The EU-India BTIA: An Update

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**Agriculture and Industry: Goods Trade**

**Status**

- Talks advanced in goods trade: India will open up at least 92% of tariff lines (products).

- EU wants access in wines and spirits, also in cereals, dairy, poultry, fisheries, agro processed goods. Early reports: EU wanted dairy, poultry removed from India’s negative list.

- Negotiations on agricultural safeguards still going on, the general safeguard discussion is completed.

- Significant amount of talks on NTBs/TBTs. MRAs?
Agriculture and Industry: Goods Trade

- **EU wants access in cars, wines and spirits:** contentious part of negotiations, India asked to remove these from the negative/protected list. Wine and Spirits apparently agreed to be opened up by India, cars continue to be resisted by the automobile industry.

- **Export Measures:** India may not remove food measures, no confirmed information. Export taxes on minerals and raw leather etc??

- Projections show loss for agriculture in ALL segments.
Services

Status (India wants Mode 1 and Mode 4; EU Mode 3)

- **Retail**: India may have planned to open it up autonomously without committing to it in the FTA but that may be stuck for the time being, this may be a problem for the FTA?

- **Legal/vs non legal Changes**: There is an important difference between sectors for which just an administrative act is needed and those sectors which would require passing new legal legislation through parliament.

- Allowing access in retail and banking will not require changes in law.
Services
Status Continued

- Opening up postal, financial services, legal, maritime and accounting services would require new legislation so may be more difficult for India to give.

- **On Mode 4** the EU is may give more than usual (entry conditions and coverage)? The economic needs test by the EU will be deleted. But this is not much in real terms.

- **Important:** EU wants to introduce safeguards on **Mode 4** in services, which would allow member states to restrict the entrance of Indian employees in case this would have negative implications for employment in the EU (Commission is discussing this with the EU Trade unions)
Investment

Status

- India already has **18 Bilateral Investment Treaties (BITS)** with varying degrees of protection, the FTA apparently aimed to keep protection at the highest of the BITS (Germany) level.

- **EU has got mandate after Lisbon Treaty** to negotiate investment on behalf of entire EU. But what happens to earlier BITS? Which prevails?

- Negotiations on investment especially on protection at an early stage, and may not be included if anything is signed now. However will be negotiated and will be included in the FTA ultimately.
Intellectual Property Rights

Status

- **Demand by EU on DE in pharmaceuticals** may/ may not have been dropped by EU (flip flop) but DE demand on agrochemicals is not dropped.
- **Patent term extension, border measures** still on cards?
- **India is willing to make binding agreements but is not willing to go beyond national legislation.**
- **UPOV 1991** demand has been dropped by EU as India said no.
- **EU wanted automatic recognition of its 190 agricultural GIs**, India apparently said no, EU may still be pushing for special treatment.
Public Procurement

Feature

- EU wants access to India’s government procurement market. Seems a core mandate for the EU. India will apparently get reciprocal access though studies show limited real access.

Status

- India not willing to give access to PP market as sensitive from a development perspective with special concession to MSMEs, women’s groups, minorities, scheduled castes and tribes.
- EU insistent on its demand and has narrowed demands to Central government purchases (including railways) the initial set valued at 19.29 billion Euros (State government contracts may need legal changes).
- In India corruption discussions may lead to total overhaul of the whole legislation on PP.
Status Continued

- Latest Information:
  a) India is willing to make offers on government procurement in exchange for more EU flexibility on pesticide residues in food products from India;
  
  b) EU is threatening to withdraw access to EU’s PP from Indian companies who have invested in EU, if India does not give access to its PP market.
**Human Rights and Sustainable Development Chapter**

**Status**

- India may allow only a weak chapter or none at all.
- Earlier discussion that the SD chapter could be included just as a Preamble.
- Possibly not much discussion on this as currently known.
- The EU parliament is insistent on the SD chapter, will not ratify without it. However will they pass a weak SD chapter? Can be a deal-breaker.
**Process and Legal Issues**

- The FTA makes legally binding commitments, Review mechanism exists but difficult.
- The FTA can be approved by the Cabinet in India, no need for parliamentary ratification.
- It needs to be ratified by the European Parliament and ratification by National member states may be needed (?)
- Monitoring Mechanisms suggested by CSOs, EU. Monitoring of what? EU’s conduct, investors’, HR/SD chapter violations?