

IMMEDIATELY HALT EFTA FTA NEGOTIATIONS
Statement of Concern from India
New Delhi, February 25, 2009

We, belonging to trade unions, people's movements and civil society organisations express our opposition to the lack of transparency, public debate and democratic process surrounding the ongoing negotiations of the Free Trade Agreement between India and the European Free Trade Association, composed of, Lichtenstein, Iceland, Norway and Switzerland – EFTA-India FTA. While the 6th round of negotiations of the European Union-India FTA has been postponed, the EFTA-India negotiations continue. Little public attention has been given to them, but they present concerns very similar to those raised by the India-EU FTA. We are deeply concerned that this free trade framework will constrain India's policy space and have adverse socio-economic and environmental impacts. As delegations gather for the third round of negotiations of the EFTA-India Summit in New Delhi from February 23 to 26, we call for a halt of the EFTA-India FTA negotiations until the following concerns are addressed.

We know that members of EFTA have strong interests in far reaching **Intellectual Property Rights (IPR)** provisions and liberalisation of services, particularly in the **financial sector**. EFTA members also have strong interests in the financial, fishing, energy and telecom sectors and want to substantially increase their **investments** in these sectors through liberalisation of services, investments and the elimination of tariffs for agricultural and industrial products, including fish products. Additionally, EFTA FTAs include provisions for liberalisation of **government procurement** and the promotion of **competition** laws. Liberalisation of **agriculture** is included under the complementary Agreements on Agriculture which is being negotiated between India and each individual EFTA State.

IPR provisions going beyond the TRIPS (Trade-Related Aspects of Intellectual Property Rights) agreement of the World Trade Organisation force countries to accede to controversial IPR treaties. This has been part of other EFTA FTAs. India had designed the Plant Varieties Act with an effective system for the protection of farmers and their plant varieties. This Act would need to be amended if the FTA with EFTA is approved, which would reduce policy space and restrict the use of seeds by breeders and farmers, with negative implications for India's food sovereignty and biodiversity. In health, introduction of data exclusivity would delay the introduction of generic drugs even in the absence of patent protection. To ensure access to low cost quality generic essential medicine, developing countries have included public health safeguards in their patent laws. However, many multinational pharmaceutical companies, including the Swiss company, Novartis have been legally challenging these. Provisions on IPR included in previous EFTA FTAs are targeted towards removing and reducing these public health laws. Since India is a major exporter of generic drugs, this would have a negative effect for people in need of these medicines around the world.

Previous EFTA FTAs also results in the liberalisation of the financial sector. This would reduce India's flexibility to respond to the financial crises, like the one we are currently experiencing. Stiffer competition through further liberalisation of the banking sector will lead to smaller domestic banks being squeezed out of business. This is of significant concern as these banks give access to credit in rural areas. Big foreign banks have a bias towards wealthy customers, which was recently well captured in a headline in the Swiss press: "Credit Suisse and UBS are after the rich Indians".

The EFTA FTAs chapter on investment includes problematic provisions like “national treatment” for foreign companies compared to local companies and facilitation of payment and transfer of capital out of the country. This “treatment” would give greater privilege to the more powerful EFTA companies. For instance, EFTA companies’ expertise in shipping would overwhelm the comparatively weaker Indian shipping and marine sectors.

In previous FTAs, EFTA included provisions for opening up government procurement (nearly 13% of India’s GDP) to its 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. This is of serious concern as government procurement remains an important tool to boost domestic production during economic recession. Other EFTA FTAs have stated that a competition policy should “promote competition in [FTA signatories] economies”. This would privilege EFTA-based multinational corporations in the Indian market. The European negotiators are arguing that many Indian policies are for “the prevention, restriction or distortion of competition”, are “anti-competitive” and have to be eliminated. This reduces the flexibility required for India to design laws and policies suitable for its economic priorities and development.

Since the announcement of the start of negotiations in January 2008, two rounds of formal talks have taken place, during October 2008 and December 2008. Both rounds took place without any public access to the Indian Government’s position, commissioned studies and negotiating texts. The Government is yet to share the details of these negotiations with the Indian Parliament and the people. The Commerce Ministry’s consultations have been limited to selected corporate and commercial interests within India and have completely sidelined those who are likely to be adversely affected by this legally binding treaty: farmers, workers, fisherfolk, hawkers, indigenous people, dalit communities.

These are matters of great concern, especially considering that most of these provisions imply changes in Indian legislation. This agreement would leave India’s people with high costs, while the benefits are expected to be moderate and will accrue to a small privileged group only. While the EFTA market is relatively insignificant for India, the consequences for Indian people and India’s policy space would be adverse and deep.

THEREFORE WE DEMAND AN IMMEDIATE HALT OF EFTA-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 in public;**
- **The federal process of consultation with state governments is discussed in each state assembly, and an all party consensus is reached;**
- **Consultations are conducted with key constituents such as trade unions, farmers, women, dalit, adivasi and other peoples organisations, small and medium enterprises, cooperatives and hawkers, with at least six month for this public process;**

- **A white paper is released and discussed in parliament on the socio-economic and environmental impacts of all aspects of the EFTA-India FTA, especially addressing social inequality and discrimination.**

Signatories

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