New Zealand, and South Korea. India took part in the negotiations for concluding the RCEP, which spanned nearly seven years and twenty-nine rounds, but chose to stay out of it.¹

While India is a large country and the most populous nation in the world, it is unique. Intriguingly, while Indian engineers develop innovative software solutions and sophisticated algorithms for businesses of the world, several cottage and artisanal industries co-exist within the economy. A sizeable part of the economy is still in the informal sector, traditionally referred to as the small-scale industries (SSI) or, more appropriately, as Micro, Small, and Medium Enterprises (MSMEs).² The vulnerable sectors will take years to embrace change and turn competitive. India's policymakers know this better than anyone.

India's decision to stay out of RCEP was not unexpected. The RCEP negotiations went through the motions for the most part of roughly two dozen rounds and gathered momentum only in the last few rounds.³ The Indian industry had concerns all throughout and viewed the trade agreement with apprehension. India's previous trade agreements with the ASEAN region, for example, the agreements with Singapore, Japan, Korea, and the ASEAN itself, had failed to

¹ Nandini Sarma, *Free Trade after RCEP: What Next for India?*, ORF ISSUE BRIEF NO. 353, 2 (2020), https://www.orfonline.org/wp-content/uploads/2020/04/ORF_Issue_Brief_353_RCEP_NEW-08_April.pdf [hereinafter Sarma].

² S.V. Ramana Murthy, *Measuring Informal Economy in India, Indian Experience*, IMF: 7TH IMF STAT. F. 2 (Nov. 14, 2019), <https://www.imf.org/-/media/Files/Conferences/2019/7th-statistics-forum/session-ii-murthy.ashx>.

³ See N.Z. FOREIGN AFF. & TRADE, TIMELINE AND HISTORY OF THE RCEP NEGOTIATIONS, <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/regional-comprehensive-economic-partnership-rcep/next-steps-and-timeline> (for a timeline of negotiations).

demonstrate tangible trade gains or perceived market access opportunities for India.⁴ Within the context of the RCEP, India had a trade deficit with eleven of the fifteen RCEP members, the biggest being with China.⁵ In other words, RCEP is a trade bloc of “net exporters focused more externally than internally,” with fierce competition among themselves for export markets.⁶ While these trade agreements might have helped the export-based sectors remain efficient through sourcing of competitive inputs from the region, the overall gains were not easily evident, at least for the policy mandarins. The successes of trade agreements are often judged on the basis of import — export figures, and a widening trade deficit is a red flag for any negotiator while evaluating the gains from a trade agreement. In other words, while economists generally dwell upon terms of trade gains and national welfare functions, from a political economy point of view, persisting trade deficits are concerning and a strong indication that trade agreements could be viewed negatively. While employment creation remains a priority for any government, it would be generally difficult to quantify the potential job creation attributable to trade agreements. In short, given the inconsistent forecasts of the benefits of joining the RCEP, it was difficult to build any domestic consensus in taking a bold step to become a part of the comprehensive agreement.

While trade agreements espouse the virtues of trade openness, the COVID-19 pandemic revealed how dependence on certain sources can hurt vital economic and public policy concerns. It may be a mere coincidence that the RCEP was signed when the world was in the midst of the COVID-19 crisis. During this time, global and regional supply chains were disrupted, inputs and essential raw materials were in short supply, and countries hoarded and stockpiled strategic resources, including essential medicines, vaccines, and therapeutics. Food and agricultural products also witnessed shortage and volatility in prices. The war in Ukraine and geopolitical factors also contributed to the rising focus on self-reliance. Several countries announced financial assistance for developing supply chain resilience and home-grown capacity in critical industries and sectors of significance.⁷

Have these developments affected India’s external trade orientation and its outlook on trade agreements? The data for 2023 shows an increase in imports of inputs

⁴ ANIRUDDHA GHOSH ET AL., NITI AAYOG, A NOTE ON FREE TRADE AGREEMENTS AND THEIR COSTS (2016) [hereinafter Ghosh].

⁵ Prabha Raghavan, *Explained: The Economic Implications of India Opting Out of RCEP*, THE INDIAN EXPRESS (Nov. 26, 2020), <https://indianexpress.com/article/explained/india-out-of-rcep-china-economy-trade-angle-7053877/>.

⁶ ARAVIND PANAGARIYA, FREE TRADE AND PROSPERITY 2 (2019).

⁷ Knut Aliche et al., *Supply Chains: To Build Resilience, Manage Proactively*, MCKINSEY & CO.: OUR INSIGHTS (May 23, 2022), <https://www.mckinsey.com/capabilities/operations/our-insights/supply-chains-to-build-resilience-manage-proactively>.

when compared to the previous year.⁸ This is not surprising since India has been reliant on the Asia-Pacific region for a variety of products — electronic chips, semiconductors, coking coal, chemicals and petrochemicals, and active pharmaceutical ingredients, to name a few. The rise in imports of inputs was to an extent offset by the rise in exports. During this period, India's external trade also recovered with a growth of 46.5%.⁹ The revival of India's industry in the aftermath of the pandemic displayed its resilience and potential for sustained growth.¹⁰

India also realised certain key export targets in the midst of the pandemic. Earlier in 2022, India achieved the US\$ 400 billion target of exports for the first time, although these figures are somewhat below par for a country of India's potential.¹¹ In relative terms, these figures make up only 13.2% of the Gross Domestic Product (GDP).¹² Furthermore, considering the rise in imports, the trade deficit rose to its highest level in the last two decades, displaying some vulnerabilities of the economy.¹³

The effects of COVID-19-induced disruption in global supply chains, skyrocketing international freight costs and delays, and geo-security concerns of various dimensions led to the re-gearing of India's industrial policies. The central government came up with the Performance-Linked Incentive (PLI) schemes in fourteen sectors/products.¹⁴ Within a couple of years, the manufacture and assembly of mobile phones, especially iPhones, soared to remarkable levels,

⁸ Press Release, Press Info. Bureau, Ministry Com. & Indus., *In spite of strong global headwinds, with two months remaining in the current financial year, India's overall exports is projected to grow at 17.33 percent during April-January 2022-23 over same period last year (April-January 2021-22)* (Feb. 15, 2023), <https://pib.gov.in/PressReleasePage.aspx?PRID=1899511#:~:text=Merchandise%20exports%20in%20January%202023,52.57%20Billion%20in%20January%202022>.

⁹ *Id.*

¹⁰ *Foreign Trade Policy of India*, INDIA BRAND EQUITY FOUND. (Oct. 2024), <https://www.ibef.org/economy/trade-and-external-sector>.

¹¹ *India Crosses \$400-bn Milestone in Exports for First time in a Fiscal Year*, BUS. STANDARD (Mar. 23, 2022), https://www.business-standard.com/article/economy-policy/indian-goods-exports-reach-400-bn-for-first-time-ever-says-pm-modi-122032300298_1.html.

¹² Vivek Kaul, *Should We Really Get Excited About the Jump in Exports?*, DECCAN HERALD (Apr. 10, 2022), <https://www.deccanherald.com/opinion/should-we-really-get-excited-about-the-jump-in-exports-1099282.html>.

¹³ *Id.*

¹⁴ Bhavesh Thakkar, *Production-Linked Incentive Scheme – A Key Step Towards Self-Reliant India*, 21 EY INDIA TAX INSIGHTS 25-28 (May 10, 2021), <https://www.ey.com/content/dam/ey-unified-site/ey-com/en-in/services/tax/documents/ey-india-tax-insights-issue-21.pdf> [hereinafter Thakkar].

indicating that at least in some sectors, the scheme can work quite well.¹⁵ The goal was not merely to develop domestic capacity within some of the sunrise sectors and create national champions but also to reduce import dependence on countries with which India had fragile or worsening economic ties and to create employment opportunities.¹⁶ The extent of financial outlay was unprecedented; not only domestic firms but several international original equipment manufacturers and lead firms also participated in the PLI schemes. India's new vision of 'acting local for global' was finally taking wings.

