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Tandon, Anjali

Institute for Studies in Industrial Development

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SME Related Provisions in Free Trade Agreements

– An Analysis of India’s Strategic Focus*

*Anjali Tandon***

[Abstract: In the backdrop of the increasing government emphasis on strengthening the domestic and international participation of the small and medium enterprises (SMEs), this paper presents a review of the SME related provisions that have been incorporated into the free trade agreements (FTAs) signed by countries, including India. A comparative approach has been used to bring out the difference in strategic focus adopted by India vis-à-vis other countries. The review of the trade agreements informs that the SME related provisions are not very prevalent, more so in the Indian context. Only about half of the 60 plus trade agreements reviewed are observed to include SME specific arrangements. These provisions are mostly non-binding and of an endeavouring nature, putting the onus on the host country to initiate and benefit from the stated activities of cooperation and similar mechanisms for better opportunities for the SMEs. By comparison with other countries, most FTAs signed by India are either silent on SMEs or lack aggression. India’s emphasis on transparency is minimal in comparison to the inclusion of a cooperation clause in the text of the agreements. The absence of an SME focus in trade agreements indicates that smaller enterprises have been considered at par with other businesses, thus ignoring their exceptional needs and the handholding that might be required for their greater and faster internationalisation. Although it can be argued that the mere existence of an SME related provision may not necessarily result in better opportunities, it is important to highlight the emphasis on SMEs in the text of the agreements, as pursued by other countries.]

Keywords: small and medium enterprises; SMEs; free trade agreements; FTAs; international trade; India.

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** The author, Associate Professor at ISID, can be reached at atandon@isid.org.in.

1. Introduction

Micro, small and medium enterprises (MSMEs) are the cornerstone of the Indian economic structure contributing 30 percent to gross domestic product and 31 percent to gross value added.^{1,2} They contribute nearly half of the exports to the world. However, growth in the MSME sector has slowed down over the past years, from 15.2 percent in 2012–13 to 9.4 percent in 2016–17.³ The deceleration of 63.39 million enterprises providing an employment of 111 million requires exercising policy prudence. Their growth and uninterrupted performance becomes critical to the livelihoods of many people. This makes it necessary to not only identify and address their existing challenges, but also devise newer ways to encourage their accelerated participation in the process of economic growth. A strategy for their revival, sustenance, and growth cannot overlook opportunities of any kind, whether domestic or international. In fact, internal and external expansion of small entrepreneurs is complementary in nature. While a stronger performance in the domestic market will foster their path to capture and participate in business opportunities abroad, success on the global platform will benefit through the spillovers to other small-sized domestic firms, thereby enhancing their market prospects through market augmentation.

Recognising MSMEs as the most intensive source of employment and their importance for socioeconomic reasons such as to lower poverty and for a more equal distribution of wealth, the government has expressed an ever increasing interest in strengthening the MSMEs for a significant economic contribution. The Government of India envisions a much larger role for the MSMEs with at least \$2 trillion contribution in the targeted \$5 trillion economy by 2024. A comprehensive strategy is required for their accelerated growth by providing opportunities for demand expansion while also addressing their unique and special needs that extend beyond the commonly considered issues of credit and access to finance. Since the prospects of greater demand are linked to the adoption of competitiveness measures, particularly in the developing economies, this often involves

¹ The MSME Act, 2006 classifies MSMEs based on investment ceiling. A manufacturing MSME is classified as micro if the investment (measured in INR) in plant & machinery is up to 2.5 million, small-sized if investment is between 2.5 million and 50 million, and medium-sized if investment is between 50 million and 100 million. Service sector MSMEs are categorised based on the level of investment in machinery. These are categorised into micro if investment (measured in INR) is up to 1 million, small if investment is between one and 20 million, and medium if investment is between 20 and 50 million. These definitions have, however, been revised with effect from July 1, 2020. The new composite criteria are based on investment in plant & machinery and turnover with common thresholds for manufacturing and services. The micro enterprises have investment up to 10 million and turnover up to 50 million, small enterprises have investment and turnover caps at 100 million and 500 million, while medium enterprises have investment and turnover limits of 500 million and 2500 million, respectively.

² Figures refer to latest available year of 2018–19 as sourced from GOI (2021).

³ Figures sourced from GOI (2019).

wage repression that tends to weaken the domestic demand (United Nations, 2012 and 2013). Therefore, it becomes imperative to explore alternate channels for absorbing the domestically produced output, necessitating the need to capture international demand opportunities through trade integration. Interestingly, among the existing MSME exporters in India, most enterprises operate through export houses. This is also evident from a low proportion of registered MSME exporters, further indicating the impediments to internationalise. This points towards their particularly limited or minimal knowledge of trade related procedures such as documentation, and also the existence and nature of non-tariff barriers (NTBs) applicable on their products.

