

Chapter 1 – Free Trade Agreement – A Step in Right Direction

While presenting the Foreign Trade Policy (FTP) 2015-2020, Ministry of Commerce and Industry (MoC&I) has brought out a research paper called Foreign Trade Policy Statement (FTP Statement). Two paragraphs of this FTP statement are reproduced hereunder:

Quote

The Multilateral Trading System and India

The need to ensure that the FTP is aligned with both India's interests in the negotiations, as well its obligations and commitments under various World Trade Organisation (WTO) Agreements has been an important consideration in framing this Policy.

The current WTO rules as well as those under negotiation envisage the eventual phasing out of export subsidies. This is a pointer to the direction that export promotion efforts will have to take in future, i.e. towards more fundamental systemic measures rather than incentives and subsidies alone.

The Mega Agreements: Implications for India

The three mega agreements that are currently being negotiated namely the Trans Pacific Partnership, Trans-Atlantic Trade and Investment Partnership and the Regional Comprehensive Economic Partnership (RCEP) add a completely new dimension to the global trading system. India is a party to the RCEP negotiations. The mega agreements are bound to challenge India's industry in many ways, for instance, by eroding existing preferences for Indian products in established traditional markets such as the US and EU and establishing a more stringent and demanding framework of rules. Indian industry needs to gear up to meet these challenges for which the Government will have to create an enabling environment.

Unquote

This FTP Statement is a clear indication that as a Country we are committed to respect the obligations imposed on us by the WTO and simultaneously, we will also have to look at our own interest.

Free Trade Agreement (FTA) is a prominent step in this direction. Why are we saying so? The main reason is that FTAs provide market access to the goods originating from India in importing country, who is a member of such agreement by reducing or exempting the Basic Customs Duty (BCD). In other words, the reduction in duty in the importing country is voluntarily done by the importing country's Government. Of course, this cannot be one way traffic.

Both member countries negotiate with each other for market access on specific items. Such negotiated items are based on each country's capability and potential. Needless to say, we need to understand this concept thoroughly as there are 419 notified FTAs, as per WTO statistics as on 01.02.2016. When all other countries are negotiating with each other for duty free market access, how can we remain aloof? We also need to negotiate agreements with various other countries which would help us increase our exports and allow us to participate in Global Value Chains (GVCs).

Broadly speaking the concept of FTA is covered under the provisions of Regional Trade Agreement (RTA). WTO defines RTA as "reciprocal trade agreements between two or more partners", which includes Free Trade Agreements (FTAs), Comprehensive Economic Cooperation Agreements (CECA) or Comprehensive Economic Partnership Agreement (CEPA).

In India, we are calling Preferential Trade Agreements (PTAs) also as "reciprocal agreements". However, in the WTO's context Preferential Trade Agreements (PTAs) are defined as "non-reciprocal trade agreements", which include Generalized System of Preferences (GSP) schemes, as well as other non-reciprocal preferential schemes.

The RTAs are those agreements which confer duty benefits to the importer either bilaterally or regionally. Generalized System of Preferences (GSP) is unilateral agreement where EU, Japan and USA offer concessional or zero duty to goods originating from India, but India has no obligation to offer similar duty concession to goods originating from EU, Japan and USA. On the other hand, India-Sri Lanka FTA is a bilateral agreement and India-ASEAN FTA is a regional agreement. Under both these agreements, concessional or zero duty

is offered by both parties on each other's products. Such products are negotiated by and between the countries.

As far as India is concerned, we use the term FTA where certain goods are given zero BCD and whenever we use PTA, though duty concessions are granted, the BCD is never reduced to zero.

Internationally speaking, the RTAs include FTAs/CECAs/CEPAs. FTAs cover trade in goods, whereas CECAs and CEPAs are comprehensive in nature and they additionally cover trade in services, investments, standards, intellectual property rights, regulatory system etc. We have already entered into all these type of agreements like – India-ASEAN FTA, India-Malaysia CECA and India-Japan CEPA.

There are three programmes of Government of India –

- “Make in India”, which aims at “integrating India into GVCs”.
- “Digital India”, which aims at “digitalization”, which will ultimately make the trade ‘system driven’.
- “Skill India”, which will convert the large pool of unskilled labor into skilled labor force, which is absolutely essential for creating GVCs.

All these programmes together aim at making Indian products competitive in world markets and also to create eco-system for expansion of our exports and thereby increasing our footprints in the global space. To make these schemes successful, negotiations of FTAs/CECAs/CEPAs are crucial. These agreements when entered will create possibilities of competitive procurement of inputs and competitive exports of value added products.

There is another angle to this. When any Government gives incentives, it can attract punitive duties like Anti-dumping Duty or Anti-subsidy Duty, if such incentives are considered as prohibited subsidies and cause material injury to the domestic producers in the importing country. Manufacturers in the importing country can initiate inquiries and investigations which ultimately hampers the export activity.

On the other hand when FTAs are negotiated, importing country's Government voluntarily reduces the duty, thereby increasing the competitiveness for the products exported from India without any fear of anti-subsidy action. FTAs therefore are primarily tools for market access.