In August 2022, India celebrated its 75th anniversary of independence. The government unveiled a major vision for the next twenty-five years, a period which it prefers to call 'Amrit Kal' — the most auspicious time to start something new. The government set a huge target for India to become a developed country by 2047.¹⁷ Further, the government set the target of reaching merchandise exports of US\$1 trillion by 2027–28.¹⁸ Achieving the ambitious targets set by India would require a considerable shift in its trade policy and a substantial reworking of its domestic policies. Both external trade policies and internal trade measures would need to complement and supplement each other. While opting out of the RCEP was a wise political and perhaps economic decision, going alone without preferential trade partners was certainly not a path that India could have taken. India turned to the 'Global North' to forge new alliances and partnerships, perhaps at the risk of shifting from its 'Look East' policy.¹⁹ The Look East policy is not expected to deliver the massive jumps in exports that India targets in the near future. While India may not be able to decouple from China immediately given its existing dependence, the thinking within India's corridors of power is to build a

¹⁵ *Apple's iPhone Production Touches \$10 bn Mark in India. Courtesy, PLI*, ECON. TIMES (Nov. 25, 2024), <https://economictimes.indiatimes.com/industry/cons-products/electronics/apples-iphone-production-touches-10-bn-production-mark-in-india-courtesy-pli/articleshow/115654735.cms?from=mdr>.

¹⁶ Sunitha Raju & Charulika Sharma, *Making Production-linked Incentive Scheme Work: Assessing Priorities*, 59(34) ECON. & POL. WKLY., Aug. 24, 2024, at 61, 61.

¹⁷ Udit Misra, *India as a 'Developed' Country: Where We Are, and the Challenges Ahead, Explained*, THE INDIAN EXPRESS (Aug. 19, 2022), <https://indianexpress.com/article/explained/explained-the-developed-country-goal-8096306/>.

¹⁸ Sangeetha G., *Government Eyes \$1 Trillion Goods Exports by FY28*, DECCAN CHRONICLE (Aug. 12, 2021), <https://www.deccanchronicle.com/business/economy/120821/government-eyes-1-trillion-goods-exports-by-fy28.html>.

¹⁹ Nalanda Roy, *Is India Retreating from its Act East to Act Indo-Pacific Policy?*, 35(1) INDIAN J. ASIAN AFF. 43, 43-44 (2022).

new resilience in India's supply chains with stronger relationships with the West.²⁰ East Asian countries are certainly a part of India's long-term policy. but India seeks to transform this relationship into a mutually beneficial and reciprocal one, aiming at reducing its import dependence on this region. In the above context, the expression "balanced trade" found a new currency.

The focus of this article is on exploring the determinants of India's Free Trade Agreement (FTA) strategy, especially in the aftermath of India's exit from RCEP. While India's advocacy for development-oriented approaches in multilateral fora, including the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO), has a profound impact on the international economic order, India's FTA strategy is guided by a different set of factors, often characterised by pragmatism. The rise of China and its prowess in manufacturing is indeed a factor that has influenced India's FTA strategy. As a matter of fact, China's share of world manufacturing rose from 5% to 35% (as a percentage of gross production), while India's share grew at a much lower rate. Perforce, this resulted in China having a growing surplus in manufacturing. The China factor is intricately linked to India's FTA strategy.

In the above backdrop, the article is divided into five parts. Part II of this article deals with the background of India's economy post-1991 liberalisation, the rise of China, and India's withdrawal from the RCEP just before its closure. Part III deals with India's new outlook towards FTAs in the post-pandemic era, its new approach towards the choice of FTA partners, and how India is countering the rise of China. Part IV deals with domestic measures adopted by India for building a resilient economy and how these initiatives further complement and supplement its new outlook towards global trade. Finally, Part V concludes.

II. INDIA'S OUTLOOK TOWARDS TRADE POLICY IN A PRE-PANDEMIC ERA

India's trade policy has passed through a checkered past. For decades, India followed restrictive policies against foreign direct investment (FDI) and international trade. Although India was a founding signatory to the GATT, for a long time, it did not perceive tangible economic gains in participating in the international trading system as an active player.²¹ Additionally, the extreme levels

²⁰ Amitendu Palit, *Decoding India's revived Free Trade Agreement rush*, WORLD ECON. F. (Sept. 15, 2022), <https://www.weforum.org/agenda/2022/09/decoding-india-s-revived-free-trade-agreement-rush/> [hereinafter Palit].

²¹ Kamal Saggi, *India at the WTO: From Uruguay Round and Beyond* 3 (Stan. Ctr. for Int'l. Dev., Working Paper No. 425, 2010).

of import substitution that India had followed for a long period made the economy insular and disengaged from the world. Before the 1991 economic reforms, several sectors of the economy remained totally closed.²² As narrated by Panagariya, these economic policies had damaging effects on India's domestic and export competitiveness.²³

This part is divided into three subparts. The first part compares and contrasts the rise of India vis-à-vis that of China. The second subpart analyses India's approach towards its past FTAs with a specific focus on how India incorporated its 'Look East' policy within its trade agreements. The third subpart analyses the reasons why India chose to withdraw from the RCEP even though the RCEP could have become a key component of India's 'Look East' policy.

A. India's Relationship with China

India was a closed economy until the Narasimha Rao government unleashed its economic reforms in the midst of a major balance of payment crisis in 1991. The Rao government introduced major changes in trade, foreign investment, tariffs, and licensing policies to liberalise the economy.²⁴ After India opened its economy, there was a considerable increase in trade in view of the tariff reduction and removal of other barriers. China has had a similar journey with its shift from a centrally-planned economy to a more market-based economy, starting with the reforms of 1978.²⁵ China's reforms post-1978 started in a gradual and highly coordinated manner and set the transition process of China's rise to a global power.

In 1980, the economies of India and China were almost at the same level in terms of the size of the GDP. However, since then, China has left India far behind with a GDP growth rate of over 9% in the past four decades, and its growth being almost double and more sustained than that of India.²⁶ China's spectacular GDP growth

²² Dushyant Gosai, *History of Economic Growth in India*, INT'L. POL'Y. DIG. (Apr. 24, 2013), <https://intpolicydigest.org/2013/04/24/history-of-economic-growth-in-india/>.

²³ ARVIND PANAGARIYA, *INDIA: THE EMERGING GIANT* 270 (2010).

²⁴ See Raj Bhala, *A Trilogy on India's Contemporary International Trade Policy: Part One – First Generation Reforms and Aftermath?* 20 MANCH. J. INT'L ECON. L 199, 201 (2023).

²⁵ Joshua Eisenman, *What We Really Know About China's Reform and Opening Up*, WASH. POST: MONKEY CAGE (Nov. 15, 2018), <https://www.washingtonpost.com/news/monkey-cage/wp/2018/11/15/what-we-really-know-about-chinas-reform-and-opening-up/>.

²⁶ Ma Jingjing & Hu Yuwei, *Having Lagged Far Behind China for Decades, Can India Replicate China's Success in GDP Ranking Any Time Soon?*, GLOB. TIMES: IN-DEPTH (Sept. 8, 2022), <https://www.globaltimes.cn/page/202209/1274920.shtml>; R. Nagaraj, *Industrial Growth in China and India: A Preliminary Comparison*, 40(21) ECON. & POL. WKLY. 2163, 2665 (2005).

rate reaffirms its economic success, although several sceptics would attribute it to factors including 'state capitalism,' where the state plays a steering role in economic activities.²⁷ China encouraged FDI and attracted multinational enterprises to use it as a source for carrying out export-oriented manufacturing operations.²⁸ China's special economic zones (SEZs) and free trade zones (FTZs) served as engines for its growth and competitiveness.²⁹ In contrast, India followed an import-substitution policy and relied on domestic resource mobilisation and domestic firms even after its 1991 reforms.³⁰ India maintained quantitative restrictions on various consumer goods and agricultural products almost until 2001, citing balance-of-payments difficulties.³¹ It was only in the wake of a WTO dispute that India removed its restrictive import licensing and quota measures.³² On the other hand, China pursued its economic reforms almost autonomously. It launched its economic transformation by using abundant labour at a low wage rate to establish manufacturing for export industries, while India focused on service exports.³³ In short, China adopted a more comprehensive and proactive approach to trade and industrial policy as compared to India. While China was not a part of any major trade agreement until it signed its FTA in goods with the ASEAN in 2005, it aggressively signed bilateral investment treaties (BITs) to provide greater stability to FDI and other forms of investment.³⁴ In fact, China has signed more BITs than

²⁷ Margaret Pearson et al., *Party-State Capitalism in China* (Harvard Bus. Sch., Working Paper No. 21-065, 2020).

