

EU–India Free Trade Agreement: For Whom?

Introduction

In June 2007, the European Union (EU)'s European Commission and the Government of India started negotiating a Free Trade Agreement (FTA). This new generation FTA covers many areas other than trade in goods viz. trade in services, investment, intellectual property rights, competition policy, government procurement etc. Hence, these negotiations are going to have far reaching consequences both for the policy space of the Indian state and on the lives and livelihoods of Indian citizens. So far, five rounds of the negotiations have been completed and a proposed sixth round which was meant to take place in New Delhi in the last week of November has just been postponed. In addition to the EU, India is currently negotiating with 20 other countries and regions including Japan and the European Free Trade Association (EFTA). FTAs negotiations with more developed economies are likely to have similar agenda with minor variations in the design and architecture of the agreement.

Studies¹, including those based on rigorous computable general equilibrium reveal that FTAs between developing and developed economies do not extend much advantage to developing countries such as India. The reasons behind poor gains to developing countries from FTAs are many. Firstly, they undermine the right of 'special and differential treatment' specifically recognized under the World Trade Organisation (WTO) framework. Under this right, developing countries are not required to equally reciprocate. In contravention to this special treatment, the above FTAs demand full reciprocity. Secondly, many FTAs with developed countries contain provisions related to investment, intellectual property, competition policy, government procurement, services etc. and require crucial changes in national law and policy in developing countries. Such changes reduce the policy space available for developing countries especially in these critical areas. Thirdly, preferences obtained through FTAs with developed countries do not last long as these countries are also negotiating with a range of other developing countries including competitors in the same product range. Lastly, developed countries are using FTAs to bring into place an international trade regime on terms not conducive to developing or least developed countries. FTAs are a preferred route for this as multilateral negotiations afford developing countries collective bargaining space while FTAs do not. Once sufficient FTAs are in place, the new regime can then be pushed more easily through multilateral forums like the WTO at a convenient time.

Context of EU-India FTA negotiations

The EU's interest in pushing these 'expanded' FTAs is part of a broader agenda to maintain Europe's competitive edge in the world economy. This has been clearly spelt out in 2006 document released by the European Commission entitled '*Global Europe: Competing in a Globalized World.*' This document outlines EU's new international trade policy stressing an aggressive push for market expansion for European goods in, and imports of raw materials from, the Global South through a series of FTAs. It notes,

"Measures taken by some of our biggest trading partners to restrict access to their supplies of these inputs are causing some EU industries major problems. Unless justified for security or environmental reasons, restrictions on access to resources should be removed."

More specifically, on FTAs, the document states,

"In terms of content new competitiveness-driven FTAs would need to be comprehensive and ambitious in coverage, aiming at the highest possible degree of trade liberalization including far-reaching liberalization of services and investment".

According to the *Global Europe* document, the criteria for the selection of partners for FTA negotiations are market potential (indicated by size and growth of the economy) and the level of protection against EU export interests. Based on the above criteria, the Commission prioritized India as a key strategic

¹ For example

- Polaski S, A. Ganesh-Kumar, S. McDonald, M. Panda and S. Robinson (2008), India's Trade Policy Choices, Carnegie Endowment for International Peace, Washington.
- Powell S. (2008), The EU - FTA – Initial Observations from Development Perspective, Traidcraft Exchange, London.

target because of its large market, the numerous trade and non-trade barriers against EU interests and in order to beat its main competitors by completing a far-reaching trade and investment treaty. Currently, the EU is India's biggest trading partner while India ranks ninth in terms of size in the list of trading partners for the EU.

The roadmap for the EU-India FTA is also revealed in the 'Report of the EU-India High Level Trade Group (HTLG) to the EU-India Summit' dated 13th October 2006. This Report makes detailed observations and recommendations on the issues to be negotiated between India and the EU including massive reductions in tariff.

EU-India FTA: Issues of Concern

The FTA proposed by the EU raises a series of concerns with regard to peoples' livelihoods and policy space for developing an inclusive development strategy. The text of previous FTAs concluded by the EU shows that these agreements undermine development and pursue a corporate agenda that favors multinational corporations based in the EU.

In the present backdrop of a global financial, food and fuel crisis, future policy space for governments becomes an essential lens with which to assess the merits of negotiating an FTA with the EU. Based on news reports, the current proposals on trade in goods would significantly increase food insecurity and livelihood risks for both the agriculture and manufacturing sectors.