We have been exporting various kinds of products including raw materials, components and finished goods. However, the real earning comes from exporting of finished goods. To make sure that finished goods are produced, efficiently and competitively, we need FTAs as such FTAs would provide not only concessional or zero duties but subsequently also access for services, labor movement etc.

Under CECA/CEPA economic partnership is promoted and hence investment from overseas will also help create sophisticated infrastructure, technical excellence and better opportunities for service sector. In a nutshell, FTAs/CECAs/CEPAs put together comprehensively provide the opportunities and growth prospects for furthering our export interest.

It is however necessary to understand that such a massive negotiation cannot be one-sided. When we ask market access, other countries are also going to do the same. For them India is a huge consumer market and all of them would like to have their market share in India. If we wish to convert this into win-win situation then there is no option but to understand the subject thoroughly.

Chapter 2 – Technical aspects of Free Trade Agreements (FTAs)

Let us now understand technical aspects of FTAs. The basic elements include two primary considerations.

Benefit of reduced or zero duty would be given by member countries based on the tariff classification (HS Code) and Rules of Origin (ROO). FTAs are for negotiated items and hence benefit of concessional of zero duty is not extended to all products. Preferential duty therefore has to be decided well in advance as the implementation of FTA is based over a period of time.

One specific date is decided on which both countries agree to reduce Basic Customs Duty (BCD) to zero, whereas for some other products fixed programme of reduction is agreed by and between the countries.

For example, India-ASEAN FTA (IAFTA) has following categories:

IAFTA came into force w.e.f. 01.01.2010:

Effective dates are indicated in the table below

Category	Concessions in Base Rate	Singapore , Thailand Malaysia Indonesia and Brunei	Philippines	Cambodia, Lao PDR, Myanmar and Viet Nam
Normal Track-1 (NT-1)	BCD = 0%	31.12.2013	31.12.2018	31.12.2018
Normal Track-2 (NT-2)	BCD = 0%	31.12.2016	31.12.2019	31.12.2021
Sensitive Track (ST)	BCD = 5%	31.12.2016	31.12.2019	31.12.2021
Special Products	Special Products refer to India's crude and refined palm oil (CPO and RPO, respectively), coffee, black tea and pepper. These have been given a fixed schedule for imports into India.			
Highly Sensitive Lists (HSL)	Reduction of applied MFN Rate to 50% - Three categories	31.12.2019 for Indonesia, Malaysia and Thailand. HSL does not apply to Brunei and Singapore	31.12.2022	31.12.2024 for Cambodia and Viet Nam. HSL does not apply to Lao and Myanmar
Exclusion List (EL)	No concessions granted. However EL is subject to an annual tariff review with a view to improving market access.			

In other words, negotiated items and duty free treatment immediately or gradually is pre-decided. Agreements once entered amounts to a national commitment and can be reviewed normally at the end of five years. Selection of items for each category is based on internal and external factors and the need of the country for market access.

To understand the concept of preferential duty we also need to understand the following terminologies:

Most-Favored Nation (MFN) Rate:

This is rate of duty charged by a country when goods are imported from other member countries of the World Trade Organization (WTO). In other words, though the terminology is most-favored nation treatment, in practice, it is the common rate of duty applicable to the WTO member countries. In India, MFN Rates are BCD rates, which are sometimes referred as merit duty also.

Preferential Rate/Tariff Preference:

This is negotiated rate of BCD on goods imported from a specific country or group of countries, who are partners in the agreement. This rate is decided after negotiation and expressed in the FTA based on description and HS Classification.

Bound Rate:

Bound rate is a commitment given by member country to WTO confirming that import duty rates (BCD) will be bound by an upper ceiling and therefore member country as bound and committed not to increase the rates beyond the bound rates. For India, for most of the commodities excluding specific commodities like agricultural products, alcoholic beverages etc., bound rates are between 30% to 40% hence we are unlikely to cross this limit.

Rules of Origin (ROO):

Since preferential duties are decided after negotiations between countries it is necessary to ensure that such preferential duties are extended only to those products, which are originating from that particular country. For example, if India extends zero duty treatment to a certain product under India-Japan CEPA (IJCEPA), then it can only be extended to the product of Indian or Japanese origin. Such preferential benefit cannot be given to products originating from other countries.

To decide the criteria of origin, there are two basic routes:

- 1) **Wholly produced**
- 2) **Partially produced**

The item wholly produced has to be manufactured in the country of origin by using only indigenous materials. Whereas, for partially produced items, certain material of other origin limited by value can be used.

To confirm to the criteria of partially produced goods there are three norms:

- 1) Change in HS Code at six digit level
- 2) Defined process of manufacture
- 3) A certain percentage of value addition which makes the product eligible for preferential treatment

In case of IJCEPA, the value addition criterion is fixed at 35% and the formula for calculation of value addition is as under:

Article 30 – Calculation of Qualifying Value Content (Q.V.C.)