²⁸ Guoqiang Long, *China's Policies on FDI: Review and Evaluation*, CTR. GLOB. DEV. (2005), <https://www.cgdev.org/sites/default/files/9780881323818-Ch12.pdf>; see also Deepika Kumari & Neena Malhotra, *Trade-Led Growth in India and China: A Comparative Analysis*, 7(2) J. INT'L. & GLOB. ECON. STUD. 68, 69-70 (2014) [hereinafter Kumari & Malhotra].

²⁹ WORLD BANK GRP., BUILDING ENGINES FOR GROWTH AND COMPETITIVENESS IN CHINA: EXPERIENCE WITH SPECIAL ECONOMIC ZONES AND INDUSTRIAL CLUSTERS (Douglas Zhihua Zeng ed., 2010).

³⁰ Ramakrishna Nallathiga, *From Import Substitution to Export Promotion: The Changing Contours of Economic Policy*, 50(3) ASIAN ECON. REV. 495, 495-496 (2008).

³¹ See Bishwanath Goldar, *Impact on India of Tariff and Quantitative Restrictions under WTO* (Indian Council for Rsch. on Int'l. Econ. Rel., Working Paper No. 172, 2005).

³² Appellate Body Report, *India — Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, WTO Doc. WT/DS 90/R (adopted Sept. 22, 1999).

³³ Kumari & Malhotra, *supra* note 28.

³⁴ *Id.*

any other country, except for Germany.³⁵ Most capital-exporting countries, with the notable exception of the United States (US), have such treaties with China.³⁶

As stated earlier, most trade relationships are tested on the concept of trade balance, especially in manufacturing goods. Apparently, for most people, there are no better or more reliable statistics than trade balance for determining the winners and losers of trade liberalisation.³⁷ India and China have a major imbalance in their bilateral trade. China-India bilateral trade accounts for approximately 10% of India's overall trade, making China one of its largest trading partners.³⁸ In fact, China became India's leading trade partner when it surpassed the US in 2021.³⁹ India is dependent on Chinese equipment, capital goods, raw materials, and intermediaries.⁴⁰ On the other hand, Indian manufacturers often complain that non-tariff barriers are prevalent in China, making it a difficult export destination. India's trade deficit of US\$85 billion in 2023–24 alone speaks for itself.⁴¹ However, there were larger geopolitical concerns, including the acrimonious border tensions with China in the Galwan Valley.⁴² The Indian government banned certain Chinese

³⁵ See U.N. CONF ON TRADE & DEV., INTERNATIONAL INVESTMENT AGREEMENTS NAVIGATOR: IIAS BY ECONOMY, <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy> (as of date, China has signed 147 BITs).

³⁶ Gregory Shaffer & Henry Gao, *A New Chinese Economic Law Order, in* EMERGING POWERS AND THE WORLD TRADING SYSTEM: THE PAST AND FUTURE OF INTERNATIONAL ECONOMIC LAW 146 (2021).

³⁷ Andreas Freytag & Phil Levy, *The Trade Balance and Winning at Trade, DEFENDING GLOBALIZATION: CATO: PUB.* (Oct. 3, 2024), <https://www.cato.org/publications/trade-balance-winning-trade>.

³⁸ EMBASSY OF INDIA, BEIJING, CHINA, TRADE AND ECONOMIC RELATIONS, https://www.eoibeijing.gov.in/eoibeijing_pages/Mjg.

³⁹ Ravi Dutta Mishra & Dilasha Seth, *China Beats US to Re-Emerge as India's Top Trading Partner*, MINT (Sept. 16, 2022), <https://www.livemint.com/economy/china-beats-us-to-re-emerge-as-india-s-top-trading-partner-11663267543382.html>.

⁴⁰ Sutirtho Patranobis, *Indian Firms Procuring Over 60,000 Oxygen Concentrators From China*, HINDUSTAN TIMES (May 08, 2021), <https://www.hindustantimes.com/world-news/indianfirms-procuring-over-60-000-oxygen-concentrators-from-china-101620464887545.html>.

⁴¹ *India Has High Trade Deficit with China but Gap Narrowing: Goyal*, THE ECON. TIMES (July 26, 2024), <https://economictimes.indiatimes.com/news/economy/foreign-trade/india-has-highest-trade-deficit-with-china-but-gap-narrowing-goyal/articleshow/112041552.cms?from=mdr>.

⁴² Toby Dalton & Tong Zhao, *At a Crossroads? China-India Nuclear Relations After the Border Clash*, CARNEGIE ENDOWMENT FOR INT'L. PEACE (Aug. 19, 2020), <https://carnegieendowment.org/2020/08/19/at-crossroads-china-india-nuclear-relations-after-border-clash-pub-82489>.

apps and left Chinese companies out of the 5G trials.⁴³ Given the trade imbalance and growing national security concerns, economic and trade considerations appear secondary in the Indo-China relationship.

B. *From Look East to Look West*

India's initial FTA approach was anchored in the 'Look East' policy.⁴⁴ The Look East policy aims at developing closer economic, political, and strategic relationships with countries in East and Southeast Asia. The policy was a counter to China's growing influence in the region. The government followed it up with the 'Act East' policy.⁴⁵ The Act East policy seeks to revamp the old policy of 'Look East' and focuses on the proactive role that India can play in geopolitical relationships with East Asian countries. Primarily, the Act East policy focuses on intensifying economic, strategic, and diplomatic relations with countries that share common concerns with India regarding China's growing economic and military clout and its implications for the evolving regional order.

An important limb of the Look East policy during the first decade of the century was India signing FTAs with various countries such as Singapore, Malaysia, Japan, and Korea.⁴⁶ These comprehensive agreements expanded India's reach into East and Southeast Asian markets. However, India's experience with regional trade agreements has been less than satisfactory, because of the lack of competitiveness in its manufacturing sector or the lack of innovation and investment in key sectors such as electronics, textiles, garments, and manufacturing.⁴⁷ Only in a few sectors, such as pharmaceuticals or software, did the industry lobby for greater market access.⁴⁸ Some key sectors, such as steel and chemicals, feared that the imports could decimate their industry. Trade agreements with the Asia-Pacific countries

⁴³ *India Bans Chinese Apps: Number and Names of Apps Banned, Why and More*, THE TIMES OF INDIA (Feb. 14, 2022), <https://timesofindia.indiatimes.com/gadgets-news/india-bans-chinese-apps-number-and-names-of-apps-banned-why-and-more/articleshow/89563101.cms>.

⁴⁴ K.V. Kesavan, *India's 'Act East' Policy and Regional Cooperation*, OBSERVER RSCH. FOUND.: EXPERT SPEAK (Feb. 14, 2020), <https://www.orfonline.org/expert-speak/indias-act-east-policy-and-regional-cooperation-61375/>.

⁴⁵ *Id.*

⁴⁶ Palit, *supra* note 20.

⁴⁷ Amitendu Palit, *Will India's Disengaging Trade Policy Restrict It from Playing a Greater Global Role?*, 20(2) WORLD TRADE REV. 203, 210 (2021).

⁴⁸ *Id.*

were particularly opposed by agricultural producer groups and interests, such as dairy and meat.⁴⁹

C. India's Exit from RCEP

One obvious question is how India's decision to stay out of the RCEP reconciles with its 'Look East' and 'Act East' policies. India had mainly defensive concerns in the context of the RCEP. Staying out of the regional value chains was potentially risky. However, a major comfort was that India had FTAs with all major economies in the region with the possible exceptions of China, Australia, and New Zealand. Concerning Australia, there was an ongoing parallel negotiation that was put on hold when the momentum for the RCEP picked up. Reinitiating the India-Australia trade negotiations was relatively easy; both countries signed an economic cooperation and trade treaty in April 2022.⁵⁰ Therefore, the fear of being isolated from the Asia-Pacific regional value chains was less of a concern. In addition, India's strength lies in areas such as services trade and cross-border movement of service suppliers, for which the RCEP framework provided limited opportunities. Therefore, on a balance of considerations, it was rather easy for India to exit the RCEP negotiations. While announcing the government's decision to leave the agreement, India's Prime Minister noted, "[w]hen I measure the RCEP Agreement with respect to the interests of all Indians, I do not get a positive answer. Therefore, neither the talisman of Gandhiji nor my own conscience permits me to join RCEP."⁵¹ This decision broadly resonated with the industry, the farmers, and other domestic stakeholders.