The awareness of quality standards and regulations is crucial to diversify to other markets, and to minimise rejection of shipments. In fact, the benefits of supporting programmes for business, particularly with regard to the potential benefits from trade agreements, have been well demonstrated by previous studies. Cheong (2014) highlights the role of supporting business programmes and workshops – explaining the benefits of free trade agreements (FTAs), providing relevant information, and building portals and setting up expos in partner countries – in significantly raising the FTA utilisation. Consequently, the FTA utilisation ratio in Korea transformed notably, from 20 percent before 2010 to 70 percent in 2013 for the Korea-US and EU-Korea FTAs that were signed after the interventions. A similar approach may also be effective in improving the trade utilisation of India's FTAs that presently have low levels of utilisation at 35 percent for exports and 50 percent for imports (Anukoonwattaka and Lobo, 2019). Supporting policies for awareness and effective use of multilateral agreements in trade will strengthen the MSMEs in global markets (GOI-CII, 2018). Further, it is also important for the exporter(s) to understand the differences in markets and meet the standards as the requirements vary across regions/markets. Also, other problems dogging the MSMEs include the access to and exchange of information; visibility; and, the connectedness between business networks. The pandemic crisis has exacerbated these issues, making the need for lasting and effective solutions for MSMEs even more compelling. Furthermore, an up-to-date information on the fast-changing market compliance measures becomes indispensable as the international governments turn more protectionist during the post-pandemic recovery period by exercising greater controls to address the employment and environmental impacts of trade agreements.

Often access to trade related information is easily acquired through digital sources. However, the digital competitiveness of India offers no room for complacency (IMD, 2019; and, ESCAP, 2020). With a comparably low internet penetration in the overall economy, it is not unfair to comment that small and medium enterprises (SMEs) are more severely constrained in their information access than large businesses. Also, information, even if accessible, is not always adequately understood due to the complex nature of text and language issues. Goh (2015) also supports the view that the biggest concern of SMEs is to understand technical regulations and standards, among others. Particularly in India, the use of digital technology in promoting SMEs exports is constrained by lack of proper

connectivity, secure and universal payment platform, language barriers, and market intelligence on prospective markets (GOI-CII, 2018). Prevalent information deficit and the lack of business contacts of MSMEs de facto tend to forbid their direct participation in trade, thus limiting demand opportunities. In fact, the trade promotion of the MSMEs is noted as an important area for government intervention through negotiation of the FTAs/preferential trade agreements (PTAs) for achieving the new normal (Ernst and Young, 2020).⁴ Since the smaller entrepreneurs are more sensitive to disruptions in trade, an attempt to smoothen their international engagement through the trade channel also contributes to sustainable development goals through better income opportunities in the lower quartiles.

Past studies on Indian SMEs have raised concerns related to the negative growth of exports, a declining significance of sector-wise SME exports in total exports of the corresponding sector, and a nearly unchanged composition of exports from the SMEs (Das, 2008).⁵ The SMEs have been significant contributors to sector-wise exports during 1991–99, accounting for 50 percent, 20 percent, 18 percent, and 14 percent shares in the total exports from leather, other manufacturing, publishing & printing, and electrical & optical equipment sectors, respectively (Pradhan and Das, 2012). However, in the following period from 2000–08, SME exports from three of the four sectors, namely leather, publishing & printing, and electrical & optical equipment sectors declined to 35 percent, three percent, and five percent of the sector-wise exports, respectively. This suggests that export orientation and internationalisation of SMEs hardly improved over time. Despite a relatively dynamic policy framework, the progress of Indian SMEs in the external sector has continued to be hindered by constraints. Expansion of Indian SMEs into global markets is particularly constrained by a firm's ability to operate in a manner that is compliant with the regulations in the overseas destination, awareness regarding the procedures of international sub-contracting, and familiarity with the procedures in external trade (Das and Joseph, 2010). This hints that there is much to be done to address the existing concerns for globalisation of the Indian SMEs.

Generally, data related to SMEs, or more specifically to their international participation, and in view of the prevalence of the aforementioned issues, has been infirm. For instance, the OECD (1997) notes that data related to information access and business networks of the enterprises, more particularly the SMEs, is not adequately captured in secondary evidence, except for a primary survey, which is often confined to a sample of firms in a select industry. In fact, the OECD acknowledges that many interesting and contemporary issues related to SMEs can only be addressed in conjunction with survey-based studies that capture the response of individual firms. Gravity of the data problem has increased due to poor reliability of real-time information during the post-pandemic period as the

⁴ Following the international parlance in the context of FTAs, hereafter, we use the term SME synonymous to MSME, unless explicitly stated.

⁵ Emergence of engineering goods and processed goods has been an exception.