For the purposes of calculating the qualifying value content of a good, one or the other of the following formulas shall be applied:

$$Q.V.C = \frac{F.O.B. - V.N.M.}{F.O.B.} \times 100$$

Where:

Q.V.C. is the qualifying value content of a good, expressed as a percentage;

F.O.B. is, except as provided for in paragraph 2 (of Art. 30), the free-on-board value of a good payable by the buyer of the good to the seller of the good, regardless of the mode of shipment, not including any internal excise taxes reduced, exempted, or repaid when the good is exported;

And

V.N.M. is the value of non-originating materials used in the production of a good;

Note: For the purpose of calculating the qualifying value content of a good, the Generally Accepted Accounting Principles in the exporting Party shall be applied.

[PARA 2 OF ARTICLE 30

F.O.B. referred to in paragraph 1 shall be the value:

(a) adjusted to the first ascertainable price paid for a good from the buyer to the producer of the good, if there is free-on-board value of the good, but it is unknown and cannot be ascertained; or

(b) determined in accordance with Articles 1 through 8 of the Agreement on Customs Valuation, if there is no free-on-board value of a good.

PARA 3 OF ARTICLE 30

3. For the purposes of paragraph 1, the value of a material used in a production of a good in a Party:

(a) shall be the CIF value; or

(b) shall be the first ascertainable price paid for the material in the Party, but may exclude all the costs incurred in the Party in transporting the material from the warehouse of the supplier of the material to the place where the producer is located such as freight, insurance and packing as well as any other known and ascertainable cost incurred in the Party.

Note: For the purposes of this paragraph, the term “CIF value” means the customs value of the imported good in accordance with the Agreement on Customs Valuation and includes freight and insurance where appropriate, packing and all other costs incurred in transporting the material to the importation port in the Party where the producer of the good is located.]

Every agreement specifically states the process of “manufacture” and also those processes which do not qualify as “manufacture”. IJCEPA describes the following processes as “non-qualifying operations”.

Article 33 - Non-Qualifying Operations

A good shall not be considered to be an originating good of the exporting Party merely by reason of having undergone the following:

(a) operations to ensure the preservation of products in good condition during transport and storage (such as drying, freezing, keeping in brine, removal of damaged parts) and other similar operations;

(b) changes of packaging and breaking up and assembly of packages;

(c) disassembly;

- (d) placing in bottles, cases, boxes and other simple packaging operations;
- (e) collection of parts and components classified as a good pursuant to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System;
- (f) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting;
- (g) simple cutting, slicing and repacking or placing in bottles, flasks, bags or boxes, fixing on cards or boards, and all other simple packing operations;
- (h) affixing or printing marks, labels and other like distinguishing signs on products or their packaging;
- (i) simple mixing of products whether or not of different kinds;
- (j) simple assembly of parts of goods to constitute a complete product;
- (k) slaughter of animals;
- (l) mere dilution with water or another substance that does not materially alter the characteristics of the goods; or
- (m) any combination of operations referred to in subparagraphs (a) through (l).

Note: For the purposes of this Article, an operation is described as “simple” if neither special skills nor machines, apparatus or equipment especially produced or installed for carrying it out are needed.

To bring more transparency, the Rules of Origin (ROO) are created under each agreement and incorporated by way of a notification so that the criteria is properly established and benefit is not given to traded goods.

Concept of Sensitive List and Exclusion List:

- Sensitive List – Since all FTAs are based on negotiated items, these two lists are extremely important. Sensitive List (SL) includes those items for which zero duty concession is not extended though reduction in duty over a period of time is granted. In other words, products in SL will get duty concessions but will not get zero duty treatment. This list is finalized keeping in view the internal and external factors, domestic industry, impact on the economy etc. etc.
- Exclusion List – In Exclusion List (EL) those items are covered on which there is no possibility of negotiation. In other words, the country does not want any preferential or zero duty on such items.

The main purpose of the FTAs/PTAs/CECAs/CEPAs is to increase market access and the trade with each other on preferential terms. Naturally, it is a process of coming together and therefore it also includes other areas of cooperation like services, technical standards etc. etc.

Harmonized System Codes (HS Codes):

Since all preferences are granted based on HS Codes we must also understand the concept of HS Codes.

ITC (HS) Classification for Export and Import Items [ITC (HS)] book has compilation of various products traded globally and based on universally accepted codification system. These products are divided into 21 Sections and 98 chapters. The HS codes are operative in India at 8 digit level whereas developed countries like USA, Japan, Germany, South Korea etc. operate at 10 digit level.

HS codes are considered as economic language of the world and accuracy of the code is extremely important. These codes are allotted either based on the composition or based on end use. Excise and Customs Departments use the same system for calculation of duty.

The accuracy of classification is therefore extremely important as it avoids any confusion while trading internationally. Some of the 8 digit codes are as under:

HS Code	Description
0910 99 12	Fenugreek seed
1211 90 11	Ambrette seeds (must grains of vegetable kingdom)
1301 90 11	Asian gum

The preferential duties are given based on Certificate of Origin (COO) which is specifically known as Preferential Certificate of Origin (PCOO). The provisions related to PCOO are given in Chapter 2 of Handbook of Procedures (HBP), particularly in Para 2.103 to 2.108.