While the decision to exit the RCEP is widely perceived as a balanced decision, the trade deficit with China and other ASEAN countries still confronts India. Even without an FTA, India's trade deficit with China is around 50% of the overall trade deficit;⁵² the deficit with China hit a record high in March 2022.⁵³ Importantly,

⁴⁹ Amiti Sen, *Australia FTA: India to Keep Sensitive Dairy, Agri Items Out of FTA with Australia*, THE HINDU BUSINESS LINE (Jan. 09, 2022), <https://www.thehindubusinessline.com/news/india-to-keep-sensitive-dairy-agri-items-out-of-fta-with-australia/article38204337.ece>.

⁵⁰ India-Australia Economic Cooperation and Trade Agreement, Austl.-India, Apr. 2, 2022, [2022] A.T.S. 8.

⁵¹ Suhasini Haidar & T.C.A. Sharad Raghavan, *Indian storms out of RCEP, Says trade deal hurts Indian farmers*, THE HINDU (Dec. 03, 2021), <https://www.thehindu.com/news/national/india-decides-against-joining-rcep-trade-deal/article61623346.ece#:~:text=%E2%80%9CThe%20present%20form%20of%20the,India's%20outstanding%20issues%20and%20concerns>.

⁵² Sarma, *supra* note 1.

while India's global imports during the 2010-21 period rose by 63%, its imports from ASEAN alone grew about 120%.⁵⁴ With these trade statistics, it was difficult to be part of a regional trade grouping that could further exacerbate the trade imbalance.

During the RCEP negotiations, India had pushed for maximum market access in the services sector as opposed to the manufacturing sector, where India had to compete with China.⁵⁵ Further, to tackle the trade deficit with RCEP member countries, India also proposed auto-trigger and snapback measures to protect its domestic market, where the special safeguard duties would automatically apply to the partner country if the imports cross the threshold limit.⁵⁶ India also wanted stricter rules of origin measures to curb the flooding of goods from China and dairy products from Australia and New Zealand.⁵⁷ The RCEP partner countries were not particularly accommodating of India's requests for a special and differential regime for these areas. In order to have easy market access for its services, India requested that visa fees be waived by the partner countries of the Agreement.

India had other reasons too for opting out of the negotiations. India's FTA utilisation rates have been generally poor. Low margins of preference, administrative costs associated with rules of origin, and non-tariff measures added to the growing doubts about the benefits of joining the RCEP.⁵⁸ If India were to join the RCEP, it would have almost certainly resulted in asymmetric trade deals, as was the case with the ASEAN FTA. India would have become a net importer for the RCEP partner countries, at least on a greater scale in the short term.⁵⁹

⁵³ P. Krishnankutty, *The long road to Aatmanirbhar Bharat: India's Trade Deficit with China Hit Record \$77 bn in FY22*, THE PRINT (Apr. 25, 2022), <https://theprint.in/economy/the-long-road-to-atmanirbhar-bharat-indias-trade-deficit-with-china-hit-record-77-bn-in-fy22/926987/>.

⁵⁴ Agneshwar Sen, *Why Indian FTAs are Shifting Direction to the West*, EY (Aug. 26, 2022), <https://aktengineering.com.au/why-indian-ftas-are-shifting-direction-to-the-west-ernst-young/> [hereinafter Sen].

⁵⁵ Pankhuri Gaur, *India's Withdrawal from RCEP: Neutralising National Trade Concerns*, 27(2) J. ASIA PACIFIC ECON. 270, 275-276 (2022).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *FTA Utilization — An opportunity in waiting for Indian Industry!*, DELOITTE 1 (2017), <https://www2.deloitte.com/content/dam/Deloitte/in/Documents/tax/tax-2016/in-tax-deloitte-fta-utilization-noexp.pdf>.

⁵⁹ Hugo Erken & Michael Every, *Why India is Wise Not to Join RCEP*, RABOBANK: KNOWLEDGE (Dec. 29, 2020), <https://www.rabobank.com/knowledge/d011308215-why-india-is-wise-not-to-join-rcep>.

III. INDIA'S OUTLOOK TOWARDS FTAs IN A POST-PANDEMIC ERA

The foregoing discussions highlighted India's concerns with respect to the rise of China, the persisting trade deficit with the ASEAN Plus FTA partners, and the reasons for the withdrawal from the RCEP. Part III of the article attempts to analyse the shift in India's outlook towards its external trade policy in a post-pandemic world. This part highlights India's new approach towards concluding FTAs with the Global North and the substantial changes made to its domestic policies to reduce its dependence on China, thereby making India more self-reliant and resilient.

A. India's New Approach towards FTAs

As highlighted above, India's economy was largely closed until the 1990s. In the last three decades, India's economy has opened up considerably. The central government initiated a series of reforms to raise the FDI caps in most sectors.⁶⁰ Investment screening has also been liberalised, with most investments coming under the automatic route.⁶¹ The government has also abolished the Foreign Investment Promotion Board (FIPB), thereby reducing the possibility of government intervention in investment policies.⁶² In 2015, the government initiated a series of measures to rejuvenate the economy and the export sector. It came on the heels of the decline in exports for seventeen consecutive months. This saw the implementation of major schemes — the Smart City Project, Make in India, the Skill India Program, and Digital India — all requiring FDI and rejuvenation of India's manufacturing sector.⁶³ Especially in the post-pandemic world that is marked by heightened geopolitical risks, policy uncertainty, and perceived weak economic projections, the FDI inflows to India have brighter prospects, particularly in contrast with those of China.⁶⁴ Recent data from the

⁶⁰ Press Release, Press Info. Bureau, Ministry Com. & Indus., India gets the highest annual FDI inflow of USD 83.57 billion in FY21-22 (May 20, 2022), <https://pib.gov.in/PressReleasePage.aspx?PRID=1826946>.

⁶¹ Press Release, Press Info. Bureau, Ministry Com. & Indus., Singapore (27.01%), USA (17.94%), Mauritius (15.98%), Netherland (7.86%) and Switzerland (7.31%) emerge as top 5 countries for FDI equity inflows into India FY 2021-22 (July 28, 2022), <https://pib.gov.in/PressReleasePage.aspx?PRID=1845719>.

⁶² DEPT. OF ECON. AFF., MINISTRY OF FIN., F. No. 01/01/FC/2017 – FIPB, OFFICE MEMORANDUM (2017).

⁶³ Nikhil Verma, *Initiatives of Government of India to boost up Indian Economy*, 5(4) J. MGMT. 496, 499 (2018).

⁶⁴ IMF, *China's Foreign Direct Investment: Inward and Outward, 2024* (276) IMF STAFF COUNTRY REP. 40 (2024).

World Bank indicate that FDI inflows into India have risen to levels similar to the FDI inflows into China, measured as a proportion of the domestic GDP.⁶⁵

Given its unique circumstances, India also realised that negotiating bilateral trade deals as opposed to mega-regionals could be in India's interest. When a country negotiates with a group of countries, it is more challenging to address country-specific sensitivities, especially when the interests of multiple countries are being considered. A country with defensive interests can shield a few policies, but not all. When negotiating with the combined heft of the RCEP partners, India was not able to secure its interests in several sectors of its economy. One example of this was the inclusion of 'investment'-specific provisions as part of trade agreements. Having lost a couple of high-profile investment treaty claims, India's preference was to keep investment out of the trade agreement and negotiate BITs based on the Model BIT adopted in 2015.⁶⁶ As a matter of fact, the RCEP does have an investment protection chapter, although the signatories agreed to review the matter of Investor-State Dispute Settlement (ISDS) for a subsequent decision. In services too, India was not open to liberalisation through the negative listing approach. India believed that it could preserve important policy space through the positive listing approach, where some sensitive sectors could be completely kept outside. In other words, by negotiating strategically and keeping its sensitivities in mind, India believed that it could safeguard its core interests.

After moving out of the RCEP negotiations, India's engagement in FTAs has come a full circle. India's experience with FTAs signed before 2019 shows that these agreements have led to a substantial increase in imports as compared to exports.⁶⁷ It is fair to state that the import-export statistics reflect certain structural strengths and weaknesses of the economy. As stated above, there was a widespread belief that past FTAs created significant economic losses by allowing subsidised foreign products or products that received other unfair production advantages. Within the RCEP context, it was not possible for India to seek recognition of certain core demands such as permanent bilateral safeguards, auto-trigger mechanisms, and extensive exclusion categories from tariff liberalisation schedules.