Some of the major issues of concern for India in an FTA with the EU include:

1. **Massive reductions in tariff:** The EU-India FTA agenda includes massive tariff reductions on a reciprocal basis for market access in trade in goods. Further it includes WTO-plus provisions with regard to services and intellectual property protection. An FTA with the EU would hence, reduce considerably if not entirely eliminate India's bargaining power at the WTO. The Report of the HLTG states that both the EU and India are supposed to completely eliminate duties on 90% of tariff lines with the remaining 10% to be negotiated or completely excluded. It has been reported that the EU rejected India's demand to reconsider the extent of trade liberalization.

2. **Import surge:** Such a high level of trade liberalization would create an import surge. According to one study, the FTA would increase EU exports to India by \$17-18 billion while India's export would increase by only \$5 billion. Such an import surge would result in large-scale job loss and closure of manufacturing units especially in small and medium-scale industries.

3. **Impact on livelihoods:** The impact of such drastic reductions in tariff and the resultant import surge among other effects on the livelihoods of Indian citizens cannot be underestimated. Though India's growth rate has been between 8-10% in recent years, it continues to hold the largest number of the world's poor. While incomes in the past years rose for less than a third of India's population, inequality dramatically increased. Ninety-two percent of India's 457 million strong workforce is in the informal sector with no job security and little income. It is this sector that will be the hardest hit from an EU-India FTA whose objectives are incongruent with development objectives. The Indian Government estimates that it needs to create 200 million jobs by 2020 to deal with current unemployment rates and absorb new workforce entrants. With the EU-India FTA threatening even more jobs, the livelihood situation is likely to become even grimmer in the coming years.

4. **Unequal impact of tariff reductions:** There is a drastic difference between the current average tariffs existing in India and EU. India's average tariff is 17% and EU's average tariff is 2%. As a result of the FTA, India's tariff is expected to drop to 0 in 90% of tariff lines. EU's tariff is expected to drop to 0 from 2%. As a result, there would be considerable loss of revenue for the Government of India – a loss that is likely to have serious impact on Government spending in social sectors like education and health and to increase domestic taxes to compensate this loss. Further, it is evident from the low average tariffs existing in the EU that tariff is not the major trade barrier for India's exports to the EU.

5. **Automatic extension of MFN clause to EU:** All EU FTAs contain a Most Favored Nation clause. Under this clause better treatment provided by other parties to any country in areas covered under the

FTA with EU have to be automatically extended to the EU. Such a clause seriously undermines India's strategic position in future trade negotiations especially with other developing countries.

6. *Imposition of full reciprocity; undermining India's special and differential treatment:* The negotiations seriously undermine the 'Special and Differential Treatment' that India enjoys under the multilateral system. As noted above, this is a specific right of developing countries in the WTO framework. However, the EU-India FTA will require full reciprocity in all measures. Such trade liberalization is against India's well maintained position at the WTO. For instance, India along with other developing countries has strongly opposed proposals in the context of Non-Agricultural Market Access (NAMA) negotiations that would obligate developing countries to cut their tariffs to the lowest possible levels. Further, the level of tariff reduction leaves India with little policy space to chart future industrialization and to accommodate sensitive sectors. It is a well-documented fact that tariffs have played a crucial role in the industrialization of developed countries.

7. *Inclusion of Singapore Issues:* FTA negotiations with the EU are also focusing on government procurement, investment and competition policy. These three issues in trade negotiations are known as the 'Singapore Issues'. The EU has strongly advocated for the inclusion of these issues within the WTO. However, it was agreed at the WTO to remove these issues from ongoing negotiations due to resistance from developing countries including India. The primary objection from developing countries has been the loss of policy space. The inclusion of these issues within the EU-India FTA is, hence, a matter of grave concern.

8. *Expansive liberalization in services and investment:* The EU's services and investment liberalization formula significantly expands the scope of coverage to affect virtually all public services. The EU, in demanding such liberalization does not exclude any commercial sectors other than those sensitive to the EU. Liberalisation of services has led to consolidation, lack of transparency and extremely risky behaviour of firms as is borne out by the current global crisis. Provisions in the EU-India FTA to completely open up the banking sector would further exacerbate financial exclusion of the poor from institutionalized credit and banking and significantly increase India's vulnerability to global financial crises. Liberalisation of distribution services such as those linked up and down the food distribution chain would threaten the livelihoods of small retailers and street vendors. Though official estimates state that there are over 12 million small retail outlets in India, this number is grossly underestimated as large informal networks exist around retail, often composed of the poorest of the poor. Finally, the EU seems likely to demand the liberalisation of environmental services such as water and wastewater treatment to lock in a policy framework that favors EU corporations.