Para 2.103 of HBP specifically talks of FTAs. Preferential Rules of Origin as covered under Para 2.106 of HBP are reproduced hereunder:

Para 2.106 of HBP

- (a) The rules of origin are the rules that determine the origin of a good for the purpose of exports to a trading partner. Under an FTA, PTA or a unilateral tariff concession, the tariff concessions are granted by an importing country only when these prescribed rules of origin are adhered to. Rules of origin also facilitate in computation of trade statistics and for determination and imposition of trade remedial measures.
- (b) Some of the key criteria used in the determination of the rules of origin are:
 - (i) Wholly obtained
 - (ii) Change in tariff classification
 - (iii) Value addition
 - (iv) Non minimal operations
- (c) For exports under India's FTAs, PTAs and GSP, specified agencies are authorised to issue the certificates of origin, They shall also provide services relating to issue of CoO, including details regarding rules of origin, list of items covered by an agreement, extent of tariff preference, verification and certification of eligibility. The list of these agencies authorised under the various FTAs/ PTAs is given in **Appendix 2B**

- (d) Export Inspection Council (EIC) is the agency authorised to print blank certificates. The website of the EIC (www.eicindia.gov.in) provides procedural details (including fee) for issuance of the certificate of origin.

For certain specified status holders a special facility is provided under which they can issue PCOO themselves as long as it is for their own manufactured goods. A special arrangement is made in Foreign Trade Policy (FTP) 2015-2020 which is reproduced hereunder:

Self-Certification of Originating Goods

Para 2.61 of Foreign Trade policy (FTP) - Approved Exporter Scheme for Self Certification of Certificate of Origin.

- (i) Currently, Certificates of Origin under various Preferential Trade Agreements [PTA], Free Trade Agreements [FTAs], Comprehensive Economic Cooperation Agreements [CECA] and Comprehensive Economic Partnerships Agreements [CEPA] are issued by designated agencies as per Appendix 2B of Appendices and Aayat and Niryat Forms. A new optional system of self-certification is being introduced with a view to reducing transaction cost.
- (ii) The Manufacturers who are also Status Holders shall be eligible for Approved Exporter Scheme. Approved Exporters will be entitled to self-certify their manufactured goods as originating from India with a view to qualifying for preferential treatment under different PTAs/FTAs/CECAs/CEPAs which are in operation. Self-certification will be permitted only for the goods that are manufactured as per the Industrial Entrepreneurial's Memorandum (IEM) / Industrial Licence (IL)/Letter of Intent (LOI) issued to manufacturers.
- (iii) Status Holders will be recognized by DGFT as Approved Exporters for self-certification based on availability of required infrastructure, capacity and trained manpower as per the details in Para 2.109 of Handbook of Procedures 2015-20 read with Appendix 2F of Appendices & Aayaat Niryaat Forms.
- (iv) The details of the Scheme, along with the penalty provisions, are provided in Appendix 2F of Appendices and Aayaat Niryaat Forms and will come into effect only when India incorporates the scheme into a specific agreement with its partner/s and the same is appropriately notified by DGFT.

To summarize, Rules of Origin (ROO) play most important role in deciding the duty preferences.

There are two more issues which one needs to understand. One is called “National Treatment” and other is “Government Procurement”

National Treatment as per WTO:

The principle of giving others the same treatment as one’s own nationals. GATT Article 3 requires that imports be treated no less favourably than the same or similar domestically-produced goods once they have passed customs. GATS Article 17 and TRIPS Article 3 also deal with national treatment for services and intellectual property protection.

Government Procurement as per WTO:

Government agencies often need to purchase goods and services with public resources and for public purposes to fulfill their functions. Such purchases are generally referred to as government/public procurement. India however hasn’t signed Government Procurement agreement.

Chapter 3 – FTAs and Non-Tariff Barriers (NTBs)

Under the WTO System, there are two kinds of barriers. One is known as “tariff barrier” and other is known as “trade barrier”. Trade barriers are commonly known as NTBs. These include-

- a) Licensing
- b) Quantitative restrictions (QRs)
- c) Technical standards

Tariff barriers do not stop the entry of goods, however, NTBs either deny or restrict the entry of the goods.

If an item is subject to licensing, then such item cannot be imported until and unless the importer obtains license from his country’s Government. If license is not granted by the Government, import would not be possible.

QRs are quantitative limits prescribed for import of a particular commodity. For example, item ‘A’ is allowed to be imported say 10,000 Metric Tonnes, per annum, then the trade would be limited to 10,000 Metric Tonnes annually.

If the item is subject to compliance with technical standards (BIS or other product specific standards in India), such items cannot be imported unless and until the conditions attached to standards are complied with.

FTAs reduce the duty substantially and hence, NTBs play an important role. It is always necessary to check such barriers before doing imports/exports. Department of Commerce, Ministry of Commerce and Industry (MoC&I), Government of India, has created a web-portal called “Indian Trade Portal (<http://www.indiantradeportal.in>)”, on which you can access the information about NTBs of other countries.