SMEs are plentiful and smaller in size, and many of them have shut shops. Further, in India, capturing real-time information on SMEs, particularly related to their engagements in international trade, is also constrained due to the scope of the data on the SME sector, which is based on the 73rd round of the National Sample Survey that does not provide insights on the issues of interest pursued here.

In the absence of statistics on the international integration of Indian SMEs through FTAs, and an increasing emphasis on strengthening their domestic and international participation, this paper presents a review of the SME related provisions that have been incorporated into the FTAs signed by countries, including India. A comparative approach has been used to bring out the difference in strategic focus adopted by India vis-à-vis other countries. Although it can be argued that the mere existence of an SME related provision may not necessarily result in better opportunities, it is important to highlight the emphasis on SMEs in the text of the agreements.⁶ Findings from the comparison are used to bring out the differences in India's approach in comparison to other countries.

The paper makes an assessment of the SME related provisions in the FTAs with the following key objectives to understand:

1. What is the prevalence of SME related provisions in the FTAs?
2. Are these provisions binding or endeavouring in nature?
3. Have SMEs been adequately represented in India's FTAs?
4. What policy space has been reserved for them in the existing trade agreements?

The primary objective of the paper is to invoke awareness on the issue of encouraging SMEs to internationalise through specific provisions in the FTAs. A case is made for due consideration to SMEs in FTA (re)negotiations through measures to address the existing information deficit and network challenges.

2. Problems Faced by SMEs When Venturing into Foreign Markets

Access to credit has been the most researched challenge faced by SMEs. Issues that have received lesser attention in policy and research include non-credit aspects of the SME business such as limited access to business networks, lack of marketing information, and inadequate knowledge of the foreign markets. These issues are likely to be more constraining in the attempt to cater to the markets abroad. Export orientation of the SMEs can be enhanced through state policy support (Pradhan and Das, 2012). Relatively smaller enterprises need greater support as they are disadvantaged by their size. Even in developed regions such as the EU, SMEs find it difficult to access information that covers the rules and regulations applicable to their exports to the US (European Commission,

⁶ The assessment of the effectiveness of the SME provisions requires a primary survey of entrepreneurs, at time points before and after the inclusion of the provision in the FTA. This, however, is beyond the present scope.

2014). Stressing on the information and network advantages, the reinforcement of FTAs for the SMEs has been suggested not only because of the benefit from greater exports, but also to procure parts and components required for their production (Inkyo and Jungran, 2009).

Likewise, the adverse impact of information gap on business is well established, particularly in the context of SMEs. Even in developed regions such as in the EU, the SMEs find it difficult to access information covering the rules and regulations applicable to their exports to the US (European Commission, 2014). Conditions of unequal information hamper the development prospects through imbalances on inclusiveness at the bottom of the enterprise pyramid. In an attempt to address the information deficit, governments in the South have demonstrated their willingness to use policy space for supporting local enterprises to trade regionally. A similar spirit is exhibited in the African Continental Free Trade Agreement (AfCFTA) that has been designed to favour products from local enterprises, particularly in the health value chain. Another form of information is the connectedness to business networks. As per the recent agreement (during the COVID-19 crisis) between BVMW (the German Association of Small- and Medium-sized Enterprises) and Federation of Indian Chambers of Commerce & Industry (FICCI) as the Indian partner with support from the German embassy, the former agreed to provide 1500 oxygen concentrators to India's healthcare industry. This is an illustrative example of how SMEs can take advantage of international networks in times of crisis. A similar arrangement in place would have helped Indian SME exporters of food products as global demand has spiked up during the pandemic.

Typically, the marketing information of an SME is constrained by the lack of qualified and competent manpower for engaging in marketing networks. Due to low turnovers, the SMEs find it difficult to attract/retain qualified and motivated personnel. The SMEs are typically marked by low economies of operations reducing their profit per unit, leaving little room to accommodate such expenses that can be absorbed by large firms. Since the costs related to information procurement are largely independent of firm size, the SMEs are more disadvantaged in bearing the information cost per unit output that is higher for an SME. Therefore, efforts in sharing market information to the SMEs will help in bridging their information deficit. The problems of SMEs in venturing into new markets are also corroborated from the findings of an export coaching programme (ECP) for SMEs, including those from India. 'Lack of business contacts' and 'lack of market information' have been cited as the two most important factors by SMEs for not exporting more to the EU (Vonk *et al.*, 2015).

