India and APEC
An Appraisal

RIS
Research and Information System
for Developing Countries

ASEAN-India
Centre at RIS

India and APEC: An Appraisal

India and APEC: An Appraisal

by

V. S. Seshadri

ASEAN-India
Centre at RIS

RIS
Research and Information System
for Developing Countries

ISBN: 81-71299-108-4

Published in 2015 by:

ASEAN-India Centre at RIS

RIS
Research and Information System for Developing Countries

Core IV-B, Fourth Floor, India Habitat Centre
Lodhi Road, New Delhi-110 003, India
Ph.: +91-11-24682177-80, Fax: +91-11-24682173-74
E-mail: dgoffice@ris.org.in
Website: www.ris.org.in, http://aic.ris.org.in

Contents

List of Tables and Figures

Tables

List of Figures

Foreword

Ambassador Shyam Saran
Chairman, RIS

India is a member of several regional and sub-regional forums covering East and South East Asia as also of the larger East Asia Summit. It is, however, not part of the Asia Pacific Economic Cooperation (APEC) forum that was established twenty five years ago. This is even as India remains a gateway to the Asia-Pacific and has been a leading emerging economy in this region.

As India continues to take strides in fostering accelerated economic development, India's continued absence in APEC seems a void. India's participation in APEC could help to further consolidate India's quest to speed up growth and to also integrate closer with its neighbouring Asia-Pacific economies. It can also help India to become familiar and more involved with the sweeping changes taking place in the region towards reducing transaction costs, improved connectivity, greater supply chain linkages and shared production networks. Furthermore, it can have a catalytic impact on several recent initiatives by the government such as the 'Make in India' campaign or the move to improve India's ranking in the 'Ease of Doing Business' Index.

The ASEAN-India Center at RIS had been tasked by the Ministry of External Affairs (MEA) to undertake studies with a view to explore how India's ties with East and South East Asia can be further strengthened. This Study on 'India and APEC: An Appraisal' is the first in this exercise with Dr. V. S. Seshadri as the principal investigator. It examines the desirability of India joining APEC. It also looks at how India may be able to cope with and contribute towards the work programme and aspirational goals of APEC. The study goes on to indicate elements of a possible approach by which India's membership could be further pursued with APEC members, many of whom are also India's strategic partners.

APEC's activities cover a wide variety of disciplines. It is also unique in the sense of involving the business community in a consultative manner in its activities. It is, therefore, important that the recommendations made in the study are examined by all stakeholders including trade and industry circles.

A suitable strategy needs to be devised if it is decided to pursue membership. It is hoped that this study can be of some assistance in this regard.

Shyam Saran

Acknowledgements

This study was undertaken under the overall guidance of Ambassador Shyam Saran, Chairman, RIS. The lead investigator was Dr. V. S. Seshadri, Vice-Chairman, RIS who also authored the main report. Annexure 8 of the Report, which has done a comparative study of laws and practices in India and select APEC economies, was contributed by a team from the Center for WTO Studies, IIFT, led by its Head, Shri Abhijit Das. Annexure 9 of the Report on 'APEC and Indian Customs' was contributed by Shri Shashank Priya, Commissioner (GST Cell), New Delhi in his personal capacity. Ms. Aditi Gupta, Consultant, RIS assisted in the preparation of Annexure 10 on trade in environmental goods and Annexure 11 on ITA-2. Technical assistance in compiling the report was provided by Mr. N. N. Krishnan. The publication of the report was undertaken by the Publications Unit, RIS consisting of Shri Tish Malhotra, Mr. Sachin Singhal and Ms. Ruchi Verma.

This study under the aegis of ASEAN-India Centre at RIS was supported by a grant from the Ministry of External Affairs (MEA) which is gratefully acknowledged. The author is also thankful to Ambassador Anil Wadhwa, Secretary (East), Ministry of External Affairs (MEA) and Ms. Pooja Kapur, Joint Secretary (ASEAN Multilateral), Ministry of External Affairs (MEA) for their support and encouragement.

The author also received active support from Prof. Sachin Chaturvedi, Director General of RIS, Dr. Prabir De, Coordinator of ASEAN-India Centre at RIS and other faculty members of RIS during the course of the study. The High Commission of India, Singapore facilitated the author's several interactions in Singapore. Usual disclaimers apply.

List of Abbreviations

ABAC	:	APEC Business Advisory Council
ABTC	:	APEC Business Travel Card
ACP	:	Accredited Clients Programme
ACTA	:	Anti-Counterfeiting Trade Agreement
AEO	:	Authorised Economic Operator
ANSSR	:	APEC New Strategy for Structural Reforms
APEC	:	Asia-Pacific Economic Cooperation
APMEN	:	Asia Pacific Model E-Port Network
ARTS	:	Automated Recording and Targeting System
ASEAN	:	Association of South East Asian Nations
ASPIRE	:	APEC Science Prize for Innovation, Research and Education
BIS	:	Bureau of Indian Standards
BITs	:	Bilateral Investment Treaties
CBEC	:	Central Board of Excise and Customs
CBNI	:	Capacity Building Needs Initiative
CBPR	:	Cross Border Privacy Rules
CCEA	:	Cabinet Committee on Economic Affairs
CCS	:	Cabinet Committee on Security
CESTAT	:	Customs, Central Excise and Service Tax Appellate Tribunal
CFS	:	Container Freight Stations
CL	:	Compulsory Licensing
CTE	:	Committee on Trade and Environment
CVC	:	Central Vigilance Commission
DGCIS	:	Directorate General of Commercial Intelligence and Statistics
DGFT	:	Directorate General of Foreign Trade
EAS	:	East Asia Summit
ECOTECH	:	Economic and Technical Cooperation
EDI	:	Electronic Data Interchange
EEMRA	:	Electrical and Electronic Mutual Recognition Arrangements
EGA	:	Environmental Goods Agreement
EGS	:	Environmental Goods and Services
FDI	:	Foreign Direct Investment
FII	:	Foreign Institutional Investor
FIPB	:	Foreign Investment Promotion Boards
FTA	:	Free Trade Agreement
FTAPP	:	Free Trade Area of the Asia-Pacific
GATS	:	General Agreement on Trade in Services
GATT	:	General Agreement on Tariffs and Trade
GDP	:	Gross Domestic Product
GIS	:	Geographic Information System

GoS	:	Group on Services
GP	:	Government Procurement
GPA	:	Government Procurement Agreement
GPEG	:	Government Procurement Experts' Group
GVC	:	Global Value Chain
IAPs	:	Individual Action Plans
ICD	:	Inland Container Depots
ICEGATE	:	Indian Customs EDI Gateway
ICES	:	Indian Customs EDI System
IIFT	:	Indian Institute of Foreign Trade
ICT	:	Information and Communication Technology
IEC	:	International Electro-technical Commission
IEG	:	Investment Experts' Group
IFAP	:	Investment Facilitation Action Plan
IIA	:	International Investment Agreement
IMF	:	International Monetary Fund
IPEG	:	Intellectual Property Expert Group
IPPs	:	Independent Power Producers
IPRs	:	Intellectual Property Rights
ISO	:	International Organisation for Standardisation
ISPs	:	Internet Service Providers
ITA	:	Information Technology Agreement
JNCH	:	Jawaharlal Nehru Custom House
JNPT	:	Jawaharlal Nehru Port Trust
LLP	:	Limited Liability Partnership
LPI	:	Logistics Performance Index
LSIF	:	Life Science Innovation Forum
MFN	:	Most Favoured Nation
MIDA	:	Malaysian Investment Development Authority
MIS	:	Management Information System
MNEs	:	Multi National Enterprises
MRA	:	Mutual Recognition Agreement
MRI	:	Magnetic Resonance Imaging
MSE	:	Micro and Small Enterprises
MSMED	:	Micro, Small and Medium Enterprises Development
NAMA	:	Non-Agricultural Market Access
NBPs	:	Non-Binding Principles
NIC	:	National Informatics Centre
NSW	:	National Single Window
NTBs	:	Non-Tariff Barriers
NTMs	:	Non-Tariff Measures
OAA	:	Osaka Action Agenda
OECD	:	Organisation for Economic Cooperation and Development

OSPCA	:	On Site Post Clearance Audit
PCA	:	Post Clearance Audit
PECC	:	Pacific Economic Cooperation Council
PSU	:	Policy Support Unit
RCEP	:	Regional Comprehensive Economic Partnership
REI	:	Regional Economic Integration
RES	:	Remote EDI System
RMS	:	Risk Management System
RTA	:	Regional Trade Agreement
SAP	:	Sevices Action Plan
SCCP	:	Sub-Committee on Customs Procedures
SCFAP	:	Supply Chain Connectivity Framework Action Plan
SCSC	:	Sub-Committee on Standards and Conformance
SEZ	:	Special Economic Zone
SIAM	:	Society of Indian Automobile Manufacturers
SOM	:	Senior Officials' Meeting
SMEs	:	Small and Medium Sized Enterprises
SPS	:	Sanitary and Phytosanitary
SSC	:	Secure and Smart Container
STAR	:	Services Trade Access Requirements
STRI	:	Services Trade Restrictiveness Index
TBT	:	Technical Barriers to Trade
TDRs	:	Transferable Development Rights
TFAP	:	Trade Facilitation Action Plan
TISA	:	Trade in Services Agreement
TPP	:	Trans-Pacific Partnership
TRIPS	:	Trade-Related Aspects of Intellectual Property Rights
TRS	:	Time Release Survey
WIPO	:	World Intellectual Property Organisation
WTO	:	World Trade Organisation
WCO	:	World Customs Organisation

Executive Summary

1. The Asia-Pacific Economic Cooperation (APEC) forum is a premier regional institution promoting trade, investment and other linkages among economies of the Asia-Pacific region. India is not a member of APEC but has close political, economic and strategic ties with many of its economies. This Study examines the desirability of India joining APEC. It also probes the question whether India will be accepted if it shows interest.

2. APEC celebrated its 25th anniversary last year. At the meeting held in Beijing from 10 to 11 November 2014 the Leaders declared that in the quarter century APEC not only made significant contributions to the region's economic development, social progress and improvement of people's livelihoods, but also epitomised the great changes and rising strategic position of the Asia-Pacific. The Summit meeting held under China's Chairmanship also took several initiatives towards further advancing the Asia-Pacific partnership. Key among them was its endorsement of a roadmap for achieving a Free Trade Area of the Asia-Pacific (FTAPP). The Summit also launched a blueprint for the next ten year period 2015-25 on enhancing physical, institutional and people-to-people connectivity to reach a seamlessly and comprehensively connected and integrated Asia-Pacific. A third major outcome was the adoption of a blueprint on global value chain development.

3. The Philippines, Chair of APEC for 2015, has already announced the priorities for APEC during the year. President Aquino has proposed establishing a more inclusive economic environment across Asia-Pacific as the main focus. APEC's work is to be taken forward under four main themes, viz. enhancing regional economic integration, fostering SMEs participating in the regional and global economy, strengthening human capital

development, and building sustainable and inclusive communities including enhancing disaster preparedness.

4. APEC has come a long way since its first ministerial meeting held in Canberra in November 1989, but continues to be an informal forum deciding on the basis of consensus and its action plans and targets are aspirational in nature. Working through voluntary cooperation it plans and implements its programmes through networking, capacity building, sharing of and developing best practices and conducting peer reviews to encourage conformity and compliance. It has been an incubator of ideas working closely with the private sector, mainly through the APEC Business Advisory Council (ABAC), thereby forming an integral part of its consultative mechanism. APEC's major annual event, that has largely been behind its prominence and effectiveness, has been the Leaders' Meeting that has been held every year since the Seattle Summit in 1993 with consistent highest level attendance.

5. APEC's membership, which was 12 economies to begin with, steadily expanded to 21[1], but after 1998 there has been no further expansion. However, the relative economic weight of APEC economies has grown, accounting now for over 43 per cent of world population, 57 per cent of world GDP and 47 per cent of world trade.

6. APEC began with its focus largely on liberalising trade and investment that continues till date. The Bogor Goals (announced in 1994) of freeing trade and investment by 2010 by developed APEC member economies and by 2020 on the part of developing APEC members were to be achieved through a voluntary process on an 'open liberalism' model and the roadmap for achieving these goals was laid out in 1995 in the Osaka Action Agenda (OAA) in fifteen areas[2] covering trade and investment liberalisation and facilitation. These efforts were to be supported by economic and technical cooperation among member economies.

7. APEC has progressively moved from looking at not only measures at the border but also those inside the border (domestic measures affecting trade and investment) and across the border.

8. APEC has also come to address a range of issues in reaction to evolving international developments. Structural reforms, secure trade, climate change, dealing with pandemics and disaster preparedness are some of them. All these have resulted in creation of sectoral and functional networks, greater information exchange, identification of best practices/policy principles, mutual recognition arrangements, centres of excellence or other facilities, all of which seek to promote policy development in the respective areas and foster closer regional economic integration.

9. APEC is credited with many successes. The APEC Business Travel Card that enables accredited business persons (the number of APEC card holders exceed 166,000) to enter all APEC economies virtually visa free has become very popular. The implementation of APEC Trade Facilitation Action Plan (TFAP-I) from 2002-2006 resulted in reducing transaction costs by at least 5 per cent that was followed by TFAP-II from 2007-2010 with another similar 5 per cent reduction. APEC is building on this further by

targeting a 10 per cent improvement in supply chain performance by 2015. Likewise is the action programme launched for bringing about a 25 per cent improvement in the Ease of Doing Business by 2015. APEC has progressively transformed itself into a process by which a steady stream of realistic but ambitious targets are sought to be achieved.

10. Apart from the inherently unattainable Bogor Goals on an open liberalism basis, APEC's critics have drawn attention to APEC's virtual inaction during the Asian financial crisis and its general failure to tackle financial issues. Yet, another weakness cited is APEC's voluntary and non-binding nature. Some have, however, regarded this as APEC's strength. Another criticism voiced has been that the development gaps among APEC members had widened over the years. The 2014 Leaders' declaration has claimed that APEC has been 'working to narrow the development gap'. It is to be seen if during the Philippines Chairmanship, APEC will be providing new thrust in this direction.

11. Questions do arise also about the continued relevance and importance of APEC. Forums like East Asia Summit (EAS) and the G-20 Summit bring together Leaders many of whom also attend the APEC Summit. Will APEC continue to attract highest level attendance particularly after conclusion of a binding Trans-Pacific Partnership (TPP) that also carries many 'behind the border' commitments? Already twelve of APEC members participate in TPP negotiations. There is also distinct possibility that more could join including China.

12. These are questions that may be difficult to answer at this stage in a definitive manner. APEC, however, still enjoys being a unique informal discussion forum, as a process for promoting greater regional integration and as a laboratory of ideas that also allows ideas to be taken forward in whichever way possible. Beyond the objective of economic cooperation, an unspoken security element underpinned APEC, which united both sides of the Pacific in an unique and effective manner. Also unlike EAS, which is one afternoon with Leaders reading from prepared texts, APEC was a very different forum that allowed Leaders to informally discuss amongst themselves. What is also relevant to note is that all slots for hosting the annual APEC Leaders' Meeting are filled, and, therefore, the chair for those years, have already been taken till 2022.[3]

13. Turning to whether India should join APEC, this Study has examined three interrelated aspects: (i) How does India fare on reform and liberalisation in the areas identified by the Osaka Action Agenda (OAA) and will APEC help it move further?; (ii) Will joining APEC benefit India?; and (iii) What could be any possible downside and how do they all add up?

14. On several of the reform areas identified in OAA, India's progress is comparable to that of APEC developing economies but in certain others more time may be necessary. But, the move towards reform and greater openness is clear.

    a) **Customs Procedures:** India has launched several initiatives for simplification of customs procedures and their transparency more or less on the lines of several

APEC developing economies. India is, however, still several ranks behind in terms of Logistics Performance Index or in respect of cost per container to export or import. India could benefit from best practices and reforms developed by APEC including on implementing Single Window scheme, harmonious blending of customs clearance with the logistics and supply chain network, establishment of common standards and mutual recognition of procedures apart from capacity building programmes.

b) **Tariffs:** India's average applied tariffs of 10.2 per cent for non-agricultural products and 33.5 per cent for agricultural products are considerably higher than those for APEC economies. While India has made significant progress on tariff reduction since 2000, making further progress towards tariff reduction will not be easy. Already, its merchandise trade deficit is 38 per cent of its exports, much larger than any other developing APEC economy. Infrastructure constraints further require a certain minimum level of protection to offer a level playing field to domestic industry. Ease of pressure on these fronts will be necessary before further tariff reductions can be effected. An earlier policy of moving towards ASEAN tariff levels could perhaps be revived when economic conditions will allow.

c) **Non-Tariff Measures and Standards and Conformance:** Adherence to WTO rules, harmonisation, standardisation and mutual recognition are the key elements of the APEC agenda in these areas. India also has several institutions established for formulating and administering standards and other non-tariff measures in accordance with WTO disciplines. But, India needs to strengthen its standards setting and implementation capacities. Participation by the Bureau of Indian Standards and sectoral industry groups in APEC's activities including in industry dialogues can make a significant contribution here.

d) **Services:** In respect of existing GATT commitments, or the revised offers under the Doha Round, India's position appears further ahead in many sectors than some of the APEC developing economies. The Services Trade Restrictive Index indicates, however, that in sectors like accounting, architecture, legal, air transport and insurance, India is more restrictive than others. India, however, fares better in relation to engineering, motion pictures, sound recording, telecom, maritime transport, road freight transport, computer and construction services. India's current services sector liberalisation initiatives, particularly in the insurance, air and rail transport and construction services, should also further improve its position. India would gain through participation in discussions on guidelines and competency standards in various sectors. APEC forums can also facilitate conclusion of MRAs between sectoral regulatory services in India and in the APEC economies.

e) **Government Procurement:** India's procurement regime appears quite comparable and forward looking including in terms of transparency. It may be further improved if the public procurement bill that was pending before the last Parliament is reviewed and adopted .

f) **Investment:** India has a fairly open investment regime barring limited equity caps in certain sectors like retail, insurance, real estate development, media, etc. APEC economies generally are more open although they too have some restrictions to cover domestic sensitivities. However, India's rank of 142 on 'Ease of Doing Business' is much higher than the corresponding scores of APEC economies. The new Indian government is actively engaged in speedily ratcheting up its rank and make India a manufacturing hub with its 'Make in India' and 'Digital India' campaigns. India can significantly benefit from APEC's activities on investment facilitation including its ongoing initiative to make it 25 per cent easier to do business, particularly in the four areas of: starting a business, getting credit, trading across borders and enforcing contracts, which are of priority to India as well.

g) **Intellectual Property Rights (IPRs):** India's IPR regime is WTO-compliant and it also has elaborate mechanisms for IPR administration that is being steadily strengthened. Regimes of APEC developing economies have similar legal provisions, but some have provided more protection than the minimum standard in the WTO TRIPS Agreement. A new IP policy is under formulation in India with the objective of boosting creativity and innovation that can be expected to further streamline India's IPR regime. It is unlikely, though, considering intense domestic political sensitivities, that there will be any dilution away from protecting public health concerns or meeting consumer welfare needs. India can, however, benefit a great deal from APEC's work on IPRs, particularly in respect of capacity building.

h) There are a few other areas under the OAA including Competition, Regulatory Reform, Transparency, Electronic Commerce, RTAs and Dispute Mediation. On most of them, India has well established mechanisms such as on Competition or Regulation. Transparency is also a horizontal theme that is steadily gaining currency in governance. This study does not anticipate any problem for India being able to report on progress on these issues.

15. There are several benefits that can flow from India becoming part of the APEC process and integrating more with the dynamic Asia-Pacific region. Driving the 'Make in India' campaign and sustaining it to success to make India an attractive business destination warrants support from every quarter. India needs to get more involved in regional production and supply chain networks. Even as India's trade and

economic links with the Asia-Pacific region presently are substantial with APEC economies accounting for 35 per cent of India's merchandise trade, 27 per cent of FDI inflows and 40 per cent of FDI outflows, these are still not commensurate with APEC's overall trade or investment profile and India's proximity to this region.

16. From a trade policy angle as well it will be strategically good for India to be part of APEC. India is a participant in RCEP negotiations, but is not involved in TPP. Should APEC members move to establish FTAAP, it cannot be ruled out that this initiative too could see India not being part of that process. India becoming part of APEC that has been the incubator of several regional initiatives will enhance India's options and will also strengthen India's capacity for exercising those options as and when decisions may be taken.

17. APEC has been a premier forum for regional cooperation in the Asia-Pacific and India's non-inclusion has remained a void. India is a key maritime nation that in some ways forms the western gateway to this region. It has from time to time contributed to efforts aimed at maintaining regional maritime security and provided assistance when disasters have struck. India's 'Act East' policy is also increasingly attending to infrastructure and connectivity needs in the neighbourhood. While India's participation in the region's political and security architecture has come more easily, this has not been the case on the economic front. The Indian Prime Minister joining other economic Leaders of the region will be a plus for both India and APEC in terms of the value that India can bring to the table.

18. Joining APEC will, however, invite peer review and perhaps peer pressure as well even as APEC is non-binding. APEC speaks the language of liberalisation, reform and business facilitation that permeate its various activities. India's reform programme could come under greater scrutiny, which, on the one hand, could be viewed as an unwelcome oversight and a downside. Or it could be seen as an occasional useful nudge by fellow members of the Asia-Pacific region, something that the Government can handle in its stride just as periodic reviews by WTO or IMF.

19. From the comparative study of OAA areas, it becomes evident that in certain areas like services, government procurement and competition, India's progress is quite comparable to those of APEC developing economies. In relation to areas such as Trade Facilitation and Customs Procedures, Standards and Conformance and Ease of Doing Business there is clearly a need to step up. But, these are also areas where there is already a very keen interest to significantly scale up India's performance in a short period and improve ranking. APEC could provide synergies to India's efforts on these fronts. On the other hand, for bringing down tariffs more time will be needed as already indicated. Again, for IPRs, while the enunciation of a new policy could further streamline India's efforts to protect, administer and enforce its IPRs regime, no major changes can possibly be expected that are seen to dilute public health interests or consumer welfare. Clearly, India joining APEC will have to be explored within these contours.

20. It must be mentioned that not all developing APEC economies are part

of every APEC activity. Nor does APEC act as a caucus in WTO with unified positions. India should be able to find a suitable groove for itself even as it can exude a keen interest and be supportive of keeping up the momentum of Asia-Pacific regional integration.

21. Will India be admitted into APEC? The membership strength of APEC has remained at 21 since 1997, when a moratorium on further expansion was put in place for a ten year period. While the APEC Leaders' Meeting discussed the question of possible expansion in 2007 and 2010, they have kept the matter in abeyance, wanting to ensure that any expansion will contribute to enhancing the momentum towards regional integration and open economies. It is possible that a perceived need for accommodating long pending demands of various sub-regions of Asia-Pacific, considerations of balance, but lack of readiness of some of them may also have been factors. In any event, if India has to become a member of APEC, there will be an expectation to see that its economic reform and liberalisation process will contribute towards the APEC process of regional integration.

Way Forward

22. There are many potential gains that can accrue from India's membership of APEC even as managing some of the ensuing expectations and pressures will need deft handling. If it is decided to move ahead with gaining membership of APEC, a well crafted effort will be necessary that also articulates well the limitations posed by domestic compulsions and the flexibilities needed. A persuasive case can, however, still be made regarding India's keen interest to work towards promoting Asia-Pacific integration. The overall progress made by India and the various business facilitation and reform measures being introduced by the new government to significantly improve ease of doing business in India form a good basis for this purpose. Secondly, it would be necessary to get some influential APEC members to push India's case. It is noteworthy that during the recent visit of President Obama to India, the US-India Joint Strategic Vision for the Asia-Pacific and Indian Ocean Region that was announced, *inter alia*, mentioned that the United States welcomed India's interest in joining APEC. Even as India seeks to co-opt US further in this effort, Australia and Japan, both of which are regarded as 'parents of APEC' and with both of which India is also developing good bilateral relations, may also be good candidates for promoting India's effort. Engaging with China, another influential member of APEC, and members from ASEAN countries will also be important. Thirdly, since the chair country has substantial leverage in setting the agenda in APEC, some additional engagement will also be required with the Philippines, Peru and Vietnam, which are the chair countries for 2015, 2016 and 2017, respectively. India could target to receive a favourable decision soon, perhaps latest by 2017, when Vietnam will be the chair. Meanwhile, India should, to convey its keen interest, begin participation as a 'Guest Country' in some of the Working Groups on trade facilitation and strengthening of supply chains. If the Indian economy also gets on to a higher growth trajectory soon, APEC will perhaps find it compelling enough.

India and APEC: An Appraisal

V. S. Seshadri

1. Introduction

The Asia-Pacific Economic Cooperation (APEC) forum, a premier regional institution promoting trade, investment and other linkages among economies of the Asia-Pacific region, has just celebrated twenty five years of its establishment. India is not a member of APEC, but has close political, economic and strategic ties with many of its economies.

This Study surveys the progress that APEC has made towards promoting regional economic cooperation and integration. It examines the desirability of India joining APEC and looks at possible benefits and downsides. It also probes the question whether India will be accepted if it shows interest.

Section 2 of the Study dwells on how APEC has evolved over the years. Section 3 gives an idea about APEC's present preoccupations by drawing attention to the key outcomes of the recently held APEC Leaders' Meeting in Beijing, as also the themes highlighted by the Philippines that will form the focus of its Chairmanship in 2015. The institutional and organisational structure of APEC is explained in Section 4. Assessment of APEC's successes and perceived shortcomings are given in Sections 5 and 6, respectively. Section 7 then examines how relevant is APEC in the current context of certain mega FTAs and sectoral plurilaterals under negotiations and the emergence of more regional and international forums with somewhat overlapping mandates. The key issue of whether India should join APEC is dealt with in Section 8 that looks at three inter-related aspects. Firstly, will India be able to move along with the aspirational goals of APEC economies on trade and investment liberalisation and contribute to greater regional integration? This is then followed by a discussion of the potential benefits to India if it joins APEC. Lastly, will there also be a downside and possible pressures that it may have to face. Section 9 analyses whether India, if it decides to join, will be accepted by APEC economies. Conclusion and way forward are presented in Section 10.

2. Evolution of APEC

APEC has come a long way since its first ministerial meeting held in Canberra in November 1989. On the one hand, while certain aspects have remained the same, it continues to be an informal forum deciding on the basis of consensus with no legal standing or treaty binding the members. Its agreements, action plans and targets are aspirational in nature and not mandatory. Working through voluntary cooperation it plans and implements its programmes through networking, capacity building, sharing of and developing best practices and conducting peer reviews to encourage conformity and compliance. It has been an incubator of ideas working closely with the private sector, mainly through the APEC Business Advisory Council (ABAC), thereby forming an integral part of its consultative mechanism. APEC's major annual event, that has largely been behind its prominence and effectiveness, has been the Leaders' Meeting that has been held every year since the Seattle Summit in 1993 with consistent highest level attendance.

APEC's membership, which was 12 economies to begin with, steadily expanded to 21[4], but after 1998, there has been no further expansion. However, the relative economic weight of APEC economies has grown, accounting for over 43 per cent of world population, 57 per cent of world GDP and 47 per cent of world trade in 2012.[5] With the members not too keen on institutionalisation, it has only been in recent years that the APEC Secretariat has acquired a longer term Executive Director. Still, however, many of its middle level officials are seconded from member governments on a somewhat *ad hoc* basis.

APEC began with its focus largely on liberalising trade and investment that continues till date. The Bogor Goals (announced in 1994) of freeing trade and investment by 2010 by developed APEC economies and by 2020 on the part of developing APEC members were to be achieved through a voluntary process on an 'open liberalism' model that meant the benefits of liberalisation will extend to all and not just to APEC economies. The roadmap for achieving these goals was laid out in 1995 in the Osaka Action Agenda (OAA) in 15 areas[6] covering trade and investment liberalisation and facilitation. Individual Action Plans (IAPs) had to be submitted by each member economy on an annual basis reporting the progress made.

While aggregate MFN tariffs have generally come down within the APEC region from over 17 per cent in 1989 to 5.2 per cent[7] in 2012[8], the Bogor Goals of free and open trade were not reached by developed APEC members by 2010 and they continue to maintain high tariffs in certain labour intensive sectors like garments and agriculture products. It is also unlikely that the Bogor Goals will be reached by developed APEC economies even by 2020 let alone by developing ones. This was in fact evident in 1997 itself when the proposal for an Early Voluntary Sectoral Liberalisation programme in 15 sectors received a tepid response from several member economies.

Countries are generally more willing to liberalise through an FTA in which they received reciprocal concessions from partners or through the Doha round, but not voluntarily on MFN basis. Recognition in this regard led to APEC focussing more on trade facilitation (that has subsequently been broadened to business facilitation) and economic and technical cooperation that along with trade and investment liberalisation constitute the three pillars of APEC's work. Under these three broad pillars, APEC has moved from looking at not only measures at the border but also those inside the border (domestic measures affecting trade and investment) and across the border (connectivity, logistics, supply chains, etc.).

Additionally, international developments during this period have also had an impact. Thus emerged APEC Principles to Enhance Competition and Regulation in 1999 to address the structural and regulatory weaknesses that were perceived as having contributed to the Asian financial crisis. After 9/11, the Shanghai Summit in 2001 issued a statement on counter terrorism that also saw APEC commencing work on secure trade. Following the global economic crisis, more attention was given to structural reforms and behind the border measures with APEC endorsing a New Strategy for Structural Reform and formulating an APEC Strategy for investment at the Yokohama Leaders' Meeting in 2010. The Singapore Summit in 2009 also launched work on facilitating supply chains apart from adopting an 'Ease of Doing Business' Action Plan. Comprehensive connectivity has become another area of work beginning from the Bali Summit in 2013 that is supported by a multi-year infrastructure plan and investment. Climate change, dealing with pandemics and disaster preparedness, are some of the other issues that have been addressed by APEC from time to time.

3. APEC at 25

APEC celebrated its 25th anniversary in 2014. At the meeting held in Beijing from 10-11 November 2014, the Leaders declared that in the quarter century, APEC not only made significant contributions to the region's economic development, social progress and improvement of people's livelihoods, but also epitomised the great changes and rising strategic position of the Asia-Pacific. The Summit meeting held under China's Chairmanship also took several initiatives towards further advancing the Asia-Pacific partnership. Key among them was its endorsement of a roadmap for achieving a Free Trade Area of the Asia-Pacific (FTAPP). APEC will be the incubator and will provide leadership for its realisation, which will initially include a strategic study that is to be submitted by the end of 2016. The second priority the Summit addressed was to follow up the initiative begun by the previous Chair Indonesia on strengthening comprehensive connectivity and infrastructure development. The Summit launched a blueprint for the next ten year period 2015-25 on enhancing physical, institutional and people-to-people connectivity to reach a seamlessly and comprehensively connected and integrated Asia-Pacific. The third priority the Summit promoted was adoption of a blueprint on global value chain development. The blueprint sought to build on APEC's work in the area of connectivity and in strengthening supply chains. Finally, the Summit also conveyed support for exploring new and promising economic growth areas such as the Green Economy, the Blue Economy, and the Internet Economy.

The Philippines, Chair of APEC for 2015, has already announced the priorities for APEC during the current year. President Aquino has proposed establishing a more inclusive economic environment across the Asia-Pacific as the main focus. APEC's work is to be taken forward under four main themes[9]:

- **Enhancing Regional Economic Integration:** This will include establishment of a task force for the two year strategic study on FTAAP and also take forward cooperation to reduce customs bottlenecks and enhance supply chain performance to meet APEC's declared goals in these areas;
- **Fostering SMEs Participating in the Regional and Global Economy:** This will include helping SMEs to meet and benefit from APEC's goal of making it 25 per cent easier to do business by 2015;

- **Strengthening Human Capital Development:** This will also involve launch of further steps to reach the goal of 1 million intra-APEC student exchange annually by 2020;
- **Building Sustainable and Inclusive Communities:** This will cover implementation of APEC's connectivity and infrastructure development agenda, initiatives in the area of environment and green economy and enhanced preparedness to meet the growing onslaught of disasters.

4. Institutional and Organisational Structure of APEC

Decision making in APEC on policy issues takes place at the level of Leaders, the Ministerial Meetings and the Senior Officials' Meeting. Their task is supported at the working level by four Committees dealing with: (a) Trade and Investment; (b) Economic Issues; (c) Economic and Technical Cooperation;and (d) Budgetary Issues.

Reflecting APEC's main focus, the Committee on Trade and Investment deliberates on most of the substantive issues and is also assisted by two Sub-Committees (dealing with Customs Procedures and Standards and Conformance) and separate expert groups devoted to Market Access, Services, Investment, Intellectual Property Rights, Rules of Origin and Electronic Commerce. The Economic Committee focusses on structural reforms and has one subsidiary working group on Competition Policy and Law. The Economic and Technical Cooperation Committee also plays a very important role in dispensing technical assistance and capacity building with inputs flowing from a variety of expert groups from agriculture to transport and from counter terrorism to tourism. An organisational structure of APEC as available in the APEC website may be seen at Annexure 1.