FTAs also pose a problem of excessive imports due to duty concessions. In such circumstances if such import surge is creating material injury for the domestic industry, then domestic industry can make a request for imposition of Safeguard Duty (SG duty). Such requests are examined by Directorate General of Safeguard (DG safeguards). All the information related to filing and application etc. is available on the website of DG Safeguard - <http://www.dgsafeguards.gov.in>. All the FTAs do have clauses related to Safeguard action, which will have to be considered before making such requests.

Chapter 4 – Import and Export to Countries with whom we have negotiated FTAs/PTAs/CECAs/CEPAs

Procedure for clearance of goods under preferential duty from various FTA/PTA/CECA/CEPA Partners with whom India has exchanged tariff concessions:

Normal procedure of import has to be followed. The only difference is to submit PCOO, obtained from the authorized agency in the exporting country. For example, if you are importing an item from Japan, you need to submit PCOO issued by the Competent Government Authority designated for this purpose by the Ministry of Economy, Trade and Industry, Government of Japan.

This PCOO should be submitted along with bill of entry to claim Preferential or Zero duty.

For claiming preferential or zero duty, you must mention the relevant entry and Customs Notification Number, which is issued for implementing specific FTA/PTA/CECA/CEPA. The following notifications can be referred for knowing the exact duty concessions.

For example, say you are importing following products from Indonesia (ASEAN FTA partner)

HS code	Description	BCD in India	Concessional Tariff under IAFTA
13019039	Other Gum Resins	30%	5% (refer Sr. No. 108*)
14019090	Other vegetable materials other than canes excl. bamboo & rattan	30%	0% (refer Sr. No. 114*)

*The concessional tariff provided for the above product is given in Cus. Ntn No. 46/2011 dtd. 01.06.2011 as amended by Cus. Ntn No. 58/2015 Dtd. 30.12.2015 (effective from 01.01.2016).

Concessional tariffs under other major CECAs/CEPAs on above products are given hereunder:

HS code	Description	BCD in India	India-Malaysia CECA	India-Japan CEPA	India-S.Korea CEPA
13019039	Other Gum Resins	30%	5%	13.6%	8.13%
14019090	Other vegetable materials other than canes excl. bamboo & rattan	30%	0%	13.6%	19.50%

Similarly, for other products you may refer following Customs Notifications, issued under major FTAs/PTAs/CECAs/CEPAs for finding out preferential rate of duty:

FTA/PTA/CECA/CEPA	Original Customs Notification No. and Date	Current Customs Notification No. and Date, which amends Original Customs Notification (amends preferential tariff rates)	Customs Notification No. and Date for Rules of Origin (ROO)
India-ASEAN Free Trade Agreement (IAFTA)	Cus. Ntn No. 46 Dtd. 01.06.2011	Cus. Ntn No. 58/2015 Dtd. 30.12.2015 Effective from 01.01.2016	Cus. Ntn No. 189 (NT) Dtd. 31.12.2009, effective from 01.01.2010, as amended.
India-Malaysia Comprehensive Economic Cooperation Agreement (IMCECA)	Cus. Ntn No. 53 Dtd. 01.07.2011	Cus. Ntn No. 59/2015 Dtd. 30.12.2015 Effective from 01.01.2016	Cus. Ntn No. 189 (NT) Dtd. 31.12.2009, effective from 01.01.2010, as amended. (contd...)

FTA/PTA/CECA/C EPA	Original Customs Notification No. and Date	Current Customs Notification No. and Date, which amends Original Customs Notification (amends preferential tariff rates)	Customs Notification No. and Date for Rules of Origin (ROO)
India-Japan Comprehensive Economic Partnership Agreement (IJEPA)	Cus. Ntn No. 69 Dtd. 29.07.2011	Cus. Ntn No. 28/2016 Dtd. 31.03.2016 Effective from 01.04.2016	Cus. Ntn No. 55 (NT) Dtd. 01.08.2011, effective from 01.08.2011, as amended.
India-Korea Comprehensive Economic Partnership Agreement (IKCEPA)	1) Cus. Ntn. No. 151 Dtd. 31.12.2009- zero duty	1) Cus. Ntn No. 122 dtd. 30.12.2011 amended Cus. Ntn. No. 151 Dtd. 31.12.2009. Effective from 01.01.2012.	Cus. Ntn No. 187 (NT) Dtd. 31.12.2009, effective from 01.01.2010, as amended.
	2) Cus. Ntn. No. 152 Dtd. 31.12.2009- concessional duty	2) Cus. Ntn No. 60/2015 Dtd. 30.12.2015 amended Cus. Ntn. No. 152 Dtd. 31.12.2009 Effective from 01.01.2016	

As far as exports are concerned, the responsibility of exporter is to provide PCOO issued by the Export Inspection Council, in India. Based on such certificate the importer would be able to claim concessional or zero duty. It is also important to ensure that your product in fact receives such treatment in the importing country.