Furthermore, the unfamiliarity with issues such as legal and regulatory framework in foreign markets, lack of awareness on IPR issues, unawareness of export supporting programmes of the government, inaccessibility to export distribution channels and overseas customers prevents SMEs from exploring international destinations and markets (Singh, 2019). Their participation in GVCs is also constrained as the compliance with

standards does not come easy due to the lack of information and also the additional costs imposed in the process (GOI-CII, *ibid*). The knowledge deficit of an SME on the relevant standards has further widened due to unawareness of the Ethical Trade Imperatives (ETI) that impose additional compliance burden through requirements such as those related to (not indulging in) child labour, observing work hours, health and safety of workers, wages, and environment. The limitations on the capacity of small and micro firms in understanding the process and regulations for complying with the rules of origin has been acknowledged by the UK (Department for International Trade, 2019). Incidentally, the SMEs have received greater attention in the FTAs signed by EU post 2011, in an attempt to reflect upon the policy objectives of the EU industrial policy (Morita-Jaeger and Borchert, 2020). Therefore, as India negotitates an FTA with the EU, it becomes all the more important for India to be aware of and prepared to incorporate SME related provisions in the future agreements. This paper attempts to create an informed realisation through appreciation of the SME related provisions in FTAs.

3. SME Related Provisions in Trade Agreements⁷

A comparison of SME related provisions in the existing trade agreements provides useful leads through mechanisms used to – (i) address existing shortcomings through renegotiations, and (ii) benefit from specific features in the modern-age agreements. Accordingly, specific agreements and treaties have been reviewed in the paper to assess the existing approach on SMEs by countries. The coverage of agreements includes all agreements with India as a participating country. Keeping the Indian context in mind, existing agreements of the two prospective future partners with whom India is currently engaged in (re-)negotiations – Chile and Peru – are also studied. Following a comparative approach, the agreements of Chile and Peru with third partner countries are studied for their SME related provisions. The SME provisions in the agreement with Vietnam as a partner country are of particular interest due to SME predominance in Vietnam. Hence, they are included in the study. Additionally, two major trade agreements – Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and North American Free Trade Agreement (NAFTA) – are reviewed. Furthermore, the recent EU-Vietnam FTA is one among the new generation agreements, and is included along with two more modern-date agreements. Thus, the scope of the paper covers more than 60 trade agreements. The level and scope of SME provisions in select FTAs are reported in Table 1.⁸

⁷ Information on FTAs is sourced from SICE and WTO websites.

⁸ All trade agreements have been scanned; however, only the ones having SME provisions have been tabulated.

Table 1: SME Related Provisions, Select Trade Agreements

<i>SN. Partner country</i>	<i>Nature of agreement</i>	<i>SME related provisions</i>	<i>Level/ Scope of commitment</i>
<u><i>India as a partner country</i></u>			
1 India-ASEAN	FTA & EIA	Article 6, Annex C	Agree to strengthen cooperation, wherever appropriate
2 India-Japan	FTA & EIA	Article 129	Mutually agreed basis, subject to the laws, regulation and availability of funds
3 India-Korea	FTA & EIA	Article 13.5, Annex I	Expression of intent through use of "shall" in the text
4 India-Malaysia	FTA & EIA	Article 11.2	Expression of intent through use of "shall" in the text
5 India-Nepal	PSA	with reference to Article V	Conditional to certification
6 India-SAFTA	FTA	Annex II	For promotion of SMEs engaged in production for exports
7 India-Thailand	PSA	Article 6	Expression of intent through use of "shall" in the text
<u><i>Chile as a partner country</i></u>			
8 Chile-Australia	FTA & EIA	Article 15.24, 18.2	Possibility of cooperation on SMEs as expressed through use of "may" in the text
9 Chile-Brunei Darussalam, New Zealand and Singapore	FTA & EIA	Article 16.4	Encourage and facilitate, as appropriate
10 Chile-China	FTA & EIA	Article 109 under Chapter 13	Expression of intent through use of "shall" in the text
11 Chile-Columbia	FTA & EIA	Article 12.5, 19.1*	Recognition of importance
12 Chile-EFT*	FTA & EIA	Article 67	Endeavour to the extent possible
13 Chile-European Community	FTA & EIA	Article 19,44	Promote a favourable environment
14 Chile-Indonesia	FTA	Article 9.1, 9.4	Where necessary and appropriate, and in accordance with the respective laws and regulations
15 Chile-Malaysia	FTA	Article 9.3	Strengthen cooperation in others parts of the Agreement
16 Chile-US	FTA & EIA	Article 9.18, 15.5	Ecommerce
17 Chile-Vietnam	FTA	Article 9.3	Complement cooperation in others parts of the Agreement
<u><i>Peru as a partner country</i></u>			
18 Peru-China	FTA & EIA	Article 155 under Chapter 12	Promote a favourable environment
19 Peru-EFTA	FTA	Article 7.29, 7.30	Endeavour cooperation
20 Peru-Japan	FTA & EIA	Article 166 under Chapter 10	Cooperation on mutually agreed terms