⁶⁵ Ellen Ó Fríl, *Can India Seize its Opportunity to Rival China's Economy?*, LSEG (Feb. 19, 2024), <https://www.lseg.com/en/insights/data-analytics/can-india-seize-its-opportunity-to-rival-china>.

⁶⁶ James J. Nedumpara & Rodrigo P. Lazo, *Does India Need a Model BIT?* 7(2), JINDAL GLOB. L. REV. 117, 122 (2016); Kavaljit Singh, *India Exits the RCEP: What Happens Next?*, MADHYAM: BRIEFING PAPERS (Nov. 6, 2019), <https://www.madhyam.org.in/india-exits-the-rcep-what-happens-next/>.

⁶⁷ Ghosh, *supra* note 4.

Given India's inelastic demand for crude oil, capital goods, and technology transfer payments, it was constantly reminded of the trade imbalance. Having lost its dispute against the US on its export subsidy measures in 2019,⁶⁸ India decided to abolish some of the contentious schemes, such as the Merchant Exports from India Scheme (MEIS).⁶⁹ India is currently reforming its Special Economic Zone Act, 2005 (SEZ Act, 2005) to make it compliant with the WTO Agreement on Subsidies and Countervailing Measures (WTO SCM Agreement).⁷⁰ These are autonomous reforms and are not dependent on WTO compliance as such. Therefore, considering the limited availability of WTO-consistent export incentives, India's only option is to improve the competitiveness of the domestic industry and ensure duty-free access for its products in key export markets.

India's Minister for Commerce and Industry has identified the importance for India to enter into agreements with major "like-minded nations with values of democracy, transparency and mutual growth."⁷¹ These include the G7 countries, which will allow India to expand its sourcing, increase exports, and align with new standards in global finance, clean energy, digital trade, and supply chains.⁷² While India's earlier FTAs focused on goods trade, its new FTA engagements seek deeper economic integration, reflecting the changing paradigm of international trade agreements.⁷³ The FTAs are also an opportunity for industries to benchmark against global standards and to enhance innovation and competitiveness.

There are other advantages too. Supply chains are likely to develop in countries connected by a network of trade agreements. The large economies with which India is currently engaging in trade negotiations can serve as credible supply chain partners and can also offer investment and access to technology to Indian

⁶⁸ Panel Report, *India—Export Related Measures*, WTO Doc. WT/DS 541/R (circulated Oct. 31, 2019).

⁶⁹ *India Loses Export Incentive Case Filed by U.S. at WTO*, THE HINDU (Nov. 01, 2019), <https://www.thehindu.com/business/Economy/india-loses-export-incentive-case-filed-by-us-at-wto/article29851326.ece#:~:text=India%20has%20lost%20a%20case,comply%20with%20the%20WTO%20ruling>.

⁷⁰ *New SEZ Act will be WTO-Compliant, Will Have High-Class Infra: Comm Secy*, THE ECON. TIMES (Feb. 02, 2022), <https://economictimes.indiatimes.com/news/economy/foreign-trade/new-sez-act-will-be-wto-compliant-will-have-high-class-infra-comm-secy/articleshow/89306359.cms?from=mdr>.

⁷¹ Amit Chaturvedi, *India No Longer Signs FTAs Just to Be Part of a Group: Piyush Goyal*, HINDUSTAN TIMES, (Jan. 22, 2022), <https://www.hindustantimes.com/business/india-no-longer-signs-ftas-just-to-be-part-of-a-group-piyush-goyal-101642814485521.html>.

⁷² Palit, *supra* note 20.

⁷³ Sen, *supra* note 54.

industries.⁷⁴ Strong trade agreements can also serve as tools for investment flows. Multinational organisations and industries understand the need to develop alternate supply chain sources, especially in sectors prone to supply disruptions and strategic considerations.⁷⁵

Based on this premise, India initiated its FTA 2.0 with an FTA with Mauritius in April 2021, followed by agreements with the United Arab Emirates (UAE) and Australia in 2022. The negotiations between India and the European Free Trade Association (EFTA) which were initiated in 2008, found a new momentum. FTAs with the United Kingdom (UK) and the European Union (EU) have also progressed substantially.⁷⁶ Even before India launched its ambitious trade negotiations with Australia, Canada, the EFTA, the EU, and the UK, it had seriously explored the possibility of a limited trade agreement (mini-trade deal) with the US on key market access issues. Those discussions fell through due to disagreements on some sensitive issues and the sudden onset of COVID-19 in March 2020.⁷⁷ One of India's core considerations in the current negotiations will be to address the trade imbalance and use exports as a tool to meet India's ambitious target of becoming a US\$5 trillion economy by 2025. This cannot be achieved without strong support from the external sectors. India needs to further integrate its economy with the global economy either by becoming a part of major trading blocs or through bilateral arrangements.

While the level of ambition of trade agreements will depend on the nature and specifics of the country-specific negotiations, India can now be seen engaged in new and emerging areas such as sustainability, digital trade, labour, and government procurement — areas that India opposed for decades at the WTO and other multilateral fora. India has clearly signalled to the world that its approach to FTAs need not be influenced by its stance taken at the multilateral fora. Separating the WTO agenda from the FTA agenda is practically not easy. India pursued its developmental goals, not by acting alone, but as the leader of like-minded developing countries. India's position on several complex areas such as environment, labour, gender, and investment is well known. During the Doha Ministerial Conference in 2001, Minister Muroli Maran reiterated that

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ EUR. COMM'N., EU TRADE RELATIONS WITH INDIA. FACTS, FIGURES AND LATEST DEVELOPMENTS, https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/india_en.

⁷⁷ Trevor Cloen & Irfan Nooruddin, *The U.S.-India Trade Deal Fell Through. What Happens Now?*, WASH. POST: MONKEY CAGE (Mar. 5, 2020), <https://www.washingtonpost.com/politics/2020/03/05/us-india-trade-deal-fell-through-what-happens-now/>.

developing countries lacked the capacity to deal with a multilateral agreement on issues such as environment, competition, investment, and government procurement — the so-called Singapore issues — including the ability to address the consequences that such an agreement may have on domestic policies.⁷⁸ In all subsequent Ministerial Conferences, India opposed the linking of non-trade concerns with market access as part of multilateral trade negotiations. India considers these issues as the “[t]rojan horses of protectionism.”⁷⁹ The opposition to new and emerging areas such as trade and sustainability, which are part of plurilateral initiatives, persists to this day, at least in India’s multilateral engagements.

While India has a good track record of enacting and enforcing legislation on most of the non-trade concerns, linking these issues to the FTAs, including their dispute settlement, will be a challenge. As most Western countries demand strong enforcement of non-trade concerns or behind-the-border measures at the domestic level and the availability of dispute settlement mechanisms to oversee enforcement, shallow best-endeavour commitments may be unlikely to satisfy the trade agreement partners. However, India provides market access opportunities that any trade partner will find hard to ignore. Pragmatic solutions are achievable. One of the options could be to use soft law instruments, including high-level consultative mechanisms, to test the waters for a negotiated initial period. India should be wary of trivial dispute challenges that could be used to embarrass the partner country rather than enforce meaningful trade concessions. The recent labour disputes against Guatemala⁸⁰ and Korea⁸¹ under the chapters of the FTA are cases in point. If India can demonstrate that it is a reliable and stable market for its negotiating partners, this alone would suffice to ward off or resist strong commitments on sustainability and non-trade concerns.

At the same time, if India can manage non-trade concerns and new issues such as sustainability as part of its trade commitments, it could reform the quality of domestic governance to a different level. It will be almost akin to the 1991 economic reforms. Hard reforms can often pay good dividends, as India’s challenge will be mainly in enforcing domestic laws and not enacting them. India

⁷⁸ Murasoli Maran, Ministry of Com. & Indus., Statement at the WTO Ministerial Conference, fourth session at Doha, 2001, WT/MIN (01)/ST/10, 9-10 (Nov. 10, 2001).

⁷⁹ *Id.* 10.

⁸⁰ *In re Guatemala — Issues Relating to the Obligations Under Article 16.2.1(a) of the CAFTA-DR (U.S. v. Guatemala)*, Final Report, CAFTA-DR Arb. Panel (June 14, 2017) [hereinafter *U.S. v. Guatemala*].