You can check duty preferences from official websites of the FTA partner countries. List of Websites of major FTA partners is given hereunder:

COUNTRIES	Websites
Brunei Darussalam	Brunei - Ministry of Foreign Affairs And Trade - http://www.mofat.gov.bn/customs-duties-and-prefential-tariffs-rates
Cambodia	General Department of Customs - http://www.customs.gov.kh/publication-and-resources/commodity-code-en/
Indonesia	State Revenue Policy Center, Ministry of Finance - http://www.tarif.depkeu.go.id/Tarif/?menu=hsform&mode=text
Lao PDR	Lao Trade Portal - http://www.laotradeportal.gov.la/index.php?r=tradeInfo/listAll
Malaysia	Jabatan Kastam Diraja Malaysia (JKDM), i.e. - Royal Malaysian Customs Department - Tariff Portal of JKDM - http://tariff.customs.gov.my/
Myanmar	Myanmar Customs Department - http://www.myanmarcustoms.gov.mm/HS2012/HSCode/SearchHSCode
Philippines	Philippine's Tariff Commission - http://finder.tariffcommission.gov.ph/index.php?page=tariff-finder3
Singapore	Singapore provides zero duty on most of the tariff lines however, list of dutiable goods of Singapore is given at Singapore Customs' website - http://www.customs.gov.sg/businesses/valuation-duties-taxes--fees/duties-and-dutiable-goods/list-of-dutiable-goods . Or http://www.customs.gov.sg/businesses/harmonized-system-hs-classification-of-goods/resources/singapore-trade-classification-customs-excise-duties-stcced
Thailand	Thailand's Integrated Customs Tariff database - http://igtf.customs.go.th/igtf/en/main_frame.jsp
Vietnam	Vietnam Customs Tariff Database - http://www.customs.gov.vn/SitePages/Tariff-Search.aspx?language=en-US

COUNTRIES	Websites
Japan	Japan Customs Tariff Schedule - http://www.customs.go.jp/english/tariff/2016_4/index.htm
South Korea	South Korea Customs Service - http://www.customs.go.kr/kcshome/tariff/CustomsTariffList.do?layoutMenuNo=21025
Australia	Australia Department of Immigration and Border Protection - https://www.border.gov.au/Busi/Tari/Curr
China	Indian Trade Portal - http://www.indiantradeportal.in/
New Zealand	New Zealand Customs Tariff Service - http://www.customs.govt.nz/news/resources/tariff/theworkingtariiffdocument/Pages/default.aspx

One can also get such details from Indian Trade Portal

<http://www.indiantradeportal.in>

Let us see one example of Guar Meal – HS Code 13023210:

HS Code as per ITC (HS) of India	Description as per ITC (HS) of India	TARIFF PREFERENCE UNDER INDIA-ASEAN FTA (IAFTA)							
		1. Brunei							
		HS Code and Description as per Brunei's tariff schedule under IAFTA		MFN RATE	CATEGORY (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	Export in Rs. Lacs		
		HS Code	Description				2014-15	2015-16	% increase/decrease
1	2	3a	3b	3c	3d	3e	3f	3g	3h
13023210	Guar meal	1302.32.00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	0%	NT-1	0% (no tariff pref. as MFN rate is 0%)	0.00	0.00	-

Likewise for all ASEAN countries the table continues.....

2. Cambodia							
HS Code and Description as per Cambodia's tariff schedule under IAFTA		MFN RATE	CATEGORY (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	Export in Rs. Lacs		
HS Code	Description				2014-15	2015-16	% increase/ decrease
4a	4b	4c	4d	4e	4f	4g	4h
1302.3 2.00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	15%	ST	11%	0.00	0.00	-

3. Indonesia							
HS Code and Description as per Indonesia's tariff schedule under IAFTA		MFN RATE	CATEGORY (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	Export in Rs. Lacs		
HS Code	Description				2014-15	2015-16	% increase/ decrease
5a	5b	5c	5d	5e	5f	5g	5h
1302.3 2.00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	5%	ST	4.5%	1717.96	52.22	-96.96%

4. Lao PDR							
HS Code and Description as per Lao PDR's tariff schedule under IAFTA		MFN RATE	CATEGORY (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	Export in Rs. Lacs		
HS Code	Description				2014-15	2015-16	% increase/ decrease
6a	6b	6c	6d	6e	6f	6g	6h
1302.3 2.00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	10%	NT-1	3%	0.00	0.00	-

5. Malaysia								
HS Code and Description as per Malaysia's tariff schedule under IAFTA/IMCECA		MFN RATE	CATE-GORY UNDER IAFTA (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	PREFE. TARIFF UNDER IMCECA	Export in Rs. Lacs		
HS Code	Description					2014-15	2015-16	% increase/ decrease
7a	7b	7c	7d	7e	7f	7g	7h	7i
1302.3 2.000	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	0%	NT-1	0% (no tariff pref. as MFN is 0%)	0% (no tariff pref. as MFN is 0%)	968.33	42.38	-95.62%

6. Myanmar							
HS Code and Description as per Myanmar's tariff schedule under IAFTA		MFN RATE	CATEGORY (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	Export in Rs. Lacs		
HS Code	Description				2014-15	2015-16	% increase/ decrease
8a	8b	8c	8d	8e	8f	8g	8h
1302.3 2.00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	5%	NT-1	3%	25.65	0.00	-100%