APEC's ministerial meetings are held on a wide range of subjects including energy, tourism, health, education and HRD, women, environment, forestry, food security, mining, telecom, transportation and ocean related matters. While these have been held depending on the need and/or on the basis of keen interest shown by a host country (Annexure 2 gives the full listing of ministerial meetings), more regular have been the annual ministerial meetings on trade, economy and finance, and small and medium enterprises apart from the key APEC ministerial meeting of trade and foreign ministers just prior to the Leaders' Meeting. All these have resulted in creation of sectoral and functional networks, greater information exchange, identification of best practices/policy principles, mutual recognition arrangements, centres of excellence or other facilities all of which seek to promote policy development in the respective areas and to foster closer regional economic integration.

A listing of APEC's Best Practices and APEC's Action Plans/Initiatives developed over the years may be seen at Annexures 3 and 4. A list of the key APEC targets may be seen at Annexure 5 that also features the aspirational goal most recently endorsed, at the Beijing Summit, of doubling by 2030 the share of renewables in the APEC energy mix, including in power generation, from 2010 levels.

Seen at one level, APEC's Secretariat with only around 60 professional staff could look lean and its annual budget of US$ 4 million or so contributed by member governments, a part of which also goes towards technical assistance programmes, may appear quite small. On the other hand, each year the chair economy, which hosts around hundred meetings including the annual Leaders' Meeting, presumably spends at least US$ 40 million. For the US Chairmanship in 2011, the US Congress appears to have provided in all an appropriation of about US$ 45 million.[10] Other members also bear host country expenses to hold meetings numbering another hundred or more held in various APEC venues.

For several of APEC's technical assistance programmes, Japan and Australia and also certain other members have been providing additional voluntary contributions. APEC provides funding for around 100 projects each year. According to the APEC website, more than US$ 11 million was available for APEC projects in 2014. To assist the APEC Secretariat and the membership, a Policy Support Unit (PSU) that has a separate Director and a board governing it, has also been recently established. Voluntary contributions are separately taken for funding PSU, whose task is to provide policy research and analytical and evaluation capacity and to help in coordinating related technical and economic cooperation activities.

There are also several APEC centres doing specialised work in different areas and located at venues spread throughout the region. While these are endorsed by APEC, they seem to be funded and run largely by host governments perhaps with some support from other APEC economies. A list of these APEC centres may be seen at Annexure 6.

Further contributing to APEC's work is the APEC Business Advisory Council (ABAC) that has three senior business people from each member economy and a Secretariat based in Manila. ABAC meets four times a year, participates in Senior Officials' Meetings (SOMs), ministerial meetings and various other expert level meetings and presents recommendations to APEC Leaders at the annual business dialogue held on the margins of the Summit.

Closely monitoring these developments at a think tank level are 50 APEC Study Centres in the APEC member economies which also undertake research, disseminate information and facilitate discussions on APEC related issues, initiatives and processes.

5. APEC's Successes

APEC is credited with many successes. Some have pointed to the formation of APEC itself as a key factor that goaded the European Community to be more forthcoming that enabled the Uruguay Round negotiations to be brought to a close. The Information Technology Agreement (ITA-I) had its origins in APEC even as subsequently it was signed under the aegis of WTO with India also becoming a party. Some of the APEC members have now similarly floated a proposal to freeing trade in environmental goods and services that is being more widely discussed after the list of goods received approval within APEC for bringing down tariffs on them to less than 5 per cent by 2015.

No less significant, however, has been its contribution on the business facilitation side. The APEC Business Travel Card that enables accredited businesspersons (the active card holders now number more than 166,000) to enter all APEC economies virtually visa free through a special counter has become very popular. The implementation of APEC Trade Facilitation Action Plan (TFAP-I) from 2002-2006 resulted in reducing transaction costs by at least 5 per cent that was followed by TFAP-II from 2007-2010 with another similar 5 per cent reduction. APEC has sought to build on this further by aiming for a 10 per cent improvement in supply chain performance in terms of time, cost and uncertainty by 2015 by dealing with eight identified choke points.[11] Likewise is the action programme launched for bringing about a 25 per cent improvement in the Ease of Doing Business by 2015 in the five priority areas of starting a business, getting credit, trading across borders, enforcing contracts and dealing with permits. APEC has progressively transformed itself into a process by which a steady stream of realistic but ambitious targets are sought to be achieved.

6. APEC's Perceived Shortcomings

Critics have also pointed to certain shortcomings of APEC. Apart from the inherently unattainable Bogor Goals on an open liberalism basis, which have already been referred to, many have drawn attention to APEC's virtual inaction during the Asian financial crisis and its general failure to tackle financial issues. Finance ministries including the US Treasury have generally been reluctant to fully engage in a regional process that has been largely led by the trade and foreign ministries of member countries. Even as ministers of finance of APEC countries do get together annually, they have refrained from taking up core monetary or finance issues in their meetings, relying instead on Fund/Bank mechanisms or more lately G-20 summits.

Yet another weakness cited is APEC's voluntary and non-binding nature. Some have, however, regarded this as APEC's strength. These were apparently insisted upon as a fundamental requirement for their joining APEC by then ASEAN member countries. President Hu Jintao also said at the Singapore Leaders' Meeting in 2009: "We should maintain the nature of APEC as a forum for economic cooperation and its approach of conducting cooperation on a non-binding basis as this best suits the diversity prevailing in the Asia-Pacific." Even then, it must be stated that it was the Shanghai declaration in 2001, which introduced the 'Pathfinder Approach' by which APEC can launch an initiative even if it initially does not have the backing of all members. The expectation is that other members may find acceptance in due course. There are several such pathfinder initiatives currently underway, although it is difficult to see if all of them will find full consensus eventually (see Annexure 7 for a listing of current Pathfinder initiatives). Likewise, it is not uncommon to come across APEC programmes that do not enjoy all round participation because of lack of interest or perhaps capacity among some.

Another criticism voiced has been that the development gaps among APEC members have widened over the years. Two Chinese academics[12], Zhang Yunling and Shen Minghui, while reviewing APECs achievements on its 20th anniversary, pointed out that not all APEC members benefitted equally from the APEC process even as they acknowledged that China itself had benefitted from APEC in the reform of its domestic laws and regulations, integration with international trade practices, etc. They surmised that the role of seminars, discussions and training had not been very effective in the strengthening of the capacities of some of the developing economies and proposed that APEC should strengthen its role in social programmes. It needs pointing out here that the 2014 APEC Leaders' declaration has claimed that APEC has been 'working to narrow the development gap'. It is to be seen if during the Philippines Chairmanship, under one of its chosen themes to promote an inclusive economic environment and to build sustainable and inclusive communities, APEC will be providing new thrust in this direction.

7. How Relevant is APEC in the Changing International Context?

Despite all its achievements, questions do arise about the continued relevance and importance of APEC at a time when more regional and international forums have come into play and the mega Trans-Pacific Partnership (TPP) negotiations involving twelve APEC members are also in progress. Forums like East Asia Summit (EAS) and the G-20 Summit bring together Leaders, many of whom also attend the APEC Summit. In a span of one month last year in November 2014, for example, many of these Leaders were in Beijing for APEC Economic Leaders Meeting (10-11 November), in Nay Pyi Taw for EAS (13-14 November), and in Brisbane for G-20 (15-16 November). Will APEC Summits continue to attract highest level attendance?

Will APEC, that is regarded as the primary forum for economic cooperation among Asia-Pacific countries, retain that importance when the 'high standard' and legally binding TPP, that also carries many 'behind the border' commitments, gets concluded with the distinct possibility that it could attract a few more entrants including China?

These are questions that may be difficult to answer at this stage in a definitive manner but most of the interlocutors we met at Singapore felt that APEC will be relevant as a unique informal discussion forum, as a process for promoting greater regional integration and as a laboratory of ideas that also allows ideas to be taken forward in whichever way possible. While it will no doubt become difficult for each new chair every year to find new themes and initiatives, many felt this should not be too difficult a challenge in an ever changing world. A veteran Singaporean diplomat and trade negotiator, for example, felt confident that APEC will continue to be relevant and host countries and Leaders will continue to find ways and ideas to keep APEC alive. Furthermore, he added that beyond the objective of economic cooperation, an unspoken security element underpinned APEC, which united both sides of the Pacific in an unique and effective manner. Another interlocutor noted that EAS, which is one afternoon with Leaders reading from prepared texts, is a very different forum from APEC that allowed Leaders to informally discuss amongst themselves. What is also relevant to note is that all slots for hosting the annual APEC Leaders' Meetings are filled, and therefore, the chair for those years, have already been taken till 2022.[13]

8. Should India Join APEC?

Turning to the question whether India should join APEC, it can perhaps be examined from three inter-related perspectives. Firstly, the question arises, will India find it comfortable to follow the goals and work programme of APEC and whether conformance with possible expectations from APEC economies be challenging? This is in turn depends on how India is currently faring in its autonomous trade and investment liberalisation effort in comparison to some of the developing APEC economies. Secondly, what will be the benefits to India if it joins APEC? Lastly, will there also be a downside and how does it all add up? These questions are now examined.

8.1 How Does India Currently Fare on the Trade and Investment Liberalisation Front in Relation to APEC?

APEC economies regularly submit a progress report on trade and investment liberalisation through the now bi-annual Individual Action Plans (IAPs) that cover 15 areas of the Osaka Action Agenda, which are then peer reviewed. It becomes relevant to examine how India would fare particularly in relation to some of the APEC economies at comparable levels of development. In this regard, this study has examined the current status on following topics: (i) Customs Procedures; (ii) Tariffs; (iii) Non-Tariff Measures and Standards and Conformance; (iv) Services; (v) Government Procurement: (vi) Investment; and (vii) Intellectual Property Rights (IPRs).

Inputs for this exercise were received from comparative study papers contributed by (a) A team from the Centre for WTO Studies, New Delhi led by Professor Abhijit Das; (b) Shri Shashank Priya, Commissioner (GST Cell), CBEC, Delhi, who submitted a paper on Customs Procedures in his individual capacity; and (c) Ms. Aditi Gupta, Consultant at RIS, who worked on initiatives by APEC on environmental goods and Information Technology Agreement. Based on these inputs which can be seen at Annexures 8 to 11, and based on information available at the APEC website, an assessment is given below topic-wise.

8.1.1 Customs Procedures

Progress by APEC

As will be seen from Comparative Study (Annexure 9) on Customs Procedures, APEC has been active in the area of Customs Procedures with a separate sub-committee promoting adoption of transparency standards, simplification and harmonisation of procedures and efforts to ensure that goods move efficiently, effectively and safely. Among many initiatives that have been taken, the launch of Trade Facilitation Action Plan I (2002-2006) and Trade Facilitation Action Plan II (2007-2010) have brought down trade transaction costs by 5 per cent each. Including trade logistics as part of the trade facilitation agenda, a supply chain connectivity Framework/Action Plan was also adopted in 2009, which was to reduce trading time, cost and uncertainty by 10 per cent each by 2015. Several other initiatives have also been taken such as developing a Single Window to streamline export-import processes, IPR enforcement Strategies and development of an Authorised Economic Operator (AEO) programme. Other efforts underway include the work of the Electronic Commerce Subgroup of APEC that is undertaking projects on paperless trading for cross-border trade, integrating paperless trading in commercial processes, enhancing reliable and speedy supply chains by e-B/L exchange and e-Manifest in APEC region.

The 2014 APEC Progress Report on Bogor Goals had the following to say on Customs Procedures:

> "All APEC economies have reported progress in facilitating trade through the simplification of customs procedures. The implementation and expansion of Single Window, Authorised Economic Operator (AEO) programs and non-intrusive inspection systems through modern scanners are reducing the time to export/import. Likewise, APEC economies are reporting efforts to implement or improve risk management techniques.
>
> Many customs administrations with well-established AEO programmes are starting to sign Mutual Recognition Agreements (MRAs) with counterparts to expand the coverage. Other cooperation initiatives involve exchange of information and joint efforts to combat illicit activities."

In recent years, time to export/import a container has been faster in APEC. In 2013, it was more than 0.5 days faster in comparison to 2011 and more than 1.5 faster than in 2008.[14] However, cost to trade has increased, which can be partially explained by the additional investments in ports to meet security requirements, which has transferred part of the cost to traders, and increasing cost of transportation from economic centers to the ports, due to higher fuel prices.

Initiatives Taken by India

India has also taken several initiatives towards customs reform in the last two decades that have been very well brought out in Annexure 9. This includes a transparency mechanism through the website of the Central Board of Excise and Customs (CBEC) that publishes all laws, regulations and departmental instructions, establishment of paperless trading through the use of Electronic Data Interchange (EDI), messaging through Indian Customs EDI Gateway (ICEGATE) in 2002, introduction of a Risk Management System (RMS) in 2005, implementation of 'On Site Post Clearance Audit' System from 2011 for customs accredited clients, rolling out an Authorised Economic Operator (AEO) Programme from November 2012, and preparations currently being undertaken in the form of pilot programmes for an early launch of a Single Window clearance system.

Details about all these programmes have been provided in Annexure 9. It may, however, be mentioned here that the aim of the AEO programme is to enable businesses involved in the international trade to reap several benefits such as: (i) securing supply chain from point of export to import; (ii) ability to demonstrate compliance with security standards when contracting to supply overseas importers/ exporters; (iii) enhanced border clearance privileges in MRA partner countries; (iv) minimal disruption to flow of cargo after a security related disruption; (vi) reduction in dwell time and related costs; and (vi) customs advice/assistance if trade faces unexpected issues with Customs of countries with which India has MRA.

India's AEO programme is expected to result in Mutual Recognition Agreements (MRAs) with other Customs administrations that implement similar programmes. MRAs would ensure that Indian export goods get due Customs facilitation at the point of entry in the foreign country. Apart from securing supply chain, the benefits include reduction in dwell time and consequent reduction in cost of doing business. Indian Customs have signed an MRA with Hong Kong Customs to recognise respective AEO Programmes to enable trade to get benefits on reciprocal basis. Indian Customs is now engaged in finalising MRAs with other important trading partners.

The facility for 'Single Window' customs clearance will provide for the submission of clearance-related information and documents at a single entry point without the trader having to submit the physical copies at different government offices. The facility will also provide for payment of fees and charges at a common portal. The scheme for Single Window Customs Clearance was one of the announcements made by India's Finance Minister in the Budget for 2014-15.

The features of the proposed Single Window include the development of an 'integrated Customs declaration' for import and export, including data requirements of other government agencies, automated routing of declarations for the clearance of other government agencies, integrated risk assessment, and online release. Payment of applicable charges will also be received in the e-Payment mode. To help the trader prepare with the right kind of documentation and to provide the correct clearance related procedural information, a web portal is also being developed. For the trader to proactively receive updates on the cargo and clearance events, an Event Notification platform is proposed. For physical events that require timely and coordinated action by or presence of officers, an Appointment Management System is envisaged.

The Comparative Picture

Compared with some of the APEC members, like Indonesia, Vietnam, China and Peru, India is felt not to be lagging behind in terms of simplification of customs procedures and instruments or in respect of transparency. But India's rank is relatively low when making comparisons with the Logistics Performance Index (LPI) of the World Bank. India also figures high in respect of cost per container to export or import. These need to be addressed.

Clearly, as is also seen from the study at Annexure 9, benefits to India through closer association with APEC can be several:

- Gaining from the discussions on best practices and reforms undertaken by the developed and more dynamic emerging economies of APEC;
- Benefitting in particular from experiences in dealing with establishment of Single Window Scheme, where APEC has been ahead of India by 5 years or so. It can also cut time delay in implementing other reforms;
- Helping in addressing wider horizons of trade facilitation, where smooth

and efficient customs clearance has to blend harmoniously with logistics and supply chain network. India can gain from participation in programmes relating to removal of supply chain choke points as identified by APEC (the eight choke points have been dwelt with in detail in Annexure 9);

- Promoting establishment of common standards that also lends itself to mutual recognition of procedures; and
- Capacity building activities of APEC could help officials as well as institutional betterment (testing laboratories, training institutions, etc.). It could also address aspects like reduction in the number of documents, better container handling practices and efficient port logistics.

8.1.2 Tariffs

Progress Made by APEC Developing Economies

APEC economies have been seeking to progressively bring down their tariff levels in consonance with Bogor Goals of free and open trade. As will be seen from Section 1 of the comparative study of Annexure 8, while the average applied tariff of India in 2013 for non-agricultural products was 10.2 per cent, those of APEC developing economies were relatively lower ranging from 6 per cent for Chile, 6.7 per cent for Indonesia, 8.3 per cent for Vietnam to 9 per cent for China. For agricultural products, the gaps were larger with India's average applied tariff at 33.5 per cent and the corresponding figure for China, the highest among APEC economies, at 15.6 per cent.

Average Tariffs of India

India has no doubt made considerable progress in reducing tariffs, if they are looked at from 2000 levels when the average tariff for non-agricultural items was 37.10 per cent and 82.65 per cent for agricultural goods. However, as for bringing about further tariff liberalisation towards the Bogor Goals, this will not be easy. The various infrastructure constraints that stand against an enabling level playing field for domestic industry as also the wide trade deficit that India has on merchandise trade account, which at 38 per cent in relation to exports is much larger than for any APEC economy, would mean that India's progress towards further trade liberalisation will be dependent on improvement of these aspects. That said, however, it needs also to be noted that the actual applied tariffs imposed for products of several APEC economies by India even at present are much lower on account of India's FTAs/RTAs with them. More APEC economies will come within this ambit once the Regional Comprehensive Economic Partnership (RCEP) agreement is concluded. In any case, it is surmised that even in respect of tariffs imposed by APEC economies, while their average tariffs may go down a bit further as they move towards 2020, they are unlikely to be eliminated both by developed and developing APEC economies.

Environmental Goods Initiative

APEC is also implementing an initiative to reduce tariffs to less than 5 per cent by 2015 on 24 identified environmental goods. India's tariffs on these products currently range from 0 per cent to 10 per cent with an overall average of 6 per cent. A separate note on this initiative along with India's position on the environmental goods agenda at WTO may be seen at Annexure 10. India's imports of these items at US$ 8.1 billion in 2013-14 are already far more than its exports amounting to US$ 2.8 billion. There are also other concerns about an inverted duty structure that implementation will bring. India will have to treat any suggestion to immediately implement this initiative with caution. Some of the APEC economies themselves are reported as exercising some flexibility in implementing this initiative.

ITA-II

APEC has also been supportive of expansion of the Information Technology Agreement (called ITA-II) to include an additional set of products numbering around 200 at 6-digit tariff lines for duty elimination. While India is a member of ITA-I since 1997, it has refrained from participation in ITA-II discussions after a not so positive experience from ITA-I that resulted in stunting the growth of the domestic electronics and IT manufacturing industry. It may, however, be mentioned that even among APEC economies, that are members of ITA-I, Indonesia, Russia and Vietnam are not participating in ITA-II discussions, and Brunei, Chile, Mexico and Papua New Guinea are not even members of ITA-I. A separate note that captures the position in more detail can be seen at Annexure 11.

8.1.3 Non-Tariff Measures and Standards and Conformance

Progress Made by APEC

Unlike tariffs, there are no set targets for APEC economies on Non-Tariff Measures (NTMs) although Common Action Plans are developed for voluntary alignment with international standards or regulatory best practices. Harmonisation, standardisation and mutual recognition have been key elements of APEC's Trade Facilitation Action Plans.

APEC economies are required in their IAPs to report changes regarding NTMs and the regulatory framework as also about the work they are undertaking about standards and conformance. These are examined by the Peer Review mechanism that may be looking at their conformity mainly vis-à-vis the WTO rules or the APEC's roadmap for standards and conformance.

The Bogor Goals Progress Report (2014) has mentioned the following on this topic for APEC as a whole:

On NTMs

> "APEC economies reported progress concerning the elimination of some NTMs . However, new NTMs have been imposed in recent years and the accumulation of NTMs continues restricting trade."

On Alignment of Standards

> "Efforts to align to international standards, active participation in international organisations in charge of standardisation matters and specific trade concerns have increased over the last few years."

Non-Tariff Measures (NTMs) are dealt with by many bodies in APEC under the Committee on Trade and Investment. Chief among them are the Working Group on Market Access that is mandated to oversee both tariffs and NTMs and the Sub-Committee on Standards and Conformance that addresses negative effects of differing standards and conformance mechanisms on trade and investment. The latter has also done extensive work in encouraging greater alignment of national standards with international standards.

A specific initiative launched was the APEC Electric and Electronic Mutual Recognition Arrangement, but this has not been very effective. APEC members, other than Australia, New Zealand, Malaysia and Singapore, have not agreed to accept test reports by one another. Malaysia, among these four countries, has also not agreed to accept certification by others. But, most APEC economies have agreed on information exchange.

A Mutual Recognition Arrangement for conformity assessment for telecom equipment was also taken in 1999 that has been further followed up by conclusion of an MRA for equivalence of technical requirements in 2010. Information is not readily available on how many among APEC economies have actually become signatories to the arrangement.

An APEC Food Sectoral MRA was also developed as an umbrella arrangement with guidelines for further development of specific sectoral arrangements. It is not clear, however, to what extent further progress has been made and whether a good number of signatories have joined these arrangements.

Aspects relating to harmonisation of policies and regulation of standards are also addressed sectorally by other forums such as the Automotive Dialogue, which addresses this issue in the automotive sector. The Chemicals Dialogue, which has evolved a Code of Best Practices on Chemicals Regulation (2000), has a working group on Regulatory Cooperation and has also been discussing how the harmonised system of chemicals labelling agreed to at the UN can be implemented. The Life Sciences Innovation forum that deals with health and biological sciences has a Regulatory Harmonisation Steering Committee, that for example, held a series of seminars for government regulation on medical devices. There is also an APEC Harmonisation Centre under this forum, based in Seoul, Korea, that has held several workshops on subjects ranging from multi-regional clinical trials to combination products.

Comparative Picture and Benefit from Cooperation

The activities mentioned in the foregoing are specialised and tailored to each sector and will need careful evaluation. In general, however, initiatives in these areas, appear to be pursued by interested APEC economies, depending on their sectors of interest. These should be of great value for a country like India that has wide ranging interests both from a trade perspective as well as in developing domestic industry that is in sync with countries in the region and internationally .

In India, the Bureau of India Standards (BIS) has been participating in international standardisation activities particularly in the work of the International Organisation for Standardisation (ISO) and the International Electro-technical Commission (IEC). A sizeable number of standards have also been harmonised with ISO/IEC standards. In respect of MRAs, however, India has not made much progress.

Networking among concerned standard setting or conformance assessment bodies can be of great help in devising ways to reduce barriers and such activities can also facilitate in reaching MRAs. Participation in discussions that lead to harmonisation arrangements and assistance that can be derived in capacity building should all be welcomed.

8.1.4 Services

Progress Made by APEC

With international disciplining of trade in services commencing only in 1995, APEC's work on services was also somewhat delayed with a Group on Services (GoS) established only in 1997. GoS has since been working to liberalise trade in services looking at policy and regulatory issues, both horizontally and sectorally, and also working on technical aspects like gathering services trade statistics and developing a database on Services Trade Access Requirements (STAR) for APEC economies.

More recently, APEC formulated a set of Non-Binding Principles on Cross-Border Trade in Services in 2008 that, *inter alia,* called for MFN and National Treatment to service suppliers of other APEC economies. They urged that APEC economies, to the extent possible, should not require service suppliers of other APEC economies to have a local presence as a condition of supplying a service. Nor should limitation be placed on the number of suppliers of any service that is permitted. While it was acknowledged that not all economies will be able to adhere to all of the principles with respect to all sectors, progressive liberalisation was suggested with an endeavour also not to roll back any liberalisation already in force. There were also principles included on regulatory aspects, transparency, and for facilitating services that required movement of business persons.

APEC Leaders further adopted an umbrella Services Action Plan in 2009 to provide overall coordination and focus to services related work, to identify priorities and capacity building needs and to boost services trade. Services trade issues are also discussed in separate APEC sectoral groups on energy, telecom, transportation and tourism. Sectoral Initiatives have also been launched by GoS on Legal Services (2010) and Accounting Services (2011) to enhance transparency requirements of licensing and qualifications and guidelines for regulation. Environmental Services and expansion of APEC's database on Services Trade Access Requirements (STAR) are other areas presently receiving GoS attention.

GoS has also adopted an APEC strategy on Movement of Business Persons (2010) regarding actions that could contribute to facilitation of entry and temporary stay. This not only relates to the APEC Business Travel Card (ABTC) that has been a very successful initiative of APEC, but also covers temporary visits of natural persons for providing services; an aspect that could be of particular interest to India. Interestingly, the strategy also focuses a need for further development of APEC initiatives for Professional Services and Engineering Services. The implementation of the strategy would also come under the review of the Business Mobility Group of APEC consisting of immigration and consular officials that regularly meet every year and also undertake close consultation with APEC Business Advisory Council.

Comparative Picture

IAP has separate sections on Trade in Services and for Business Mobility on which member economies have to report on liberalisation measures undertaken during the review period. From the comparative study on Services that is given in Section 5 of Annexure 8, which has looked at the Services Trade Restrictiveness Index (STRI) of Chile, China and Indonesia, along with India, it would appear that while there are certain services like accounting, architecture, legal, air transport and insurance, where India is more restrictive than others, there are also several others like engineering, motion pictures, sound recording, telecom, maritime transport, road freight transport, computer and construction dervices, where India is ahead of at least two other countries. The comparative study has also looked at the WTO GATS commitments of several APEC developing countries as also their Revised Offers for liberalisation under the Doha Round and points out that the corresponding Revised Offers of India are far more ambitious in many cases, which indicates India's readiness to move forward if others are. The study further points to some of the liberalisation moves even currently underway in India in the insurance, rail and air transport and construction services sectors, which, when fully ushered in, should make India's services framework more attractive.

As for the benefits from possible membership of APEC, it is evident that participation in the work of GOS and the various sectoral groups, which also cooperate closely with trade and industry could bring considerable gains. Of particular interest could also be cooperative activities that could promote mutual recognition arrangements (MRAs). If this is also accompanied by economic and technical cooperation activities that could assist in capacity building, these should be very welcome.

8.1.5 Government Procurement

While this is one of the 15 areas under the Osaka Action Agenda, there is no separate standing APEC group on the topic. However, following the work of an earlier APEC Expert group a set of Non-Binding Principles on Government Procurement was adopted in 1999. That notwithstanding, as is seen from the analysis in Section 4 of Annexure 8, including the comparative Table 7, most APEC developing economies (as also certain developed members) favour domestic companies for government procurement and many also orient at least a part of such procurement for achieving certain social objectives. India's procurement regime appears quite comparable to them. This may be further improved if the pending Public Procurement Bill is adopted by the Parliament. India should also be open for any further streamlining of the procurement system, as long as it does not require any market access commitments.

8.1.6 Investment

Progress Made by APEC

Investment liberalisation has remained a key focus of APEC from the beginning with the APEC Investment Expert Group coming out with Non-Binding Investment Principles that were adopted in 1994. In more recent years, particularly following the global economic downturn, APEC has also adopted an Investment Facilitation Action Plan and an APEC Strategy for Investment. An updated set of Non-Binding Investment Principles has also been adopted in 2011 to reflect the changing conditions of business environment. The Investment Expert Group has also expanded its activities to stimulate investment on social and environmental responsibility. A guidebook that will compile information on Public-Private-Partnership frameworks in the region is one of the projects being undertaken.

While more details about APEC activities in this area may be seen in the Section 6 on Investment in Annexure 8, the APEC Progress Report (2014) on Bogor Goals has presented the following overall picture in this area:

> "APEC economies recognise the importance of attracting and promoting investments, including from foreign sources, to contribute to economic growth. In general, APEC economies have been implementing policies to improve investment conditions. Many economies have relaxed conditions for foreign ownership in particular sectors and offer investors no restrictions in terms of repatriation of capital, profits or royalties. It is also common to find policies offering lower taxes or agreements for double taxation avoidance to attract investors. In order to provide legal stability, it has been common practice to sign bilateral investment treaties (BITs). Furthermore, there has been efforts to attract foreign direct investment (FDI) by simplifying administrative procedures."

The Comparative Picture

Annexure 8 also carries a tabular comparison of the investment regimes of India and certain developing APEC economies. Generally, it will be seen that India has a fairly open regime in most areas, barring limited equity caps in certain sectors like multi-brand retail, insurance, real estate development, media, etc. APEC economies have been relatively more open in these sectors, although they too have some restrictions, or the other.

Of greater concern than relative openness of the investment regime is India's ranking in terms of 'Ease of Doing Business', where India does not score highly on many counts including on 'Ease of starting a Business'. This is an area where the new Indian government has indicated determination to register a significant improvement within a short period. If this happens, it could lead to a further increase in interest including among

APEC members, towards investing in India. Of particular relevance here is that in India's total FDI stock, APEC economies as a group already have a rising share that is around 27.54 per cent from April 2000 to March 2014. This is even more the case in respect of India's outward FDI in which, in percentage terms, APEC economies accounted for 40 per cent share upto 2011-12.

India can benefit significantly from APEC, through exchange of experiences, participation in Investment Experts' Group (IEG) and various other programmes and capacity building activities. APEC is itself implementing an Ease of Doing Business Initiatives, which started in 2009, of making it 25 per cent easier to do business by 2015, particularly in the priority areas of starting a business, getting credit, trading across borders, enforcing contracts and dealing with construction permits. These are of priority to India as well.

8.1.7 Intellectual Property Rights

Progress Made by APEC

Effective protection and enforcement of Intellectual Property Rights (IPRs) have formed an important part of APEC's agenda. Each APEC economy is required to comply with the TRIPS Agreement of WTO and ensure adequate and effective protection through legislative, administrative and enforcement mechanisms.

APEC's Expert Group on IPRs has been working to deepen the dialogue on IPR, survey and exchange information in IPR protection and administrative systems, study measures for effective enforcement and facilitate technical cooperation. The last meeting of Intellectual Property Expert Group (IPEG), held in China in 2014, for example, discussed initiatives on a wide range of topics such as raising public awareness on IPRs, international cooperation and patent acquisition procedures, capacity building and anti-counterfeiting initiatives. IPEG is also discussing with the APEC Sub-Committee on Customs Procedures on IPR Border enforcement. In 2005, the APEC ministers of Trade had also launched an initiative on anti-counterfeiting and Piracy.

APEC's progress report (2014) on Bogor Goals stated the following in respect of IPRs for APEC as a whole.

> "In order to strengthen the IPR system, APEC economies proceeded by creating or amending laws and regulations, signing international IP treaties and improving the collaboration with authorities to investigate cases on alleged violations of IPR. The advancement of new technologies and the emergence of new digital tools and platforms have motivated many APEC economies to amend their laws and regulations (such as copyright, patent, trade mark and industrial design acts) in order to adapt them to the recent developments and be more effective in fighting and preventing IP related crimes. These changes also include increasing penalties for those infringing the law.
>
> Many APEC members have reported signing, ratifying or putting in force international IP treaties such as the Madrid Protocol (on registration of trade marks), the Hague Agreement (on industrial designs), the Marrakesh Treaty (on access to published work to blind or visually impaired persons), the WIPO Copyright Treaty, the Beijing Treaty (on audiovisual performance) and the Singapore Treaty (on the Law of Trade Marks), among others."

The Comparative Picture

The comparative study in Section 7 of Annexure 8 has examined one area of IPRs, *viz.* patents, and looked at the patent regimes in India and in some of the developing APEC economies. India's patent administration regime has also been explained, which shows a steady increase in the patents granted. India's legislation is WTO-compliant, and there is an elaborate mechanism for IPR administration and enforcement that is being steadily strengthened. Patent laws of some of the APEC developing economies have similar provisions but a few have provided more protection than the minimum standards prescribed in the WTO TRIPS agreement. In respect of accession to more recent IPR treaties/conventions, India is party to two of the six treaties and others are under consideration.

India has come under some pressure, particularly from the United States, in recent years, with US also seeking to take unilateral action under its domestic Special 301 provisions. Some of the APEC economies have also been named in recent years under the 'Priority Watch List' or 'Watch List'. While these will need to be bilaterally resolved, what is of interest here is the initiative by the government to enunciate a new IP Policy for which the think-tank set up by the government, has already brought out a first draft for public comments. It is expected, on the one hand, to promote creativity and innovation, while, on the other, protecting the national interest and balancing the rights of IP owners with public welfare. It is also expected to harmoniously align the IPR regime with government initiatives like 'Make in India' that is aimed at transforming India into a manufacturing hub and 'Digital India' that is seeking to strengthen the country's digital infrastructure and take India fully into the digital age. The new IP Policy could be expected to further streamline India's IPR regime. India can also benefit a great deal from APEC's work in this area including capacity building activities. It is unlikely though, considering intense domestic political sensitivities on the subject, that there could be any change in the IPR regime that is seen as a dilution away from securing public health concerns or critical consumer interest.

8.1.8 Other Areas under the Osaka Action Agenda

There are a few other areas under the Osaka Action Agenda on which APEC members have to regularly report in their IAP. These include: competition, regulatory reform, transparency, electronic commerce, RTAs and dispute mediation. On most of them, India has well established mechanisms such as on Competition, where the country now has a national competition law, with a Competition Commission responsible for its implementation. In recent years, it has also come to establish jurisprudence and take an active role on enforcement. Similarly, on regulation, again, there are now a whole range of regulatory bodies dealing with telecom, electricity, civil aviation, stock exchanges and Foreign Institutional Investor (FII) inflows, to mention only a few, that have been set up. These are acquiring experience and establishing principles and practices towards promoting a stable and predictable environment. This study does not anticipate any problem for India being able to report progress on these issues.

More importantly, APEC has, over the years, expanded significantly beyond the initial 15 areas of OAA that now span from innovation and energy to infrastructure and issues relating to secure trade and disaster preparedness. These should be welcome areas of cooperation.

