INDIA-EU TRADE AGREEMENT: Rethinking Free Trade Pact with Europe

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Global Research, February 14, 2012
The Hindu 9 February 2012

Region: Asia, Europe
Theme: Global Economy

Since 2007, India and the European Union have been negotiating a comprehensive free trade agreement — officially known as Bilateral Trade and Investment Agreement (BTIA) — covering trade in goods and services besides rules pertaining to cross-border investments, competition policy, government procurement and state aid.

This legally binding agreement would cover almost a fifth of the world population and, therefore, it impact and implications (both positive and negative) would be significant.

DIFFERENCES

Despite 14 rounds of formal negotiations, the finalisation of the BTIA has been delayed as differences cropped up between India and the EU over certain issues. Some of the contentious issues holding the BTIA are the EU's demand on India to drastically cut tariffs on automobiles, wines and spirits. The EU is also seeking greater market access in the services sector, particularly banking, retail trade, telecommunications, legal and accounting services.

On the other hand, India is seeking a significant relaxation for the movement of its professionals (for short-term assignments) within the 27-nation bloc. India has also expressed its opposition to the inclusion of sustainable development issues related to labour and environment under the proposed agreement.

SUMMIT TOMORROW

Presently, the negotiations have reached a "closing" stage as both trading partners are hoping to finalise the agreement before the India-EU Summit to be held on February 10 in New Delhi.

Given the logjam in talks over certain issues, it is likely that both trading partners may skip negotiations over difficult areas holding the BTIA, and may announce a broad political agreement on the areas acceptable. As bilateral trade and investment agreements are reviewed periodically, it would enable both India and the EU to pursue negotiations over difficult areas once the initial agreement is signed this year. Furthermore, India is unilaterally opening up key sectors of the economy (such as retail trade, banking, pensions, telecommunications) for foreign investments, which would address the key concerns of European investors over market access.

TARIFF REDUCTION

India and the EU have agreed to eliminate tariffs on over 90 per cent of all tradeable goods during the next 10-year period. If not carefully managed, a drastic elimination of tariffs on a wide range of agricultural and industrial products could lead to a decline in domestic output, massive job losses, significant tariff revenue loss and negative implications for the trade balance.

The EU is particularly insistent on the reduction of tariffs on wines and spirits, dairy products and cars. The cheaper imports of dairy products from the EU's heavily subsidised and protected dairy sector could result in a significant dislocation of local producers of milk and dairy products in India.

The implications of lowering the tariffs on agricultural and dairy products could have a serious and long-lasting impact as the bulk of our rural population is dependent on them for employment and livelihood. It needs to be emphasised that unlike in Europe, most of the unorganised workers in India are self-employed. There is no social security net to take care of people who may lose their traditional livelihoods and jobs due to a lowering of tariffs under the BTIA.

Car manufacturers in India are concerned about the inclusion of finished cars (called Completely Built Units or CBUs), and are strongly opposed to any lowering of customs duty on CBUs under the proposed agreement. There is a strong fear in the domestic automobile industry that lower tariffs will prompt European car manufacturers to import CBUs instead of assembling them in India. This move could also negatively affect future investments in the domestic automobile industry as well as employment generation.

OPENING UP BANKING SERVICES

In particular, the EU wants India to open up its banking sector. Some of the key demands emanating from Europe include the removal of all restrictions pertaining to branch licences and foreign ownership (of both public and private banks), besides the removal of priority sector lending on locally incorporated EU-based banks.

If European banks are given greater market access, will they serve 500-million Indians citizens who do not have access to basic banking services?

The European banks are not located in rural areas and are not even serving the poor and low-income groups residing in metropolitan and urban areas. There is no regulatory ban on these banks to serve the urban poor. Therefore, it is not regulatory discrimination or the lack of a market which is hindering the delivery of banking services by European banks but their business model which tends to "cherry-pick" the most profitable businesses in India.

Moreover, the global financial crisis has put a big question mark over the efficiency, "best practices" and state-of-the-art risk management models of several big banks. The crisis has shown how many big European banks transmitted financial shocks across countries. In contrast, the Indian banking system has remained insulated from global turmoil thanks to a limited presence of foreign banks, enlarged state ownership of the banking system, and a relatively strong regulatory framework. In a post-crisis world, New Delhi should seriously rethink the benefits of opening up banking and financial services under the India-EU BTIA.

EU'S NEW MANDATE

On September 12, 2011, the General Affairs Council of the EU officially approved the negotiating mandate for investment protection measures under the BTIA with India. The mandate is highly problematic as it specifically proposes investor-to-state dispute settlement provisions (in addition to state-to-state). These provisions give special rights to investors to completely bypass the domestic legal system and seek redress before a panel of international arbitrators.

This is especially worrisome since the new mandate calls for "the highest possible level of legal protection and certainty for European investors in India." At the same time, it does not endorse any qualifications or limitations of investors' right to be protected under the new agreements. Such a lopsided negotiating mandate which puts investors' rights above those of democratically-elected governments should not be accepted by India under the BTIA.

LACK OF CONSULTATION

It is of grave concern that the India-EU BTIA negotiations have been marked by a gross absence of transparency and public consultation in India.

Before inking an agreement with the EU, it is important for New Delhi to initiate wider consultations with small and medium enterprises, farmers' groups, community based organisations, trade unions and trade experts on an equal footing.

Even State governments have not been informed about the ongoing negotiations even though it would have been only right to take them on board on important issues such as agriculture, public health and education which fall under the State/Concurrent List of the Constitution.

It is a matter of shame that while the proposed agreement will have to be ratified by national Parliaments in all 27-member-states of the EU, there is no system of parliamentary ratification or supervision of such agreements in the world's largest democracy.

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