7. Philippines							
HS Code and Description as per Philippines' tariff schedule under IAFTA		MFN RATE	CATE-GORY (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	Export in Rs. Lacs		
HS Code	Description				2014-15	2015-16	% increase/ decrease
9a	9b	9c	9d	9e	9f	9g	9h
1302.3 2.00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	3%	NT-1	1%	294.43	103.67	-64.79%

8. Singapore							
HS Code and Description as per Singapore's tariff schedule under IAFTA		MFN RATE	CATE-GORY (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	Export in Rs. Lacs		
HS Code	Description				2014-15	2015-16	% increase/ decrease
10a	10b	10c	10d	10e	10f	10g	10h
1302.3 2.00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	0%	-	0%	21.26	0.00	-100%

9. Thailand							
HS Code and Description as per Thailand's tariff schedule under IAFTA		MFN RATE	CATE-GORY (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	Export in Rs. Lacs		
HS Code	Description				2014-15	2015-16	% increase/ decrease
11a	11b	11c	11d	11e	11f	11g	11h
1302.3 2.00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	30%	NT-1	0%	301.55	221.67	-26.49%

10. Viet Nam							
HS Code and Description as per Viet Nam's tariff schedule under IAFTA		MFN RATE	CATE-GORY (NT-1/ NT-2/ ST/ HSL/ EL)	PREFE. TARIFF UNDER IAFTA	Export in Rs. Lacs		
HS Code	Description				2014-15	2015-16	% increase/ decrease
12a	12b	12c	12d	12e	12f	12g	12h
1302.3 2.00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	5%	NT-1	2%	30.17	0.00	-100%

INDIA-JAPAN CEPA								
Japan								
HS Code and Description as per Japan's tariff schedule under IAFTA		MFN RATE	STAGING CATEGORY UNDER IJCEPA	PREFE. TARIFF UNDER IJCEPA	PRODUCT SPECIFIC RULES OF ORIGIN (PROO)	Export in Rs. Lacs		
HS Code	Description					2014-15	2015-16	% increase/decrease
13a	13b	13c	13d	13e	13f	13g	13h	13i
1302.3 2.090	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	0%	A	0%	13.01-13.02 Manufacture in which all the materials used are wholly obtained.	607.77	639.57	5.23%

INDIA S. KOREA CEPA								
South Korea								
HS Code and Description as per South Korea's tariff schedule under IAFTA		MFN RATE	STAGING CATEGORY UNDER IKCEPA	PREFE. TARIFF UNDER IKCEPA	PROO	Export in Rs. Lacs		
HS Code	Description					2014-15	2015-16	% increase/decrease
14a	14b	14c	14d	14e	14f	14g	14h	14i
130232 0000	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	19.7%	UNDER EXCLUSION LIST OF S.KOREA	NONE [As the product is covered under exclusion list]	13.01-13.02 Manufacture in which all the materials of Chapter 13 used are wholly obtained.	119.93	0.00	-100%

Australia						
HS Code and Description as per Australia's Customs tariff schedule		MFN RATE	GSP	Export in Rs. Lacs		
HS Code	Description			2014-15	2015-16	% increase/ decrease
15a	15b	15c	15d	15e	15f	15g
1302.32.0 0.13	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	0%	-	0.00	0.00	-

China						
Asia Pacific Trade Agreement (APTA)						
HS Code and Description as per China's Customs tariff schedule		MFN RATE	PREFE. TARIFF UNDER APTA	Export in Rs. Lacs		
HS Code	Description			2014-15	2015-16	% increase/ decrease
16a	16b	16c	16d	16e	16f	16g
13023200 00	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	15%	10%	236.94	107.84	-54.48%

New Zealand						
HS Code and Description as per <u>New Zealand's</u> Customs tariff schedule		MFN RATE	GSP	Export in Rs. Lacs		
HS Code	Description			2014-15	2015-16	% increase/ decrease
17a	17b	17c	17d	17e	17f	17g
1302.32.00 .00B	Mucilages and thickeners, whether or not modified, derived from locust beans, locust bean seeds or guar seeds	0%	-	39.59	0.00	-100%

From the above tables, one can understand how the final landed cost gets impacted in various markets covered by FTAs.

Chapter 5 – Why one should look at FTAs?

As explained in the previous chapters, FTA is primarily for market access. Traditionally we have been exporting goods on the basis of Incoterms such as Free on Board (FOB) and Cost, Insurance and Freight (CIF). These incoterms provide information to some extent however are not real representative of all the costs involved.

With globalization and improvement in communication technologies every buyer wants to keep minimum inventory and desirous of getting Just-in-Time supplies. The focus of the trade is therefore shifting from FOB based transactions to Delivered Duty Paid (DDP) transactions.

An American buyer wants delivery in 5 days. If we are shipping a container load on CIF basis, the delivery period would be in excess of 30 days and the buyer may not be interested in dealing with us. What should we look at to sustain and maintain our business? Some of us might look at warehousing abroad and delivering off-the-shelf.