<i>SN. Partner country</i>	<i>Nature of agreement</i>	<i>SME related provisions</i>	<i>Level/ Scope of commitment</i>
21 Peru-Korea	FTA & EIA	Article 14.9, 16.17, 16.18, 20.4	Endeavour in recognition of the importance
22 Peru-US	FTA & EIA	Article 9.15, 17.6, 20.1	Endeavour in recognition of the importance
<u><i>Vietnam as a partner country</i></u>			
23 ASEAN-China	FTA & EIA	Section D	Agreed to explore and undertake, on the basis of mutual benefit
24 ASEAN-Japan	FTA	Article 53	Subject to availability of resources, and in accordance with their respective laws and regulations
25 ASEAN-Korea	FTA & EIA	Article 3	Expression of intent through use of "shall" in the text
26 ASEAN-New Zealand, Australia	FTA & EIA	Article 9	Expression of intent through use of "shall" in the text
27 Vietnam-Eurasian Economic Union	FTA & EIA	Article 10.1	Endeavour
28 Vietnam-Japan	FTA & EIA	Article 111	Where necessary and appropriate, and in accordance with the respective laws and regulations, subject to availability of funds
<u><i>Mega block agreements</i></u>			
29 CPTPP*	FTA & EIA	Chapter 24	Endeavour
30 NAFTA	FTA & EIA	Article 1021 under Chapter 10	Expression of intent through use of "shall" in the text
<u><i>Recent/ new generation agreements</i></u>			
31 Australia-Hong Kong	FTA	Article 11.1, 16.6	Expression of intent through use of "shall" in the text
32 EU- Singapore	FTA	Article 6.6, 13.2	Expression of intent through use of "shall" in the text
33 EU-Vietnam	FTA	Article 4.5, 10.4, 14.1, 16.2	Expression of intent through use of "shall" in the text; where appropriate

Notes:

& Information from SICE

* EFT includes Iceland, Liechtenstein, Norway, and Switzerland

CPTPP includes Chile, Vietnam, and Peru as partners

FTA & EIA: Free Trade Agreement & Economic Integration Agreement

PSA: Partial Scope Agreement

1. India, Chile, Peru, and Vietnam are partner to 18, 31, 22, and 13 trade agreements, respectively. However, the table shows only the ones that have an SME relevant provision. The author has endeavoured not to otherwise miss any specific RTA of these partners as on 26 June 2020.

2. Initial information on SME related provisions in RTAs of Chile and Peru is sourced from SICE, and the text of corresponding agreements has been screened for details.

Source: Compilations based on information collected from RTA database and SICE.

The SME related provisions in Regional Trade Agreements (RTAs) are generally categorised into provisions for cooperation, exceptions/exemptions, and transparency. However, reference to SMEs has also been made under other clauses. It is observed that the provisions for cooperation, exemptions, and transparency are not necessarily mutually

exclusive within the text of an agreement; as there have been instances where more than one of the three provisions are noted. The most prevalent provision is that of cooperation, followed by transparency measures, while the use of exceptions has been the least prevalent. As many as 25 (of the 33 agreements listed in Table 1) mention cooperation measures, while transparency measures are observed in 18 agreements, with only two agreements citing exemptions/exceptions.

3.1 Provisions for cooperation

The cooperation provisions are observed to support the SMEs through measures that include training in entrepreneurship and information & communications technology (ICT); establishing networking opportunities; sharing of best practices; improving entrepreneurial and managerial skills, particularly for export engagement; working together to overcome obstacles in the use of e-commerce; technical cooperation to achieve a better understanding of the respective government procurement systems; organisation of conferences, round tables, and fairs; promoting contacts; encouraging investment; and, stimulating innovation and increasing the knowledge of partner markets.

The India-ASEAN FTA identifies SMEs as an area of cooperation. Cooperation can be sought 'where appropriate' for human resource development, training in IT and ICT; however, it is not obligatory. The India-Japan Comprehensive Economic Partnership Agreement (CEPA) also identifies SMEs as a field of cooperation. India-SAFTA (Agreement on South Asian Free Trade Area) also has provision for SMEs. The SME exports from the least developed member countries within the SAFTA region are promoted through technical support and entrepreneurial skills. The India-Korea FTA recognises the fundamental role played by the SMEs and provides for cooperation through facilitating investment flows, collaboration or sharing of best practices in the fields of management, skill development, technology transfers, and access to finance and technical assistance. In addition, support can be sought by organising of fairs and exhibitions. Also, sharing the development experience on SME policy is encouraged in the agreement. The India-Malaysia FTA also affirms the importance of all forms of cooperation on SMEs to be identified and discussed by a sub-committee on economic cooperation. India's agreement with Thailand, having a partial scope, provides for cooperation on SMEs. However, many other agreements with India as a member such as the Asia-Pacific Trade Agreement (APTA), Global System of Trade Preferences (GSTP), SAARC Preferential Trading Arrangement (SAPTA), and those with Afghanistan, Bhutan, Sri Lanka, MERCOSUR, and Chile are silent on SMEs.