8.2 Possible Benefits

8.2.1 A Significant Improvement in India's Trade and Investment Profile and Attractiveness

The APEC process could be particularly useful for India in bringing about greater trade and investment facilitation and in reducing transaction costs. India presently ranks 142nd in the World Bank's Ease of Doing Business ranking. India's ranking is even lower in the list in respect of opening a business, getting construction permits, enforcing contracts,paying taxes, etc. The APEC process, particularly the segment dealing with business facilitation, has begun focussing on many of these areas identifying best practices and useful policy principles. The APEC process also has several economic and technical cooperation programmes aimed at promoting skills and capacity building. All these along with peer pressure will encourage forward movement.

These could be particularly beneficial at a time when India is launching a 'Make in India' campaign and some of the state governments are also pitching in with reforms at the state level. While external influence can perhaps be only limited in dealing with some entrenched interests and practices, sustaining the 'Make in India' campaign to success and India's long-term interest in continuing to remain an attractive business destination warrant support from every quarter.

8.2.2 Propelling India Further in Becoming Part of the Dynamic Asia-Pacific Community that could Enhance Economic Engagement and Connectivity with the Region

India's trade and economic links with the whole region are substantial with APEC economies accounting for 35 per cent of India's merchandise trade, 27 per cent of FDI inflows and 40 per cent of FDI outflows. They also figure significantly in India's services trade and as sources for FII inflows. Still, however, when seen in percentage terms these are not commensurate with APEC's overall trade or investment profile. (See Annexure 12 for a brief review, of India's trade and investment ties with APEC economies where countrywise trade and investment figures have also been given).

Becoming part of the APEC process will inevitably, as India becomes an easier place to do business, draw in far more investments from the Asia-Pacific region. This in turn can offer incentives, not just for India but also for India's Asia-Pacific trade partners, for bringing about greater harmonisation or mutual recognition of standards and professional qualifications and other soft infrastructure. All this should help India get involved more in regional production and supply chain networks thus enabling it to become part of the dynamic Asia-Pacific Community. Enhanced connectivity, that also involves more institutional and people to people connectivity, could also see India plugging into more regional frameworks not only in trade and investment but also in various other areas including tourism and human resources development.[15] These cannot but be welcome.

8.2.3 Enabling to be a Participant in Shaping and Developing Ideas on Economic Policy Development for the Region for which APEC has become known

India is a participant in RCEP negotiations but is not involved in TPP. Should APEC members move to establish FTAAP it cannot be ruled out that this new initiative too could see India not being part of that process. While the desirability of joining FTAAP and TPP will need to be evaluated in each case and a decision taken at the right time, India being part of APEC that has been the incubator of several regional initiatives, enhances India's options. Also, once India becomes a member of APEC it will itself be able to participate in the development and shaping of APEC initiatives. It may be relevant to mention here that APEC has been a forerunner in dealing with some of the so called '21st century issues' which have subsequently been taken up for framing rules in some of the recent high standard FTAs.

8.2.4 Closer Engagement Also Helps Enhancing Familiarity with Newer Policy Issues for India's Economic and Other Ministries

A distinguishing feature of APEC, which has membership of both advanced and developing economies, is the role played by its expert groups, working groups, committees, task forces, and industry dialogues, that have over 200 meetings in all every year somewhat on the lines of OECD.[16] They bring together concerned officials, experts and also business representatives, who exchange ideas, policy options and come up with action plans and best practices which generate greater familiarity with emerging issues. In a way it also sparks greater internal coordination within each economy, since effectively dealing with APEC's agenda requires close cooperation among all the stakeholders including the business segment, within each member. It should be very welcome for India to become part of such a process. Needless to add, however, that benefits of APEC membership will accrue fully only if all the concerned ministries and other stakeholders, and not just ministries of external affairs and commerce, take part actively in all its programmes and activities and set aside required human and financial resources.

8.2.5 The Political Factor

APEC has been an important forum for promoting economic cooperation in the Asia-Pacific region and India's non-inclusion has remained a void. This is despite India's size and role including as a key maritime nation that in some ways forms the western gateway to this region. Some have earlier questioned India's membership on the ground that its geographical boundaries did not touch the Pacific Rim. But this ignores the contribution it is making towards keeping commercial sea lanes of vital interest to the region open let alone its growing economic linkages with this neighborhood. Furthermore, India has always risen to the occasion in terms of providing assistance and support following many disasters and accidents that have taken place in this region. Under India's 'Look East' or 'Act East' policy, India is, moreover, attending to certain infrastructure and connectivity needs in the neighbourhood.

India has also become a 'strategic' partner[17] of several member economies of APEC and becoming a part of this forum will help to further strengthen these partnerships. While India's participation in the region's political and security architecture have come more easily, this has not been in the case on the economic front. The geographical issue of not being a rim country appeared somewhat settled with the inclusion of India in the East Asia Summit. Joining APEC will make it decisive in line with the growing usage of the term 'Indo-Pacific'. The Indian Prime minister joining other economic Leaders of the region will be a plus for both India and APEC in terms of the value India can bring to the table not only towards ushering in greater prosperity to the region but also in ensuring trade and economic security, issues relating to which are frequently discussed in APEC.

8.3 Possible Downsides and How do They All Add Up?

While APEC is generally non-binding in nature, and naming and shaming is also not part of APEC culture, India, once admitted, could face pressure on the trade and investment liberalisation front.

APEC speaks the language of liberalisation, reform and business facilitation that permeate its various activities. India's reform programme could come under greater scrutiny, which, on the one hand, could be viewed by the government as an unwelcome oversight and a downside. Or, it could be seen as an occasional useful nudge by fellow members of the Asia-Pacific region, something that the

Government can handle in its stride just as periodic reviews by WTO or IMF. From the foregoing study of OAA areas, it becomes evident that in certain of them like Services, Government Procurement and Competition, India's progress is quite comparable to those of APEC developing economies. In relation to areas such as Trade Facilitation and Customs Procedures, Standards and Conformance and Ease of Doing Business, there is clearly a need to step up. But, these are areas, where there is already a very keen interest to significantly scale up India's performance in a short period and improve ranking. APEC could in fact bring synergies to India's efforts on these fronts. On the other hand, in respect of bringing down tariffs more time will be needed as already explained. Again, as for IPRs, the enunciation of a new policy could further streamline India's efforts to protect, administer and enforce its IPR regime but no major change away from seeking to protect public health interests or welfare can be expected.

Of immediate relevance as for expectations could be compliance with the APEC initiative to bring down tariffs on 54 identified environmental goods to a maximum of 5 per cent by 2015 that has already been dealt with in Section 8.1.2.3 on Environmental Goods Initiative as well as in a more detailed manner in Annexure 10. It will be important to know more about the flexibilities that APEC developing economies themselves are availing on implementation of this initiative.

There could also be renewed pressure to join ITA-II that is still under negotiation with China holding out on inclusion of several products. India has several reservations on ITA II including on product coverage.

India could also face pressure for easing its stance on some of the WTO related issues particularly relating to the Doha round. APEC meetings have from time to time issued declarations calling for an ambitious and balanced outcome.

India will, however, find it difficult to accept greater liberalisation unless it breaks out of its current limited export profile that is already unable to finance its imports resulting in huge trade deficits. A key to expanding India's export profile will require actions both on the supply front and on ensuring that our market access overseas gets further expanded. This is even as there appears a looming prospect that market access may get further constrained with some mega FTAs in the making like TPP or plurilateral agreement like Trade in Services Agreement (TISA) in which India is not a participant.

Action on the supply front requires improving competitiveness that internal reforms and business facilitation can bring about. On the former, the government has recently taken some measures including on labour reforms. Some states are also now pitching in with reforms that is being already commented and welcomed as a case of 'Competitive Federalism'. More actions will doubtless need to be taken. As for business facilitation, the APEC process could certainly be of some help as has been stated earlier.

Working on market access would also need clearing away a widely held (mis) perception about India taking an overly negative stance on international trade issues. This needs clearer articulation and reasoning of India's position and bringing out its legitimate concerns through some timely and skillful economic diplomacy. Enhancing market access would also require not only foraying into new markets but also looking carefully at beneficial exchange of further concessions in some of the FTAs India has already signed or in the fresh FTAs under negotiations (many of the partner countries in both sets of these FTAs are APEC members). On this front, again, being a part of APEC process and its action plans on business facilitation, etc., will provide Indian trade and other concerned officials with greater insights about what to seek. Indeed, India is the only non-ASEAN country in RCEP, which is not a member of APEC. It raises a question whether that may not be proving a handicap to India's RCEP negotiators.

APEC itself is also not unified, when it comes to trade liberalisation or WTO issues. It rarely acts as a caucus on WTO matters except in a very broad way just as its declarations on WTO which are generally couched. There are several developing countries (and developed) among its membership, which are also protective towards their agriculture sector and certain sensitive industrial sectors. They also have in place many non-tariff barriers that have been constraining India's exports to them. It would be very important to carefully study them and the Individual Action Plans submitted annually by APEC members. Such inputs should be put to effective use by India's economic diplomacy apparatus even as we exude a keen interest to move towards further reform and liberalisation as and when our economic conditions will allow.

9. Will India be Accepted?

The membership strength of APEC has remained at 21 since the decision taken to include Peru, Russia and Vietnam in 1997 when a moratorium on further expansion was also put in place for a ten year period. The APEC Leaders' Meeting in 2007 discussed this question and decided to postpone consideration after agreeing that 'it was important to manage the possible entry of new members in a manner that ensures that the momentum APEC has developed towards regional integration and open economies is enhanced'. The Leaders again took up this question in 2010 and this time noted 'Keeping in mind the benefits of APEC membership as well as the need for efficiency to achieve results we will continue to review the question of APEC new membership going forward'. A more or less identical formulation figured in the Statement of the APEC ministerial meeting in 2011 but since then the issue has apparently not been taken up in any APEC meeting.

While there is no confirmation if India's possible entry was discussed at any time, and if indeed India had also formally submitted any application, media reports and inputs from some regional interlocutors point to discussions having taken place in APEC on a few specific prospective members including India. ASEAN members of APEC could well have proposed the inclusion of Cambodia, Laos and Myanmar. Mongolia from East Asia and Colombia and one or two more countries from South America could have been others. An indication received was that the closest India was towards getting admitted was in 2007 but the timing was probably not right with divisions in WTO being at a height then. A perceived need for accommodating long pending demands of other sub-regions of Asia-Pacific, considerations of balance but lack of readiness of some of them may also have been factors. The 2007 and 2010 declarations convey that a decision was postponed because of a concern that inclusion of new members should not impair the momentum towards regional integration and the efficiency to get results and that APEC would wait till it can be certain that new entrants will work to enhance regional integration.

Discussions by the author in Singapore generally brought out a perception that India could receive a good measure of support from many countries and that India could become a member as soon as APEC decided to take in new members. All round support, however, cannot be taken for granted and some countries will need to be persuaded. It is noteworthy that in the 'US-India Joint Strategic Vision for the Asia-Pacific and the Indian Ocean Region', that was announced during the recent visit of President Obama to India, the United States has welcomed India's interest to join APEC. With India now being part of EAS and RCEP and with India developing closer ties with East and South East Asia, India's prospects appeared better. But, India will also need to work for it and prepare the ground. There were several suggestions and comments in this regard that were made:

a) An effort has to be made by India to engage closer with the Asia-Pacific region and its keen interest for becoming part of APEC has to be effectively conveyed. A key factor that could be suitably highlighted is that by 2020 or so India will emerge as the third largest economy and it made sense for APEC to see India within it.

b) Despite India's 'Look East' policy, its ramping up engagement with the region was not so compelling. There was worry in the street about the gap between what India talks and what it does and that its actions were not commensurate with its power.

c) How serious India is about the enterprise of liberalisation will become an important factor. India will need to work carefully on its positions in WTO and RCEP. That India was not seen as forthcoming in RCEP negotiations was mentioned by several interlocutors. One interlocutor felt India's positions need to be explained with a few well argued papers. Some seminars and conferences organised by good think tanks can help.

d) Some, particularly in the think-tank community, suggested that India should become a member of the Pacific Economic Cooperation Council (PECC) as a first step. All existing members of APEC are members of PECC and many regard the seeds for APEC were sown by discussions in PECC that predated APEC by ten years. There was, however, one key interlocutor who felt that PECC's importance had greatly declined now and there was not much point in going for a 'small prize'.

e) A few also proposed that India should participate in some of the Working Groups of APEC that can also reflect India's keen interest. It was recalled that India had participated in one or two working groups of APEC some years ago. (There is some mention in the literature about India's participation in the 1990s in APEC Working groups on Energy and Science and Technology although this author could not obtain confirmation in this regard). New procedures for participation in working groups as a 'guest', however, does not leave it only to the discretion of the host country but also requires submission of an application/ invitation to the APEC Secretariat that has to be approved by consensus by all participants in the working group.

10. Conclusion and Way Forward

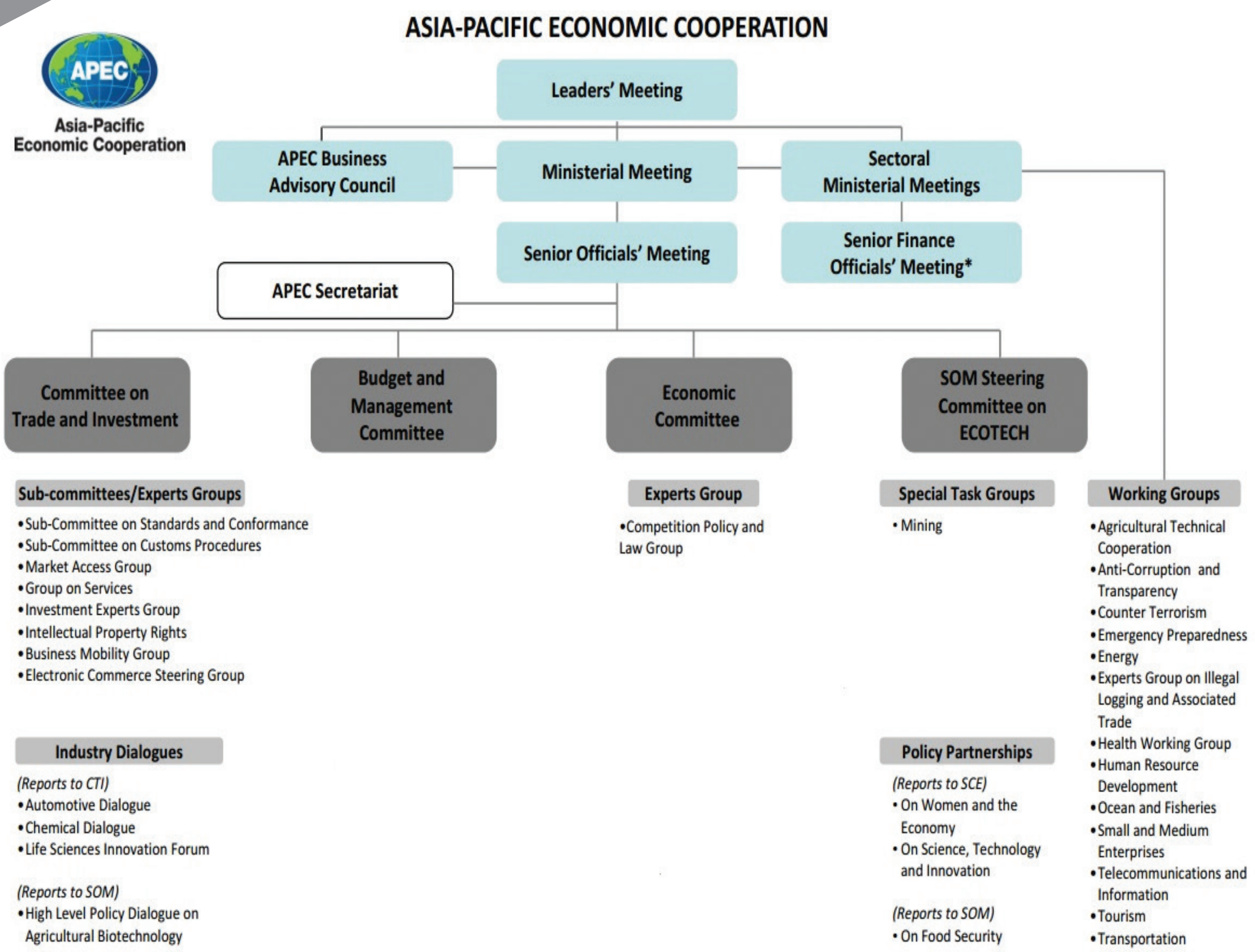
There are many potential gains that can accrue from India's membership of APEC even as managing some of the ensuing expectations and pressures will need deft handling. Author considers that it will be beneficial for India to join APEC but a well crafted effort will be necessary to prepare the ground. A decision needs to be taken quickly by the government. If it is decided to move ahead, necessary preparations have to start right away even as a favourable decision on India's admission into APEC may take two to three years to materialise. Firstly, a persuasive case will need to be made regarding India's keen interest to work towards further promoting Asia-Pacific Integration. The overall progress made by India and the various business facilitation and reform measures being introduced by the government to significantly improve Ease of Doing Business in India provides a good basis for this purpose, even as the limitations posed by domestic compulsions and the flexibilities needed may have to be well articulated. It would be necessary to get some influential

APEC members to push India's case. One will be to co-opt the United States in this effort, particularly considering the welcome it has accorded to India's interest to join APEC. It may also be advisable to get Australia and Japan, both of which are regarded as 'parents of APEC' and with both of which India is also developing good bilateral relations, to give a supportive push. China, another influential member and the ASEAN members of APEC, will also need to be engaged. Secondly, since the chair country has substantial leverage in setting the agenda in APEC, some added efforts will also be required with the Phillipines, Peru and Vietnam, which are the chair countries for 2015, 2016 and 2017, respectively. India could target to receive a favourable decision soon, but latest by 2017 when Vietnam will be the chair country. Meanwhile, however, it may be a good idea for India to try and participate as a 'Guest Country' in some of the Working Groups on trade facilitation and strengthening of supply chains. This will, on the one hand, convey India's keen interest while our concerned officials will also have an opportunity to see if they can burnish up India's own national campaigns on trade facilitation and on making manufacturing attractive from lessons learnt. If the Indian economy gets on to a higher growth trajectory soon, this will be an additional favourable factor. It is interesting that in recent months three different scholars[18] have argued how getting India into APEC would benefit both India and APEC members.

Annexures

Annexure 1

Structure of APEC



Source: APEC website (www.apec.org).

Annexure 2

APEC Sectoral Ministerial Meetings*

1. Meeting of APEC Ministers Responsible for Trade (21)** – 2014***
2. APEC Finance Ministers' Meeting (21) – 2014
3. APEC Small and Medium Enterprises Ministerial Meeting (21) – 2014
4. APEC Energy Ministerial Meeting (11) – 2014
5. APEC Transportation Ministerial Meeting (8) – 2013
6. APEC Tourism Ministerial Meeting – (8) 2014
7. APEC Human Resources Development Ministerial meeting (6) – 2014
8. APEC Telecom and Information Ministerial Meeting (6) – 2012
9. APEC Education Ministerial Meeting (5) – 2012
10. Meeing of APEC Ministers Responsible for Mining (5) – 2014
11. APEC Ocean-related Ministerial Meeting (4) – 2014
12. APEC Science Ministers Meeting (4)– 2004
13. APEC Health and Economy Ministerial Meeting (4) – 2014
14. APEC Meeting of Ministers Responsible for Environment (3) – 2012
15. APEC Ministerial Meeting on Food Security (3) – 2014
16. APEC Avian Influenza and Pandemics Ministerial Meeting (3) – 2006
17. APEC Meeting of Ministers Responsible for Forestry (2) – 2013

Source: Information given in Annexures 2 to 7 have been collated from APEC Website (www.apec.org).

Note: * An annual APEC Ministerial Meeting is also held just prior to the Annual Leaders' meeting. Normally each member is represented in such a ministerial meeting by their Foreign and /or Trade ministers.

** Figure in parenthesis indicates number of meetings held so far.

*** Year against each entry refers to last year when meeting was held.

Annexure 3

APEC Best Practices/ Guidelines

Trade and Investment Related

1. APEC Best Practices for RTAs/FTAs and APEC Model Chapters for RTAs/FTAs
2. APEC Best Practices in Secure Trade
3. APEC Customs 'Best Practices' Hand Book
4. APEC Customs 3M Strategic Framework
5. APEC Best Practices to Create Jobs and Increase Competitiveness (2013)
6. APEC Information Notes on Good Practice for Technical Regulations
7. APEC Innovation Principles
8. APEC Privacy Framework and Cross-border Privacy Rules (CBPR)
9. Model Code of Conduct for Business, a Model Code of Principles for Public Aapproval and Complementary Anti-Corruption Principles for the Private and Public Sectors
10. APEC Principles on the Prevention of Bribery and Enforcement of Anti-Bribery Laws
11. APEC's Good Practice on Regulatory Reform
12. APEC Leaders Transparency Standards
13. APEC Non-binding Principles on Government Procurement
14. APEC Good Practice Guide on Public Sector Governance.
15. APEC Principles for Cross Border Trade in Services.
16. APEC Guidelines for Advance Rulings
17. APEC AEO (Authorised Economic Operator) Action Plan and APEC AEO Best Practices
18. APEC Principles to Enhance Competition and Regulatory Reform

Sectoral Best Practices

1. APEC Chemical Dialogue – Principles for Best Practice Chemical regulation
2. Manual of Best practice Principles for Independent Power Producers (IPPs)
3. Building Energy Codes – Best Practices Report for APEC Economies

4. APEC Report of Best Practices in Accessible Tourism
5. APEC Smart Buildings – Development of Best Practices for Low Energy Buildings Network
6. Best Practices in Agricultural Statistics in APEC Members
7. APEC Common Principles to Shipping Policy
8. APEC Best Practices for SMEs Innovation
9. APEC Functioning Economies in times of Pandemics Guidelines
10. Models for Supporting Women's Micro Enterprise Development: Best Practices and Guidelines
11. APEC Principles for Voluntary Codes of Business Ethics. (KL principles for medical devices sector, Mexico city principles for bio-pharmaceutical sector and the Hanoi principles for the construction sector).
12. APEC's Voluntary Food Defence Principles (2007)
13. APEC Guidelines for creating an enabling environment for employers to implement effective workplace practices for people linking with HIV/AIDS
14. APEC Best Practice Principles as
    a) Accelerating Investment in Natural Gas supplies
    b) Natural Gas Trade
    c) Infrastructure and Trading Networks in the region.
    d) Facilitating the development of LNG Trade
    e) Independent Power Producers (IPP)
    f) Energy Education
    g) Financing Energy Infrastructure Projects
    h) Establishment and Management of Strategic Oil Stocks
15. APEC IPR Guidelines in Capacity Building
16. 10 APEC Mining Policy Principles
17. APEC Guidelines on Appropriate Donations in Times of Disaster

Source: APEC website (www.apec.org).

Annexure 4

APEC Initiatives/ Action Plans in Vogue

Trade and Investment Related

1. Strategic Framework on Measurement of APEC TiVA under GVCs.
2. APEC Investment Facilitation Action Plan (IFAP) (2008-2010)
3. APEC New Strategy for Structural Reforms (ANSSR) endorsed in 2010.
4. APEC Connectivity Blueprint for 2015-2025 (2014)
5. APEC Strategic Plan on Capacity Building to Promote Trade and Investment (2010-2025)
6. APEC Ease of Doing Business Action Plan
7. APEC Regulatory Cooperation Plan (2011)
8. APEC Anti-counterfeiting Facility and Piracy Initiative
9. APEC Regional Movement Alert System
10. APEC Trade Recovery Programme (Pilot service 2009)
11. Leaders' Agenda to Implement Structural Reform (Regulatory reform, competition policy, corporate governance, public sector governance and strengthening economic and legal infrastructure)
12. APEC Services Initiative (2010)
13. APEC Strategy for Investment: Advanced Principles and Practices, Facilitation and Promotion - Building on Non-binding Investment Principles and the Investment Transparency Standards
14. APEC consolidated Counter Terrorism and Secure Trade Strategy.
15. APEC Single Window Initiative 2007
16. Secure Trade in the APEC Region (STAR) Initiative 2002.
17. APEC Business Travel Card Scheme
18. Beijing Roadmap for APEC's contribution to the Realisation of FTAAP (2014)
19. APEC Cross-border E-Commerce Innovation and Development Initiative (2014)
20. APEC Strategic Blueprint for Promoting Global Value Chain Development and Cooperation (2014)

21. APEC Initiative of Cooperation to Promote the Internet Economy (2014).

Sectoral

1. APEC Food Security Roadmap Towards 2020.
2. APEC Advertising Regulatory Capacity Building Monitoring Program
3. APEC Strategy for Disaster Risk Reduction and Emergency Preparedness and Response
4. APEC Science Prize for Innovation, Research and Education (ASPIRE)
5. APEC Electrical and Electronic Mutual Recognition Arrangements (EEMRA)
6. APEC Food Sectoral MRA
7. APEC TEL MRA.
8. APEC Standards Education Initiatives
9. APEC Blue Print for Action on Electronic Trading (2008)
10. APEC Multi Year Plan on Infrastructure Development and Investment.
11. APEC Action Plan Framework on Regional Economic Integration (REI) Capacity Building Needs Initiative (CBNI)
12. APEC Food Security Business Plan (2014-2020)
13. APEC Action Plan for Promoting Quality Employment and Streghening People to People Connectivity through Human Resources (2015-2018)
14. APEC Food Security Roadmap toward 2020 (2014 version)
15. APEC Cooperation Initiative for jointly establishing an Asia-Pacific Urbanisation Partnership

Source: APEC website (www.apec.org).

Annexure 5

Key APEC Targets

1. Bogor Goals of achieving Free and open Trade and Investment by 2010 for developed members and by 2020 for developing members of APEC (1994)
2. 10 per cent improvement in supply chain performance by 2015 in terms of time, cost and uncertainty (of APEC supply chain framework) using 2009 as a base (2009)
3. Aspirational goal of a 25 per cent improvement on 'Ease of Doing business' by 2015, taking 2009 as a base in five priority areas: Starting a business, getting credit, trading across borders, enforcing contracts and dealing in permits (2009)
4. Reduction of tariffs on APEC List of Environmental Goods to 5 per cent or less by the end of 2015 (2012)
5. Aspirational goal of doubling the share of renewables in the APEC energy mix, including in power generation, from 2010 levels by 2030 (2014)
6. Reduction of aggregate energy intensity by 45 per cent by 2035 using 2005 as a base year (2012)
7. Achieving universal broad band access in APEC region by 2015 (2009)
8. Achieving convergence on regulatory approval procedures for medical products by 2020 (2011)
9. Aspirational goal of increasing forest cover in the region by at least 20 million hectares of all types of forests by 2020 (2007)
10. Conserve at least 10 per cent of coastal and marine areas, including through effectively managed marine protected areas (MPAs) and other area-based conservation measures, by 2020
11. 1 Million intra APEC University students by 2020 (2013)
12. 800 million APEC tourist arrivals by 2025 (2014)

Already Achieved

1. Reduction in trade transaction costs by 5 per cent across the APEC region between 2002 & 2006 - APEC's First Trade Facilitation Action Plan (TFAP - I)
2. Further reduction in trade transaction costs by 5 per cent in the period 2007-10 - APEC's Second Trade Facilitation Action Plan (TFAP-II)

Source: APEC website (www.apec.org).

Note: Year in parenthesis indicates the year in which the target was set.

Annexure 6

Various APEC Centers

1. Biomedical Regulatory Science Center of Excellence and Training Center for Commercialisation of Biomedical Products
2. APEC Life Science Innovation Forum (LSIF) Harmonisation Centre, Seoul
3. APEC Research and Training Center for Marine Biodiversity Conservation and Ecosystem Management in China
4. APEC Innovation Center of Excellence for the evaluation of multi-regional clinical trials
5. APEC Center on SMEs in Republic of Korea
6. APEC SME Crisis Management Centre in Taipei
7. APEC Climate Center
8. US-APEC Technical Assistance and Training facility in Singapore
9. Asia-Pacific Finance and Development Center that is now to be upgraded to Asia-Pacific Finance and Development Institute
10. APEC Digital Opportunity Center
11. APEC Experts Advisory Panel and a pilot Public Private Partnership center in Indonesia (2013)
12. APEC Marine Environmental Training and Education Centre in Korea
13. APEC Ocean and Fisheries Information Center in Indonesia
14. APEC Marine Sustainable Development Centre in China
15. APEC sustainable Development Centre in China
16. APEC Higher Education Research Centre
17. Asia-Pacific Model E-Port Network (APMEN) operational centers in the Shanghai Model E-port
18. Pilot Center of APEC Cooperation Network on Green Supply Chain, Tianjin, China

Source: APEC website (www.apec.org).

Annexure 7

APEC 'Pathfinder' Initiatives

1. Trade and the Digital Economy (2002)
2. Corporate Governance (2002)
3. Electronic Certificates of Origin (2002)
4. Electronic SPS Certificates (2002)
5. Adoption of Unilateral Advance Passenger Information System (2002)
6. Adoption of Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures (2002)
7. APEC Pathfinder Initiative on APEC Electrical and Electronic Equipment Mutual Recognition Arrangement (APEC EE MRA) Parts II and III (2002)
8. APEC Sectoral Food Mutual Recognition Arrangement (2003)
9. APEC Pathfinder on Technology Choice (2006)
10. APEC Data Privacy Pathfinder Initiative (2007)
11. APEC Self Certification of Origin Path Finder (2009)
12. APEC Pathfinder to Enhance Supply Chain Connectivity by Establishing a de minimis value (2011)
13. APEC Pathfinder Initiative on Facilitating Trade in Remanufactured Goods (2011)
14. APEC Pathfinders on Mutual Recognition of AEO (Authorised Economic Operators) Programme (2011)

Source: APEC website (www.apec.org).

Note: Year against each entry indicated the year in which the initiative was endorsed.

Annexure 8

Bogor Goals and Osaka Action Agenda: A Comparative Study of Laws and Practices in India and Select APEC Economies*

1. Introduction

Pursuant to the Bogor Goals and Osaka Action Agenda, APEC members are seeking to pursue the triple objectives of trade and investment liberalisation, business facilitation and economic and technical cooperation. Trade and investment liberalisation aims to reduce and eventually eliminate tariff and non-tariff barriers to trade and investment. Bogor Goals sought to achieve free and open trade and investment by 2010 for developed members and by 2020 for developing members of APEC. Further, APEC members have also committed to reducing tariffs on APEC List of Environmental Goods to 5 per cent or less by the end of 2015.

Business facilitation focuses on reducing the costs of business transactions, improving access to trade information and aligning policy and business strategies to facilitate growth, and free and open trade. Essentially, business facilitation helps importers and exporters in Asia-Pacific to meet and conduct business more efficiently, thus reducing costs of production and leading to increased trade, cheaper goods and services and more employment opportunities due to an expanded economy. APEC has set an aspirational goal of a 25 per cent improvement on 'Ease of Doing business' by 2015, taking 2009 as a base in five priority areas: starting a business, getting credit, trading across borders, enforcing contracts and dealing in permits.

APEC's ECOTECH is dedicated to providing training and cooperation to build capacities in all APEC economies to take advantage of global trade. This area builds capacity at the institutional and personal level to assist APEC economies and its people gain the necessary skills to meet their economic potential. As a part of their commitment to meet the stated goals for free and open trade and investment, APEC members regularly submit their IAPs. This is a record of actions taken to meet its stated goals. APEC members set their own timelines and goals, and undertake these actions on a voluntary and non-binding basis.

* A team comprising Prof. Abhijit Das (Head CWS, IIFT), Dr. Murali Kallummal (Associate Professor and Consultant, IIFT), Dr. Pralok Gupta (Assistant Professor and Consultant, IIFT), Ms. Shraddha Kulhari (Research Fellow Legal, IIFT) and Dilfy Ann Philip (Research Associate, IIFT) worked on this report. The report has benefitted significantly from the suggestions of Dr. V. S. Seshadri, Vice-Chairman, RIS.

As specified in the Osaka Action Agenda, reporting of IAPs is based on the following areas: (i) tariffs; (ii) non-tariff measures; (iii) services; (iv) investment; (v) standards and conformance; (vi) customs procedures; (vii) intellectual property rights; (viii) competition policy; (ix) government procurement; (x) deregulation/regulatory review; (xi) WTO obligations (including rules of origin); (xii) dispute mediation; (xiii) mobility of business people; (xiv) information gathering and analysis; (xv) transparency; (xvi) Regional Trade Agreements/Free Trade Agreements (RTAs/FTAs). Each year, several APEC member economies volunteer to have their IAPs reviewed. Known as Peer Reviews, this process involves a formal review team considering each volunteer economy's IAP. Experts conduct independent research and analysis and the independent private sector body and the APEC Business Advisory Council (ABAC) are also part of the process.

The objective of this report is three-fold. First, it seeks to describe the APEC's goals/ aspirational targets in respect of tariffs, customs procedures, government procurement, services, investment, protection of intellectual property rights and competition. Second, in respect of each of these areas, it endeavours to compare India with select APEC members at similar stages of development. APEC members selected for this purpose include China, Chile, Indonesia, Malaysia, Peru, the Philippines and Vietnam. The third objective is to assess how APEC's mechanisms/best practices/ expert groups can help India to improve its development objectives in each area. While this report is not a comprehensive analysis of all issues included in the Action Agenda of APEC, it has focused attention on certain key aspects including tariffs, non-tariff barriers, customs procedures, government procurement, services, investment and intellectual property rights. Even in selected areas, it does not purport to comprehensively examine all issues.