⁸¹ REPORT OF THE PANEL OF EXPERTS CONSTITUTED UNDER ART. 13.15 OF THE EU-KOREA FREE TRADE AGREEMENT, PANEL REPORT, E.U.-KOREA ARB. PANEL (Jan. 25, 2021).

has enacted several state-of-the-art legislations and is a party to several international conventions on labour, the environment, and anti-corruption. If India can ensure that the legislations are effective and not mere paper legislations, it will be an impressive achievement. India's experiment with enforcing the WTO's Trade-related Intellectual Property Rights (TRIPS) is a good example. India was sceptical of introducing product patents for pharmaceutical and chemical products, but the new commitments led to drastic reforms in the way Intellectual Property Rights (IPR) are viewed and enforced in the country. In other words, India tried to implement the TRIPS in a manner that responded to India's local needs.⁸² This implementation led to the creation of strong domestic institutions and a competent cadre of legal professionals, patent attorneys, and support staff. India's IPR enforcement is now emulated by other countries. More importantly, it will also help India to be part of an international economic order that respects social values and economic stability.

B. India's Response to the Rise of China — Countering China's Geopolitical Influence

At the beginning of the 21st century, China undertook activities to expand its role and activities in various parts of the world as a part of its quest to become a global superpower, especially in Asia, which is evident through the ambitious Belt and Road Initiative (BRI).⁸³ In South Asia, where India exercises its major influence, China has been involved in infrastructural development activities such as roads, airports, and railways. After the pandemic, when most of the South Asian countries were struggling to revive their economies, China seized the opportunity by supplying economic and financial support to countries such as Nepal, Maldives, Sri Lanka, Bangladesh, and Pakistan.⁸⁴ The increasing influence of China on India's neighbouring countries poses both a security and economic challenge for India.

While the US was facing an economic slowdown and dealing with leadership challenges, China took advantage of the pandemic and showed fast recovery from its effects. China aims to fill the gap that the US has apparently vacated. As a result, many countries looked to China to seek debt relief and development assistance. According to some estimates, nearly 147 countries have indicated

⁸² Amy Kapczynski, *Harmonization and Its Discontents: A Case Study of TRIPS Implementation in India's Pharmaceutical Sector*, 97(6) CAL. L. REV. 1571, 1650 (2009).

⁸³ Andrew Chatzky et al., *China's Massive Belt and Road Initiative*, COUNCIL ON FOREIGN RELS.: BACKGROUNDER (Feb. 02, 2023), <https://www.cfr.org/backgrounder/chinas-massive-belt-and-road-initiative> [hereinafter Chatzky].

⁸⁴ Kai Schultz, *Sri Lanka, Struggling with Debt, Hands a Major Port to China*, THE N.Y. TIMES (Dec. 12, 2017), <https://www.nytimes.com/2017/12/12/world/asia/sri-lanka-china-port.html>.

participation in or signed on to projects that are part of the BRI.⁸⁵ Countries along the BRI have benefitted from Chinese economic diplomacy and contribute to the Chinese international economic order.⁸⁶ As many scholars have already pointed out, China achieves its objectives through an intricate array of non-legal and soft law instruments.⁸⁷

Major democratic allies have responded against China for geopolitical and geo-economic aspirations.⁸⁸ Among these, Australia, the UK, and the US have emerged as the leading allies supported by other countries like Japan and India. AUKUS, a trilateral economic partnership between Australia, the UK, and the US, is one such initiative to promote a free and open Indo-Pacific. The AUKUS partnership has the objective of strengthening security and defence interests through a network of bilateral ties. These initiatives are fortified through the US-led Indo-Pacific Framework for Economic Prosperity (IPEF), which aims to establish and foster a network of 'trusted partners' in the Asia-Pacific to reduce the reliance on China.⁸⁹ At a broader level, the IPEF seeks to achieve an open, free, interconnected, resilient, and secure region through comprehensive treaties on four distinct pillars. These pillars include, notably, a trade pillar, a supply chain pillar, a clean economy pillar, and a fair economy pillar. Among these, all pillars other than the trade pillar have been negotiated and brought into force.

Fig 1: Indo-Pacific Partnership (IPEF)⁹⁰

⁸⁵ Chatzky, *supra* note 84.

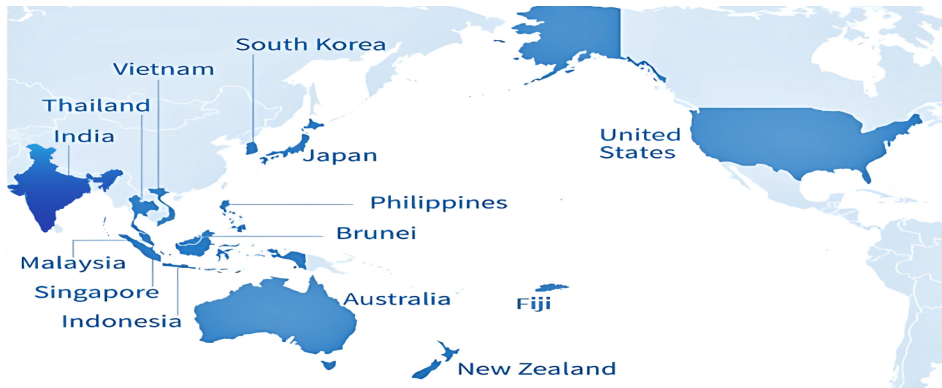
⁸⁶ Frederick Kempe, *Covid-19 Provides China a Historic Chance to Tilt the World in its Favor, But it May Not Last Long*, ATL. COUNCIL: INFLECTION POINTS (May 02, 2020), <https://www.atlanticcouncil.org/content-series/inflection-points/covid-19-provides-china-a-historic-chance-to-tilt-the-world-in-its-favor-but-it-may-not-last-long/>.

⁸⁷ Heng Wang, *China's Approach to Belt and Road Initiative: Scope, Character and Sustainability*, 22(1) J. INT'L. ECON. L. 29, 29-55 (2019).

⁸⁸ Bharat Sharma, *'A Goodwill Gesture?': Countries Hard-Hit by Covid-19 Return Defective Protective Gear Sent by China*, ION: WORLD (Mar. 29, 2020), <https://www.wionews.com/world/a-goodwill-gesture-countries-hard-hit-by-covid-19-return-defective-protective-gear-sent-by-china-289279>.

⁸⁹ Abigail Dahlman & Mary E. Lovely, *US-led Effort to Diversify Indo-Pacific Supply Chains Away from China Runs Counter to Trends*, REALTIME ECON. (Sept. 6, 2023), <https://www.piie.com/blogs/realtime-economics/us-led-effort-diversify-indo-pacific-supply-chains-away-china-runs-counter>.

⁹⁰ NEW ZEALAND FOREIGN AFFAIRS AND TRADE, IPEF OVERVIEW, <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-under-negotiation/indo-pacific-economic-framework-for-prosperity/ipef-overview> (reconstructed from New Zealand Foreign Affairs and Trade).



Several countries that are part of the aforesaid initiatives have brought in policies against China on grounds of national security threats and to prevent the takeover of strategic assets by the Chinese companies.⁹¹ Further, several countries adopted measures to encourage domestic companies to move their base from China. For example, Japan has introduced incentives for its firms to move their production from China.⁹² India too has made changes to its FDI policy to keep Chinese companies out and has excluded Huawei and ZTE Corp from the ‘trusted sources’ of 5G networks.⁹³

India, Australia, and Japan have entered into an agreement to develop a supply-chain resilience program in the Indo-Pacific region.⁹⁴ Their agreement counters China’s existing position as an export hub; on the other hand, India has pitched

⁹¹ Kristy Needham & Scott Murdoch, *Australia Shakes up Foreign Investment Laws for National Security*, REUTERS, (June 5, 2020), <https://www.reuters.com/article/us-australiainvestment-idUSKBN23C01J>.

⁹² *Japan Sets Aside ¥243.5 Billion to Help Firms Shift Production Out of China*, JAPAN TIMES (Apr. 9, 2020), <https://www.japantimes.co.jp/news/2020/04/09/business/japan-sets-aside-%C2%A5243-5-billion-help-firms-shift-production-china/#.XruWCEQzBIU>.