With regard to Chile's trade agreements, the Chile-Vietnam FTA provides for SMEs under areas of cooperation and capacity building. The Chile-China agreement (and also the Peru-China agreement mentioned later in the discussion) has provisions for cooperation on SMEs through exchange of experiences, design and development of mechanisms for productive linkages and partnerships, development of human and managerial skills for

better understanding of mutual market, improving information access to mandatory procedures, and programmes related to technological transfer for productivity improvements. The cooperation mechanism includes conferences and export dialogues, and networking through promoting contacts, workshops, and programmes. The FTA with European Community seeks cooperation on SMEs through promotion of information networks, financial assistance, and innovation, as well as social cooperation through employment generation programmes for SMEs. The SME problems of e-commerce are recognised in the agreement between Chile and the US. Chile's FTA with Brunei Darussalam, New Zealand, and Singapore encourages cooperation among the members to promote English language as a tool for SME. Chile-Columbia FTA has cooperation provisions to overcome the obstacles faced by the SMEs from e-commerce in addition to economic cooperation through trade facilitation and investment. The recent CEPA between Chile and Indonesia, effective from August 10, 2019, encourages and facilitates SMEs as a basic principle through cooperation on SMEs under necessary and appropriate conditions. These provisions are in sharp contrast to the existing Chile-India FTA, which completely abstains from specific provision for SMEs.

The Peru-Japan FTA provides to establish a sub-committee for procurement with special attention to SMEs, including microenterprises. In Article 14.9 of the Peru-Korea FTA, on cooperation in ecommerce, there is a specific mention of the SMEs and facilitating their use of e-commerce. In addition, the chapter on cooperation also endeavours, particularly in relation to SMEs, for the exchange of information and experience, development and use of electronic communications in government procurement, and training of SME exporters. Likewise the FTA between China and Chile, the Peru-China FTA attempts to strengthen exchanges on many fronts as elaborated previously. Quite uniquely, the Peru-US FTA provides for cooperative work on labour and capacity building by specifically addressing SME issues relating to promotion of working rights, improvement in working conditions and productivity, and public awareness of laws.

Vietnam, an ASEAN member, is party to many agreements. The ASEAN-New Zealand-Australia FTA has provisions for assisting SMEs to overcome obstacles encountered in e-commerce. The ASEAN-China FTA agrees to explore and undertake economic cooperation activities on SMEs for mutual benefit as also the ASEAN-Japan Comprehensive Economic Cooperation (CEC). Article 3 of the ASEAN-Korea FTA encourages the parties to develop and implement programmes to benefit SMEs, among others. The Vietnam-Eurasian Economic Union FTA emphasises cooperation on SMEs through participation of suppliers in government procurement. Vietnam-Japan FTA provides for cooperation on SMEs as deemed necessary and appropriate.

Among the early trade agreements, Chapter 10 of NAFTA contains provisions for participation of SMEs in government procurement, and the development of database for use in partner country.

In addition to explicit provisions on SMEs, an increasingly high number of FTAs provide for trade facilitation through digital measures to enhance trade opportunities. Although digitisation measures aim for paperless trade administration and are relevant to all businesses, the resulting reduction in trade costs (directly from faster movement and indirectly from expedited documentation) can be particularly encouraging for SMEs. It is noteworthy that a significantly high proportion (65 percent) of FTAs signed after 2005 include provisions for paperless trade (Duval and Mengjing, 2017). More than a fifth of these contain dedicated provisions for digitisation. While the typology of the measure (e.g., acceptance of e-copies, e-submission and processing, and e-system of SPS certificates) and the nature of provision (binding, non-binding) varies across FTAs, the role of paperless trade in enhancing opportunities, including for SMEs, has been increasingly acknowledged.

India is also noted to have included provision for paperless trade in select FTAs. However, the approach has been less aggressive compared with other countries such as Australia and New Zealand. While vouching for transparent and comprehensive digital information sharing, provisions for paperless trade would also be helpful for SMEs due to benefits from dematerialising of trade documentation. The adoption of paperless trade is marked with challenges due to the varying levels of implementation across countries, weaker IT infrastructure, lower IT capacity, differential legislations regarding validity of electronic signature and electronic documents, and data-regulation policies. Here also, the SMEs are more disadvantaged due to low IT capacity and limited/slow digital access, which prevents them from maximising on the intended benefit, i.e. going paperless or digital.

3.2 Provisions for transparency

Transparency measures are often not explicitly stated and are interpreted from within the relevant provisions. They relate to the exchange of information, adoption of a consultative approach, and the consideration of mutual interests. These measures include: exchange of information relating to providing assistance/maximising SME access to government procurement market, and also inform the other party of any developments that may modify the coverage under government procurement; increased access to information regarding mandatory procedures and any other relevant information for an SME exporter; exchange of documentation; and, simplified import and export procedures that are transparent and efficient to reduce costs and increase predictability of business environment.