2. Tariffs

The stated objective of APEC countries is to eliminate tariffs. Bogor Goals sought to achieve free and open trade by 2010 for developed members and by 2020 for developing members of APEC. This section analyses tariffs in select APEC members[19] in order to make an assessment of India's standing relative to these countries. The analysis is undertaken separately for all products, as well as at the sectoral level.

2.1 Analysis of Applied MFN Tariff Rates

Table 1 provides details of MFN applied tariffs for India and six selected APEC countries. Based on the table, it is clear that compared to the other APEC countries, India has higher average total MFN applied tariffs. Further, India's applied tariffs are higher for both agricultural and non-agricultural products. While the gap between India's average tariffs and those of APEC countries is not particularly wide for non-agricultural products, in respect of agricultural products India's tariffs are two times higher than that of Vietnam (the APEC country with highest agricultural tariffs). Reduction of tariffs, particularly in respect of agricultural products, is likely to be one of the key areas in IAP in which India could come under pressure from APEC countries. Table 1 also suggests that the developing members of APEC are not likely to eliminate tariffs by 2020, particularly in respect of non-agricultural products.

2.2 Sector-Wise Applied MFN Tariffs

The disparity between tariff levels in India and in the developing APEC economies under consideration are further illustrated when sector level average tariffs are considered (Table 2). On the one hand, in certain labour intensive or primary sectors, *viz.* clothing, cotton, leather and footwear, manufacturing n.e.s, minerals and metals, non-electrical machinery, petroleum and wood, paper etc., tariffs are relatively high both in India as well as in some of the developing APEC economies. In respect of the other sectors, India's tariffs are significantly higher than the rest, particularly in agriculture related sectors such as tea and coffee, dairy products, fish and fish products, fruits and vegetables, oilseeds fat and oil and sugars and confectionery. In general, however, India's higher tariff levels have to be also understood in the context of its need to keep its trade deficit in check. As will be seen from Table 3, India's trade deficit as a percentage of its total exports of merchandise goods is already significantly higher than the developing APEC economies.

2.3 ITA 2 and Environmental Goods

APEC has been at the forefront of seeking reduction/elimination of tariffs on IT goods, as well on the so-called environmental goods. China, Malaysia and the Philippines are among the 28 WTO members, which are seeking an expansion of ITA 1. This perhaps reflects the active participation of these countries in global value chains of electronic products. As far as the environmental goods are concerned, in 2012, APEC identified 54 products for reduction of tariffs to 5 per cent or lower.

2.4 Progress Towards Bogor Goals

Marginal reduction has been seen in the APEC average MFN tariff after 2010. While MFN tariffs in non-agricultural products declined, agricultural products faced increasing MFN average tariffs. As stated earlier, the developing members of APEC are not likely to eliminate tariffs by 2020, particularly in respect of non-agricultural products.

2.5 Tariffs: Overall Assessment of India's APEC Membership

Given its relatively higher tariffs, India is likely to come under pressure to reduce/ eliminate tariffs, at least in certain sectors, such as IT products and environmental goods. However, it may be noted that there is some divergence within the APEC members on tariff related issues. To illustrate, while Malaysia and Thailand have shown aggressive interests in NAMA negotiations at the WTO, Indonesia and the Philippines are members of NAMA -11 and have more defensive concerns. India could also argue that it needs tariff protection to neutralise the cost disadvantage suffered by its producers on account of infrastructural deficiencies, quite apart from the large trade deficit that it currently has on merchandise

Table 1: Comparison of the MFN Applied Tariffs for India and APEC Members (2000 - 2013)

(%)

Country	Agriculture				Non-Agriculture			
	2000	2005	2010	2013	2000	2005	2010	2013
Chile	9.00	6.01	6.00	6.00	8.96	5.98	5.98	6.00
China		14.10	13.81	15.60		8.09	8.17	9.00
India	82.65	36.04	23.49	33.50	37.10	15.56	9.09	10.20
Indonesia	6.57	6.93	7.08	7.50	5.67	5.70	5.87	6.70
Malaysia	2.56	2.49	2.57	8.90	4.49	3.82	3.36	5.50
Peru	12.75	10.31	4.44	4.00	17.00	9.34	5.53	3.30
Vietnam		13.91	9.97	16.20		12.37	6.90	8.30
US	4.10	5.40	3.40	5.30	3.60	3.20	3.10	3.10
Japan	3.80	3.90	4.20	19.00	3.60	3.40	3.20	2.60

Source: Compiled based on WITS data and WTO tariff profile 2013.

Table 2: Average MFN Applied Tariffs of Selected APEC Members and India

(%)

Avg. MFN App. Tariff	Chile (2012)	China (2011)	India (2012)	Indonesia (2012)	Malaysia (2012)	Peru (2011)	Philippines (2012)	Vietnam (2012)	Avg. MFN incl. India	Avg. of Selected APEC Members	India's Average Above by
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l=d-k))
Animal products	6.0	14.8	31.1	4.7	3.8	5.4	21.0	14.2	12.6	10.0	21.1
Beverages & tobacco	6.0	22.3	69.1	48	124.6	6.2	8.2	43.2	41.0	36.9	32.2
Cereals & preparations	6.0	24.3	31.3	5.3	4.5	2.7	10.9	17.2	12.8	10.1	21.2
Chemicals	6.0	6.6	7.8	5.5	2.8	2.0	3.8	3.1	4.7	4.3	3.5
Clothing	6.0	16.0	14.1	14.4	0.2	13	14.8	19.8	12.3	12.0	2.1
Coffee, tea	6.0	14.7	56.3	6.7	5.7	6.3	15.7	26.7	17.3	11.7	44.6
Cotton	6.0	14.9	6.0	4.0	0.0	6.o	2.6	6.0	5.7	5.6	0.4
Dairy products	6.0	12.0	33.5	5.5	2.3	0.0	3.9	9.7	9.1	5.6	27.9
Electrical machinery	6.0	8.3	7.3	5.8	4.3	2.1	4.0	8.1	5.7	5.5	1.8
Fish & fish products	6.0	10.8	29.9	5.3	1.0	0.5	8.0	15.6	9.6	6.7	23.2
Fruit, vegetables, plants	6.0	14.8	31.0	5.5	3.0	5.1	9.8	20.0	11.9	9.2	21.8
Leather, footwear, etc.	6.0	13.1	10.2	8.6	10.5	4.7	6.6	12.8	9.1	8.9	1.3
Manufactures, n.e.s.	6.0	11.9	8.8	6.8	4.5	3.7	4.8	9.8	7.0	6.8	2.0
Minerals & metals	6.0	7.4	7.6	6.3	8.1	1.5	4.6	7.8	6.2	6.0	1.6
Non-electrical machinery	6.0	8.0	7.3	5.3	3.5	0.6	2.2	3.2	4.5	4.1	3.2
Oilseeds, fats & oils	6.0	10.8	37.4	4.1	1.8	2.3	5.6	7.9	9.5	5.5	31.9
Other agricultural products	6.0	11.3	22.5	4.0	0.6	3.1	3.4	6.6	7.2	5.0	17.5
Petroleum	6.0	4.4	4.9	0.3	0.7	0.0	1.2	8.2	3.2	3.0	1.9
Sugars and confectionery	6.0	27.4	35.9	6.2	2.5	0.8	16	10.1	13.1	9.9	26.0
Textiles	6.0	9.5	13.5	9.2	9.0	9.6	9.1	9.6	9.4	8.9	4.6
Transport equipment	5.4	11.5	21.2	9.4	11.4	1.0	8.8	18.2	10.9	9.4	11.8
Wood, paper, etc.	6.0	4.4	9.0	4.5	10.0	4.4	6.5	10.5	6.9	6.6	2.4
Average	6.0	12.7	22.5	8.0	9.8	3.7	7.8	13.1	10.4	8.7	13.8

Source: Compiled based on WTO tariff profile 2013.

Table 3: Trade Deficit as Percentage of Exports

(%)

Country	2000	2005	2010	2013
Chile	8.76	21.56	16.62	-2.91
China	9.67	13.39	11.52	11.73
Indonesia	46.05	32.64	14.02	-2.23
India	-24.98	-40.37	-58.81	-38.45
Malaysia	17.25	19.30	17.21	9.74
Peru	-8.00	26.95	14.70	-3.55
Philippines	2.81	-19.96	-13.54	-20.60
Vietnam	-7.97	-13.30	-17.45	0.00

Source: Compiled based on data from WITS online database.

Note: A negative percentage indicates deficit and a positive figure surplus.

goods.

3. NTMs, Standards and Conformance

Given the increasing role of non-tariff barriers in impeding trade, it is surprising that APEC has not yet embarked on a comprehensive and ambitious plan to address this issue. However, some efforts are being made through the Sub-Committee on Standards and Conformance (SCSC), which was established in 1994, to help reduce the negative effects that differing standards and conformance arrangements have on trade and investment flows. These efforts have resulted in Mutual Recognition Agreements on Electrical and Electronic Equipment; and Telecommunications and Telecommunications-related Equipment. Further, APEC members seek to align domestic standards to international standards as far as possible. APEC economies have reported progress concerning the elimination of some non-tariff measures (NTMs). However, new NTMs have been imposed in recent years and the accumulation of NTMs continues to restrict trade. This section looks at the profile of specific trade-related concerns on SPS/TBT issues; briefly discusses the MRAs on the two broad product categories, and provides an assessment of likely gains for India in the area of Standards, if it were to join APEC.

3.1 Profile of Specific Trade Concerns on SPS/TBT Issues

There is no universally accepted measure of non-tariff barriers (NTB) imposed by various countries. One possible method of assessing the extent to which SPS/TBT measures have caused concerns among different countries is by analysing the Specific Trade Concerns on SPS and TBT issues raised by WTO members against APEC countries and India. The number of these unresolved concerns can be a useful and relevant indicator of NTBs imposed by APEC countries and India. As shown in Table 4, while China is at the receiving end of the highest number of Specific Trade Concerns (16), India and Indonesia (8) each are not far behind.

3.2 MRAs on Electrical and Electronic Equipment; and Telecommunications and Telecommunications-Related Equipment

The Electrical and Electronic Equipment Mutual Recognition Arrangement (EEMRA) is intended to apply to all instances where test reports or certification are used as the basis for regulatory compliance with respect to electrical and electronic equipment. It comprises three elements: information interchange; acceptance of test reports; and acceptance of certification. The EEMRA ensures that comprehensive information relating to member economies' regulatory regimes are available to manufacturers, thereby improving compliance with regulatory requirements. By having mutual recognition of test reports and certification by designated testing and certification bodies, respectively, duplicate testing and certification can be avoided when products are being exported to numerous markets. The testing/certification requirements have been specified in accordance with the relevant ISO/IEC Standards and Guide. It may be noted that out of the 21 APEC economies 18 have agreed to participate in information exchange. However, participation in acceptance of test reports (5 APEC economies) and acceptance of certification (4 APEC economies) is low. With the larger economies – the US, Japan, Korea and Canada - not participating in acceptance of certification or acceptance of test reports, the utility of the MRAs in facilitating exports would be reduced.

The APEC-TEL Mutual Recognition Arrangement is a multilateral arrangement between economies in the APEC region. The APEC TEL MRA for Conformity Assessment of Telecommunications Equipment, which came into effect on 1 July 1999, facilitates the recognition of each other's conformity assessment results. The MRA for Equivalence of Technical Requirements, which was endorsed by the APEC Telecommunications Ministers on 31 October 2010, builds upon the MRA for Conformity Assessment by facilitating the recognition of equivalent standards or technical requirements and provides for a further reduction in the costs of conformity assessment.

MRA initiatives have been mooted in several other areas, and it does not appear to have progressed beyond information exchange.

3.3 Likely Implications for India in Respect of Standards if It Joins APEC

India could gain from the MRAs on Electrical and Electronic Equipment; and Telecommunications and Telecommunications-related Equipment. However, this is contingent upon the manufacturers meeting the testing/certification and conformity assessment requirements in accordance with the relevant ISO/IEC Standards and Guide. Further, questions could be raised on India's capacity to exports these products at competitive prices to the APEC countries, some of whom are perhaps the most cost-effective producers in the world. In addition, these products do not constitute a significant share in India's global export basket.

APEC is implementing the Automotive Dialogue, which allows the public and private sectors to work together to improve policy development, to identify barriers to growth and to develop effective cooperation mechanisms for APEC economies to address and reduce impediments. In the past, as part of the dialogue, the Society of Indian Automobile Manufacturers (SIAM), has been invited to make presentations. Membership of APEC could deepen the cooperation between SIAM and similar other bodies in the APEC region for reducing trade barriers in this sector.

The large number of Specific Trade Concerns raised at the WTO against India could be reflective of insufficient domestic capacity in India to design and implement standards. In this context, the second benefit to India could arise from institutional and human resource capacity building by participation in discussions at APEC on issues related to standards and MRAs. The significance of this

Table 4: Profile of Specific Trade Concerns on SPS/TBT Issues

Country	No. of unresolved SPS related Specific Trade Concerns	Illustrations of recent SPS related Specific Trade Concerns	No. of unresolved TBT related Specific Trade Concerns	Illustrations of recent TBT related Specific Trade Concerns
Chile	1	Zero-tolerance for salmonella in imported poultry products	4	Proposed amendment to the Food Health Regulations; Safety for Printers and Energy Efficiency for Printers
China	16	Import conditions related to phthalates; Import restrictions in response to the Japanese nuclear power plant accident; Import policy on swallow nests; Import restrictions on beef due to BSE	48	Free Sales Certificate for Imported Cosmetics; Safety Requirement for Lithium Ion Cells and Batteries; Regulations for the Supervision and Administration of Medical Devices
India	8	Import restrictions on apples, pears and citrus; Import conditions for pork and pork products; India's import requirements for blueberries and avocados	20	Requirements for compulsory registration of Electronics and Information Technology Goods; Amendment to 2008 Hazardous Waste Law; Labelling Regulations for Canola Oil
Indonesia	8	Permits on horticultural products	18	Health Regulation on the inclusion of sugar, salt and fat content information, and health messages on the label of processed foods; regulation on halal food; Mandatory Indonesia National Standard (SNI) for Glazed Ceramic; Affixed Mandatory Label in Indonesian Language for Goods
Malaysia	3	Import restrictions on pork and pork products	3	Conformity Assessment Procedures for Steel Products; Draft Protocol for Halal Meat and Poultry Production
Peru			6	Regulations for Moratorium on Planting Genetically Engineered Crops; Act to Promote Healthy Eating Among Children and Adolescents
Vietnam	1	Ban on offals	4	Regulations relating to liquor production and trading; Implementation of Some Articles of Food Safety Law

Source: Compiled from WTO website (www.wto.org).

aspect cannot be under-estimated, given the importance being attached by the government to strengthen the domestic capacity in setting standard.

4. Government Procurement

Government Procurement (GP) generally constitutes a significant share of the total GDP in many countries. In many countries, the GP market is protected and the procurement regimes permit the countries to discriminate against foreign suppliers. GP is further characterised by lack of transparency in procedures. APEC has been seeking to enhance openness in procedures and attempting to remove barriers that prevent foreign entities to secure GP contracts in other countries.

The APEC Government Procurement Experts' Group (GPEG) was established in 1995 to consider ways to achieve increased transparency and enhanced liberalisation of government procurement markets in accordance with the Bogor Declaration. GPEG has developed a set of APEC Non-Binding Principles (NBPs) on Government Procurement, which were endorsed by APEC Leaders at their meeting in 1999 in Auckland, New Zealand. The NBPs have contributed to the successful promotion of transparency and the liberalisation of government procurement markets across member economies. The NBPs on government procurement are in respect of the following elements: value for money; open and effective competition; accountability and due process; fair dealing; non-discrimination; and transparency.

This section compares the existing procurement regimes in India and in select APEC countries; recent developments in GP and proposed improvements; and makes an assessment of gains and costs to India that might arise from APEC membership.

4.1 Existing GP Regimes, Recent Improvements and Proposed Changes

Neither India nor any of the APEC developing economies under examination are signatories to the Government Procurement Agreement (GPA) at the WTO. However, in their FTAs with US, Chile and Peru have taken market access commitments for government procurement. It is also understood that China is at an advanced stage of its accession to the GPA. APEC economies have been working on initiatives to improve government procurement practices to help ensure value for money, open and effective competition, fair dealing, accountability and transparency. A common reported feature has been the implementation of electronic public procurement systems to streamline processes and make them more transparent.

Table 5 provides the basic information on government procurement markets in India and selected APEC countries. From this table it would be clear that India's procurement system may be comparable, if not better, than those of the APEC countries. In the light of CVC guidelines on procurement, it is also likely that in certain aspects – transparency – its procedure may be better than those prevailing in the APEC countries.

4.2 Likely Impact on India of APEC Membership

The work on GP at APEC has considerable flexibility and is not intended to be mandatory or prescriptive. Some APEC members, particularly Malaysia, seem to have improved their procurement procedures and regime, pursuant to work at the APEC. In the area of GP, the most important gain to India from APEC membership is likely to be improvements in procurement procedures. Adherence to some of the NBPs on government procurement could help streamline the procurement systems in

Table 5: GP Regimes , Recent Improvements and Planned Changes

Country, Status wrt GPA, Size of GP	Domestic Regime on Government Procurement and Recent Improvements	Planned Improvements
Chile (Observer) Size - $11.7 billion (2011)[20]	Separate law on procurement of goods and services implemented. Has provided non-discriminatory market access under the Chile - US FTA. Chile also negotiated an economic integration initiative with Pacific Alliance Members (Colombia, Peru and Mexico), which includes a Government Procurement chapter.	
China (Observer, negotiating accession) Size - RMB 1,397.8 billion in 2012, up from RMB 842.2 billion in 2010.[21] Government procurement accounted for about 2.2 per cent of GDP (2.1 per cent in 2010).[22]	Government Procurement Law in effect since 1 January 2003.[23] Procurement from domestic sources mandatory, subject to certain exceptions including unavailability of goods or services on reasonable commercial terms domestically. Possibility of foreign suppliers to participate in GP exists if other laws and administrative regulations so permit. Recent improvements include standardising bid evaluation procedures; requiring use of competitive procurement methods; establishing complaint settlement mechanism; streamlining procedures for application and approval; and treating products produced by foreign invested enterprises in China at par with those produced by Chinese enterprises.	Simplifying and standardising GP procedures; strengthening evaluation management of procurement results; further standardising GP procedures; and actively participating in GPA accession negotiations.
India (Observer) Size - 20 per cent of GDP[24]	No specific GP law. At the central level GP is undertaken in accordance with General Financial Rules 2005; Delegation of Financial Powers Rules; manual on policies and procedures for purchase of goods; guidelines issued by the Central Vigilance Commission etc. Railways, Telecommunications, PSUs etc. have their own procurement systems. In respect of high value tenders competitive global biding is resorted to. However the threshold for this is not defined. Price preferences of up to 15 per cent is provided to MSMEs over the quotations provided by large scale industries. Central PSUs are allowed preferences on a case by case basis. A list of medicines is reserved for purchase from Pharma PSUs. A project on E-Government procurement is being implemented at the Central Government level. In addition, procuring entities at the Central Government level provide detailed information on their respective websites regarding each procurement. With the exception of a few States like Andhra Pradesh, Karnataka and Tamil Nadu, rules of GP are generally obsolete and have not been updated over the past many decades.	Public Procurement Bill was introduced in Parliament in May 2012, but could not be approved. Under the proposed bill the procuring entities shall generally not discriminate amongst bidders but in limited circumstances domestic purchase preference may be permitted. Other important provisions of the bill include a two stage grievance redressal mechanism and integrity pact providing directives on what conducts are not acceptable.

Table 5 continued...

Table 5 continued...

Country, Status wrt GPA, Size of GP	Domestic Regime on Government Procurement and Recent Improvements	Planned Improvements
Indonesia (Observer) Size - 30 per cent of budget.[25]	No exclusive procurement law; the main source of procurement rules is Presidential Regulation No. 54/2010 (PR54).[26] E-Procurement made mandatory as of 2012. Procurement announcements and tender documentation are available online but in Indonesian only. SMEs given priority for procurement below IDR 2.5 billion.	
Malaysia (Observer) Size- $ 28.1 billion (2010).[27]	No exclusive legislation on government procurement; the Financial Procedure Act 1957 is the main legal instrument for government procurement.[28] Sales to GP require a local agent or a joint venture partner, usually a Bumiputera. Open tendering mandatory for procurement above RM 500,000. International tenders invited when domestic goods and services unavailable. Bumiputera suppliers receive margin of preference between 2.5 - 10 per cent; Bumiputera manufacturers receive MoP between 3 - 10 per cent. Comprehensive offset policy exists covering defense and non-defense procurements – mainly in Aerospace, Rail, Automotive and Energy Sectors. As part of procurement reform results of recent tenders made electronically available. E-Procurement being gradually encouraged.	NextGeneP, an advanced e-procurement system, will go live in 2015. This will enhance transparency in procurement and make the process more interactive.
Peru (Neither signatory nor Observer) Size - S33.8 billion (2012).[29]	Government Procurement Law-2009 and its implementing regulations (Supreme Decree No. 184-2008-EF).[30] Pursuant to its FTAs with EU, Peru is implementing comprehensive obligations related to transparency in GP. In addition Government Procurement Tribunal established for settling GP related disputes.	All entities must publish tendering information electronically. Steps being taken to publish procurement information in English.
Philippines (Neither signatory nor Observer) Size - around 3 per cent of GDP[31]	Government Procurement Reform Act (R.A. No. 9184 of 10 January 2003) replaced over 100 laws, rules, and regulations, with a single unified regime.[32] Foreign participation in GP remains restricted, as strong preference provided to procure domestically. Upgrading online monitoring and evaluation system for implementing agency procurement performance indicators. Approved guidelines on e-bidding on a pilot basis.	Studying the establishment of independent bid challenge procedure. Plans to implement professionalisation programme for improving GP.
Vietnam (Observer) Size - $ 21.9 billion (2011).[33]	Government procurement regulated in accordance with the Law on Tendering No. 61/2005/QH11 of 29 November 2005; Law No. 38/2009/QH12, Decree No. 85/2009/ND-CP, Decree No. 68/2012/ND-CP, and other guiding documents.[34]	Decrees providing guidelines Law on Procurements (amended) on selecting bidders and investors in pipeline.

Source: Complied by author from various sources.

India. India may also benefit from adopting some of the practices that can give effect to the elements of the NPBs. This would become particularly relevant if the Public Procurement Bill is approved by the Parliament and rules need to be formulated for implementing the procurement law. The overall balance tilts on the side of gains for India, provided the work programme does not require member countries to make any commitments for non-discriminatory market access to foreign suppliers.

5. Services

In their 2008 Statement, APEC Leaders called for accelerated implementation of APEC's regional economic integration agenda, and: "instructed officials to undertake initiatives designed to promote greater convergence in key areas of APEC's trade and investment portfolio, including cross-border services". In response to Leaders' instructions, a Services Action Plan (SAP) has been developed to provide an overarching level of coordination and focus to the services-related work conducted across all of APEC's various sub-committees and working groups.

APEC members have reported an increase in the participation of foreign companies in a number of services sectors. Governments are unilaterally increasing competition by improving market access requirements for foreign firms or by extending licenses to additional players, including to foreigners. Telecommunications is the sector where competition seems to have benefitted the most from these more open market conditions. Among other services sectors, some APEC economies reported better terms for foreign participation in the financial services (in particular, in the securities industry), broadcasting, energy, energy-related services, legal services, health-related services, postal and courier. APEC economies have also been encouraging more trade in services by providing more certainty regarding market access and national treatment conditions through the negotiation of FTA/RTAs including deeper commitments than those agreed under the General Agreement on Trade in Services (GATS). Regulatory frameworks have been modified in certain sectors to reduce market risk. Some restrictions still remain. For example, the local content requirements can be frequently found in broadcasting sector. In addition, restrictions in terms of market access, national treatment and commercial presence to provide a service are common in some sectors (e.g domestic transportation).[35] Section 5.1 proceeds with discussing services commitments (GATS as well as Revised Offers pursuant to the GATS negotiations under the Doha Round), Services Trade Restrictiveness Index (STRI) and investment regime in selected APEC members and India. The APEC developing members chosen for comparisons include Chile, China, Indonesia, Malaysia, Peru, the Philippines and Vietnam. This provides an overview of how India compares with APEC countries in services liberalisation. Sub-section 5.2 dwells upon various initiatives on services at APEC. In sub-section 5.3 an assessment of the likely impact on India of APEC membership is undertaken.

5.1 Services Commitments under GATS at the WTO

All the selected APEC members and India had made partial scheduling of sectors under the GATS with the only exception of Vietnam, which had scheduled all 11 services sectors under the GATS on its accession to the WTO in 2008. China and Malaysia had scheduled 9 sectors each followed by Peru (7 sectors), Indonesia (6 sectors) and Chile and the Philippines (5 sectors each). India had scheduled six services sectors. All these countries had made improvements in the services sectors scheduled in their Revised Offers (RO) that form part of the ongoing Doha Round Negotiations. Table 6 provides number of sub-sectors within each sector committed by these countries under the GATS and RO. The sub-sectors are classified as per the WTO Service Sectoral Classification List (MTN/GNS/W/120). It may be noted that the ROs were made in 2005/2006.

All the selected countries had GATS commitments in business services, communication services, financial services and tourism and travel related services. transport services had also been committed by these countries except India under the GATS. Except China, Peru and Vietnam, these countries have not made any commitments under the GATS in distribution services, education services and environmental services. However, these countries have proposed liberalisation in education services in the RO, except the Philippines which has not committed in Education but has committed in Distribution and Environmental Services.

The OECD has developed the Services Trade Restrictiveness Index (STRI) for various services to identify policy measures that restricts trade. The STRI indices take the value from 0 to 1, where 0 is completely open and 1 is completely closed. They are calculated on the basis of information in the STRI database which reports regulation currently in force. The STRI is calculated for the OECD members and selected non-members, *viz.* Brazil, China, India, Indonesia, Russian Federation and South Africa. Therefore, the STRI is available only for Chile, China, Indonesia and India out of the selected countries for this study.

As can be seen from Table 7 and Figure 1, Chile is generally the most open market in most of the services sectors considered for calculating the STRI. India and Indonesia are among the most restrictive markets except for engineering, motion pictures, sound recording, road freight, computer and construction services for India and broadcasting, road freight and courier services for Indonesia. China is the most restrictive market among these four countries in broadcasting, road freight and courier services.

The sectors with the highest STRI scores for India are rail freight transport, legal services and air transport. Rail freight transport is on the list of prohibited sectors. It is not open to private investment, let alone foreign investment. For legal services, foreign services suppliers have very limited access to the legal services market. Only Indian citizens can become fully licensed lawyers. Due to restrictions on any engagement that would imply sharing remuneration with non-advocates, creation of corporations does not seem to be feasible. Foreign lawyers may only enter on a fly-in fly-out basis, practicing international and home country law. Foreign investment in air transport (commercial establishment only) is allowed up to 49 per cent through the government route, for which prior approval is needed. The board of directors and the manager (CEO) must be citizens of India, and the main carrier is state-owned. The STRI score for India on insurance would change now that the equity share permitted for foreign companies has been raised.

5.2 Developments in APEC

Work at the APEC on services issues can be divided into the following three broad categories: policy issues (i.e. cross-cutting work relating to services trade, such as services principles, regulatory issues, economic impact of services trade); technical issues (i.e. work of a statistical or analytical nature, such as measuring services trade volumes, classifying services); and sector-specific work (i.e. work relating to trade in specific services sectors, such as professional services, energy services, education services, environmental services tourism services etc).

Work in the area of policy issues include the following: assessing the impact of services

Table 6: Number of Sub-sectors within Each Sector Committed under GATS and RO

Services/Countries	Total No. of Sub-sectors	Chile		China		Indonesia*		Malaysia		Peru**		Philippines*		Vietnam***		India	
		GATS	RO	GATS	RO	GATS	IO	GATS	RO	GATS	RO	GATS	IO	GATS	RO	GATS	RO
Business Services	48	10	26	21	29	12	14	27	45	7	-	2	3	20	-	9	30
Communication Services	24	8	12	12	16	6	20	10	10	9	-	9	12	19	-	10	14
Construction And Related Engineering Services	5	x	x	5	5	4	4	5	5	x	-	x	1	5	-	1	5
Distribution Services	5	x	x	4	5	x	x	x	x	2	-	x	1	4	-	x	2
Educational Services	5	x	x	5	5	x	4	x	1	x	-	x	x	4	-	x	1
Environmental Services	4	x	x	4	4	x	x	x	x	x	-	x	1	3	-	x	2
Financial Services	23	8	12	12	14	13	21	19	23	19	-	19	23	19	-	18	18
Health Related And Social Services (Other Than Those Listed Under 1.A.H-J.)	4	x	x	x	x	x	1	1	1	x	-	x	x	2	-	1	1
Tourism And Travel Related Services	4	3	3	2	2	3	3	2	2	2	-	2	2	2	-	2	3
Recreational, Cultural And Sporting Services (Other Than Audiovisual Services)	5	x	x	x	1	x	x	2	2	2	-	x	x	2	-	x	2
Transport Services	35	1	5	11	14	2	6	3	3	8	-	11	14	12	-	x	10
Other Services not Included Elsewhere	1	x	x	x	x	x	1	1	1	x	-	x	1	x	-	x	x

Source: Compiled by author from various sources.

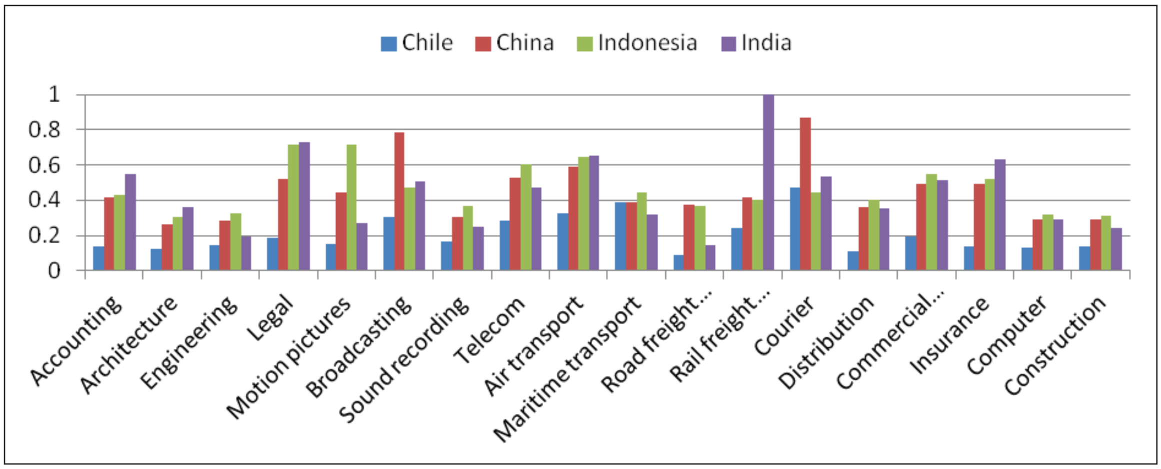
Note: * Only Initial Offers were submitted by these countries; ** Revised Offer not available publicly; *** Not submitted Initial Offer and Revised Offer; RO: Revised Offer.

Table 7: STRI for Selected Countries

Countries/ Services	Chile	China	Indonesia	India
Accounting	0.135	0.415	0.432	0.552
Architecture	0.125	0.26	0.308	0.362
Engineering	0.144	0.287	0.325	0.196
Legal	0.187	0.524	0.716	0.731
Motion pictures	0.152	0.447	0.716	0.268
Broadcasting	0.308	0.784	0.472	0.506
Sound recording	0.165	0.308	0.367	0.25
Telecom	0.281	0.529	0.607	0.474
Air transport	0.324	0.591	0.647	0.654
Maritime transport	0.386	0.387	0.443	0.321
Road freight transport	0.092	0.377	0.366	0.144
Rail freight transport	0.245	0.415	0.403	1.000
Courier	0.472	0.868	0.444	0.535
Distribution	0.109	0.359	0.4	0.352
Commercial banking	0.196	0.492	0.551	0.511
Insurance	0.138	0.496	0.523	0.635
Computer	0.132	0.293	0.321	0.289
Construction	0.135	0.294	0.313	0.24

Source: Compiled from OECD database.

Figure 1: STRI for Selected Countries



Source: Compiled from OECD Database.

trade; and enhancing the understanding of regulatory issues. Work on technical issues has concentrated on: boosting the capacity of APEC countries to measure trade in services; and addressing classification issues in environmental services. Sector-specific work seek to achieve the following objectives: facilitate trade in engineering services, architectural services, legal services and accounting services across the APEC region; exchanging insights on "best" practices and standards on education services regulations; information exchange on qualifications frameworks (QFs) and recognition agencies for education services; develop a common competency standard of nursing skills to underpin a Mutual Recognition Agreement for the APEC region; deepen understanding of the factors facilitating or inhibiting health services trade; development of a set of guidelines to assist developing economies in implementing WTO compliant domestic regulations in the ICT sector.