⁹³ Press Note No. 3 (2020 Series), Dept. for Promotion Indus. & Internal Trade, Ministry Com. & Indus., Review of Foreign Direct Investment (FDI) Policy for Curbing Opportunistic Takeovers/Acquisitions of Indian Companies Due to the Current COVID-19 Pandemic (Apr. 17, 2020), https://dipp.gov.in/sites/default/files/pn3_2020.pdf; Danish Khan, *5G: End of the Road for Huawei and ZTE in India?*, ET TELECOM (May 30, 2022), <https://telecom.economicstimes.indiatimes.com/news/huawei-zte-struggle-to-meet-trusted-sources-nod-requirements/91873345>.

⁹⁴ Rajeswari Pillai Rajagopalan, *Australia-Japan-India Trilateral Sets Sights on Supply Chain Resilience*, THE DIPLOMAT (Oct. 2, 2020), <https://thediplomat.com/2020/10/australia-japan-india-trilateral-sets-sights-on-supply-chain-resilience/>.

itself to be the next main export destination.⁹⁵ The Government of India has stressed that global supply chains should be built on trust, without any adverse effect on the partners.⁹⁶

Although India cannot match the infrastructural facilities that China provides, it has been gaining increased attention as a viable alternative for trade and production. The *Aatmanirbhar Bharat* campaign and the ambitious goals set by the Government of India, at least in principle, seek to provide a complementary set of policies to position India as a viable alternative to China.

In this context, India's economic opportunities are huge; it has a vast supply of low-cost labour, with some 361 million people, or 26% of the population, below the age of fifteen in 2020.⁹⁷ As China's labour costs rise and it sheds foreign-invested manufacturing activities to more competitive locations, it is for India to seize the opportunity and become the leader in manufacturing.⁹⁸ Accelerating India's industrial transformation and economic growth is achievable given the right complementary trade and investment strategies, deeper factor market reforms, and national investment in decarbonising the economy.

IV. CONSTRUCTING A RESILIENT ECONOMY — INDIA'S POST COVID-19 EFFORTS

The foregoing discussions highlight the importance of laying the foundations for a strong industrial base while considering or negotiating FTAs. An action-oriented trade policy should work in tandem with a strong industrial policy. The Indian government introduced several measures in the post-pandemic period to revive production and competitiveness. In 2019, a high-level advisory group released a report that detailed what India must do for its exports to reach US\$1 trillion by

⁹⁵ *India's Opportunity to Become a Global Manufacturing Hub*, WORLD ECON. F. (Aug. 2, 2021), <https://www.weforum.org/press/2021/08/india-s-opportunity-to-become-a-global-manufacturing-hub/>.

⁹⁶ MINISTRY OF EXTERNAL AFF., TEXT OF THE PRIME MINISTER'S SPECIAL KEYNOTE ADDRESS AT US-ISPF US-INDIA SUMMIT 2020 (Sept. 03, 2020), https://www.mea.gov.in/Speeches-Statements.htm?dtl/32931/Text_of_Prime_Ministers_Special_Key_Note_Address_at_USI_SPF_USIndia_Summit_2020.

⁹⁷ Peter Drysdale & Charlie Barnes, *A Prescription for India Greatness*, ASIA TIMES (Aug. 8, 2022), <https://asiatimes.com/2022/08/a-prescription-for-india-greatness/>.

⁹⁸ Arvind Jayaram, *Rise in Chinese Manufacturing Costs Offers Opportunities for India*, THE HINDU BUS. LINE (Mar. 12, 2018), <https://www.thehindubusinessline.com/economy/rise-in-chinese-manufacturing-costs-offers-opportunities-for-india/article23098333.ece> [hereinafter Jayaram].

2025. It suggested urgent reform of labour laws, easing of regulatory controls, lowering the cost of capital, selection of the right trading partners, introduction of sector-specific strategies to drive exports (especially in pharmaceuticals, biotechnology, textiles, and electronics), and formation of a special committee to take quick decisions on FDI (including identification of potential investors).⁹⁹

It is expected to focus on the development of MSMEs and their integration into the Global Value Chains (GVCs), along with identifying potential products and services to increase exports; for example, identifying specifically Geographically Indicated (GI) products. In March 2021, the Government of India announced plans to establish a new mechanism to increase import screening to protect domestic manufacturers. The policy is also expected to boost exports of MSMEs by adopting e-commerce platforms and support in identifying new sectors with significant export potential. It will include schemes for district export hubs wherein the government will identify potential products and services in each district and set up promotion panels and action plans as a part of the initiative targeted at small businesses and farmers. It will also include reducing “domestic and overseas constraints related to policy, regulatory, and operational frameworks for lowering transaction costs and enhancing ease of doing business.”¹⁰⁰

A recent report by India’s Ministry of Commerce and Industry, titled ‘Department of Commerce Restructuring Dossier,’ identifies 5 major pillars for revamping India’s commerce policy — Increasing India’s share in global trade, assuming a leadership role in multilateral organisations, the democratisation of trade, creating 100 Indian Brands as Global Champions, and setting up Economic Zones in India to strengthen the manufacturing base and attract greater investments to India.¹⁰¹

A. The era of Aatmanirbhar Bharat

As discussed above, the launch of the *Aatmanirbhar Bharat* scheme aims to tackle the adverse effects of the pandemic and lay the foundations of a strong manufacturing economy.¹⁰² It aims to create “an eco-system that will allow Indian

⁹⁹ MINISTRY OF COM. & INDUS., REPORT OF THE HIGH-LEVEL ADVISORY GROUP (2019).

¹⁰⁰ *Foreign Trade Policy 2021-2026: Expectations for the Import-Export Sector*, COGOPORT: TRADE INSIGHTS (Aug. 2, 2021), <https://www.cogoport.com/blogs/foreign-trade-policy-2021-2026-expectations-for-the-import-export-sector>.

¹⁰¹ Press Release, Press Info. Bureau, Ministry Com. & Indus., Shri Piyush Goyal releases report on ‘Restructuring of Department of Commerce’, (Aug. 23, 2022), <https://pib.gov.in/PressReleasePage.aspx?PRID=1853971>.

¹⁰² NAT’L. PORTAL OF INDIA, BUILDING ATMANIRBHAR BHARAT AND OVERCOMING COVID-19 (2020).

companies to be highly competitive on the global stage.”¹⁰³ The introduction of the *Aatmanirbhar Bharat* scheme by the Government of India was a move to create a shift in the trade policy from exports towards attracting shifts of supply chains by enhancing manufacturing capacity.¹⁰⁴ However, exports will remain a key objective as exemplified by the motto, “Make in India, Make for the world”.¹⁰⁵ Six years after the launch of the ‘Make in India’ policy, the Government has changed its focus from trying to provide a ‘one-stop’ solution to leveraging India’s strengths, i.e., catering to its large consumer market and supporting the strong domestic demand. This is somehow a realisation that before convincing the world to buy from India, it must convince Indians to buy local.

Any public policy measure requires a clear purpose and a targeted intervention. The key objectives of *Aatmanirbhar Bharat Abhiyan* are to: (i) develop India into a global supply chain hub; (ii) build the government’s trust in the private sector’s capabilities and prospects; (iii) establish ‘good force multipliers’ for Indian manufacturers; (iv) enter the global market to export goods, including agriculture, textiles, clothing, and jewellery; and (v) determine the adequacy of each sector (e.g., defence, agriculture, healthcare, infrastructure, etc.) to achieve self-reliance.¹⁰⁶

India’s foreign trade policy has been influenced by this shift in the government’s stance to promote Indian goods in the global supply chain market and to build a self-reliant India. The underlying objective is that in order to engage with the world, India needs to build a resilient domestic sector. Attracting investment and improving productivity are key components of the policy. The focus is not merely on augmenting domestic manufacturing but on making India a key player in the GVC. India’s GVC participation is significantly lower than that of China, Vietnam, Korea, and other Southeast Asian countries.¹⁰⁷ Although China’s GVC centrality

¹⁰³ N. Madhavan, *What Exactly Is Aatmanirbhar Bharat?*, THE HINDU BUS. LINE (Apr. 15, 2021), <https://www.thehindubusinessline.com/opinion/what-exactly-is-Aatmanirbhar-bharat/article34328520.ece>.

¹⁰⁴ JAGADISH SHETTIGAR & POOJA MISRA, *RESURGENT INDIA: THE ECONOMICS OF ATMANIRBHAR BHARAT* (2022).