There is another situation in world trade today, E-commerce transactions are increasing. Here again, the buyer is insisting on delivery at the doorstep. Naturally, we will have to look into the DDP cost to understand the exact pricing. You will appreciate that when we talk of DDP, Customs Duty plays an important role. If customs duty charged by the FTA partner country is zero then my product is likely to be competitive.

There is another angle to this. Take for example, a FTA like Trans-Pacific Partnership (TPP) Agreement. I am exporting product to USA, my competitor from Vietnam or Malaysia is also exporting the same product to USA. He gets zero duty treatment in USA because of TPP but I am not in a position to get zero duty treatment in absence of FTA. Naturally, for the end customer, competitive cost will play a vital role in his decision making. My competitor will get business and I will lose business.

FTAs therefore must be studied to increase competitiveness.

Traditionally, we have been exporting goods using trade model i.e. we buy and sell or we manufacture and sell. In the globalized world today we also need to look at increasing our exports through Investment route. FTAs particularly CECAs and CEPAs provide for possibility of exchanging not only goods but services and investments as well. If the goods are partially produced say in a country like Malaysia, the product can ultimately be declared as Malaysian origin and will get duty free access in USA under TPP. This advantage of FTA therefore is significant and should be looked into. Currently we have already signed following agreements:

S. No.	Name of the Agreement
1	India - Sri Lanka FTA
2	Agreement on SAFTA (India, Pakistan, Nepal, Sri Lanka, Bangladesh, Bhutan and the Maldives)
3	Revised Agreement of Cooperation between Government of India and Nepal to control unauthorized trade
4	India - Bhutan Agreement on Trade Commerce and Transit
5	India - Thailand FTA - Early Harvest Scheme (EHS)
6	India - Singapore CECA
7	India - ASEAN- CECA - Trade in Goods Agreement (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam)
8	India - South Korea CEPA
9	India - Japan CEPA
10	India - Malaysia CECA
11	Asia Pacific Trade Agreement (APTA) (Bangladesh, China, India, Republic of Korea, Sri Lanka)

S. No.	Name of the Agreement
12	Global System of Trade Preferences (GSTP) (Algeria, Argentina, Bangladesh, Benin, Bolivia, Brazil, Cameroon, Chile, Colombia, Cuba, Democratic Peoples' Republic of Korea, Ecuador, Egypt, Ghana, Guinea, Guyana, India, Indonesia, Iran, Iraq, Libya, Malaysia, Mexico, Morocco, Mozambique, Myanmar, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Republic of Korea, Romania, Singapore, Sri Lanka, Sudan, Thailand, Trinidad and Tobago, Tunisia, Tanzania, Venezuela, Viet Nam, Yugoslavia, Zimbabwe)
13	India - Afghanistan PTA
14	India – MERCOSUR (Argentina, Brazil, Paraguay and Uruguay)
15	India - Chile PTA

Source: Ministry of Commerce and Industry, Department of Commerce

The following agreements are in the pipeline:

S. No.	Name of the Agreement
1.	India - EU Bilateral Trade and Investment Agreement (BTIA) - (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom)
2.	India - ASEAN CECA- Services and Investment Agreement - (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam)
3.	India – Sri Lanka CEPA
4.	India - Thailand CECA
5.	India - Mauritius CECPA
6.	India - EFTA BTIA (Iceland, Norway, Liechtenstein and Switzerland)
7.	India - New Zealand FTA/CECA

S. No.	Name of the Agreement
8.	India – Israel FTA
9.	India - Singapore CECA (Second Review)
10.	India – Southern African Customs Union (SACU) Preferential Trade Agreement (PTA) (South Africa, Botswana, Lesotho, Swaziland and Namibia)
11.	Indian - MERCOSUR PTA (Argentina, Brazil, Paraguay and Uruguay)
12.	India – Chile PTA
13.	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) CECA (Bangladesh, India, Myanmar, Sri Lanka, Thailand, Bhutan and Nepal)
14.	India – Gulf Cooperation Council (GCC) Framework Agreement – (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates)
15.	India – Canada CEPA
16.	India - Indonesia Comprehensive Economic Cooperation Agreement (CECA)
17.	India-Australia CECA
18.	India-Russia CECA
19.	India- RCEP (ASEAN 10, Australia, New Zealand, South Korea, China and Japan.)

Source: Ministry of Commerce and Industry, Department of Commerce

If you comprehensively look at these tables you will find that in other 2 years 80% of our exports would be through FTA route. We therefore have no option but to study FTAs.

It is equally important to help Government by providing proper data based on HS codes so that we get market access and our domestic market is not affected. In a globalized world, we have to exist and cost competitiveness is the only option. Under WTO, export incentives are considered as prohibited subsidies and our Government would not be able to incentivize exports beyond 2017. Even if we extend the incentives there is a fear of being subjected to punitive action like anti-subsidy duty under Agreement on Subsidies and Countervailing Measures (ASCM). Hence we need to realistically understand the compulsions of trade.

To conclude, FTAs will offer market access which is beneficial for growth of exports. This growth is non-negotiable, and we need to take concrete steps to further the cause of exports. FTAs therefore must be studied, understood and utilized.