APEC is also implementing the APEC Legal Services Initiative, which seeks to enhance transparency of requirements and procedures for professional legal service providers to practice foreign law across APEC economies. It also seeks to develop best practices for the regulation of foreign lawyers. With a view to increase accessibility to information for regulators, an inventory of relevant regulatory frameworks is being created. Along similar lines, the APEC Accounting Services Initiative is also being pursued.

APEC has also recognised certain non-binding principles for Cross-Border Trade in Services. These include principles for the promotion of open services markets, regulatory principles, principles to enhance transparency and predictability, principles for services delivered electronically and principles to facilitate delivery of services through Mode IV.

5.3 Recent Developments in India and Overall Assessment

The Indian government has made, or is in the process of making, significant changes in the investment regime by relaxing investment norms for various services sectors. These are discussed as below.

(a) Air Transport Services

At present, a domestic airline in India needs to be in operation for minimum five years and have a fleet of at least 20 aircraft to be eligible to fly on international routes. The Civil Aviation Ministry in India is examining a proposal to either completely scrap this rule or change it to one year of domestic flying and having a five-plane fleet. A change in this 5/20 rule would have an immediate impact on carriers like AirAsia India, Air Costa or the proposed Tata-Singapore Airlines joint venture Vistara. However, national career, Air India, and existing domestic careers, such as Indigo are opposing relaxing the 5/20 rule for flying international routes.[36]

(b) Rail Transport Services

Government of India opened up railways to foreign investment by allowing 100 per cent FDI in areas such as high-speed train systems, suburban corridors and dedicated freight line projects besides allowing FDI in some projects like construction of new lines, gauge conversion, doubling of lines and maintenance projects under the public-private partnership model. For joint venture in the area of projects, up to 74 per cent FDI will be allowed. These FDI proposals will be allowed under the automatic route, so these will not require FIPB approval. It is worth noting that the Railways Policy of 2012 had also allowed foreign players in rail projects, but this could not become a reality as the Industries Act, 1951, and the consolidated FDI policy of 2013 did not have enabling provisions. This anomaly has been removed by the above mentioned opening up of railways through an executive decision.

The Ministry of Railways had listed 17 areas for private and foreign investment. These included suburban corridor projects, high-speed train projects, freight lines, rolling stock manufacture, electrification, signalling, freight terminals and logistics parks, passenger terminals, training institutes, testing facilities, branch lines and hill railways, non-conventional energy, mechanised laundry, rolling stock procurement, bio-toilets, level crossings solutions and safety solutions.[37]

(c) Insurance Services

The Cabinet Committee on Economic Affairs (CCEA) in India had approved in July 2014 a proposal to ease FDI limit in the insurance sector to 49 per cent from 26 per cent. Overseas investment proposals beyond 26 per cent will have to be approved by the Foreign Investment Promotion Board, the nodal agency that vets FDI applications. The increased FDI limit is subject to the condition that management control of these companies will remain with Indian promoters. The higher FDI ceiling will come into force after Parliament passes the Insurance Laws (Amendment) Bill that has been pending since 2008 for lack of political consensus.[38] Recently, through an ordinance, the government has raised the limit of equity participation by foreign companies.

(d) Construction Services

The government has relaxed the norms for allowing FDI in the construction development sector. The minimum built-up area required to attract FDI was reduced from 50,000 sq m to 20,000 sq m, while the capital requirement was decreased from $10 million to $5 million. Also, an investor will now be allowed to exit on completion of the project or after three years from the date of final investment, whichever is earlier.

According to the norms, at least $5 million in FDI will have to be brought in within six months of the commencement of a project-the date of approval of the building/layout plan by the authority. Subsequent tranches can be brought in till 10 years from the commencement of the project or before the completion of the project, whichever is earlier. It is worth noting that since 2005, 100 per cent FDI through the automatic route is allowed in this sector, which includes townships, housing, commercial premises, hotels, resorts and hospitals. However, the government has clarified that such investment isn't allowed in an entity engaged in, or proposing to engage in, real estate, construction of farm houses and trading in transferable development rights.[39]

(e) Services: Overall Assessment of India Joining APEC

Based on the commitments under GATS and OECD's STRI, it would appear that some of the APEC countries under examination have undertaken significant higher liberalisation of their services sectors than India. However, India's Revised Offers under the Doha Round are more ambitious than the APEC countries, with the exception of Malaysia in two sectors - Business Services and Financial Services. The recent developments relating to raising the FDI caps in certain service sectors could be a pointer to the willingness of the government to usher in reforms. Overall, were the need to arise, India may find it relatively less difficult to implement a structured plan of services liberalisation under the APEC framework. On the other hand, India could gain from participation in discussions on, and implementing, guidelines and common competency standards in various services sectors. As most of the APEC guidelines are implemented by countries on a voluntary basis, India could be selective in implementing the guidelines keeping its domestic sensitivities in view. In addition, implementation of MRAs in some sectors could boost India's exports to the APEC economies.

6. Investment

Investment liberalisation is an important pillar in overall integration in the APEC region. Many economies have relaxed conditions for foreign ownership in particular sectors and offer investors no restrictions in terms of repatriation of capital, profits or royalties. Furthermore, there have been efforts to attract foreign direct investment (FDI) by simplifying administrative procedures. Sub-section 6.1 starts with a description of APEC's initiatives in the area of investment. Sub-section 6.2 attempts a comparison of the investment regimes in India and in select countries in APEC. Finally, sub-section 6.3 seeks to assess the overall impact of India joining APEC.

6.1 APEC Initiatives on Investment

Considering APEC's past aims and activities, it has identified the following categories as the pillars of its work strategy: Advanced Principles and Practices, Facilitation and Promotion. APEC economies have made substantial progress in developing principles on investment. These formally adopted texts provide a common basis for the entire APEC region's international commitments, since they cover the key elements for International Investment Agreements (IIAs), such as MFN, National Treatment, Prohibition of Performance Requirements, Removal of Barriers to Capital Exports, Expropriation and Compensation, Repatriation and Convertibility, Settlement of Disputes, and Transparency.

APEC has conducted a variety of substantive works, and based on these works, formulated Investment Facilitation Action Plan (IFAP). In IFAP, member economies have established a working framework of the following eight principles for investment facilitation, government's role, and business impact: (i) promote accessibility and transparency in the formulation and administration; (ii) enhance stability of investment environments, security of property and protection of investments; (iii) enhance predictability and consistency in investment-related policies; (iv) improve efficiency and effectiveness of investment procedures; (v) build constructive stakeholder relationships; (vi) utilise new technologies to improve investment environment; (vii) establish monitoring mechanisms for investment policies; and (viii) enhance international cooperation. In respect of each principle, a menu of actions has been developed that an economy can implement. It is expected that implementation of the eight principles would facilitate achievement of a conducive environment for achieving the Bogor Goals.

Member economies have been taking various "promotional activities" to create investment opportunities and solicit investors. These include the following: information sharing on investment opportunity; capacity building for investment promotion agencies through introduction of good practices and indicators provided by international organisations; development of PPP methods in the APEC region; understanding the values of enhanced investment in innovation as a key enabler of sustainable and innovative economic growth; and exchange of good practices on how to create business linkages between SMEs and MNEs.

6.2 Investment Regimes in India and APEC Economies

Table 8a compares the overall investment regimes in India and those in APEC countries. Table 8b compares in detail the investment regimes in a few key sectors, including insurance, retail, real estate, railways and highways. It would be seen that based on a comparison of FDI caps and restrictions, India's FDI regime is perhaps more restrictive than some of the APEC countries, particularly Malaysia and Indonesia in sectors such as insurance. However, it is also evident that in certain sectors, such as real estate, railways, and roadways and highways, India has a more liberal investment regime compared to Malaysia and Indonesia. Further, on the basis of higher number of BITs signed by India than other countries except China, it can be concluded that India is prepared to implement a more liberal investment regime for investors from specific countries.

As far as the manufacturing sector is concerned, India's FDI regime is significantly liberal. FDI in manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes is prohibited. FDI in Defence Industry (subject to Industrial license under the Industries (Development & Regulation) Act, 1951) is through Government route up to 26 per cent and above 26 per cent to be decided by Cabinet Committee on Security (CCS) on case to case basis, wherever it is likely to result in access to modern and 'state-of-art' technology in the country. FDI in MSEs (as defined under Micro, Small and Medium Enterprises Development Act, 2006 (MSMED, Act 2006)) is subject to the sectoral caps, entry routes and other relevant sectoral regulations. In other manufacturing activities FDI is permitted up to 100 per cent through the automatic route, subject to applicable laws/regulations; security and other conditionalities.

In Indonesia, certain industries including chemicals and alcoholic beverages are closed to FDI. Certain industries have partnership conditions for FDI. These include processed food; essential oils; rattan and wooden goods; component and spare parts to start up motor industry, pump and compressor industry; components and accessories for two and three wheels vehicles; jewelry; agriculture machinery etc. Entry conditions are imposed in some industries including valuable paper and paper pulp, sugar, lead smelting, defence etc.

In Malaysia all proposals for manufacturing and related projects, both foreign and domestic, are screened to determine the extent to which they contribute to the government's goals and objectives. Project approval depends on many other factors as well. Malaysian Investment Development Authority (MIDA) may consider the size of an investment, the share of production exported, the type of financing required (both local and offshore), the capital/labour ratio, the potential for technology transfer into the local economy, the ability of existing and planned infrastructure to support the effort, and the existence of a local or foreign market for the output. If both local and foreign firms propose similar projects, the local firm will be given preference. However, all requests are handled on a case-by-case basis. Desirous of increasing local participation in this activity, the government encourages joint-ventures between Malaysian and foreign investors.

6.3 Investment: Overall Assessment of India Joining APEC

Based on the FDI caps and other restrictions on investment, it would appear that in some sectors India has perhaps a more liberal investment regime than that in other APEC countries. This is particularly true for the manufacturing sector. It is, therefore, not surprising to find that India ranks significantly higher than most of the APEC countries (with the exception of Malaysia and Peru) in respect of ease of protecting investment (Table 9). This may perhaps make it less difficult for India to implement liberalisation in investment protection under the aegis of APEC framework. However, it is also important to note that India has a low rank in ease of starting a business and enforcing contracts. Both these are crucial areas requiring attention of the government, if it seeks to attract foreign investment.

By being a part of APEC, India could also benefit from information sharing on investment opportunity and capacity building

Table 8 a : Investment Regimes in India and APEC Countries

Name of the Country	Investment Regime and Recent Developments	Total Bilateral Investment Treaties (BITs)	Total Other International Investment Agreements
Chile	Generally open investment regime allowing foreign investors to hold upto 100 per cent of the equity. Generally grants national treatment. Exceptions to national treatment and market excess include costal shipping, air transport, fisheries and communications certain activities reserved for the State – exploration and exploitation of lithium, oil or gas. Foreign investors can benefit from a clause establishing invariability of value added tax and customs duties on imported capital goods. Foreign investors can opt for fixed income tax at the rate of 42 per cent for up to 10 years.	51 (38 in force)	27 (23 in force)
China	Foreign investment allowed in several forms including joint ventures, wholly foreign owned enterprises, partnerships or mergers and acquisitions of domestic enterprises. FDI restricted in projects deemed to employ outdated technologies, over-exploit scarce natural resources or harm the environment. FDI prohibited in projects polluting the environment, destroying natural resources or damaging public interest. FDI may enjoy customs duty and VAT exemptions on imported capital goods. Threshold of foreign projects requiring Central Government approval raised to US$ 300 Million. In most services sectors, except financial and telecomm sector, approval of foreign investment delegated to local level. The Shanghai Pilot Free Trade Zone launched in 2013 is being implemented on a negative list approached and provides national treatment on a trial basis.	130 (106 in force)	17 (16 in force)
India	FDI is allowed in Indian companies (including micro and small enterprises), partnership firms, venture capital funds, and in limited liability partnerships (LLPs) firms. FDI in LLPs has been allowed since May 2011, with FIPB approval, in sectors where 100 per cent FDI is allowed through the automatic route and where FDI is not linked to any performance conditions. FDI in India is prohibited in: (a) Lottery Business (b) Gambling and Betting including casinos etc. (c) Chit funds (d) Nidhi company (e) Trading in Transferable Development Rights (TDRs) (f) Real Estate Business (g) Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes (h) Activities/sectors not open to private sector investment.	84 (69 in force)	13 (9in force)

Table 8a continued...

Table 8a continued...

Name of the Country	Investment Regime and Recent Developments	Total Bilateral Investment Treaties (BITs)	Total Other International Investment Agreements
	In sectors where FDI is allowed up to 100 per cent, FDI enters under the automatic route, subject to sectoral regulations and other conditions. No approval is required from the Reserve Bank of India or the Government. In sectors where FDI is capped, prior approval from the FIPB is required. FIPB recommendations must be cleared by the Ministry of Finance for FDI proposals below or equivalent to Rs. 12 Billion, and by the Cabinet Committee of Economic Affairs for FDI proposals of Rs. 12 Billion or more. Sectors not listed in the Policy are 100 per cent open to FDI under the automatic route subject to applicable laws, rules, and security conditions. However, even where FDI is allowed up to 100 per cent and under the automatic route, specific conditions or permits apply, which could in some cases be more restrictive than an explicit investment cap. FDI may be freely repatriated.		
Indonesia	Enacted a new investment law in 2007. Foreign investors can use either foreign capital entirely or joint capital with domestic capital. Foreign investment may only take the form of a limited liability company. In general all business fields open to foreign investment, but restrictions apply for health, safety and environmental reasons. Restrictions include 100 per cent domestic capital requirement, specific permits, maximum foreign ownership, location requirements, partnership requirements, permit requirements etc. National treatment granted to foreign investors. Foreign investors have the right to repatriate funds using foreign currency. No nationalisation, except through law and providing market price compensation. Foreign investment in SEZs receives fiscal incentives. Investment application procedures simplified by eliminating the registration step. Government reviewing the negative list and planning to reduce restrictions in 9 sectors including management and operation of ports, airports land terminals and dry docks; pharmaceuticals; and eco-tourism.	64 (46 in force)	15 (13 in force)
Malaysia	Foreign investment generally open, but restriction in some sectors such as fisheries, energy, telecommunications, air and maritime transport. Foreign investors not allowed to acquire properties below RM 1 Billion. Policy restrictions exist in respect of FDI affecting Bumiputeras. Malaysia ranked high for strong investment protection.	69 (50 in force)	22 (19 in force)

Table 8a continued...

Table 8a continued...

Name of the Country	Investment Regime and Recent Developments	Total Bilateral Investment Treaties (BITs)	Total Other International Investment Agreements
Peru	The Foreign Investment Law automatically authorises foreign investments in the country, and once undertaken, it must be registered. No screening mechanisms, nor performance requirements applied. Certain limitation so foreign investments in broadcasting, air and water transport, ownership of real estate and some resources within 50 km of Peru's international borders applied. Generally national treatment accorded to all investments. Foreign investors guaranteed the right to transfer all their capital, dividends or profits derived from their investments out of the country in freely convertible currencies. Made progress in implementing APEC Non-Binding Investment Principles concerning business facilitation, international investment agreements and double taxation treaties.	32 (31 in force)	25 (19 in force)
Vietnam	Vietnam's investment regime is based on the Enterprise Law and the Investment Law. The Enterprise Law provides for enterprises to be established in the form of limited liability companies, shareholding companies, partnerships, or sole proprietorships. The Investment Law also prohibits investments considered detrimental to national defence and security, historical and cultural ethics, Vietnamese traditions and fine customs, and the environment. Investment is conditional in (i) sectors having an impact on national defence and security, social order and safety, and public health; (ii) banking and finance; (iii) recreational services; (iv) education and training; (v) real estate, (vi) culture, information, press, and publication; and (vii) surveying, prospecting, exploration and mining of natural resources. In financial services and legal services, investment is also regulated under specific laws, i.e. the Law on Credit Institutions, the Law on Insurance Business, the Law on Securities, and the Law on Lawyers. For investment projects valued at less than ₫15 billion and not in a conditional investment sector, no further formalities are necessary. All investment projects (domestic and foreign) worth more than ₫300 billion as well as all projects in the conditional sectors are subject to an "investment evaluation". An enterprise with up to 49 per cent foreign ownership is subject to the same conditions as a Vietnamese-owned company, whereas the foreign investment rules apply to enterprises with more than 49 per cent foreign ownership.	60 (45 in force)	19 (15 in force)

Source: Compiled by author from various sources.

Table 8 b : FDI Regime in Selected Sectors in China, India, Indonesia and Malaysia

Sector	China*	Indonesia	Malaysia	India
Insurance	Restricted in Insurance companies (the share of life-insurance companies is less than 50 per cent) and Insurance brokerage companies	80 per cent in General Insurance Company, Life Insurance Company, Re-insurance Company, General Insurance Adjuster Company, Insurance Agent Company, Insurance Broker company and Reinsurance Broker company	In 2009, foreign ownership limits were raised from 49 per cent to 70 per cent for branches of foreign insurance companies. However, foreign equity above 70 per cent is considered on a case-by-case basis for insurance companies if the investment is determined to facilitate the consolidation and rationalisation of the insurance industry. Reinsurance companies are required to do more than 50 per cent of reinsurance in Malaysia and have 5 per cent cession and local retention. As part of Malaysia's response to the 1997-1998 Asian financial crises, all branches of foreign insurance companies were required to incorporate locally.	26 per cent # through automatic route in Insurance Company, Insurance Brokers, Third Party Administrators, Surveyors and Loss Assessors
Retail	Restricted in Commercial companies of commodity direct selling, mail order selling, Internet selling, franchising, commissioned operation, commercial management Restricted in Wholesale, retail and logistic distribution of grain, cotton, vegetable oil, sugar, medicines, tobaccos, automobiles, crude oil, capital goods for agricultural production (Chinese should hold the majority of shares of the multiple shops which have more than 30 branch stores and sale different kinds and brands of commodities from multi-suppliers)	95 per cent in direct selling through marketing network developed by business partners.	100 per cent in department and speciality stores. Department stores must reserve at least 30 per cent of their shelf space for goods made by bumiputera-owned SMEs.	100 per cent through automatic route in Cash & Carry Wholesale Trading/ Wholesale Trading (including sourcing from MSEs). Wholesale trading includes resale, processing and thereafter sale, bulk imports with ex-port/ex-bonded warehouse business sales and B2B e-Commerce. 100 per cent (Automatic up to 49 per cent, Government route beyond 49 per cent) in Single Brand Product Retail Trading. In respect of proposals involving FDI beyond 51 per cent, sourcing of 30 per cent of the value of goods purchased is to be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors.

Table 8b continued...

Table 8b continued...

				51 per cent through government route in Multi Brand Retail Trading. Minimum amount to be brought in as FDI by the foreign investor is US $ 100 million. At least 30 per cent of the value of procurement of manufactured/ processed products purchased shall be sourced from Indian micro, small and medium industries.
Real Estate	Restricted in development of pieces of land (limited to equity joint ventures or contractual joint ventures) Restricted in construction and operation of high-ranking hotels, villas, high-class office buildings and international exhibition centres Restricted in real estate transaction in second-grade market and medium and brokerage companies	67 per cent in Construction service (construction implementation service) using advanced technology and/or high risk and/or the work value is more than Rp 1,000,000,000.00	Information not available for this sector. Hence, it may be inferred that FDI is not allowed in this sector.	100 per cent through automatic route in Townships, housing, built-up infrastructure and construction-development projects (which would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure. The minimum built-up area required to attract FDI was reduced from 50,000 sq m to 20,000 sq m, while the capital requirement was decreased from $10 million to $5 million. Also, an investor will now be allowed to exit on completion of the project or after three years from the date of final investment, whichever is earlier.
Railways	Restricted in Railway freight transportation companies Restricted in Railway passenger transportation companies, Chinese partner shall hold the majority of shares Encouraged in Construction and management of metro and city light rail (Chinese partner shall hold the majority of shares)	67 per cent in Construction work for railway	Information not available for this sector. Hence, it may be inferred that FDI is not allowed in this sector.	100 per cent through automatic route in areas such as high-speed train systems, suburban corridors and dedicated freight line projects besides allowing FDI in some projects like construction of new lines, gauge conversion, doubling of lines and maintenance projects under the public-private partnership model. For joint venture in the area of projects, up to 74 per cent FDI will be allowed.

Table 8b continued...

Table 8b continued...

Road and Highways	Encouraged in Construction and management of urban access-controlled roads	95 per cent in Toll Road Business 67 per cent in Construction work for highway, bridge, flyover, tunnel, and underpass	Information not available for this sector. Hence, it may be inferred that FDI is not allowed in this sector.	100 per cent through automatic route.

Source: China: 'Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011)'; http://english.mofcom.gov.cn/article/policyrelease/aaa/201203/20120308027837.shtml and http://www.state.gov/documents/organization/228504.pdf

Indonesia: 'Presidential Regulation of The Republic Of Indonesia Number 39 Of 2014 On List Of Business Fields Closed To Investment And Business Fields Open, With Conditions, To Investment'; http://www.bkpm.go.id/img/Presidential%20Regulation%2039%20year%202014.pdf

Malaysia: 'Malaysia: Investment in The Services Sector'; http://www.mida.gov.my/home/administrator/system_files/modules/photo/uploads/20140215090230_01%20GeneralPolicies.pdf and '2013 Investment Climate Statement - Malaysia'; http://www.state.gov/e/eb/rls/othr/ics/2013/204686.htm

India: 'Consolidated FDI Circular of April 2014'; http://dipp.gov.in/English/Policies/FDI_Circular_2014.pdf

Note:* Chinese Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011) delineates sectors of the economy where foreign investment is "encouraged," "restricted," and "prohibited." Investment in sectors not listed in the Catalogue is considered permitted. China "encourages" investment in sectors where it believes it will benefit from foreign assistance or technology. Investment is "restricted" and "prohibited" in sectors that China deems sensitive, that touch on national security, or that do not meet the goals of China's economic development plans. # This limit has been increased to 49 per cent on 24 December 2014 by an Ordinance of Government of India.

for investment promotion agencies through introduction of good practices and indicators provided by international organisations. The latter is particularly important as India lacks a structured institutional mechanism for attracting investments. Furthermore, with almost 25 per cent of its Outward FDI directed towards AECP economies, membership in APEC could provide an opportunity to India to raise, and seek to address, concerns of its investors in these economies.

7. Intellectual Property Rights

According to the Osaka Action Agenda, APEC economies will align with WTO Agreements and in particular protect intellectual property rights by adopting or abiding by the principles of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), with regard to border control while encouraging further acceleration, if possible, through technical assistance. The objectives include the following: foster harmonisation of intellectual property rights systems in the APEC region; ensure adequate and effective protection, including legislation, administration and enforcement of intellectual property rights; address the challenges for intellectual property rights arising from the rapid growth and developments of the New Economy (e.g. establishing an appropriate balance among all stakeholders, including content providers and ISPs in terms of the liabilities for infringing intellectual property online), etc.

Each APEC economy is also required to ensure that intellectual property rights are granted through expeditious, simple, and cost-effective procedures; ensure that adequate and effective civil and administrative procedures and remedies are available against infringement of intellectual property rights; and provide and expand bilateral technical cooperation in relation to areas such as patent search and examination, computerisation and human resources development in order to ensure adequate intellectual property right protection in compliance with the TRIPS Agreement.

Collectively, APEC economies are required to take the following actions: deepening the dialogue on Intellectual Property Policy; support for easy and prompt acquisition of rights; establish electronic processing of IPR-related procedures; appropriate protection of IPR in new fields (e.g., biotechnology and computer-related inventions, GIS, e-commerce); establishing effective systems for

Table 9: Ranking of Countries on Investment-Related Indicators

Country	Ease of starting a Business-2014 (Rank in 143 countries)	Ease of Protecting Investors- 2014 (Rank in 143 countries)	Rank in Enforcing Contracts for 189 economies in 2014 (Ease of doing Business Index)	Membership of ICSID
Chile	53	32	64	Yes
China	122	81	35	Yes
India	129	32	186	No
Indonesia	117	42	172	Yes
Malaysia	15	4	29	Yes
Peru	63	16	100	Yes
Philippines	125	105	124	Yes
Vietnam	104	125	47	No

Source: Doing Business (www.doingbusiness.org) Database.

IPR enforcement; facilitation of technology transfer through ensuring IP protection, etc.

Sub-section 7.1 discusses the status of India and APEC countries regarding implementing IPR related agreements that go beyond the TRIPS Agreement. This is relevant as some of the APEC economies have been active participants in negotiating these agreements, which is also a part of the Osaka Action Agenda. Thereafter, in sub-section 8.2 a brief comparison of patent regimes in these countries is undertaken to identify some of the TRIPS plus provisions being undertaken by APEC economies, as well as to ascertain the approach of these economies to certain crucial issues, including compulsory licensing. As India's patent regime has come under considerable criticism, particularly from the perspective of enforcement, sub-section 8.3 compares the number of patent applications and patents granted in India, as well as in APEC economies. Sub-section 8.4 provides the conclusions on IPRs.

7.1 Implementation of International IPR Treaties

Table 10 provides details of the status of India and APEC economies in respect of implementing six international IPR treaties: Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks; Hague Agreement Concerning the International Deposit of Industrial Designs; Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled; WIPO Copyright Treaty; Beijing Treaty on Audiovisual Performances; and Singapore Treaty on the Law of Trademarks. While India is not a signatory to four out of six of these treaties, Malaysia and Vietnam are not signatory to five of the treaties. On the other hand, countries like Chile, China and Indonesia are signatory to most of these treaties. Therefore, it would be incorrect to consider India as a country that is not active in negotiating and signing new IPR treaties.

7.2 Comparison of Patent Regimes

Patent Term: Under the TRIPS Agreement, the minimum period of patent protection term is 20 years. While India provides this period of patent protection, some of the APEC economies provide a longer period of protection. Indonesia has a possibility of two year extension.[40] In Chile the patent term is normally 20 years, unless there has been an unjustified delay on the part of the authority in processing the granting of the patent or by the sanitary authority.[41]

Data Exclusivity: The TRIPS Agreement does not mandate countries to provide for data exclusivity. India does not provide for data exclusivity. Malaysia provides for data exclusivity of upto five years for new drug product containing new chemical entity and upto three years for a second indication of a registered drug product. Vietnam provides data exclusivity for five years for finished drug products containing new active ingredients. China has six years of data exclusivity from date of marketing approval. Chile and Peru provide data exclusivity for five years. Peru has additional protection of 10 years of data protection for crop protection products. However, Indonesia and the Philippines, like India, do not have any provision for data exclusivity in their law.

Compulsory Licensing (CL): While India has granted one CL, APEC economies have not refrained from using this instrument. Indonesia on two occasions and Malaysia for four anti-retroviral HIV/AIDS formulations have granted CL. Thus, India cannot be considered to be an outlier in resorting to CL.

Patentability Criteria: Section 3(d) of India's Patent Act does not treat the following as an invention: new form of a known

Table 10: Implementation of International IPR Treaties

Treaties Countries	India	Indonesia	Chile	China	Malaysia	Peru	Philippines	Vietnam
Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	**Accession**: April 8, 2013 **In force**: July 8, 2013	Not a Signatory	Not a Signatory	**Accession**: September 1, 1995 **In Force:** December 1, 1995	Not a Signatory	Not a Signatory	**Accession**: April 25, 2012 **In Force:** July 25, 2012	**Accession**: April 11, 2006 **In Force:** July 11, 2006
Hague Agreement Concerning the International Deposit of Industrial Designs	Not a Signatory	Not a Signatory	Not a Signatory	Not a Signatory	Not a Signatory	Not a Signatory	Not a Signatory	Not a Signatory
Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled	**Signature**: April 30, 2014 **Ratification**: June 24, 2014	**Signature**: September 24, 2013	**Signature**: June 28, 2013	**Signature**: June 28, 2013	Not a Signatory	**Signature**: June 28, 2013	Not a Signatory	Not a Signatory
WIPO Copyright Treaty	Not a Signatory	**Signature**: December 20, 1996 **Ratification**: June 5, 1997 **In Force:** March 6, 2002	**Signature**: December 20, 1996 **Ratification**: April 11, 2001 **In Force:** March 6, 2002	**Accession**: March 9, 2007 **In Force:** June 9, 2007	**Accession**: September 27, 2012 **In Force:** December 27, 2012	**Accession**: July 30, 2001 **In Force:** March 6, 2002	**Accession**: July 4, 2002 **In Force:** October 4, 2002	Not a Signatory
Beijing Treaty on Audiovisual Performances	Not a Signatory	**Signature**: December 18, 2012	**Signature**: June 26, 2012	**Signature**: June 26, 2012 **Ratification**: July 9, 2014	Not a Signatory	**Signature**: June 26, 2012	Not a Signatory	Not a Signatory
Singapore Treaty on the Law of Trademarks	Not a Signatory	Not a Signatory	Not a Signatory	**Signature**: January 29, 2007	Not a Signatory	Not a Signatory	Not a Signatory	Not a Signatory

Source: Compiled by author from various sources.

substance – not resulting in the enhancement of the known efficacy of that substance; the mere discovery of any new property/use for a known substance/process unless it results in a new product or employs at least one new reactant; a substance/process for producing such substance – admixture resulting only in the aggregation of the properties of the components. The Philippines has almost an identical provision in its law. However, other APEC economies do not have any such provision in their law.

7.3 Patent Applications Filed and Patents Granted

It is relevant to compare the number of patent applications and patents granted by India and other APEC countries. As seen from Tables 11 and 12, India is ahead of all APEC countries, except China, in receiving patent applications from non-residents and also granting patents to non-residents. This perhaps demonstrates that India's patent laws are not discriminatory and that it is not unduly difficult to secure patents in India. According to WIPO, India is globally ranked 15th in terms of patents granted to non-residents.

7.4 IPRs: Overall Conclusions of India Joining APEC

India's IPR regime is WTO-compliant and has sought to strike a balance between various interests and in many respect it can be said to be comparable to that of developing APEC economies. Some of these APEC economies have, however, been more proactive than India in signing new IPR treaties and accepting TRIPS plus provisions in their domestic law. One of the important areas in which India could come under considerable pressure to change its domestic regime, if it joins APEC, is patents. In particular, India may be requested to amend Section 3 (d) of the Patent's Act and also provide data exclusivity. These are extremely sensitive issues and it would be difficult to agree to comply with these requests. This aspect needs to be borne in mind while taking a decision on India joining APEC.

Concerns have been articulated on India's enforcement of its IP laws. Customs administrations within the APEC region undertake a key role in enforcing IPR at the border. In fact, APEC work seems to increasingly focus on this aspect. It is also not unlikely that at some point APEC economies

Table 11: Patent Applications by IP Office

Country	Patents Applications By Ip Office (2012)	International Applications By Origin Via Pct (2012)
India	43,955 = 9,553 (R) + 34,402 (NR)	1,314
Indonesia	5,830 = 533 (R) + 5297 (NR)**	13
Malaysia	6,940 = 1,114 (R) + 5,826 (NR)	289
China	6,52,777 = 535,313 (R) + 117,464 (NR)	18,617
Chile	3,019 = 336 (R) + 2683 (NR)	118
Peru	1,190 = 54 (R) + 1,136 (NR)	11
Vietnam	3,805 = 382 (R) + 3,423 (NR)	13
Philippines	2,994 = 162 (R) + 2,832 (NR)	18

Source: WIPO Statistics Database, May 2014.

Note: ** Data for Indonesia is available for 2011. R: Residents; NR: Non-Residents.

Table 12: Patent Granted by IP Office

Country	Patents Granted By Ip Office (2012)	Patents Granted By Origin (2012)*
India	4,328 = 722 (R) + 3,606 (NR)	3,588
Indonesia	1811 = 70 (R) + 1741 (NR)**	19
Malaysia	2,460 = 295 (R) + 2,165 (NR)	660
China	217,105 = 143,808 (R) + 73,297 (NR)	152,102
Chile	770 = 113 (R) + 657 (NR)	236
Peru	431 = 11 (R) + 420 (NR)	16
Vietnam	1,068 = 52 (R) + 1,016 (NR)	56
Philippines	1,111 = 11 (R) + 1,100 (NR)	63

Source: WIPO Statistics Database, October 2013

Note: *Equivalent grants by origin data are incomplete, as some offices do not report detailed statistics containing the origin of applications for which patents were granted. ** Data for Indonesia is available for 2008. R: Residents; NR: Non-Residents

could consider adopting ACTA-type measures for IP enforcement. This may create difficulties for India.

India had raised serious concerns on ACTA, particularly in respect of provisions that placing greater discretion in the hands of customs authorities to act on their own initiative against "suspect goods", without defining the basis for suspicion. This would imply using Customs authorities as "IP police". The powers of '*ex officio'* enforcement sought to be granted to Customs officials significantly shifts the focus of enforcement away from Courts and the judicial process to a more administrative domain. Thus, unlike the established principle in the enforcement of IPRs, which are private rights, that the rightholder is the first mover in the course of enforcement of his rights, the onus under ACTA seems to have shifted to the public authorities to enforce the IPRs effective. This is unlike TRIPS which allowed such shifting only against counterfeit trademark goods and pirated copyright goods. This would mean that the element of balance between rights of the IP owners and those of the users may now tilt in favour of the former since the accuser does not have to be as vigilant or as persuasive to enforce his rights. India might be confronted with these issues, if it were to join APEC.

The Department of Industrial Policy and Promotion has constituted an IPR Think Tank to draft the National Intellectual Property Rights Policy and to advise it on IPR issues. The first draft of the National IPR Policy submitted by the IPR Think Tank on 19 December 2014, provides the vision, mission and objectives of the policy. India's membership of the APEC could facilitate in implementation of initiatives for pursuing some of the objectives (e.g. commercialisation of IP).