Among the agreements with India as a trading partner, the Indo-Japan agreement provides for a consultative approach on SMEs through separate work plans, as deemed appropriate. There is no significant mention of a transparency measure in other agreements involving India (see Table 1).

Among other agreements, the Chile-Australia agreement provides transparency through exchange of information on approaches related to SMEs to maximise their access to

government procurement market, and also inform the other party of any developments that may modify the coverage under the government procurement. Chile-China agreement provides for increasing access to information regarding mandatory procedures and any other relevant information for an SME exporter. The Chile-US agreement has an additional provision to request the partner for trade-related technical assistance, including training of government personnel or interested suppliers on specific elements of each party's government procurement system. The agreements signed by Peru also have similar measures for transparency.

The mega block CPTPP, of which Chile is a member, has a dedicated chapter on SMEs which states that each member shall self-establish or self-maintain a website with information on the agreement, including information designed for SMEs. The agreement has provision for instituting a 'Committee on SMEs' to apprise the SMEs of the benefits of the agreement, facilitate programmes for their development and the integration of global supply chains, and provide information for monitoring the relevant implementation of the agreement. Article 24.1 2(b) of the CPTPP mentions 'endeavour' to provide, in English, the information that could be of relevance to any person interested in trading, investing, or doing business in the member country. The agreement with the EU provides for transparency through improved understanding of the government procurement procedures for better market opportunities. The Chile-US agreement provides for establishment of a committee on procurement that may ask the partner support for trainings and assistance for government procurement process. The Chile-Australia agreement provides for information exchange to maximise SME access to government procurement markets.

Among the trade agreements to which Peru is a signatory, the Peru-EU FTA recognises and agrees to work on SME participation in government procurement through facilitating information exchange. Recognising the importance and the need of SMEs in the Peru-Korea FTA, Article 16 emphasises information exchange for their engagement in government procurement. Similar to the Chile-US FTA, a committee on government procurement set up under the Peru-US FTA provides to ask the partner country for trade related assistance or training of government officers of interested parties, especially for small business suppliers. There is also a provision of a Free Trade Commission to review the impact of the agreement on SMEs and to seek views and inputs.

The NAFTA provides for transparency through consultations regarding the eligibility criteria of SMEs for participation in business programmes. Among the recent agreements, the FTA between EU-Singapore, effective November 21, 2019, calls for simplification of trading procedures, both export and import, to increase transparency and efficiency. The move is attempted to reduce costs and improve predictability of business for the SMEs. The Australia-Hong Kong FTA that came into effect on January 17, 2020 also has provision for transparency and cooperation on SMEs through establishment or maintenance of

websites with information designed for SMEs. New generation FTAs such as the EU-Vietnam FTA also aims easy access for SMEs, creating stability and trust for business.^{9, 10}

The transparency provision is common to each of the new generation agreements (reviewed in the paper) – Australia-Hong Kong, EU- Singapore, and EU-Vietnam. The latter two agreements, having EU as partner, particularly emphasise on greater transparency as a means to reduce uncertainty for the operating party. Interestingly, the transparency measure is also prevalent in the bilateral agreements with Latin American partners, namely Chile and Peru. In fact, each agreement signed by Peru advocates transparency for the SMEs. The trade agreements with Japan as the partner country also emphasise on transparency as observed in the case of Indo-Japan, Peru-Japan, and Vietnam-Japan agreements.

3.3 Provisions on exemptions

On the other side, exemption provisions are not a common sight. Of the counted instances of the provisions for exemptions/exception, there are two occurrences that relate to reservation of items for SMEs through performance requirement and prior government approval for FDI exceeding 24 percent in a small scale manufacturing unit under the Indo-Korea agreement, and the relief in levy of excise duty on articles that are manufactured in the Nepalese small-scale units and sold in the Indian market. India-Nepal treaty offers parity in the levy of additional duty on products manufactured in the small units in Nepal, subject to certification by the Nepal government on their production in small-scale units. Notably, both these occurrences are in the agreements with India as partner country.

To sum up, while more than 60 trade agreements have been reviewed here, only 33 are found to have SME related provisions. The most common form of an SME provision is through the inclusion of a ‘cooperation’ clause. In some cases, the stated areas of cooperation include technical support, capacity building, trade promotion, networking, and training and exchange programmes for the SMEs. There are also provisions for sharing regulatory framework and best practises among the parties. Additionally, some FTAs provide for the use of e-commerce, particularly for SMEs. Certain FTAs include trade facilitation measures such as the clear and transparent customs procedures that take into account specific needs of the SMEs. Some FTAs also include cooperation on investment between the SMEs of the partner countries through investment promotion and facilitation. Intellectual property provisions in some FTAs encourage the development of IP including the SMEs (APEC, 2019). While there is evidence on the inclusion of provisions for better transparency, the emphasis in India’s agreements has been minimal. These provisions

⁹ News European Parliament, available at <https://www.europarl.europa.eu/news/en/headlines/economy/20200131STO71518/eu-vietnam-trade-deal-what-are-the-benefits>

¹⁰ The attention paid to SME interests in the UK is noteworthy. An impact assessment conducted prior to the recent BREXIT noted that UK based small and micro firms would suffer disproportionately to large business due to higher fixed costs involved in complying the role of origin criteria.

commonly include information exchange, and stronger participation of SMEs in government procurement. The use of exemptions/exceptions provisions for SMEs is noted only in two agreements, both of which involve India as a trade partner.

