SNAPSHOT

EU – India: relations at the crossroads

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INTRODUCTION

What set out to be ambitious negotiations for a "Broad-Based Trade and Investment Agreement (BTIA)" between the EU and India has dragged on for over 6 years. While hopes of an EU-India Free Trade Agreement (FTA) by the end of 2013 have faded, there are signs that the first half of 2015 will provide some development once the new governments are sworn in after elections in India and the EU.

At present, the Indian government is ill-equipped to sign an FTA that has been so publicly criticised as anti-poor by the opposition. The criticism is harsh and at times misplaced, but effective for the UPA ruling coalition in Delhi, who cannot afford a bold economic step that could alienate vote-banks. EU leaders are getting understandably impatient but must see the 6 years in context.

This snapshot will shed light on the current negotiating positions of both India and the EU as well provide perspective on the timeframe by which an EU-India FTA could become a reality.

High potential

Today the EU and India are important trading partners. In 2011, trade between the two blocks had a value of €79.9 billion and in 2012 EU exports in goods amounted to €38.5 billion and in services to €11.5 billion.[1] EU investment to India reached €3 billion in 2010. Considering India is the second largest emerging economy with more than 1 billion inhabitants and the EU one of the largest markets globally, it is clear that the potential benefits for both partners are much larger. Therefore the EU and India began negotiations with the ambition that this agreement would be the first of its kind. For the EU this is the first with a large emerging economy and for India with a developed country.

Regardless of the potential opportunities in specific sectors, an FTA between the EU and India would demonstrate that trade agreements between two large economies with different levels of development are feasible. This would be an encouraging signal for the multilateral trading system, which currently undergoes a two-speed liberalisation with a multitude of FTAs between developed countries that leave out developing or emerging economies. A successful FTA with India could pave the way and be a model of a future multilateral trading round.

Negotiating approaches and challenges

The EU and India have different negotiating positions. While India is pushing for greater Mode 4 access (essentially labour mobility)[2] into Europe, the EU is demanding greater Mode 3 access (reduced foreign ownership restrictions in specific sectors) from India in return. The challenge here is the complexity of the differing scope and definitions of this access, not only between India and EU, but also within the EU member states. The EU and India are more like two federations, susceptible to the pulls and pressures of politics at the member state level. It is tempting to believe that negotiators in Delhi and Brussels have readied the support of their respective constituencies but this may not always be so. It therefore makes sense to cast the advocacy net wider and secure buy-in from all concerned stakeholders, across the political spectrum and regions, on the mutual benefits of an India-EU FTA.

Europe's ambitions

Interestingly, in late 2013, the EU launched a region-wide advocacy programme in South Asia to evangelize the values of the European Union. The EU clearly sees the value in winning minds and trust in the region, pre-requisites for any bi-lateral trade agreement. The EU also made clear that it expected substantial liberalisation efforts from the Indian side, to address the current level of disparity in tariff structures in both jurisdictions. Reducing tariffs and opening sectors to foreign players offers European companies opportunities to tap into one of the largest and fastest growing markets in the world.

The EU has been prudent in this pursuit and accepted that the agreement would result in higher benefits for India. Some European industry leaders, particularly in the pharmaceutical, alcoholic beverages, textiles, financial services and chemical sectors, have passionately argued in favour of the EU-India FTA as it would offer much needed market access for European players. Private participation in public procurement, IPR protection and investment protection mechanisms are

[1] DG Trade http://ec.europa.eu/trade/policy/countries-and-regions/countries/india/

[2] Working Paper No. 396 of IIM-Bangalore project "Developing a knowledge base for policymaking on India-EU migration" by Prof. Rupa Chanda. Project Financed by European Commission (EC)

all subjects where the EU wants more safeguards than currently being offered by India.

Indian perspective

India on the other hand is pushing for free movement of natural persons within the EU and greater concessions on the status of commercial presence in the EU. Labour mobility in the EU is a politically sensitive subject that is compounded by the fact that member states can exercise a veto despite an agreement at the EU level.

India is pushing the EU to open the services, Information technology enabled services (ITES) and pharmaceutical sectors to Indian players and professionals. The grant of a data-secure nation status is another significant demand from India that is currently being debated by both parties.

The stickiest topic in the negotiations has been around India's public health and patent regime. If unresolved, it could prove to be a stumbling block and the single reason why an EU-India FTA would remain unsigned. Public health and access to affordable medicines is a politically loaded subject and one where India has dug its heels in and ruled against patent regimes favoured by European multinational companies.

It is clear that the EU will need to offer some concessions in some of these areas while exercising flexibility in its own demands, in return for greater India market access.

Progress so far

After 14 rounds of negotiations, the partners have found agreement on many issues and about 95% of tariff lines, leaving open some critical sectors such as automotive, alcoholic beverages and dairy products.

At the end of October 2013, a Delegation of the European Parliament visited India to discuss the progress of the negotiations. During the meeting, Members of the European Delegation hinted that the outstanding reform of the Indian insurance sector could be a decisive factor in concluding the negotiations. In particular, the EU wants a higher cap on FDI in the insurance sector and increased voting rights of foreign investors. These changes would require an act of legislation being passed by the Indian parliament. The Insurance Laws (Amendment) Bill 2008, which would address these concerns, has been drafted and is currently pending before the Indian parliament where it has been for the last four years. The government has been unable to table and pass it into law due to obstructionist opposition and difficult coalition partners. A new government in 2014 would hopefully table and pass this long-pending important piece of legislation, removing a significant hurdle to the EU-India FTA.

Another concern is private participation in public procurement. India needs to expend a significant amount of energy and resources to reform public procurement policies and processes, including the change of existing legislation. This may take a lot more time than that devoted to insurance sector reform. It may be prudent to indicate soft timelines for public procurement reform for the sake of a speedy conclusion to the negotiations.

Furthermore, there are still open issues in the very important area of services, including India's priority areas such as Mode 4 access and data secure status.

The way forward

Both partners, India and the EU, are at different levels of development and market maturity. India is a messy democracy unlike China, with high controls and state-ownership in many sectors. While India has always reiterated that it is committed to further economic liberalisation, changes are required in the underlying legislative framework, which requires both time and patience.

The new Indian government will have the political equity to push through some significant reforms in the first year of its formation, particularly those that attract foreign investment.

The new European Commission that will presumably enter into office in November 2014 is unlikely to change its position towards the FTA. In contrast the new European Parliament that will have to approve the agreement is likely to take a more critical stance towards free trade than the current Parliament with the Socialist Group gaining ground. This could result in pressure to include stronger provisions on sustainability into the agreement.

Both sides will have to undertake advocacy efforts and engage with a wider set of stakeholders to frame the benefits of the EU-India FTA in the right manner and respond to expressed concerns from some of the stakeholders.

Our understanding is that significant amount of work still needs to be done before the EU-India FTA can become a reality. With the necessary support from stakeholders and political players, the negotiations could look to be finalized within 2-3 years.

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