¹⁰⁵ *Govt Moving Ahead with Idea of Make in India, Make for World’, Says PM Modi at WEF*, THE TIMES OF INDIA (Jan. 17, 2022), <https://timesofindia.indiatimes.com/business/india-business/govt-moving-ahead-with-idea-of-make-in-india-make-for-world-said-pm-modi-at-wef/articleshow/88957982.cms>.

¹⁰⁶ *Self-reliant India (Aatmanirbhar Bharat Abhiyan)*, INDIA BRAND EQUITY FOUND.: GOVERNMENT SCHEMES, <https://www.ibef.org/government-schemes/self-reliant-india-aatm-nirbhar-bharat-abhiyan>.

¹⁰⁷ C. Veeramani & Garima Dhir, *Dynamics and Determinants of Fragmentation Trade: Asian Countries in Comparative and Long-term Perspective*, 29 (Indira Gandhi Inst. of Dev. Rsch. Mumbai, Working Paper 2019-040, Dec. 2019).

has been expanding substantially, in the aftermath of the COVID-19 pandemic, there is a greater focus on diversifying or relocating existing GVCs. Hence, GVCs are being reshaped and reconfigured.¹⁰⁸ Aligning the goals of foreign trade policy with the goals of *Aatmanirbhar Bharat* is critical at this juncture. Trade facilitation, compliance, and ease of trading are issues that need to be addressed for exporters, such that the manufacturing sector can realise its full potential.

The following discussion identifies the two schemes that can serve the objectives of the *Aatmanirbhar Bharat* policy.

(a) Targeted focus on PLI schemes: The PLI scheme for fourteen key sectors, with the objective of boosting domestic manufacturing, investments, and exports, was launched in November 2020.¹⁰⁹ The scheme is for increasing production capacity to incentivise large-scale manufacturing facilities. It would help in improving the industrial infrastructure in the country. Further, the scheme aims to reduce India's reliance on imported products and increase exports by promoting domestic industries. An immediate benefit of this would be employment generation and a boost to India's transition to the green economy. The sectors covered under the scheme are automobiles and auto components, advanced chemical cell batteries, pharmaceuticals, food processing, speciality steel, solar photovoltaic modules, white goods, telecom, and textiles.¹¹⁰ In short, to build resilience, the PLI scheme should focus on sectors with a greater prospect of higher return and employment generation. Investment in sectors where import dependencies are higher could also be a key consideration.

(b) Champion Sector Reforms: These have been launched by the government in certain key sectors, including leather, gems, jewellery, renewable energy, pharmaceuticals, and textiles. The Ministry of Commerce launched an action plan to provide hand-holding for investors, with a focus on improving India's manufacturing capabilities.¹¹¹ The Bureau of Indian Standards (BIS) has set up a dedicated Services Sector Division Council (SSDC) to formulate Indian standards in various services sectors, especially Champion Services Sectors.¹¹² Wherever possible, the Indian standards are harmonised with international standards to ensure that the quality of services matches global expectations.

¹⁰⁸ Badri N. Gopalakrishnan & Kannan Kumar, *India Integrating into Global Value Chains*, THE HINDU BUSINESS LINE (Mar. 28, 2022), <https://www.thehindubusinessline.com/opinion/india-integrating-into-global-value-chains/article65267443.ece>.

¹⁰⁹ Thakkar, *supra* note 14.

¹¹⁰ *Id.*

¹¹¹ Press Release, Press Info. Bureau, Ministry Com. Indus., Services Sector (Dec. 22, 2021), <https://pib.gov.in/PressReleasePage.aspx?PRID=1784206>.

¹¹² *Id.*

Likewise, the government has formulated an ‘Action Plan for Champion Sectors in Services’ in twelve sectors.¹¹³ This action plan is part of a multiprong strategy to promote certain identified sectors, such as information technology, tourism, business services, maritime services, construction, and related services, to name a few. The key purpose is to make these service sectors globally competitive.

In comparison with the past, India is now in a better position to leverage this opportunity, as it has emerged as an attractive alternative to traditional GVCs and is now focused on integrating itself into the regional GVCs.¹¹⁴ In addition, India is well-equipped to attract corporations that are revamping their GVCs. To do this, the government has taken steps such as labour law reforms, land reforms by availing a land pool for investment and reducing the transaction cost for investors, and digitalisation of administrative processes and approvals. Moreover, the Zero Defect Zero Effect (ZED) certification and liberalised FDI laws in most sectors of the economy can provide a further fillip to manufacturing. In addition, infrastructure development in India would benefit the manufacturing sector by attracting FDI and result in better integration into the GVC.¹¹⁵ Furthermore, the development of the ‘India Customs and Central Excise Electronic Commerce/Electronic Data Interchange (EC/EDI) Gateway’ (for short “ICEGATE”), seeks to assist importers, exporters and customs brokers to access a variety of e-services. These are important trade facilitation measures that seek to improve the ease of doing business in India.

In other words, the aforesaid measures were taken to reduce dependence on the Southeast countries and China, in particular. While India remains a key partner of this geographical region, it has realised that not engaging with the Global North is not suited to its long-term goals. However, as this article has argued, engagement

¹¹³ Press Release, Press Info. Bureau, Ministry Com. & Indus., Centre formulates ‘Action Plan for Champion Sectors in Services’ to give focused attention to 12 identified Champion Services Sectors (Feb. 10, 2023), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1898023>; *Government Identifies ‘Champion Sectors’ for Hand-Holding of various Investments: Official*, THE ECON. TIMES (May 17, 2020), <https://economictimes.indiatimes.com/news/economy/policy/government-identifies-champion-sectors-for-hand-holding-of-various-investments-official/articleshow/75787502.cms>.

¹¹⁴ Jayaram, *supra* note 98; Yamini Jindal, *Policy Imperatives for India’s Integration into Electronics GVC*, ORF ISSUE BRIEF: ISSUE NO. 561 (2022), <https://www.orfonline.org/public/uploads/posts/pdf/20230816153234.pdf>.

¹¹⁵ *Id.*; Dagmar Walter et al., *Bringing MSMEs Into Inclusive and Sustainable Global Value Chains*, THE HINDU (June 29, 2022), <https://www.thehindu.com/opinion/bringing-msmes-into-inclusive-and-sustainable-global-value-chains/article65568582.ece>.

with the Global North also entails that India will have to fundamentally reconsider its long-entrenched position on several trade and non-trade-related topics.

V. CONCLUSION

Since its independence in 1947, India has proactively engaged with multilateral institutions and legal frameworks. For long, India was part of the Non-Alignment Movement and played its role as a defender of developing country interests and in establishing a rule-based international economic order. India was often perceived as an obstructionist that was unprepared to compromise on hard ideologies. However, the rise of China and the integration of the Southeast Asian countries have forced India to revisit its role and form trade alliances that can serve its interests better. While India is geographically and culturally better suited to be part of the Southeast Asian integration, India has realised that its Look East and Act East Policy need not always deliver. India is fully aware of the need to explore relationships with the Global North. This marks a sea change in India's external commercial diplomacy.

India is currently engaged in FTAs with leading Western countries such as the EU and the UK, while the FTA negotiations with Canada have been paused because of political reasons. India has already negotiated an ambitious agreement with Australia in 2022 and with the European Free Trade Association (Switzerland, Lichtenstein, Norway, and Iceland) in 2024. In other words, India may consider trade agreements with all G7 countries, including the United States, at some point in time in the near future. This appears to be a clear departure from India's past alignments. A change in direction will also entail that India may have to reconsider its opposition to various non-trade concerns such as environment, gender, and labour. While it is possible to decouple multilateral trade negotiations from bilateral and preferential trade negotiations, India will have to ensure that divergent positions do not lead to policy incoherence. In addition, it may have to calibrate its approach to various domestic policy initiatives such as Make in India and *Aatmanirbhar Bharat*. While these policies can ensure the restoration of supply chains in critical sectors and technologies, ultimately, both external and domestic policies need to converge. While some of India's responses are shaped by the rise of China, it is an opportunity for India to develop a new India-inspired international economic order. However, for India to inspire a new economic order, it must enforce its domestic legislations, facilitate trade, educate its youth, improve infrastructure, and uphold the values of a rule of law-based society. In addition, India needs to develop strong domestic resilience, innovation and competitiveness. In other words, measures that India adopts to lessen its dependence on China or other Southeast Asian partners alone will not help India to inspire a new international economic order.