9. *TRIPS-plus intellectual property protection:* The EU's demands for TRIPS-plus intellectual property rights would lead to legislative and policy changes in India with regard to the scope of intellectual property protection and enforcement. For instance, the EU is likely to demand that India accede to the 'International Convention for the Protection Of New Varieties Of Plants' (UPOV 1991) or at least comply with a system of plant variety protection that favours plant breeders' rights over farmers rights to seeds. India would then have to change its Protection of Plant Varieties and Farmers' Rights Act 2001. Such changes would have an adverse impact not only on the cost of commercial seeds but also on biodiversity. The EU's demand for data exclusivity and increased enforcement of intellectual property rights would also limit India's ability to provide access to affordable medicines. In India, prices of medicines are the leading cause of rural indebtedness. An estimated 70% of out of pocket spending on healthcare is on the prices of medicines alone. Any adverse changes in the availability and affordability of medicines would be catastrophic for the majority of Indians. It would further limit the ability of the Government to issue compulsory licenses on medicines. The EU will also demand increased enforcement further reducing access to medicines as well as access to education materials thus compromising access to knowledge.

10. *Creating advantages for MNCs through 'effective competition':* Competition law and policy is also part of the negotiations with the EU. While competition policy has the potential to contribute to a country's development, the model proposed by developed countries would have the opposite result. The EU is reportedly demanding that India's competition policy should provide 'effective opportunity for competition' in the local market thus helping big EU-based multinational corporations. The EU may,

further, attempt to harmonise India's competition law with EU competition law thus reducing the flexibility required for India to design a competition law and policy suitable for its economic development.

11. Liberalising government procurement: The EU is also insisting that government procurement, which accounts for nearly 13% of India's GDP, be opened up to EU companies. This would seriously undermine India's policy space to support Small and Medium Enterprises, marginalized constituencies and poorer states by channeling government contracts through local firms in local regions through a variety of measures. Moreover, government procurement remains an important tool to boost domestic production during economic recession.

12. Extreme and unwarranted secrecy in negotiations: One of the worrying features of the negotiations between the EU and India has been the continuing secrecy surrounding the negotiations. Both India and the European Commission have consistently refused to share information with civil society groups and the general public. Repeated calls for transparency and accountability have been ignored undermining the basic tenets of democratic process, policy making and law.

Food security, livelihoods and access to healthcare threatened by EU-India FTA

In conclusion, in addition to creating serious short and long-term economic vulnerability, the EU-India FTA could have major food security, healthcare and livelihood implications that must be assessed in detail. The current global crisis signals a critical need to democratize trade policy processes so that elected bodies and civil society can have a voice in the choices governments make. This democratic process is a central pillar to ensure that governments are accountable to their citizens. Current "free" trade and investment policies are proving to be highly costly to citizens even as their governments negotiate away their right to regulate. These policies also severely constrain policy space for domestic policies that favour just, equitable and environmentally sustainable development. It is of grave concern that the EU-India FTA negotiations till date have been marked by a gross absence of transparency and public debate. The Indian Government's consultations have been limited to large corporate and commercial interests and have completely by-passed those most likely to be adversely affected by the FTA. There is an urgent need for an informed public debate on the feasibility and efficacy of the FTA with the EU.

ACTION: CALL FOR AN IMMEDIATE HALT TO EU-INDIA FTA NEGOTIATIONS UNTIL:

- **All existing negotiating positions, draft proposals and government commissioned studies are made public;**
- **All current proposals are debated and discussed in parliament and public fora;**
- **The federal process of consultation with the state governments is completed and a consensus is reached;**
- **Consultations are conducted with key constituents - trade unions, farmers, women, dalits, adivasis, health groups and other peoples organizations, small and medium enterprises, cooperatives and hawkers; and**
- **A white paper is released and discussed in Parliament on the socio-economic and ecological impacts of all aspects of the India-EU FTA, especially addressing social inequality and discrimination.**

A joint statement signed by 75 organizations representing mass movements and civil society demanding the halting of the negotiations was issued on 21 September 2008.

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