8. Conclusions

Gains to India of APEC membership can arise from two distinct channels. First, gains that may accrue by APEC membership *per se;* and second, benefits that could be garnered from liberalisation and domestic reforms that India might undertake in pursuance of APEC action agenda. The indirect benefits arise mainly from the reform process that each member is expected to undertake. This can result in gains from domestic reforms as well as gains that may arise from reforms of other APEC members. However, for India to gain from domestic reforms that may be required on account of APEC membership, it would need to undertake reforms progressively under all areas of work of APEC. This would require India to formulate annual Individual Action Plans whose implementation would be subject to peer review by APEC members.

Further, benefits from APEC membership have to be viewed not only from the prism of export gains, but also seen from the perspective of improvements in domestic systems as well as institutional and human resource capacity building. APEC Business Visa and access to information about emerging business practices in the region are likely to provide direct benefits of APEC membership. In other areas of APEC work, the gains are likely to be indirect.

Given the significant gap between the trade openness, regulatory requirements and business procedures between India on the one hand and many of the APEC members on the other, it may not be easy for India to meet the expectations of other members in respect of various APEC initiatives. Given the slow pace of voluntary reforms in India, this is an important aspect that might need careful consideration by the government while taking a decision on India's APEC membership. It may also be relevant to bear in mind that India has strongly opposed ITA expansion and tariff concessions on environmental goods - initiatives that emerged from APEC.

Tariffs

In the area of tariffs India is likely to be under considerable pressure for liberalisation, as its tariffs are considerably higher than those in APEC economies. There appears little possibility for India to benefit in the area of tariffs.

In this context, it is also important to briefly assess the growing perception that APEC membership will facilitate India to get integrated into global value chains (GVC). Such a perception has perhaps arisen from the fact that firms in many of the APEC economies are active players in GVCs. It has been suggested by some experts and policymakers that India should reduce tariffs on parts and components and get integrated into GVCs in APEC region. No doubt low/zero tariffs on parts and components has facilitated integration of manufacturing firms in APEC economies from integrating into GVCs. However, low/zero tariffs are neither necessary nor sufficient condition for GVC integration. In the Indian context even if tariffs on parts and components are reduced to zero, Indian firms may not be cost competitive to become attractive for GVC lead firms to consider outsourcing manufacturing into India. In case the infrastructural deficiencies are reduced, if not totally overcome, cost competitiveness of Indian producers might improve, making GVC integration more probable. Premature reduction in tariffs on part and components would not only have adverse impact on the domestic industry of these products, but may not result in integrating Indian firms in GVCs.

Standards and NTBs

Main gains for India would arise from institutional and human resource capacity building in the area of standard setting. There is no denying the fact that India lags behind developed countries and even some developing countries, e.g. Brazil, on standard setting. Active participation in various APEC initiatives in this area could significantly strengthen India's capacity to usher a standard-driven manufacture within the country. This could have long term effects by facilitating compliance with standards in main foreign markets and making India's exports more price competitive. In addition, Indian exporters could also benefit from access to standard-related information in APEC economies. The existing MRAs in the APEC region may be of little benefit to India's exports, as electronic and telecommunication products have a low share in its export basket. In the automobile and auto components sector, active participation in the Automotive Dialogue could provide an opportunity to Indian exporters to address market access impediments in this sector.

Customs Procedures

Given India's low and steadily declining ranking on various measures, including the LPI and Trading Across Borders, India has considerable catching up to do, compared to many of the APEC economies. This is likely to bring India under some pressure at the APEC. However, some of the recent initiatives taken by India as a part of its autonomous efforts to improve Customs procedures and steps leading to paperless trading could provide it some comfort.

Main gains from India would come from two channels; first, institutional and human resource capacity building through exposure to best practices and guidelines for improving customs infrastructure. Second, benefits would arise from implementing improvements in domestic institutional mechanisms and procedures.

Government Procurement

In the area of government procurement, the most important gain to India from APEC membership is likely to be improvements in procurement procedures. Adherence to some of the Non-Binding Principles on government procurement could help streamline the procurement systems in India. India may also benefit from adopting some of the practices that can give effect to the elements of the Non-Binding Principles. This would become particularly relevant if the Public Procurement Bill is approved by the Parliament and rules need to be formulated for implementing the procurement law. The overall balance tilts on the side of gains for India, provided the work programme does not require member countries to provide non-discriminatory market access to foreign suppliers.

Services

Overall, India's approach to services liberalisation can be considered to be almost comparable to that of many of the APEC economies. Were the need to arise, India may find it relatively less difficult to implement a structured plan of services liberalisation under the APEC framework. On the other hand, India could gain from participation in discussions on and implementing, guidelines and common competency standards in various services sectors. As most of the APEC guidelines are implemented by countries on a voluntary basis, India could be selective in implementing the guidelines keeping its domestic sensitivities in view. In addition, implementation of MRAs in some sectors could boost India's exports to the APEC member economies.

Investment

By being a part of APEC, India could also benefit from information sharing on investment opportunity and capacity building for investment promotion agencies through introduction of good practices and indicators provided by international organisations. The latter is particularly important as India lacks a structured institutional mechanism for attracting investments. However, India could experience considerable difficulties if the APEC work proceeds towards mandatory binding commitments on certain elements in International Investment Treaties. These elements could include definition of investment, expropriation, pre-establishment commitments, national treatment, etc. Furthermore, India would need to ensure that its participation in APEC work programme does not pose a constraint in revising some of its existing bilateral investment treaties.

IPRs

In many respects India's IPR regime cannot be considered to be inferior to that of APEC economies. However, it is also true that many of these countries have been more proactive than India in signing new IPR treaties and accepting TRIPS plus provisions in their domestic law. Further, fostering harmonisation of intellectual property rights systems in the APEC region is an important objective of the Osaka Action Agenda. This could have implications for India in terms of being required to provide higher standards of IP protection, if the APEC work proceeds in this direction.

One of the important areas in which India could come under considerable pressure to change its domestic regime, if it joins APEC, is patents. In particular, India may be requested to amend Section 3 (d) of the Patent's Act and also provide data exclusivity. These are extremely sensitive issues and it would be difficult to agree to comply with these requests. This aspect needs to be borne in mind while taking a decision on India joining APEC.

Concerns have been articulated on India's enforcement of its IP laws. Customs administrations within the APEC region undertake a key role in enforcing IPR at the border. In fact, APEC work seems to increasingly focus on this aspect. This is another area where India could be requested to make improvements, particularly for using Customs authorities to be granted a greater role in IP enforcement. India might be confronted with these issues, if it were to join APEC.

Recommendations

APEC member economies set their own timelines and goals, and undertake actions on a voluntary and non-binding basis. This should provide considerable flexibility to India in adopting and implementing the non-binding principles and guidelines in different areas of work of APEC. India could stand to benefit from access to information and institutional and human resource capacity building from various APEC initiatives. But, it should consider joining APEC only if it is confident of making progressive reforms, on a voluntary basis, in different areas of APEC initiatives. In the absence of this capacity, India could be forced to stall the various APEC initiatives, once it becomes an APEC member. This eventuality may not be viewed favourably by the international business community and India could be labelled as a country that yet again blocks reforms.

Annexure 9

APEC and Indian Customs*

This paper looks at the work undertaken by APEC in the area of customs procedures and facilitation. It also examines how far India has progressed in these areas before going on to make comparisons between India and certain APEC developing economies in key areas of customs reform. India's performance as reflected in some of the relevant global indicators is then examined. Finally those aspects where India could benefit from closer engagement with APEC are indicated.

1. APEC Customs Programme

The APEC Sub-Committee on Customs Procedures (SCCP) was established in 1994. Its main objectives are to simplify and harmonise regional customs procedures to ensure that goods and services move efficiently, effectively and safely through the region, and to reconcile and facilitate border control.

APEC's agenda on trade facilitation has focussed on customs facilitation and adoption of harmonised standards and mutual recognition agreements. To this end, APEC adopted Trade Facilitation Action Plan I (TFAP I) in 2001 with the aim to cut trade transaction cost by 5 per cent by 2006 and later Trade Facilitation Action Plan II (TFAP II) in 2007 with an aim to cut trade transaction cost by a further 5 per cent. Some of the important elements of Trade Facilitation Action Plan are discussed below.

On 27 October 2002, in Los Cabos, Mexico, APEC Leaders adopted the Statement to Implement APEC Transparency Standards ("Leaders' Statement"), and directed that these standards be implemented as soon as possible, and in no case later than January 2005.

In paragraph 8 of the Leaders' Statement, APEC Leaders instructed that "APEC sub-fora that have not developed specific transparency provisions should do so," and further instructed that such new transparency provisions should be presented to Leaders upon completion for incorporation into the Leaders' Statement. The Sub-Committee on Customs Procedures

* This paper has been contributed by Shri Shashank Priya, Commissioner, (GST cell), Delhi who has written this in his personal capacity. Inputs for Section 3 of this paper were contributed by the team from Centre for WTO Studies, IIFT, New Delhi.

developed the following set of transparency standards on customs and provided specific guidance for implementation within the customs context.

Transparency Standards on Customs Procedures for APEC Members

1. In furtherance of paragraph 1 of the Leaders' Statement each Economy will promptly publish and make available on the Internet, information on its customs laws, regulations, procedures and administrative rulings of general application in such a manner as to enable interested persons to become acquainted with them.

2. In furtherance of paragraph 2 of the Leaders' Statement, each Economy will, to the extent possible, publish in advance any regulations of general application governing customs procedures proposed for adoption, and provide a reasonable opportunity for comments from interested parties.

3. In furtherance of paragraph 4 of the Leaders' Statement, and taking into account Economies' individual circumstances, upon request from an interested person in its territory, each Economy will provide for the issuance of advance rulings based on specific facts and circumstances provided by such requester prior to the importation of a good into its territory, for areas such as: (i) tariff classification; (ii) the application of the provisions set forth in the WTO Agreement on Customs Valuation; (iii) the application of duty drawback; (iv) country of origin marking requirements; (v) the application of rules of origin under free trade agreements and other preferential tariff regimes; and (vi) admissibility requirements.

4. Subject to domestic confidentiality requirements, each Economy will make such advance rulings publicly available for purposes of ensuring application of the rulings to other goods where the facts and circumstances are the same as those under which the rulings are issued.

5. In furtherance of paragraph 5 of the Leaders' Statement each Economy will maintain procedural transparency and fairness in customs procedures by: (i) providing for the prompt review and, where warranted, correction of customs administrative actions; (ii) ensuring that importers are provided with the right to a level of administrative review independent of the employee or office issuing the determination subject to review; and (iii) maintaining the availability of judicial review of customs administrative determinations.

6. Each Economy will maintain one or several contact points to which interested parties can address questions concerning customs matters, and shall make available on the Internet information concerning the procedures for making such inquires.

Economies are to report their Individual Action Plan against the actual language in the APEC Leaders' Transparency Standards on Customs Procedure. Economies are to use 1996 as the base year for previously raised IAP transparency issues, but to use 2003 as the base year for reporting on new transparency commitments per the APEC Leaders' Transparency Standards.

Customs Procedures and Supply Chain Facilitation

In order to further advance the trade facilitation agenda, APEC also started to look at the issue of logistics to facilitate the actual movement of goods across the borders. It realised that in the new economic environment, businesses seek short transit times and reliable delivery schedules. In 2009, it included trade logistics in the trade facilitation agenda and went on to adopt a Supply Chain Connectivity Framework Action Plan in 2009 (SCFAP; 2010-15). The SCFAP was developed to address eight critical supply chain 'chokepoints'. The overall objective is to reduce trading time, cost and uncertainty by 10 per cent in 2015. The eight chokepoints and initiatives to address them are discussed in Table 1.

Table 1: SCFAP: The Chokepoints

Chokepoints (CP)	Examples of Initiatives
CP1: Lack of transparency/awareness of full scope of regulatory issues affecting logistics: Lack of awareness and coordination among government agencies on policies affecting logistics sector	Advance ruling Compendium of Best Practices of national Logistics Associations Survey among industry to better understand the various services involved in the logistics industry
CP2: Inefficient or inadequate transport infrastructure; lack of cross border physical linkages (e.g. roads, bridges)	Assess best practice in PPP markets and prioritise reform measures Examine individual transportation/trade policies that use a gateway or trade corridor approach
CP3: Lack of capacity of local/regional logistics sub-providers	Review constraints affecting engagement of Small and Medium Enterprises Help raise the quality of APEC economies' logistics services and management
CP4: Inefficient clearance of goods at the border; Lack of coordination among border agencies, especially relating to clearance of regulated goods 'at the border'	Implementation of Single Window system Conduct Time Release Survey (TRS) to measure the effect of simplifying and facilitating cargo clearance at border
CP5: Burdensome procedures for customs documentation and other procedures (including for preferential trade)	Self-Certification of Origin Capacity Building Porgram Simplification and harmonisation of customs procedures on the basis of revised Kyoto Convention Explore the possibility of adopting electronic certificates related to customs procedures
CP6: Underdeveloped multi-modal transport capabilities; inefficient air, land, and multimodal connectivity	Introduce the Secure and Smart Container (SSC) concept of intermodal transport enhancing "supply chain visibility" to determine the feasibility of constructing an information network to share cargo status information in the mulit-modal logistics
CP7: Variations in cross-border standards and regulations for movements of goods, services and business travellers	Improving Submarine Cable Protection Reducing International Mobile Roaming charges Improving 'Road Safety Measures for Heavy Vehicles in the Transport Supply Chain Sector in APEC'
CP8: Lack of regional cross-border customs-transit arrangements	Examine and identify issues relating to transport and customs-transit Identify specific issues and impediments relating to cross-border customs transit arrangements for logistics companies

Source: From the Paper titled 'APEC and ASEAN Connectivity: Areas of Mutual Interest and Prospects of Cooperation' by Sanchita Basu Das, Pham Thi Phuong Thao and Catherine Rose James.

Having adopted "Facilitation, Accountability, Consistency, Transparency and Simplification" as its basic guiding principles, the SCCP has made concerted effort in implementing the two *Trade Facilitation Action Plans* (2002-2010) and the *Supply Chain Connectivity Framework* (2010-2015) as well as the *Yokohama Vision* (since 2010).[42]

Overall Progress Achieved

Over the past 20 years, the SCCP has carried out a series of initiatives and achieved fruitful outcomes including:

- The Single Window Strategic Plan developed to streamline the export-import process using an online system linking all government agencies responsible for permits, certificates and fees.
- The Intellectual Property Rights (IPRs) Enforcement Strategies and APEC Guidelines for Customs Border Enforcement, Counterfeiting and Piracy endorsed to strengthen the IPR enforcement at borders.
- The Action Plan on the Development of Authorised Economic Operator (AEO) Programmes and the AEO Compendium for all APEC Economies help members to establish AEO programmes and mutual recognition. Operators can be accredited by Customs as an AEO when they prove to have high quality internal processes that will prevent goods in international transport to be tampered with. This helps speed customs inspections for low risk operators.

SCCP's efforts over the past two decades have contributed greatly to the two-time 5 per cent reductions of APEC trade transaction costs. It is also playing a key role in the targeted 10 per cent improvement by 2015 in supply chain performance amongst APEC economies. The SCCP has also undertaken the responsibilities of addressing choke-points or bottlenecks relevant to Customs. These efforts will contribute to the development of a fair, transparent and dynamic economic and trading environment in the Asia-Pacific region. A review of the Individual Action Plans of the APEC members shows that they have made considerable progress in a set of trade facilitation goals, *viz.* greater availability of trade related information, paperless trading, allowing temporary importation facilities, providing clear appeal provisions, aligning Customs Valuation and non-preferential rules of origin provisions with their WTO commitments, adoption of WCO's revised Kyoto Convention, Harmonised System Convention and Guidelines on Express Consignment Clearance, implementation of advance ruling system, adoption of risk management system, conducting time release survey and addressing customs integrity issues. The progress made by selected countries, *viz.* China, Indonesia, Vietnam and Peru is listed out in Table 5 given at the end of this annexure.

2. Indian Customs and Trade Facilitation

India is a signatory of the international conventions of the World Customs Organisation like the Harmonised System, Revised Kyoto Convention, ATA Convention, Nairobi Convention and Johannesburg Convention. It is an active member of the WTO and implements all its Agreements.[43] India has carried out substantial autonomous reform to facilitate trade across the borders during the last decade and the important landmarks achieved are discussed below. India's efforts at trade facilitation in customs has focused on reduction in dwell time, transaction costs, procedural requirements and documentation associated with the movement and clearance of goods from international borders. This relates to cargo handled at sea ports, airports, Inland Container Depots (ICD)/Container Freight Stations (CFS), land customs stations and other warehousing locations. However, it also needs recognition that Customs alone cannot facilitate trade in an isolated manner as it functions in tandem with many stakeholders such as port authorities, carriers, clearing agents, Directorate General of Foreign Trade (DGFT), Banks and various other Government departments (e.g., phytosanitary, environment, health authorities, etc.) in the movement and clearance of goods. Therefore, Customs has to necessarily work in an integrated manner with all the stake holders to achieve meaningful and effective trade facilitation.

Recognising the importance of information and communication technology (ICT) as one of the major enablers of trade facilitation, the Central Board of Excise and Customs (CBEC) under the Ministry of Finance of the Government of India introduced an automated Customs workflow system, called the Indian Customs EDI System (ICES) in 1995. The main objectives of the system were to: (i) Reduce time taken in clearance of cargo and ability to handle larger volumes of clearances; (ii) Reduce interface between Trade and Customs; (iii) Ensure simple and uniform Customs processes; (iv) Promote accuracy, transparency, accountability; (v) Ensure better monitoring and control; and (vi) Improve quality of data collection.

This initiative was implemented at 40 locations by 2006 and greatly facilitated clearance of export and import consignments. This also formed the basis of further strategic initiatives for trade facilitation including implementation of Electronic Data Interchange (EDI) messaging through Indian Customs EDI Gateway (ICEGATE) in 2002 and introduction of a Risk Management System (RMS) in 2005. Addressing issues of technology obsolescence, security needs, professional IT service management and quicker rollout to new locations has been some of the basic policy guidelines under which the automation programme has been carried out. The details of ICT initiatives in Indian Customs are as below.

2.1 Automated Processing

Prior to the pilot rollout of ICES 1.0 at Delhi Air Cargo in 1995, CBEC carried out a major process re-engineering in order to ensure that the new system did not simply mirror the existing manual regime. The following features were built into ICES that eventually proved to be major trade facilitation measures:

- EDI-based automated workflow system for clearance of import and export consignments. The ICES application enables Customs officers to appraise shipments, give ‘out of charge’ for import consignments and ‘let export order’ for export consignments in sea ports, airports, land customs stations and ICDs/CFS locations.
- Drastic reduction in the number of stages in the manual import or export clearance process.
- The entire process was carried out in the electronic system and final copies of goods declaration for import and export (Bills of Entry and Shipping Bills respectively) were generated only at the last stage of the process for legal purposes.
- The ICES application automatically calculated the duty based on each import declaration and generated a bank ‘challan’ for the payment of duty. This freed the importers and Custom House Agents from the burden of manually computing the duty. In addition, it eliminated arithmetic errors that used to be noticed at audit stage. This also released Customs

personnel for deployment in more gainful activities.

- ICES also introduced the concept of selective appraisement and examination that were eventually institutionalised in the Risk Management System. Self-assessment was allowed for certain categories of commodities and trusted importers along with green channel at the examination stage.
- Electronic interfaces were established with trade community partners through the National Informatics Centre (NIC) network infrastructure. This allowed filing of Bills of Entry and Shipping Bills from the office of importers, exporters and Custom House Agents with electronic acknowledgements and query interaction with Custom Officers. A free software package, Remote EDI System (RES), was provided for members of the trade who wished to avail of this facility. With the setting up of ICEGATE, e-filing infrastructure was set up within Customs to enable Internet based filing.
- CBEC also facilitated the entry of Bills of Entry and Shipping Bills by trained data entry operators in service centers run by third party professional service providers. These centers were located in the Custom Houses and provided a convenient interface for trade. Trade could track the status of each consignment through the service centers as well as through touch screen kiosks.
- ICES ensured that no transaction was ever lost or modified and brought in transparency and accountability in the Customs Department. All documents were processed on a first-come, first-served basis, with only senior officers being allowed the option of changing the priority of a shipment in case of life saving drugs, etc. Senior officers were also able to get a complete online view into the functioning of the Custom House through extensive MIS reports, hitherto not possible in a manual environment.
- On the exports side, the ICES automatically calculated the drawback amount in the drawback shipping bills and generated a scroll which was transmitted to the banks for drawback payments. There was no need for the exporter to file a separate claim for drawback. The exporter was free to maintain his account in any bank in the country and his dues were directly credited. It is gathered that India is among the first Customs administrations to have introduced this trade facilitation measure.
- ICES also enabled the online maintenance of bonds and licenses. By creating electronic files for transmission to DGFT, the system allowed for easy availment of export benefits.
- IGM/EGM details are submitted by Airlines electronically through service providers.
- The system also enabled compilation of trade statistics and Daily Trade Returns were provided to the Directorate General of Commercial Intelligence and Statistics (DGCIS) online.
- Daily lists of trade statistics were also made available to the trade at all these locations.

ICES 1.0 was a major success with a coverage of 40 locations, with over 95 per cent of the Bills of Entry being processed electronically at these locations, involving duty collection of over Rs. 75000 crore

(Rs. 750 billion) in 2009. With the availability of a centralised computing infrastructure and extensive network coverage by 2009, it was possible to redesign and upgrade ICES to work in a more robust and secure manner. The migration to a new application ICES 1.5 was carried out between 2009 and 2011. It works on the latest technology stack and provides a single uniform application to all the Customs locations in the country. This has also facilitated use of new applications like Enterprise Data Warehouse and centralised bond management. As on 31.12.2014 the ICES 1.5 application has been launched in 124 Customs locations in the country. The document load being handled by ICES 1.5 is around 50,000 per day.

2.2 Trade Facilitation through EDI Message Exchange

Indian Customs EDI Gateway (ICEGATE) portal is the gateway that connects all the external stakeholders with the ICES application. It brings about 15 different categories of stakeholders on a common electronic platform and their data Integration with Customs through message exchanges. This includes banks, port authorities, custodian and Directorate General of Foreign Trade (DGFT). It hosts a number of services for the EDI partners and makes the Customs clearance process of import/export goods both transparent and efficient. The ICEGATE application handles the filing of Bills of Entry, Shipping Bills, Import and Export general manifests, amendments, queries, replies, messages with custodians, trans-shipment and transit procedures, information related to arrival and departure of vessels, goods registration intimation through internet for enabling examination/inspections, document tracking to ascertain the status of clearance, etc.

ICEGATE provides facilities for e-filing of documents from anywhere at any time(24/7) and for making amendments thereto along with electronic acknowledgements. The services at ICEGATE are free of charge and contribute significantly towards the transaction cost reduction in export and import trade.

2.3 Helpdesk, Document Tracking and Information on Website

ICEGATE provides information to the stakeholders such as importers, exporters, shipping lines, shipping agents, Airlines and Custodians about the status of their import/export goods during the journey through Customs. ICEGATE and ICES 1.5 are serving about 1 million (9, 30,889) importers/exporters and handling nearly 98 per cent of India's International trade in terms of import and export consignments. At present, there are about 28000 registered users at the ICEGATE who act as intermediaries between the Customs and about 1 million (9, 30, 889) Import Export Code holders who actually import/export goods. Currently, more than 90 per cent of the Shipping Bills and Bills of Entries are filed through ICEGATE.

A round the clock Helpdesk has been implemented at ICEGATE to assist the trade. In 2013-14, 185750 calls and 143247 e-mails were handled by the ICEGATE Helpdesk.

ICEGATE provides complete real time tracking of the documents not only at ICEGATE/ICES end but their status vis-a-vis message exchange with trade partner. The exponential increase in use of ICEGATE is captured in Table 2.

2.4 Risk Management System and Post Clearance Audit

Indian Customs had implemented the Risk Management System (RMS) in the year 2005 along with an Assured Customs Clearance Procedure for special clients having good track record and those who meet specified criteria identified by the Customs. The implementation of the RMS was one of the most significant steps in the ongoing Business Process Re-engineering and e-Governance initiatives of CBEC. It covers about 85 per cent of India's international trade.

Under the RMS, Bills of Entry filed by importers are processed for risk and a large number of consignments are allowed clearance without examination but based on the importers' self-assessment. Other consignments go for assessment or examination or both, depending on the evaluation of risk by the RMS.

Upon introduction of RMS, the erstwhile Concurrent Audit was replaced with Post Clearance Audit (PCA). Post Clearance Audit is carried out only on Bills of Entry selected by the Risk Management System.

All the qualified importers, who have demonstrated capacity and willingness to comply with the laws, which Customs department is required to enforce, and registered with the Risk Management Division under the Accredited Clients Programme (ACP) get assured facilitation. Except for a small percentage of consignments selected on a random basis by the RMS, or cases where specific intelligence is available or where a specifically observed pattern of non-compliance is required to be addressed, the ACP importers are allowed clearance on the basis of self-assessment. There are 271 such ACP importers, as on 1.07.2013. Implementation of RMS has drastically cut down the dwell time of cargo.

Automated Recording and Targeting System (ARTS) for protection of Intellectual Property Rights (IPRs) has been developed and implemented as part of the Risk Management System. A module for IGM based selection of containers for scanning on arrival at JNPT or Nhava Sheva has been developed by the

Table 2: Overview of Increase in ICEGATE Usage

	2007-08	2010-11	2013-14
Number of Import/ Export Goods declarations related transactions per year	5.39 Mn (Approx. 15800 per day)	12.55 Mn (Approx. 40000 per day)	18.34 Mn (Approx. 50,000 per day)
ICEGATE e-Filing vis-à-vis digitised document filing through service centre	60 per cent	83 per cent	83 per cent
Documents filed at ICEGATE beyond business hrs. at Night	Hardly any	10 per cent	
Trade Partners – Customs Brokers (CHA) Others	6500 10	9000 Approx. 80	26,000
Number of Customs Duty payment Bank challans transmitted per day	Not handled by ICEGATE	1,85,000	1,80,000 per day
Customs Duty Collection- through messages- through e-payment	Not handled by ICEGATE Hardly any	Rs. 12,000 Bn Rs. 270 Bn	Rs. 2185.14 Bn
Export Declaration Transmissions to Licensing Authority (DGFT) per day	4500	7000+	17885 (Approx)
Website No of Hits per day	0.13 Mn	7.49 Mn	52,03,347
Website No. of unique visitors per month	0.03 Mn	0.25 Mn	4,52,000
Helpdesk support - No. of e-mails per year - Number of calls per year	Data not available	1,11,417 91,620	1,85,750 1,43,247

Source: Compiled from ICEGATE website (www.icegate.gov.in).

Risk management Division and successfully implemented. The Risk Management System for courier clearances and exports has also been developed.

2.5 Self-Assessment

Self-Assessment of Customs duty by importers or exporters was introduced in 2011. This was aparadigm shift in the system of assessment of duties- fromthat by Departmental officers to the importers signifying the high level of trust now being reposed on the importers. The objective of this initiative is to expedite release of imported/export goods. The interest of revenue in terms of ensuring correct declarations and duty payment is ensured by the Risk Management System (RMS).

2.6 On Site Post Clearance Audit (OSPCA) Scheme

'On Site Post Clearance Audit' (OSPCA) has been implemented from1.10.2011 in case of the importers registered under the Customs Accredited Client Programme (ACP). This scheme is aimed at facilitating Customs clearance of goods and reducing dwell time. At the same time interest of revenue is to be safeguarded by a comprehensive verification of records and documents at the premises of the importer/exporter on annual basis.

OSPCA is a shift from transaction based audit undertaken in Customs Houses (other than the ACP importers) to comprehensive scrutiny of records at the premises of the importers and exporters.

2.7 Authorised Economic Operator (AEO) Programme

An Authorised Economic Operator (AEO) programme has been developed to enable businesses involved in the international trade to reap the following benefits:

- Secure supply chain from point of export to import;
- Ability to demonstrate compliance with security standards when contracting to supply overseas importers/exporters;
- Enhanced border clearance privileges in MRA (Mutual Recognition Agreement) partner countries;
- Minimal disruption to flow of cargo after a security related disruption;
- Reduction in dwell time and related costs; and
- Customs advice/assistance if trade faces unexpected issues with Customs of countries with which India has MRA.

The AEO Programme was rolled out on 16.11.2012 after successful completion of pilots. AEO programmes have been implemented by other Customs administrations that give AEO status holders preferential Customs treatment in terms of reduced examination, faster clearances and other benefits. Thus, India's AEO programme is expected to result in Mutual Recognition Agreements (MRA) with these Customs administrations. MRAs would ensure that Indian export goods get due Customs facilitation at the point of entry in the foreign country. Apart from securing supply chain, the benefits include reduction in dwell time and consequent cost of doing business. Indian Customs has signed Mutual Recognition Arrangement (MRA) with Hong Kong Customs to recognise respective AEO Programmes to enable trade to get benefits on reciprocal basis.

2.8 24x7 Customs Clearance Operations

This facility begun with effect from 1.9.2012 at identified Air Cargo Complexes, *viz.* Bangalore, Chennai, Delhi and Mumbai and Seaports, namely Chennai, Mumbai, Kandla and Kolkata. The Indian Finance Minister in the Budget 2014 has announced extension of 24x7 Customs Clearance at more number of ports.

As a result, till 31.12.2014, the 24x7 facility for specified export and import goods is available at 17 airports and 18 sea ports.

2.9 Single Window in Customs

In 2014, it has been announced that an Indian Customs Single Window Project will be rolled out. Customs is the lead agency to implement Single Window Scheme. It provides a common platform to trade to meet requirements of all regulatory agencies (such as Animal Quarantine, Plant Quarantine, Drug Controller, FSSAI, Textile Committee, etc.) involved in foreign trade through seamless access to regulatory services delivered through electronic means.

2.10 'Time Release Study' (TRS)

CBEC has decided to undertake Time Release Study (TRS) as per WCO Guidelines.WCO Time Release Study (TRS) is a unique tool and method for measuring the actual performance of Customs. The underlying objectives of Time Release study are:

- Identifying bottlenecks in the international supply chain/or constraints affecting Customs release.
- Establishing baseline trade facilitation performance measurement

It is gathered that Pilot on TRS has been completed at two Customs locations, viz. Jawaharlal Nehru Custom House (JNCH) and Mumbai air cargo (imports). After completion of pilot, TRS will be conducted at major Customs Locations at an interval of six months.

2.11 Interactive Website

CBEC has developed an interactive website which enables the importer/ exporter to ascertain effective rate of Customs duty as well as compulsory compliance requirements in respect of a particular product. The website is user friendly and is a guide for trade in making correct assessment of Customs duty.

2.12 Future Work Programme

With ICES 1.5 operating in a stable manner, efforts are on to introduce new functionalities and additional features which would significantly contribute to the trade facilitation by Customs. The ICEGATE would be focusing on electronic integration of the remaining Export Promotion Schemes of the Department of Commerce, integration of Gateway IGM/ EGM with ICD container arrival report/ EGM respectively, tracking services through SMS, international data exchange, reverse scroll messages from banks, messaging with Special Economic Zone (SEZ) online, and downloadable daily trade lists.

3. Overview of Indian Customs and Logistics Performance as per International Indices

The Section above on 'Indian Customs and Trade Facilitation' gives an overview of an impressive array of trade facilitation initiatives undertaken by India. However, India still does not compare favourably with many APEC countries with respect to Customs procedures when making comparison using certain indicators developed by the World Bank. These include Logistics Performance Index (LPI) indicators, including Ease of Doing Business, trading across border variables and indicators. A number of indicators and variables are used for analysing the complexity of customs procedures of individual countries. The indicators and variables are: cost of exports and imports expressed in US dollars per container; number of documents required for exports and imports; lead time to export and import both in median case of days; and trading across border.

Comparison of the APEC members and India's "logistic performance index" provides an understanding of the efficiency of customs clearance process. The Logistics Performance Index surveys are conducted by the World Bank in partnership with academic and international institutions and private companies and individuals engaged in international logistics. The round of 2009 was based on the survey covering more than 5,000 country assessments by nearly 1,000 international freight forwarders. The markets were chosen based on the most important export and import markets of the respondent's country, random selection, and, for landlocked countries, neighbouring countries that connect them with international markets. These individual respondents evaluated efficiency of customs clearance processes (i.e. speed, simplicity and predictability of formalities), on a rating ranging from 1 (very low) to 5 (very high). Scores are averaged across all respondents of the survey.

As seen in Table 3 India is marginally better than Indonesia, Peru and Vietnam in LPI. However, comparing the scores of various APEC countries against the benchmark country Singapore, provides useful information on the relative improvement in LPI over time. With the exception of China, other APEC countries and India have seen deterioration in their LPI scores *vis-a-vis* Singapore. However, as compared to India, Indonesia and Vietnam have slipped further behind Singapore.