Also, inclusion of digital measures for trade facilitation in India's FTAs has been relatively limited, indicating greater scope in future. By comparison, most FTAs signed by India are either silent or lack aggression.

4. Conclusions and Policy Recommendation

The pandemic has brought forth a pressing need for diversification of economic and trade relations to mitigate risks from disruptions in production chains due to sudden global shocks. Post-pandemic, the SMEs assume an even greater role in the economic recovery. Thus, it becomes vital to facilitate and capture every market opportunity for the SMEs, domestic and international. The existing low level of resources and scale of operations, and the limited availability of skilled manpower in the SMEs sector prohibits their self-initiation into international business. However, specific provisions, if carefully drafted into the existing FTAs can be helpful for SMEs through their involvement for better prospects for recovery to the pre-pandemic levels and future growth. Although the mere existence of an SME related provision may not necessarily result in better opportunities, given the approach of other countries, it is important to become aware of and be prepared to incorporate SME related provisions in the future agreements.

Even though the existing provisions in trade agreements are applicable to SMEs as much as to other businesses, in some cases explicit provisions for SMEs are noted. The SME related provisions in RTAs are generally categorised into provisions for cooperation, exceptions/exemptions, and transparency. The provisions related to cooperation are relatively common, followed by transparency measures. However, the cooperation mechanism is not always detailed, explicit, and elaborate to bring about a notable change through greater SME engagement in trade exchange, while the transparency measures primarily aim at stronger SME participation in government procurement and improving the predictability of the business environment.

The review of the trade agreements informs that SME related provisions are not very prevalent, more so in the Indian context. Only about half of the 60 plus trade agreements reviewed are observed to include SME specific arrangements. These provisions are mostly non-binding in nature and have an endeavouring nature, putting the onus on the host country to initiate and benefit from the stated activities of cooperation and similar mechanisms for better opportunities for the SMEs. By comparison, most FTAs signed by India are either silent on SMEs or lack aggression. In general, India's trade agreements are observed to lack a focussed approach for promoting its SMEs. Also, India's emphasis on transparency is minimal in comparison to the inclusion of a cooperation clause in the text of the agreements. This is in sharp contrast to the emphasis on transparency provisions in

the new age agreements. The absence of an SME focus in trade agreements indicates that the smaller enterprises have been considered at par with other businesses, thus ignoring their exceptional needs and the hand-holding that might be required for their greater and faster internationalisation.

Recognising the contribution of SMEs to employment, output, and exports, the Indian government has expressed deep interest in harnessing their potential through stronger participation in the exports. The scaling up of SMEs in the post-COVID-19 period can be supported through carefully drafted provisions in FTAs addressing the existing challenges. For this, trainings, workshops, and seminars in the presence of representatives from partner countries will be helpful in lowering the barriers of basic information for the entrepreneur. An interactive session will also help in creating a trust factor for the parties. With forethought for bringing the domestic SMEs in close contact with the government and business network in the partner country, following recommendations may be considered while (re)negotiating FTAs.

1. Incorporation of a dedicated chapter on SMEs. The text of the agreement should 'mandate' knowledge and information sharing along with the business contacts, which would be of relevance to SMEs. It would be more effective to mandate specific SME related provisions, as mere endeavours may not necessarily pay off.¹¹
2. Mandating the partner country to provide, in English, information relevant to SMEs such as contact information of relevant government and business agencies, taxation procedures, business regulations, standards and regulations, and empirical trade imperatives. Co-operation should also be mandated to translate the text with minimal use of legal and technical language. The home country can then translate the same for local communication.
3. Increasing the visibility of SMEs through mutual co-operation for supporting their participation in trade fairs and exhibitions. The presence in a group venture alongside large firms will help SMEs gain confidence and exposure while adding to their information and ideas. This will shorten their arms-length relationships and will contribute to their business-socialisation in the partner country.

It is important to negotiate the interests of SMEs so that they can benefit from the margin of preferences under FTAs. Improved access for SMEs will offer relief on business development efforts, and the resources can be diverted to other productive activities such as products and services, R&D, and innovation.

¹¹ A similar suggestion to make the availability of information obligatory is stated in UK Trade Policy Observatory (Morita-Jaeger and Borchert, 2020).

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