Apart from LPI, other indicators used for assessing simplification of customs procedures in India and APEC countries include World Bank ranking of countries on Trading Across Borders, cost per container, documents required for trade and time

Table 3: Logistic Performance Index of Selected APEC Members and India

Countries	2007	2010	2012	Difference of 2012 upon 2007	Comments based on the Column 5
1	2	3	4	5	6
Chile	3.3	2.9	3.1	-0.2	Marginal Deterioration
China	3.0	3.2	3.3	0.3	**Improvement**
India	2.7	2.7	2.8	0.1	**Improvement**
Indonesia	2.7	2.4	2.5	-0.2	Marginal Deterioration
Malaysia	3.4	3.1	3.3	-0.1	Marginal Deterioration
Peru	2.7	2.5	2.7	0.0	No Change
Thailand	3.0	3.0	3.0	-0.1	Marginal Deterioration
Vietnam	2.9	2.7	2.7	-0.2	Marginal Deterioration
Singapore	3.9	4.0	4.1	0.2	**Improvement**
Distance from Singapore (in Scales of Indices)					
Chile	-0.58	-1.09	-0.99	-0.4	Deterioration
China	-0.91	-0.86	-0.85	**0.1**	Improvement
India	-1.21	-1.32	-1.33	-0.1	Marginal Deterioration
Indonesia	-1.17	-1.59	-1.57	-0.4	Deterioration
Malaysia	-0.54	-0.91	-0.82	-0.3	Deterioration
Peru	-1.22	-1.52	-1.42	-0.2	Marginal Deterioration
Thailand	-0.87	-1.00	-1.14	-0.3	Deterioration
Vietnam	-1.01	-1.34	-1.45	-0.4	Deterioration

Source: http://data.worldbank.org/indicator last accessed on 26 October 2014.

taken for import and export. As shown in Figure 1, India ranks significantly lower at 126 compared to other APEC countries on the criteria of Trading Across Borders. While China's ranking is also relatively low at 98, nevertheless, it is significantly higher than that of India.

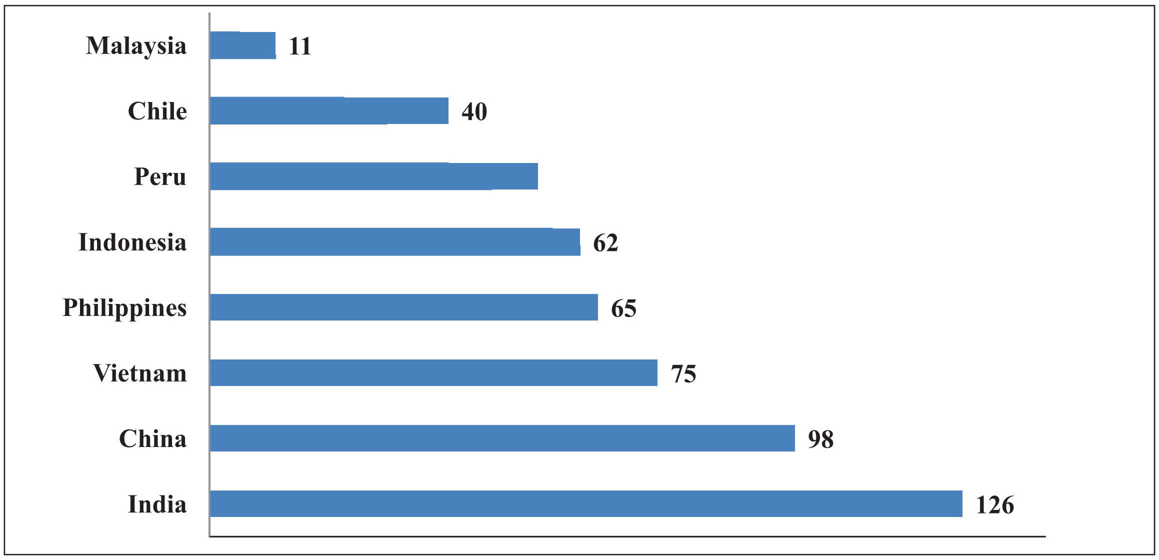
Turning to the cost per container and the number of documents required for trade (Table 4) it is clear that compared to most of the APEC countries, India can be considered to be less "import friendly". It is a matter of concern that the cost per container for India's export is indicated to be almost 50 per cent higher than that of China, which has the highest cost per container for exports amongst the APEC countries. Further, India's cost per container is 150 per cent higher than that of Malaysia which has the lowest per container cost. It is interesting to note that the cost to import in India is higher than that of all the APEC countries with the exception of Vietnam and Malaysia. Inefficiencies and complexities in India's exim procedures are further revealed from the fact that the number of documents required for import and export is higher in India than the APEC countries. India also suffers from relatively higher time to export and import as compared to most of the APEC countries.

However, it is important to sound a note of caution that the ranking mentioned in the Table 4 should be taken as indicative. It is also important to underline that it is based on a survey of extremely limited sample which cannot be considered to be statistically significant.

4. Assessment of India's Gains in Trade Facilitation from Joining APEC

As the APEC members include a large number of developed economies and also advanced developing countries with a high degree of trade openness, its customs reform agenda has been very forward looking. It is very clear that their trade facilitation agenda also found a strong reflection in the proposals during the Trade Facilitation negotiation in the WTO. Therefore, it can be safely concluded that APEC is one of the forum for futuristic trade facilitation reform. India has carried out a very commendable set of trade facilitation reforms autonomously and, therefore, it can also be a strong voice in the

Figure 1: Ranking of Selected APEC Countries and India: 2014



Source: http://data.worldbank.org/indicator last accessed on 26 October 2014.

future trade facilitation agenda, which can potentially include cross-border paperless trade, including online exchange of certificates of origin, phytosanitary certificates, etc.

When compared to trade facilitation programme of some of the similarly situated economies like Indonesia, Vietnam, People's Republic of China and Peru, it can be seen that India is not lagging behind at all. Based on information obtained from Individual Action Plans (IAPs), that are regularly submitted by APEC countries, an assessment of the trade facilitation reforms of these countries *vis-à-vis* India has been carried out which is given in Table 5.

From a description of the trade facilitation reforms in India captured in the preceding section, it is clear that India has followed a very proactive reform agenda and has largely in place all the trade facilitation instruments that the four surveyed APEC members have in place. These include: a strong transparency mechanism through an active website of the Central Board of Excise and Customs (CBEC) which publishes all laws, regulations, and Departmental instructions concerning customs, central excise and service tax; established paperless trading system through the use of EDI and ICEGATE which is now being taken to the next level by commencing the development of Single Window;a good risk management system which is now complemented by the schemes of Onsite Post Clearance Audit (OSPCA) and the Authorised Economic Operator (AEO); a well-established appeal procedure through the mechanism of Commissioner (Appeal), Customs, Central Excise and Service Tax Appellate Tribunal (CESTAT) and the High Courts and the Supreme Court; an Advance Ruling System presently available only to the Joint Ventures and Public sector and resident public limited companies and all advance rulings are published on the website of the Advance Ruling Authority of India[44]; and well laid out border enforcement procedures for IPR infringing goods. There is a system of seeking comments of the stakeholders for important changes in law, however, this is not done in every case and particularly where the matter is urgent or of confidential nature like the annual Budget announcements. There are also no well-defined contact points for traders to seek information on customs related matters. However, some of these missing elements can be expected to be implemented

Table 4: Costs per Container and Number of Documents Requirement for Exports and Imports, 2014

Country	Rank	Documents to export (number)	Time to export (days)	Cost to export (US$ per container)	Documents to import (number)	Time to import (days)	Cost to import (US$ per container)
Chile	40	5	15	910	5	12	860
China	98	8	21	823	5	24	800
India	126	7	17.1	1,332	10	21.1	1,462
Indonesia	62	4	17	571	8	26	646
Malaysia	11	4	11	525	4	8	560
Peru	55	5	12	890	7	17	1,010
Philippines	65	6	15	755	7	15	915
Vietnam	75	5	21	610	8	21	600

Source: Compiled based on the Doing Business Database, World Bank.

shortly as part of the WTO's Trade Facilitation Agreement.

In the area of logistics too, India's performance compares favourably to many APEC countries. However, it still has a low position in the Ease of Doing Business Ranking and the cost per container for import and export and the number of documents required for import and export are reported to be comparatively high. While there can be some questions raised regarding the method of sampling and the size of sampling of the World Bank reports, but it can be said that the same deficiency will possibly apply to other countries surveyed. Therefore, improving the indicators for Ease of Doing Business should be one of the focus areas of further trade facilitation reform in India.

A question can arise as to whether any benefit can be expected to accrue in the area of Customs trade facilitation through APEC. In author's view, there can be several benefits.

At a macro level, one benefit can be that India can gain from the discussion on best practices and cutting edge reform being carried out by the more developed and outward economies. This is important as India is also becoming an increasingly open economy and is looking at integrating with Global Value Chains. Reform efforts in tandem with the more developed economies will improve India's attractiveness for FDI and thus improve its chances of becoming a manufacturing hub of the world.

Another benefit is somewhat interconnected with the first one. It can be seen that APEC members were involved in undertaking some far reaching reform like establishing Single Window right from 2009 whereas Indian initiative has begun in 2014 and going by the general experience of countries that have established Single Window, it will take at least 3 to 4 years to have a stable Single Window system in India. It is recognised that India is a big country and it may not be possible for it to match the speed of reforms in more developed but smaller economies like Singapore, Hong Kong China, etc., but India's active engagement at a forum like APEC can cut the time lag in undertaking reforms in line with the global best practices.

Another benefit will be that Indian customs officials will get a chance to interact closely with customs officers of US, Japan, Australia, China, etc., which can potentially be a beneficial means of a two-way flow of information on trade facilitation issues. It is recognised that India is also actively associated with the negotiations in WCO and WTO but APEC being less rigidly rule bound, the scope of work here can be more expansive than in a multilateral rule making body.

Another benefit relates to addressing the wider horizons of trade facilitation in a concerted manner. Improvement of logistics environment for faster and more efficient movement of goods across the borders is well recognised. APEC's attention to the logistics chokepoints will improve the international logistics environment and India can gain by participating in this programme.

Simplification and harmonisation of behind the border procedures are also important aims of APEC. Development of common standards, establishment of mutual recognition agreements in areas like authorised economic operator and product safety standards will go a long way in implementing trade facilitation on a firmer footing. India can also benefit by collaborating on issues like risk management methodologies, Single Window procedures and aviation and multimodal transport.

Another area of mutual benefit for India and APEC members can be capacity building activities for officials as well as trade. Institutional partnerships for test laboratories, training institutions, benchmarking of best practices can be useful in improving the capacity of trade and officers in embracing and moving towards international best practices. This can also address issues like reduction in number of documents, better container handling practices and efficient port logistics.

It is also useful to ask ourselves what can be the potential cost of India joining APEC. A distinctive feature of APEC is that it is an intergovernmental voluntary economic and trade forum. It looks at ways and means of eliminating trade barriers and increasing investments without insisting that members take up legally binding commitments. This informal approach can give comfort to India as its agenda of trade openness may not be as ambitious as some of the leading members of APEC. However, still India can come under pressure to undertake opening up or to put in place procedures and processes that may not be compatible with its more conservative, cautious and gradualist trade policy reform agenda. It will also put pressure on its bureaucracy to put its energy and effort in engaging with another international agency when its current engagements are themselves quite demanding.

In conclusion, it can be said that in the field of trade facilitation, India potentially stands to gain from engagement with APEC but it will also entail some cost. However, given the direction of India's trade policy, the price may not be as high as the benefits likely to accrue.

Table 5: APEC Electronic Individual Action Plan on Trade Facilitation of Select Countries (2006, 2007, 2008, 2009)

Sl. No.	Customs Procedure	People's Republic of China (2008, 2009)	Indonesia (2008,2009)	Vietnam (2007, 2008)	Peru (2006, 2007, 2008	India's Status
1.	Greater Public Availability of Information	China Customs reconstructed the official customs website, by which local customs websites could be connected. More practical and effective approaches to achieve greater public availability of customs information have been explored and put into use.	Online registration for importers through Indonesian Customs website. Preparing English version of Indonesian Customs website.	Upgrade of Vietnam customs website. Publish information and provide e-customs services; To publish and translate legal documents on customs activities into English. Dissemination of information on customs procedures.	The website www.sunat.gob.pe has been improved with: 1. A "user's orientation" section with a simple language that allows a better knowledge on customs processes. 2. A consultation section by e-mail.	Information on customs tariff and procedures available on the website of the Central Board of Excise and Customs (CBEC).
2.	Paperless Trading	China Customs developed and applied the Clearance Management System (H2000) across all customs districts in China. E-Port System of Chinese Customs is an integrated clearance information data form enabling data exchange between G-G and G-B. Electronic pre-arrival declaration of Manifest made effective from 1 January 2009.	In addition to the pilot programme, 4 other ports (Semarang, Surabaya, Batam, Medan) have installed National Single Window (NSW) for their services. Expansion of NSW to cover more ports and participation more other agencies.	Pilot on electronic Customs Procedures to be expanded; collaborate with the functional Ministry, Industry in the planning and implementation of the one door mechanism based on IT. Establish legal basis and issue direction circulars and invest in infrastructure and human resources for the implementation of electronic C/O and other issues/contents relating to electronic transactions. Carry out the one door mechanism in 2012.	SUNAT is working to establish a Foreign Trade Single Window. During 2008, a joint payment platform pilot has been developed between SUNAT and the Service of Agrarian Health SENASA. A joint physical examination pilot is also being developed by a computer system support and warehouse terminal and Customs agent assistance. Customs Declarations will be digitalised as well as the clearance supporting documentation.	EDIFACT and ICEGATE systems have enabled paperless filing of declaration. Supporting documents like invoice, packing list are still filed in paper format.

Table 5 continued...

Table 5 continued...

Sl. No.	Customs Procedure	People's Republic of China (2008, 2009)	Indonesia (2008,2009)	Vietnam (2007, 2008)	Peru (2006, 2007, 2008	India's Status
3.	Provision of Temporary Importation Facilities	Implementing the ATA carnet towards the 2008 Olympics related cargoes and materials To extend the application of the ATA carnet in connection with temporary admission.	*No information available.*	Clear regulations to facilitate the categories of temporary imports into Vietnam. Complete necessary procedures to sign bilateral agreements with some countries/ territories on ATA. Organise training courses and workshops.	The importation period have been extended to 18 months.	India is a signatory of ATA and Carnet system.
4.	Implementation of Clear Appeals Provisions	Applying a complete system on supervision of customs enforcement. To establish and improve a system governing guidelines on customs administrative actions.	Revised regulation gives more sufficient time for the appellants in preparing their appeal (current: 60 days, before: 30 days). Preparing electronic database based on tax court decision.	Procedures to deal with administrative cases are specifically stipulated in the Ordinance dealing with administrative cases in 1996 and further revised and supplemented in 1998 and 2006. Disseminate legislative documents on fining and appellate.	In the case of claims, they are filed at the port where the goods entered and liquidated or where the administrative act was generated. The party has twenty (20) working days counting from the next working day of notice to file the claim. If the claim is denied by the administration, the party has fifteen (15) working days from the next working day of notice to appeal. The appeal is decided by the Tax Court within a period of six (06) months.	India has well laid out appeal provision both at the administrative and judicial level, namely Commissioner (Appeal), Customs, Excise and Service Tax Appellate Tribunal (CESTAT), High Courts and the Supreme Court.

Table 5 continued...

Table 5 continued...

Sl. No.	Customs Procedure	People's Republic of China (2008, 2009)	Indonesia (2008,2009)	Vietnam (2007, 2008)	Peru (2006, 2007, 2008	India's Status
5.	Alignment with WTO Valuation Agreement	Fully implementing the Agreement. More activities to be organised towards better implementation of the Agreement.	*No information available. However, as Indonesia is a member of WTO, it is implementing the WTO Valuation Agreement.*	Calculate customs value in compliance with principles and methodologies as regulated in WTO's Agreement on Customs Valuation. Build mechanism to coordinate within customs authorities to effectively investigate and control price frauds.	A different system of law to determine the value for imports of the goods considered in Sections XI and XII, and the used goods of Chapter 87 of the Tariff Code. A new regulation for valuation of used cars imported through special centers called CETICOS.	India's Customs Valuation law is fully aligned to the WTO Agreement on Customs Valuation.
6.	Adoption of Kyoto Convention	Fully implementing the General Annex and the specific annex joined by China. To prepare for accession to more Annexes.	Adopting best practices recommended by The Revised Kyoto Convention. Acceding the Revised Kyoto convention	Vietnam joined the revised Kyoto Convention on 8 April 2008. Most of regulations and practices of Vietnam's Customs are compliant to standard of the revised Kyoto Convention.	Peru is a Member of the Andean Community which issued a Decision laying down the progressive incorporation of General Annex and reference of Specific Annexes of the revised Kyoto Convention.	India is a signatory to the General Annex of the Revised Kyoto Convention
7.	Implementation of Harmonised System Convention	2007 HS version has been translated into Chinese and was implemented as of 1 January 2007. To further perfect HS database. To introduce risk management approach in classification operations.	Updating amended Harmonised System. Amending Harmonised System in 2012	From 1 January 2008, Vietnam officially applied HS 2007 of the WCO and ASEAN Harmonised Tariff Nomenclature (AHTN) 2007.	In 1998, Peru became a signatory country of International Convention of the Harmonised Commodity Description and Coding System (HS). Peruvian Tariff Nomenclature is organised at the 10-digit level.	India is a signatory and implements its revisions regularly

Table 5 continued...

Table 5 continued...

Sl. No.	Customs Procedure	People's Republic of China (2008, 2009)	Indonesia (2008,2009)	Vietnam (2007, 2008)	Peru (2006, 2007, 2008	India's Status
8.	Implementation of An Advance Classification Ruling System	Applying the ACRS in the Customs operation system. More training will be conducted for customs officers to improve the current system.	Customs Laboratories with international standard providing goods identification service for classification purpose. Creating and developing electronic database of classification.	Categorisation of goods before export – import (before customs clearance) has been adopted by Vietnam's Customs, importers and exporters. Research on the possibility of applying regulations on pre-categorisation.	Peruvian Customs Law provides for an advance clearance system, which allows conducting the clearance of merchandise before, during or after its arrival.	India has an advance ruling system for classification, valuation and application of notification. It is only available for Joint Venture and public limited companies.
9.	Implementation of WTO Obligations and Rules of Origin	Fully implementing the WTO Obligations and Rules of Origin. More trainings and studies will be organised.	*No information available. However, as Indonesia is a Member of WTO, it implements the Agreement on Rules of Origin.*	*No information available. However, as Vietnam is a Member of WTO, it implements the Agreement on Rules of Origin.*	*No information available. However, as Peru is a Member of WTO, it implements the Agreement on Rules of Origin.*	India is a signatory of all WTO Agreements.
10.	Implementation of the TRIPs Agreement	Fully implementing the TRIPs Agreement. More effective measures were taken to interdict infringing goods at borders. IPR homepage set up on customs website to publicise laws and regulations.	*No information available. However, as Indonesia is a Member of WTO, it implements the Agreement on Rules of Origin.*	It is expected that in 2008 and 2009 Vietnam's Customs will apply risk management system for IPR related import – export goods. At the same time, the General Department of Customs is completing the database on IPR based on requirements and documents supplied by IP holders.	Peruvian Customs signed an Agreement with INDECOPI in the application of preventive measures for the protection of intellectual property rights. Also, the National Enforcement Agency has undertaken several seizure operations in cases where goods have been suspected of violating Intellectual Property Rights.	Indian Customs law has provisions for border interdiction of the IPR infringing goods.

Table 5 continued...

Table 5 continued...

Sl. No.	Customs Procedure	People's Republic of China (2008, 2009)	Indonesia (2008,2009)	Vietnam (2007, 2008)	Peru (2006, 2007, 2008	India's Status
11.	Adoption of Systematic Risk Management Techniques	Applying risk management in the whole Customs operation system. To further develop the current system.	Setting up 4 different channels for released goods on the basis of degree of risks. Those are green channel, red channel, yellow channel, priority channel	Build the plan on implementing risk management techniques on Vietnam Customs formalities.	Enhancement of profile management module, implemented in the importation for consumption regime. It is considering to extend its application to other customs regimes.	India has a well-functioning risk assessment system for imports as well as for exports.
12.	Implementation of WCO Guidelines on Express Consignment Clearance	The target objectives of Express consignment clearance contained in the SCCP CAP ITEM have been achieved. To enhance the security measures of Express consignment.	Reviewing related regulation	WCO guides on Express customs clearance by air and by road have been applied. Research, implement for other transportation means.	The Express Consignments have a special and preference treatment, with the "Regulation of postal consignments or parcel". The goods that have this special treatment are: • Letter, postal items, newspapers and books. • Goods not valued over US$ 100 (total value).	India has an Express Consignment Clearance System
13.	Integrity	The integrity action plan has been implemented and risk assessment was introduced to improve Customs integrity. To fully implement the principles and	Establishing Internal Control Unit on the level of Headquarter, prime service office and regional office.	Providing solutions to prevent and stop the habit of troublesome, disturbance and negative activities of Customs officers to timely meet all the difficulties	Peru Government issued the Law No. 27815, "Ley del Código de Ética de la funciónpública", (Law of Ethics, Code for public function) dated 12 August 2002.	India has a Departmental Vigilance set up and is also subject to external oversight through external agencies

Table 5 continued...

Table 5 continued...

Sl. No.	Customs Procedure	People's Republic of China (2008, 2009)	Indonesia (2008,2009)	Vietnam (2007, 2008)	Peru (2006, 2007, 2008	India's Status
		measures set in the blueprint of the customs integrity plan 2004-2010. To continue the efforts to introduce international best practices.	Exploring possibility in providing online complaint service Conducting regular complaint survey	of business; speeding up the internal inspection, organising regular meetings and talks between Customs and business. Undertake training activities for customs officers to be more professional and polite.	It means that the legal framework for integrity in all government agencies has been established. On the other hand, their internal regulation of work contains some issues of the Arusha Declaration.	like Central Bureau of Investigation and Central Vigilance Commission.
14.	Time Release Survey	China Customs started its TRS project in 9 ports of entry in 2007. A common understanding of work plan for further implementation of TRS has been formulated.	*No information available.*	*No information available.*	*No information available.*	It is done occasionally at major ports like NhavaSheva, but not on a regular basis.
15.	Implementation of APEC Framework based on the WCO Framework of Standards to Secure and Facilitate Global Trade	On 1 April 2008, the Measures of Classified Management to Enterprises became effective, which shows that China Customs implemented the AEO system in accord with the Framework.	*No information available.*	*No information available.*	*No information available.*	India has implemented AEO System.

Table 5 continued...

Table 5 continued...

Sl. No.	Customs Procedure	People's Republic of China (2008, 2009)	Indonesia (2008,2009)	Vietnam (2007, 2008)	Peru (2006, 2007, 2008	India's Status
16.	Other Issues (This includes other Customs activities facilitating trade which is not part of the SCCP CAP)	China Customs is working hard to push forward the customs e-port initiatives in order to pursue trade facilitation and customs modernisation (2001 IAP). China Customs is also modernising its administration.	*No information available.*	Simplified Export and Import activities, goods and vehicles transit. Applied risk management measures, after customs clearance measures, E-Customs formalities.To expand E-Customs formalities.	Most of Peruvian procedures are adapted to quality system ISO 9002.	Other issues facilitating trade includes introduction of self-assessment for customs clearance

Source: Complied by author from various sources.

Annexure 10

APEC and Liberalisation of Trade on Environmental Goods: A Brief Note*

After discussion for several years, APEC economies agreed, at the Vladivostok APEC Economic Leaders' Meeting in September 2012, to voluntarily liberalise tariffs on 54 environmental goods to 5 per cent or less by the end of 2015. The deal represented the first international agreement to liberalise trade on a set of goods that are considered "environmental", even as a commitment to launch negotiations on lowering tariffs and NTBs in environmental goods and services (EGS) trade was included in the Doha Round negotiating mandate at WTO, launched in 2001. Paragraph 31(iii) of the 2001 Doha Ministerial Declaration (DMD) mandates Member countries to negotiate on "*the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services with a view to enhancing the mutual supportiveness of trade and environment*." Following the Ministerial Mandate there have been numerous attempts to identify the list of environmental goods with a number of member countries making their submissions to the Committee on Trade and Environment (CTE) of WTO. However, no consensus has so far been able to be reach on the final list of environmental goods.

Another initiative to pursue a pluritaleral Environmental Goods Agreement was signalled during the World Economic Forum's annual meet in Davos, Switzerland in January, 2014. Subsequently, 14 WTO members launched plurilateral negotiations for an Environmental Goods Agreement (EGA) on 8 July 2014 at the WTO. The EGA talks are aimed at promoting green growth and sustainable development while providing impetus for the conclusion of the Doha Round. It is significant that for arriving at an EGA, it was agreed to use the list of 54 environmental goods drawn up

* This note has been prepared by Ms. Aditi Gupta, Consultant, RIS under the guidance of Dr. V. S. Seshadri, Vice Chairman, RIS.

by APEC as a starting point. The total global trade in environmental goods is estimated at US$ 1 trillion. With some WTO member countries applying tariffs as high as 35 per cent on environmental goods, the participating countries, which account for about 86 per cent of global trade in these items, hope that an EGA will substantially boost trade in these products.[45]

The members of the EGA would at the first stage, aim to eliminate tariffs or customs duties on a broad list of green goods that help clean the air and water, help manage waste, are energy efficient, control air pollution, and help generate renewable energy like solar, wind, or hydroelectric. At the second stage, the negotiations could also address non-tariff barriers and environmental services. The talks are open to any WTO member and the results will be applied in accordance with the most-favoured nation (MFN) principle. Like other sectoral agreements, the EGA will require a critical mass threshold for its operationalisation, which needs to be agreed to by all its members. A critical mass may be said to exist when a sufficient number of parties that do not represent the entire membership agree upon a common course of cooperative action to be taken under the auspices of the WTO. These agreements are applied on a MFN basis implying that the benefits accruing from them apply on a non-discriminatory basis to signatories and non-signatories alike. Negotiators are meeting regularly to discuss product coverage and other details.

Participation in EGA of APEC Members

It may be noted that several of the APEC members such as Australia, Canada, China, Chinese Taipei, Hong Kong China, Japan, New Zealand, Singapore, the Republic of Korea and the United States are also involved in the new EGA initiative. On the other hand, APEC, countries such as Chile, Peru, Mexico, Brunei, Russia, Indonesia, Malaysia, the Philippines, Thailand, Papua New Guinea and Vietnam are not taking part in the talks.

Implementation of the APEC Environmental Good Initiative

Applied tariff rates on most of the goods covered under APEC's list are below 5 per cent for almost all the member countries, with simple average of the tariffs for all of APEC being 2.6 per cent. However, in the case of wind-powered generators, several APEC economies (Brunei, China, Chinese Taipei, Chile, Indonesia, South Korea, Mexico, and Thailand) have tariffs greater than 5 per cent - in the case of Brunei (20), Chinese Taipei (10), and Indonesia (10) tariffs are 10 per cent or higher. Also, China imposes tariffs of about 14 per cent on auxiliary plants for use with boilers (HS 840420), and Indonesia, South Korea, the Philippines, and the US also have tariffs of over 5 per cent for all national tariff lines under this position. Some APEC economies apply relatively high tariffs to non-electric water heaters, including solar water heaters. For example, applied rates in China are 35 per cent and rates for Mexico, Thailand and Vietnam are all set at 10 per cent. Another example includes alternators and electric generating sets/rotary convertors where applied rates for Brunei are 20 per cent.[46]

Some experts have also commented on the way in which APEC members have implemented voluntary cuts and the goods that were subject to such cuts. It has, for example, been reported that APEC leaves it to member economies to decide whether or not to cut tariffs at the Harmonised System (HS) 6-digit level or pick and choose more specific products from within these categories. This approach has created a degree of uncertainty about the full implementation of the APEC agreement.[47]

India's Position with regard to EGA

India's trade in the 54 environmental goods under the APEC list is presented in Table 1. There has been a consistent increase in India's trade in these products with exports rising faster than imports. Despite this India has a large negative trade balance in these goods.

Whereas there are some products where the applied tariff is zero or less than five per cent, but for a majority of the 54 environmental goods the applied tariff rate in India ranges between 7.5-10 per cent and the simple average tariff on these goods is a little over 6 per cent. While India is not taking part in the EGA negotiations, India had earlier circulated its proposal on this issue in June 2005 as part of the Doha Round negotiations Para 31 (iii) of the Doha Declaration.[48] Taking note of the widespread divergence in opinion on the categorisation of environmental goods, India put forward a project based approach than a "List approach". It said that many of the items proposed to be included in the list had dual use. This meant that even though these products could be utilised for environmental purposes, they still had other industrial uses some of which may not even be environment friendly. Examples include electricity meters, liquid flow meters, heat exchangers, conveyers and centrifugal drums. Similarly, inclusion of items such as ovens, energy efficient refrigerators, etc., in the list was problematic since zero or marginal tariffs on these goods would have detrimental effects on industrial sectors in developing and least-developed countries where the industrial sector is dominated by small and medium enterprises (SMEs) that do not have the necessary resources to invest in research on environment related technologies and will hence be rendered unviable. Under the "Environmental Project Approach (EPA)" proposed by India, a Designated National Authority (DNA) in each country would decide if goods and services included in a project will qualify for specified concessions. Such items would include, *inter alia*, equipment, parts and components, consumables, and services. The commitments that Members agree to undertake may include (a) reduction or elimination of tariffs on import of all project related goods; (b) reduction, elimination or appropriate treatment of standards, licensing restrictions, non-tariff barriers and other related issues; and (c) specific commitments required in all modes of service delivery.

This approach, it was felt, would address diversity in environmental standards with common but differentiated responsibilities and would bring in trade liberalisation to meet the environmental as well as development goals of both the Doha Development Agenda and Agenda 21. The broad criteria for "environmental projects" could be agreed upon among WTO members with due consideration to the policy space of national governments. The projects may, among others, include: Air Pollution Control; Water and Waste Management; Solid Waste Management; Remediation and Clean-up; Noise and Vibration

Table 1: India's Trade in Environmental Goods

(US$ million)

Year	Exports	Imports	Total Trade	Trade Balance
1997-98	147.24	1045.75	1192.99	-898.51
2004-05	717.15	2252.04	2969.19	-1534.89
2013-14	2866.58	8133.7	11000.28	-5267.12

Source: Directorate General of Commercial Intelligence and Statistics (DGCIS), Ministry of Commerce and Industry, Government of India.

Note: Trade figures are calculated for 54 tariff sub-headings at 6-digit level.

Abatement; Environmental Monitoring and Analysis; Process Optimisation; Energy Saving Management; Renewable Energy Facilities; and Environmentally Preferable Products.

EPA as proposed by India offered greater benefits than the "List approach". It would address the changing needs of Members and there would be an incentive to employ the latest technology and products. This approach was also dynamic as it would take into account the evolving nature of environmental technology and equipment and reduce or eliminate tariffs on a contemporary list of goods and services. Further, since tariff concessions would be available for goods used in the project for a finite period of time (even if extended), the concerns expressed regarding dual use were mitigated.

Objections to India's Proposal

Despite getting a favourable response from countries such as Argentina, Cuba, South Africa and Côte d'Ivoire, India's project approach has been criticised by many developed countries on the basis that it would fail to provide binding and predictable market access on a permanent basis for environmental goods and for being inconsistent with WTO rules.[49] Several Members, questioned whether the proposed approach would have as widespread effects as envisaged under the Paragraph 31(iii) mandate on EGS, given that it would be applied on a case-by-case, temporary basis. Further, the extent to which it would assist small and medium sized enterprises (SMEs) is questionable since the benefits from the approach might accrue to multinational corporations operating on a larger scale.[50] Many developing countries welcomed the new, alternative approach as a basis for further discussion, but also raised questions about practicalities. The US and Hong Kong repeated that they were opposed to the approach, contending that it was overly bureaucratic and difficult to implement.[51]

Meeting the APEC Target by India

India faces a sizeable trade deficit in environmental goods, coupled with experiencing an inverted duty structure. Thus, in case India joins APEC, it seems necessary that it will require some additional time to meet the APEC targets. This effort will become less difficult if it is granted flexibility to choose only certain products from within each 6-digit tariff sub-headings, as is apparently the case in the implementation of the initiative by certain APEC developing economies.

Annexure 11

APEC and ITA-2*

The Information Technology Agreement (ITA) was designed to achieve lowering of all taxes and tariffs to zero, on the identified information technology products by signatories applicable on an MFN basis. The proposal for the expansion of world trade in information technology products was adopted vide the "Ministerial Declaration on Trade in Information Technology Products" dated 13 December 1996 at Singapore Ministerial Conference of WTO. The implementation of the Declaration was subject to the prerequisite that participants representing approximately 90 per cent of world trade in information technology products should notify their acceptance. The original 29 signatories[52] did not reach the 90 per cent trade coverage criteria. In the ensuing months up to 1 April 1997, a number of other countries[53] expressed an interest in becoming participants in the ITA and notified their acceptance. Thus, the ITA entered into force with the first staged reduction in tariffs occurring on 1 July 1997.[54]

The stated objectives of the ITA included raising standards of living and expanding production and trade in information technology products. It was assumed that the agreement will make positive contributions to global economic growth, through reduction in costs of inputs into information and communications technology (ICT) services, integration of more countries into the export markets of IT products, and global diffusion of technology. As of 20 October 2014, the ITA had 52 participants (covering 80 members and States or separate customs territories in the process of acceding to the WTO) representing approximately 96 per cent of world trade in information technology products. In recent years, there has been a much higher level of participation by developing countries in the ITA, many of which are recently acceded WTO Members. However, for developing countries, who were the initial signatories of ITA-1, tariff elimination schedule was specified differently under the S&D principles: Costa Rica, Indonesia, India, Korea, Malaysia, Chinese Taipei, and Thailand were granted flexibility in cutting their tariffs on a few products to zero after the year 2000 but not beyond 2005.

* This note has been prepared by Ms. Aditi Gupta, Consultant, RIS under the guidance of Dr. V. S. Seshadri, Vice Chairman, RIS.

However, these periods did not necessarily allow the time needed by developing countries for building or advancing the domestic IT sector.[55] India on its part eliminated tariffs for all the ITA products by 2005.

The product coverage of ITA-1 is roughly about 200 tariff lines at the 6-digit level, covering six major product groups: computers, telecom equipment, semiconductors, semiconductor manufacturing and testing equipment, software and scientific instruments. It must be added, however, that on several of these 6-digit tariff lines not all products were covered.

Expansion of ITA

Consultations to review the product coverage of ITA had started in 1997 itself, that is the same time when it was implemented. Countries differed in their views on issues such as what should be considered an IT product. While Hong Kong (China), Malaysia and Singapore considered that consumer electronic products should be included in the expanded ITA, European Union with the support of certain East European countries and India, opposed this idea. By the end of March 1998, the negotiations had virtually stalled.

More recently, concerns were raised regarding the product coverage of ITA-1. It was recognised that due to rapid technological changes, whole new categories of IT products had been developed, including a number of products which do not fall within the scope of the existing ITA. Hence several of ITA members decided to embark on expanding the product coverage.

The discussions on expansion of the ITA towards ITA-2 have been taking place in a technical committee which does not include all countries party to ITA-1. The committee commenced its work with 18 countries from among the ITA member countries, and later expanded to 27 countries. The technical working group currently consists of 27 ITA participants,[56] representing more than 90 per cent of international trade in information technology. In particular, the negotiations to review the ITA focus on three broad areas: expanding the product coverage, expanding the membership of ITA and developing non-binding principles on NTBs. The discussions do not include a consideration of special and differential treatment for developing countries.

An expanded ITA is expected to include 200 additional tariff lines, including medical equipment, GPS devices, video game consoles, printer ink cartridges, video cameras, static converters and inductors, loudspeakers, software media (e.g., solid state drives), next generation semiconductors, point-of-sale cards to download software and games, and various information and communications technology testing instruments. The average applied MFN tariffs maintained by the WTO members participating in the ITA expansion negotiations range from 0 per cent to 7.1 per cent for the products being negotiated. However, the import duties for certain products in key markets are as high as 35 per cent.

Current Status

Failure to reach a consensus on the products to be covered under the expanded ITA has stalled the formalisation of an agreement at the WTO. Several countries including China had raised concerns over many items in the proposed list, which they consider as 'sensitive products'. At the APEC Summit held in Beijing in November 2014, the US and China reached a consensus regarding the proposed ITA expansion. It was believed that China and the US had agreed on maximum phaseout periods for the products covered under their "understanding" which included items such as advanced semiconductors known as MCOs, magnetic resonance imaging (MRI) machines and high-tech testing equipment. Further, the US had also agreed to back several of China's offensive interests in the ITA, which include car stereos, watt-hour meters and switching equipment.

Hopes of finalising the much anticipated ITA expansion at Geneva in December 2014 hit a deadlock, however, over the issue of inclusion of flat panel displays or LCDs which were not covered under China's understanding with the US. China, which is looking to build its own domestic manufacturing of LCDs, is insisting on the exclusion of flat-panel displays while Korea, Taiwan and Japan are insisting on including them under the expanded ITA. Korea is, however, ready to exclude flat panel displays in ITA-2 in exchange for including certain other items such as organic light-emitting diodes, rechargeable batteries and certain kinds of monitors. These discussions have pushed the formalisation of ITA-2 further.

APEC and ITA-2

APEC as a whole has been supportive of ITA-2 negotiations. The Declaration released by APEC Economic Leaders' Meeting in November 2014 spoke about APEC's role in the negotiations to expand the product coverage of the Information Technology Agreement (ITA) and stated that the final ITA expansion outcome should be commercially significant, credible, pragmatic, balanced, and reflective of the dynamic technological developments in the information technology sector over the last 17 years, and contribute to the multilateral trading system. The Declaration also called for swift resumption and conclusion of plurilateral negotiations in Geneva.[57]

However, four APEC countries, Brunei, Chile, Mexico and Papua New Guinea are not even members of ITA-1. Furthermore, ITA-1 members such as Indonesia, Russia and Vietnam are also not participating in ITA-2 negotiations. It is believed that Vietnam is reluctant to participate in the talks primarily because of its preoccupation with Trans-Pacific Partnership talks while officials in the Ministry of Information and Communications believe that the expansion of imported tariff-free products could hurt some Vietnamese companies. In Indonesia, officials argue against joining the expanded ITA because the benefits of the original agreement have not been very obvious.[58] Another APEC member, Russia, has only recently (September 2013) joined ITA-1. However, a majority of APEC members such as Australia, Canada, China, Hong Kong, the US, Japan, Peru, Singapore, Malaysia, Thailand, New Zealand, Taiwan, the Philippines and Korea are in favour of ITA expansion.

APEC's average tariff for the products proposed under the ITA expansion is already low at about 3.57 per cent. Further, for a majority of APEC countries, the average tariff on ITA-2 products is lower than 5 per cent. This includes countries such as US (1.9), Australia (2.3), Taiwan (3.0), Mexico (3.0), Philippines (3.5), Peru (1.8), Malaysia (4.3) and New Zealand (2.5). For some APEC countries such as Hong Kong, Singapore, Canada, Japan and Papua New Guinea, the average tariffs were close to or equal to zero. China (8.2) and Brunei (10.0) have the highest average applied tariffs on the proposed items. China has an applied tariff rate of 60 per cent for television cameras, digital cameras and video camera recorders. Furthermore, for a range of electrical appliances for household uses such as refrigerators and windows AC, China's applied tariff rate ranges between 15 to 30 per cent. The tariff for many of the articles falling under China's sensitive list such as monitors (applied rate more than 20 per cent) and cathode ray picture tubes (applied rate more than 10 per cent) is higher than 5 per cent. Brunei has high applied tariffs of over 20 per cent for many of the products covered under ITA expansion.

India and ITA-2

India's experience of ITA-1 has on the whole not been very positive. India joined ITA-1 in 1997 hoping to promote the growth of its IT services industry through ICT imports and inward FDI. A WTO report has pointed out that Indian firms strived to improve their competitiveness in electronic products, which helped in improving their comparative advantage in IT-related services such as call centres and software development contributing to the boom in the Indian IT Services industry.[59] However, there has not been a commensurate growth in the domestic manufacturing of electronic products which is facing stiff competition from low cost imports from countries like China.[60]

India has repeatedly expressed concerns about ITA implementation arising from classification problems in respect of certain products with multiple uses, inverted duty structure in certain cases and absence of progress on the issue of non-tariff barriers. At the ITA Symposium to mark the 15th

Table 1: India's Trade in ITA-1 Products

(US$ million)

Year	Exports	Imports	Total Trade	Trade Balance (Exports-Imports)/Exports
1997-98	755.91	2475.6	3231.51	-2.27
2004-05	1674.15	10375.29	12049.44	-5.20
2013-14	4343.48	17480.63	21824.11	-3.02

Source: DGCIS, Ministry of Commerce and Industry, GOI

Note: It must be noted that there are inherent problems with any attempt to quantify trade in ITA-1 products. In addition to the 148 items listed in Attachment A (with specific 6-Digit HS Codes), the ITA Schedule also lists 13 items listed "in" Attachment B, and 42 items in Section 2 of Attachment A which were labelled "for" Attachment B for which no specific HS Codes are assigned. Individual countries assign different codes to these 55 items and there is no unanimity on the HS codes to be used for these items. Hence, it becomes difficult to ascertain the products covered under Attachment B. Further, the product coverage in ITA was based on HS 1996; however there have been a number of modifications in HS in 2002, 2007 and 2012. The WTO report stated that while HS 2002 affected only a few HS 1996 sub-heading pertaining to ITA, changes to HS 2007 affected 96 of 163 HS 2002 sub-headings. Another problem with getting reliable estimates of trade in ITA products results from the fact that out of the total 190 items defined in terms of HS, around 95 are defined beyond the HS sub-heading, i.e. 6-digit level. However, for the purpose of the analysis in this note, only 6-digit tariff sub-headings based on HS 1996 are used. This would mean that the figures presented here slightly overstate the actual ITA-1 trade figures.

Table 2: India's Applied Tariffs on ITA-2 Products

Category	No. of Tariff Lines	Average applied Tariff (%)	Minimum Applied Tariff (%)	Maximum Applied Tariff (%)
Consumer Electronics	40	8.42	0	10
ICT	94	7.16	0	10
Non ICT	223	8.17	0	10
Total	357	7.93	0	10

Source: Tariff figures from WTO IDB.

Note: (1) OECD Classification for ICT Sector has been used to classify products under the 3 categories. (2) 357 sub-headings at 6-digit level.

anniversary of the ITA in 2012, the Indian delegate contested the view that India had benefitted from the ITA in terms of increasing employment, IT spending and investment.[61] India's trade balance for ITA-1 products has consistently been negative (Table 1).

Ever since India joined the ITA in 1997, there has been a steady increase in India's imports of IT products. Even though India's exports too have increased, the growth in imports has been higher leading to a growing trade account deficit. India's trade balance in ITA products has been rising since 1997-98 and has been particularly high in the early 2000. Even though the trade deficit showed a moderate decline in the late 2000s it still is at a precariously high level. For the year 2013-14, India's exports of ITA-1 products stood at about US$ 4 billion while its imports were 4 times higher at about US$ 17 million. Even for the items proposed under the ITA expansion, India's imports have been higher than its exports, resulting in an adverse balance of trade.

Concerns have also been raised with regard to the products being covered under ITA-2. Out of the 357 products under the proposed ITA expansion, 50 items belong to non-IT category like washing machines, refrigerators and window AC. Similarly, 136 were dual use products. At the meeting of Committee of Participants on the Expansion of Trade in Information Technology Products in March 2013, the Indian delegate pointed out that India's IT manufacturing had dipped quite profusely due to ITA-1. Further, he also noted that during stakeholder consultations regarding ITA-2, concerns were raised regarding the relevance of many of the proposed ITA-2 products, the multiple-use of many products and the difficulty in monitoring products with multiple use at the customs level. It was also pointed out that the proposed items to be covered under ITA-2 could also create an inversion in the duty structure.[62] Domestic industry has expressed serious sensitivities regarding many of the items.

Further, India along with several countries, including Egypt, El Salvador, Guatemala, Honduras and the Dominican Republic, have called for greater transparency, inclusiveness and the granting of flexibilities to developing countries.

India's Current Level of Tariffs on ITA-2 Products

India's average tariff on the proposed ICT items to be covered under ITA-2 is around 8 per cent. The tariffs on individual items ranging between 7.5-10 per cent, with tariffs being greater than 5 per cent for almost all the products. In particular for non-IT products covered under the proposed ITA expansion such as washing machines, refrigerators, window ACs and microwave ovens, the average tariff applied by India is 10 per cent. Tariff applied on consumer electronic items such as microphones, sound and video recording apparatus, lamps and light fittings and thermionic and cathode is around 8 per cent. Table 2 gives an idea of the applied tariffs by India on the different categories of goods covered under ITA-2.

Conclusion

The success or failure of ITA-1 depended on the status and objectives of the member countries as well as the level of development of their IT sectors. As noted by Joseph (2006), ITA-1, which was solely a tariff cutting mechanism without provisions for capacity building, offered limited benefits to the development of a competitive IT sector. Many of the developing countries, who joined the agreement prematurely did not have enough capacity to take part in the export market creating serious impact on the value addition as well as employment creation in the sector. This happened in the case of India's hardware industry.[63] Considering the experience rising from implementation of ITA-1, India may find it difficult to join ITA-2 at least for several years until its domestic electronics and IT industry develop to a point that allows emergence of a balance of advantage. In any case, not all members of APEC are participants in ITA-2 discussions, and a few are not even part of ITA-1.

Annexure 12

India's Trade and Investment with APEC Economies

The 21 economies of APEC account for approximately 49 per cent of world imports and around 47 per cent of global outward FDI stock indicative of their economic weight (Table 1). On the other hand, India's exports to APEC economies accounted for only 32.7 per cent of India's worldwide exports in 2013-14. In respect of FDI inflows into India, again only 27.54 per cent of cumulative inflows from April 2000 to March 2014 were from APEC economy registered companies. India has clearly not benefitted in a commensurate manner with the economic strength displayed by APEC economies.

India and APEC Merchandise Trade

Examining further, it is seen from Table 2 that the share of APEC economies among India's total exports declined from 46.2 per cent in 2000-01 to only 32.7 per cent in 2013-14. On the other hand, India's imports from APEC economies showed a reverse trend by increasing from a 29.2 per cent share in 2000-01 to 36.2 per cent in 2013-14. Seen together, however, APEC's share of India's external trade (exports + imports) has more or less hovered at around 35 per cent. The external trade share of APEC, however, climbs to almost 50 per cent if trade in petroleum products were not taken into account.

At the sub-regional level, however, the shares have varied in a different manner as will be seen from Table 3. India's external trade with North East Asia, Latin America-3 and ASEAN-7 of APEC has grown rapidly over the years. On the other hand, with North

Table 1: APEC's Global Trade and FDI Profile

(in %)

Year	APEC's Share of Total World Imports	APEC's Share of Total Global OFDI flows	APEC's Share of Total Global OFDI Stock
2000	50.14	25.98	49.84
2005	47.54	17.83	46.29
2010	48.01	49.80	44.72
2013	49.77	66.28	47.38

Source: UNCTAD Statistics.

Table 2: India's Exports and Imports from APEC

(US$ million)

	2000-01			2013-14		
Countries	India's Exports	India's Imports	Total Trade	India's Exports	India's Imports	Total Trade
Australia	405.63	456.81	862.44	2297.39	4532.93	6830.32
Brunei	3.22	0.15	3.37	32.28	763.60	795.88
Canada	656.27	395.61	1051.88	2036.43	2932.61	4969.04
Chile	108.34	57.09	165.43	662.93	2440.93	3103.86
China	830.26	1238.51	2068.77	14780.62	50207.8	64988.42
Hong Kong	2640.69	851.87	3492.56	12730.83	7321.85	20052.68
Indonesia	399.45	824.66	1224.11	4827.47	7866.75	12694.22
Japan	1794.09	1819.74	3613.83	6780.49	9245.89	16026.38
Korea (Rep.)	450.67	893.47	1344.14	4142.54	12435.91	16578.45
Malaysia	607.72	1169.77	1777.49	4185.19	9206.67	13391.86
Mexico	208.31	53.83	262.14	2227.38	3672.26	5899.64
New Zealand	63.01	73.23	136.24	276.32	436.60	712.92
Papua New Guinea	4.40	0.31	4.71	43.78	178.28	222.06
Peru	26.25	9.11	35.36	620.3	524.17	1144.47
Philippines	201.67	63.00	264.67	1415.72	391.43	1807.15
Russia	888.93	510.81	1399.74	2120.75	3748.87	5869.62
Singapore	876.89	1459.55	2336.44	12378.47	6718.77	19097.24
Taiwan	391.19	507.65	898.84	1973.63	4040.02	6013.65
Thailand	529.97	337.67	867.64	3701.59	5321.49	9023.08
US	9303.26	2991.25	12294.51	39098.35	21187.83	60286.18
Vietnam	225.87	12.36	238.23	5420.18	2581.37	8001.55
Total Trade with APEC	20616.09	13726.45	34342.54	121752.64	155756.03	277508.67
India's Trade with World	44560.30	50536.40	95016.4	314405.30	450197.60	764594.20
%Share of Trade with APEC vis-a-vis World	46.27	27.16	36.14	38.72	34.60	36.29
India's Trade with World (minus Petroleum)	44499.13	48845.90	93345.03	312576.01	432072.23	744648.24
%Share of Trade with APEC vis-a-vis World (Excluding Petroleum)	46.33	28.10	36.79	38.95	36.05	37.27

Source: DGCIS, Ministry of Commerce and Industry, Government of India.

Table 3: India's Trade with Sub-regions within APEC

(US$ million)

Countries	Region	Total Trade in 2001-02	Total Trade within the region in 2001-02	Total Trade in 2013-14	Total Trade within the region in 2013-14	% Growth in Trade in 2013-14 compared to 2001-02
Australia	Oceania	1468.63	1616.07	12122.8	13236.26	719.04
New Zealand		142.62		891.2		
Papua New Guinea		4.82		222.26		
Brunei	ASEAN-7	3.46	6811.40	796.05	71985.64	956.84
Indonesia		1309.99		19598.5		
Malaysia		1784.95		13427.81		
Philippines		265.65		1810.59		
Singapore		2341.02		19273.03		
Thailand		868.04		9043.47		
Vietnam		238.29		8036.19		
China	North East Asia	2333.5	11708.04	65858.98	124917.76	966.94
Hong Kong		3492.97		20053.94		
Japan		3636.67		16294.82		
Korea (Rep.)		1344.54		16679.29		
Taiwan		900.36		6030.73		
Mexico	North America	262.34	13373.66	5899.87	66832.44	399.73
Canada		1053.54		5185.26		
US		12320.12		61647.18		
Chile	Latin America-3	165.59	463.38	3171.81	10216.43	2104.76
Peru		35.45		1144.75		
Mexico		262.34		5899.87		
Russia	Russian Federation	1406.67	1406.67	6015.66	6015.66	327.65
Total Trade with APEC		35641.56		299104.06		739.20
India's Total Trade with World		95016.43		764594.22		704.70

Source: DGCIS, Ministry of Commerce and Industry, Government of India.

America as also with Russian Federation, India's trade grew at a much slower pace. China has also overtaken US as India's largest external trade partner in recent years.

India-APEC Services Trade

It is not easy to get services trade figures at disaggregated level for each import/export destination particularly for recent years.

Table 4: India's Services Exports to APEC

Country	India's Services Exports (in 2010) US$ million
United States	13661.00
Hong Kong	802.00
Korea	817.00
Australia	630.18
Canada	563.02
Russia	225.87
New Zealand	126.00
Singapore	2866.70
India's Services Exports to APEC in 2010	19691.77
India's Total Services Exports in 2010	116945.64
APEC's Share in Total Services Exports from India (%)	16.84

Source: WTO, OECD Stats and UNCTAD.

Table 5: India's Services Imports from APEC

Country	India's Services Imports (2010) US$ million
United States	10319.00
Hong Kong	1 050.04
Korea	1649.00
Australia	2 689.51
Canada	429.06
Russia	892.66
New Zealand	336.00
Singapore	4449.30
India's Services Imports from APEC in 2010	18075.02
India's Total Services Imports in 2010	114455.47
APEC's Share in Total Services Imports to India (%)	15.79

Source: WTO, OECD Stats and UNCTAD.

Table 6: India's FDI Inflows from APEC

(US$ million)

S.No	Country	Cumulative FDI Inflow from April 2000 upto March 2011	Cumulative FDI Inflow from April 2000 upto March 2014
1	Australia	442.69	593.16
2	Canada	343.85	436.99
3	Chile	104.59	143.97
4	China	53.77	402.31
5	Hong Kong	693.88	1215.38
6	Indonesia	605.31	611.44
7	Japan	5276.23	16268.05
8	Malaysia	293.36	637.73
9	Mexico	10.66	74.36
10	New Zealand	29.15	41.74
11	Peru	0.04	0.14
12	Philippines	1.4	32.65
13	Russia	467	483.74
14	Singapore	11895.19	25445.46
15	South Korea	762.76	1405.4
16	Taiwan	42.72	66.46
17	Thailand	84.9	172.05
18	U.S.A	9448.61	11927.46
19	Vietnam	0.13	0.24
	Total FDI Inflows into India from APEC	30556.24	59958.73
	Total FDI Inflows into India	129836.56	217702.63
	% Share of FDI Inflow from vis-a-vis the World	23.53	27.54

Source: Compiled from various DIPP Factsheet.

Figures obtained from WTO/OECD sources for 2010 may be seen at Tables 4 and5 which indicate that the share of APEC economies is only around 16 per cent with US and Singapore as the principal trading partners. Considering that services trade figures are often difficult to capture, these can at best be taken as indicative, but it does reflect here again, with APEC's share of world services imports being around 40 per cent, India's exports to these economies have not been to the same level.

FDI Inflows and Outflows

In respect of India's FDI stock, APEC economies as a group have steadily accreted their share from 25.3 per cent in March 2011 to about 27.54 per cent in March 2014. Noteworthy here is the growth seen from Singapore, Japan, Hong Kong, South Korea, Malaysia and China (See Table 6). It is of course possible that the actual percentages may be somewhat higher since some of the foreign companies are known to use the Mauritius route or other tax havens for routing their investments into India.

India's outward FDI has targeted APEC economies even more. Around 40 per cent of India's total FDI outflow between 2001-02 and 2011-12 amounting to US$ 48.8 billion went to APEC destinations with Singapore, US, Russia,

Table 7: India's OFDI to APEC

(US$ million)

S. No	Country	Cumulative outflows between 2001-02 upto 2006-07	Cumulative outflows between 2001-02 upto 2011-12
1	Singapore	1879.67	27681.3
2	Australia	275.9	3140.2
3	US	1965.99	7655
4	Malaysia	57.97	679.2
5	Hong-Kong	231.6	1175.7
6	Canada	427.56	858.4
7	Russia	2959.92	4417.9
8	Indonesia	49.06	499.2
9	Philippines	10.45	169.6
10	China	248.84	1157.4
11	Thailand	124.95	351.8
12	Japan	2.9	87.6
13	Mexico	63.14	109.6
14	Vietnam	114.91	275.2
15	New-Zealand	2.1	12.9
16	Chile	0	19.4
17	Peru	0.49	3.2
18	Brunei	0	0.9
19	South-Korea	53.76	516.4
20	Taiwan	0.47	2.1
	Total OFDI to APEC (Excluding Papua New Guinea)	8469.68	48813
	Total OFDI to World	27474.91	121779.7
	%Share of OFDI with APEC vis-a-vis the World	30.83	40.08

Source: Outward Direct Investment from India: Trends, Objectives and Policy Perspectives, May 2014, Exim Bank Occasional Paper Series.

Australia and China figuring among the top (see Table 7).

It is clear from these figures that even as India did not benefit from APEC's steadily growing economic clout in a commensurate way, these economies have acquired enormous importance in our trade and investment portfolio and these do not include short term investments by Foreign Institutional Investors (FIIs), many of them having APEC origins. It can perhaps be surmised that should India's "Make in India" and other economic reforms proposed move forward to create a more conducive environment, India's trade and investment relations with APEC economies could receive further impetus.

Endnotes

1. Australia, Brunei Darussalam, Canada, Chile, China, Hong Kong, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New guinea, Peru, Philippines, Russia, Singapore, Chinese Taipei, Thailand, United States, Vietnam.
2. The fifteen areas are: tariffs, non-tariff measures, services, investment, standards and conformance, customs procedures, Intellectual Property rights, competition policy, Government procurement, deregulation/regulatory review, WTO obligations (including rules of origin), dispute mediation, mobility of business people, information gathering and analysis, transparency, Regional Trade Agreements/ Free Trade Agreements (RTAs/FTAs).
3. Countries which will be hosting future APEC Summits are: Philippines (2015); Peru (2016); Vietnam (2017); Papua New Guinea (2018); Chile (2019); Malaysia (2020); New Zealand (2021); and Thailand (2022).
4. Ibid 1.
5. 'Achievements and Benefits' from APEC website (www.apec.org).
6. Ibid 2.
7. Some could argue that these reductions may have come about due to Uruguay Round commitments, ITA-1 and other factors and not necessarily due to deliberate moves solely to reach Bogor Goals.
8. Ibid 5.
9. Press Release issued by APEC Informal Senior Officials meeting on 10 December 2014.
10. Congressional Research Service Report on Asia-Pacific Economic Cooperation (APEC) Meetings in Vladivostok, Russia: A Preview by Michael E. Martin, August 2012.
11. The eight chokepoints are elaborated in Table 1 of Annexure 9.
12. Yunling Zhang and Mingui Shea (2009) '"APEC: Taking Stock and Looking Ahead" in K. Kesavapany and Hank Lim (eds) *APEC at 20: Recall, Reflect Remake.* Singapore: Institute for South East Asia Studies.
13. Countries which will be hosting future APEC Summits are: Philippines (2015); Peru (2016); Vietnam (2017); Papua New Guinea (2018); Chile (2019); Malaysia (2020); New Zealand (2021); and Thailand (2022).
14. APEC's Bogor Goals Progress Report, August 2014.
15. An Indian businessman when queried about the benefits from APEC replied immediately that for him getting an APEC Business Travel Card will greatly facilitate business travel to the region.
16. OECD is, however, a much larger organisation, with a staff of 2500 professionals and a budget of about US$ 500 million. It is also composed of like minded countries committed not only to market economies but also pluralistic democracy.
17. India has 'strategic' partner relations with Australia, China, Indonesia, Japan, Republic of Korea, Malaysia, Russian Federation, Singapore and US apart from ASEAN as a whole.
18. These may be found in the following news items/ reports. 1) 'Bringing India inside the Asian Trade Tent' by Alyssa Ayres, Senior Fellow, Council for Foreign Relations, New York posted in June 2014. 2) 'India into APEC: Three APEC reasons why' by Malcolm Cook, Senior Fellow, Institute of South East Asian Studies Singapore; posted in July 2014. 3) 'India and APEC: Not yet there but getting closer' by Amitendu Palit, Head (Partnerships and Programmes) and Senior Research Fellow, The Institute for South Asian Studies, Singapore posted in July 2014.
19. Selected APEC members are: Chile, China, Indonesia, Malaysia, Peru, Philippines and Vietnam.
20. OECD (2011), "Government at a Glance 2011." Available at: http://statlinks.oecdcode.org/422011011P1G093.XLS.
21. WTO (2014), Table 3.18 in "Trade Policy Review, Report by the Secretariat: China", WTO document WT/TPR/S/300.
22. WTO (2014), Para 3.178 in "Trade Policy Review, Report by the Secretariat: China", WTO document WT/TPR/S/300.
23. WTO (2014), Para 3.177 in "Trade Policy Review, Report by the Secretariat: China", WTO document WT/TPR/S/300.
24. S. Arrowsmith and R. Anderson (2011), *The WTO Regime on Government Procurement: Challenges and Reforms.* New York, US: Cambridge Press.
25. Transparency International and the Center for International Private Enterprise (2011).
26. WTO (2013), Para 3.105 in "Trade Policy Review, Report by the Secretariat: Indonesia", WTO document WT/TPR/S/278.
27. WTO (2010), "Trade Policy Review, Report by the Secretariat: Malaysia", WTO document WT/ TPR/S/225, p. 42.
28. WTO (2014), Para 3.62 in "Trade Policy Review, Report by the Secretariat: Malaysia", WTO document WT/ TPR/S/292.
29. WTO (2013), Chart 3.3 in "Trade Policy Review, Report by the Secretariat: Peru", WTO document WT/ TPR/S/289.
30. WTO (2013), Table 2.2, Para 2.12 in "Trade Policy Review, Report by the Secretariat: Peru", WTO document WT/TPR/S/289.
31. WTO, "Trade Policies and Practices by Measure", WTO document WT/TPR/S/261, p. 46.
32. WTO , "Trade Policies and Practices by Measure", WTO document WT/TPR/S/261, at 46.
33. Dang Chien Thang (2011), "APEC Procurement Transparency Standards in Vietnam," Transparency International-US and Center for International Private Enterprise, p. 13. Available at: http://www.cipe.org/ publications/papers/pdf/TI-Report-Vietnam.pdf.
34. WTO (2013), Para 3.127, in "Trade Policy Review, Report by the Secretariat: Vietnam", WTO document WT/TPR/S/287

35. APEC (2014), APEC's Bogor Goals Progress Report.
36. Based on http://articles.economictimes.indiatimes.com/2014-09-10/news/53770533_1_tata-singapore-airlines-eligibility-norms-vistara and http://www.wcarn.com/news/38/38956.html .
37. Based on http://www.business-standard.com/article/economy-policy/modi-cabinet-may-liberalise-fdi-regime-for-defence-railway-projects-114080600341_1.html and http://www.livemint.com/Politics/1li6TeBNhtBuHWe5EMuB4M/Govt-outlines-areas-open-for-FDI-in-railways.html
38. Based on http://www.livemint.com/Politics/5PcpHfKqOYGq1D8PKFxtFJ/Cabinet-approves-49-FDI-in-insurance-sector.html
39. Based on http://www.business-standard.com/article/economy-policy/centre-relaxes-norms-for-fdi-in-construction-114103000029_1.html
40. WTO (2013), Table A3.3 in "Trade Policy Review, Report by the Secretariat: Indonesia", WTO document WT/TPR/S/278.
41. WTO, Table III.6 in "Trade policies and practices by measure", WTO document WT/TPR/S/220.
42. APEC Leaders' declaration which *inter alia* aims to establish a stronger and deeper regional economic integration by furthering their work to liberalise and facilitate trade and investment with the ultimate objective of achieving free and open trade and investment for all APEC economies by the year 2020 as envisaged by the Bogor Goals.
43. It was one of the pioneers amongst the developing countries to implement the Agreement on Customs Valuation since 1988 after the conclusion of the Tokyo Round negotiation in 1979 and much before the WTO's principle of Single Undertaking made all developing and Least developed countries to join this Agreement after the creation of WTO in 1995
44. Advance rulings from 16.03.2004 to 27.05.2013 could be seen on the website www.cbec.go.in/aar when last accessed on 05.01.2015.
45. http://www.lexology.com/library/detail.aspx?g=7a519c1c-485a-4483-ab4e-2006f7ff5d8f
46. http://www.ictsd.org/bridges-news/biores/news/apecs-environmental-goods-initiative-how-climate-friendly-is-it
47. http://www.ictsd.org/bridges-news/biores/news/%E2%80%9Cgreen-goods%E2%80%9D-trade-talks-kick-off-in-geneva
48. TN/TE/W/51 dated 3rd June 2005
49. http://www.undp.org/content/dam/india/docs/pub-povertyreduction/EGS-Paper.pdf
50. http://www.ictsd.org/bridges-news/biores/news/indias-project-approach-causes-stir-at-environmental-goods-talks
51. http://www.ictsd.org/bridges-news/biores/news/cte-looks-at-approaches-to-environmental-goods-liberalisation
52. Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, South Korea, Liechtenstein, Luxembourg, Netherlands, Norway, Indonesia, Portugal, Singapore, Spain, Sweden, Switzerland, Chinese Taipei, United Kingdom, United States, Turkey and Indonesia
53. Czech Republic, Costa Rica, Estonia, India, Israel, Macau China, Malaysia, New Zealand, Romania, Slovak Republic and Thailand
54. Kallummal M. (2012), Process of Trade Liberalisation under the Information and Technology Agreement (ITA): The Indian Experience, Working Paper, CWS, IIFT
55. http://www.southcentre.int/wp-content/uploads/2013/10/AN_ITA1_-ITA-Consideration-from-a-Devt-perspective_EN.pdf
56. (counting the European Union as one), including: Albania; Australia; Canada; China; Colombia; Costa Rica; Dominican Republic; El Salvador; the European Union; Guatemala; Hong Kong; Iceland; Israel; Japan; Korea; Malaysia; Mauritius; Montenegro; New Zealand; Norway; the Philippines; Chinese Taipei; Singapore; Switzerland; Thailand; Turkey; and the United States.
57. http://www.apec.org/Meeting-Papers/Leaders-Declarations/2014/2014_aelm.aspx
58. http://csis.org/publication/indonesia-and-vietnam-would-get-boost-if-they-joined-expanded-information-technology-agr
59. http://www.ecipe.org/app/uploads/2014/12/trade-in-information-technology-goods-adapting-the-itata-to-21st-century-technological-change.pdf
60. E15initiative.org, (2015). [online] Available at: http://e15initiative.org/wp content/uploads/2014/11/E15_Innovation_Ernst_FINAL.pdf [Accessed 9 Jan. 2015].
61. G/IT/M/55
62. G/IT/M/56
63. http://www.unescap.org/sites/default/files/SSWA_Development_Papers_1303_March2013_2.pdf

RIS A Think-Tank of Developing Countries

Research and Information System for Developing Countries (RIS) is a New Delhi–based autonomous policy research institute that specialises in issues related to international economic development, trade, investment and technology. RIS is envisioned as a forum for fostering effective policy dialogue and capacity-building among developing countries on global and regional economic issues.

The focus of the work programme of RIS is to promote South-South Cooperation and collaborate with developing countries in multilateral negotiations in various forums. RIS is engaged across inter-governmental processes of several regional economic cooperation initiatives. Through its intensive network of think tanks, RIS seeks to strengthen policy coherence on international economic issues and the development partnership canvas.

For more information about RIS and its work programme, please visit its website: www.ris.org.in

Policy research to shape the international development agenda

RIS
Research and Information System for Developing Countries

ASEAN-India Centre at RIS

Core IV-B, Fourth Floor, India Habitat Centre
Lodhi Road, New Delhi-110 003, India
Tel.: +91-11-2468 2177-80, Fax: +91-11-2468 2173-74
E-mail: dgoffice@ris.org.in; aic@ris.org.in
Website: www.ris.org.in; http://aic.ris.org.in