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EU, India miles apart on FTA - and European Parliament contributes to widen it

The sixth round of EU-India trade negotiation held in New Delhi from 17-19 March ended without any substantial progress – the bone of contention continuing to be the non-tariff issues. India is reported to have offered phased out duty on imports of 90 per cent of goods and services from the European Union, but has demanded that in return the EU should offer duty-free access to 95 per cent of the outward trade from India. According to EU sources, New Delhi is seeking higher duty-free access for its goods and services in the 27-nation European bloc than it is willing to offer, contending that the developing countries need more space for protecting their vulnerable sections of economy than the rich nations. The EU is India's largest economic partner and bilateral EU-India trade is expected to exceed 70.7 billion Euro by 2010 and to 160.6 billion Euro by 2015. Although EU is India's largest trading partner counting for around 21 per cent of trade and FDI from the EU into India has also grown considerably in recent years, yet the EU's economic ties with India are yet to achieve their full potential with total FDI into India still amounting to only 1 percent of EU outflows and being less than a tenth of that into China.

The FTA negotiation took place in the backdrop of the adoption of EP's Trade Committee Report by the European Parliament (http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2009-0189+0+DOC+XML+V0//EN&language=EN) on 26 March 2009 in which the European Parliament had expressed its disappointment over the slow pace of progress in the trade negotiation. The Committee had expressed that it would like to see the FTA signed by 2010. The EICC views many aspects of the trade committee report as misguided and directionless having the potentials to derail the progress made so far in the negotiations. It also sees the report as factually incorrect, technically biased and politically motivated without due respect to the strategic partnership that EU and India signed in 2004, and feels that some of the issues the trade committee has mentioned have exceeded the general understanding on the terms of reference and the principles of fair negotiations. In June 2007, the EU and the Government of India started negotiating a 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. European Parliament Members (MEPs) have put strict parameters for the FTA negotiations with India by linking trade with human rights, core labour standards and other environment issues in the disguise of protectionism. The report drafted by British member of the European Parliament Mr. Sajjad Karim, calls for conclusion of an FTA between the EU and India which would improve market access for goods and services, covering largely all trade issues, except for public procurement that India is not willing to include in the FTA. The report called on the European Union and India to ensure that commitments under the FTA did not preclude access to essential medicines whilst India is developing its capacity from a generic to a research based industry.

Concerned with the effects of FTAs, several Civil Society Groups in India have come together under the banner of a Forum on FTAs, a coalition of over 70 organizations - trade unions, peoples movements, NGOs and eminent individuals have (opposed the FTA, and have) called for the halt of EU-India FTA negotiations. According to the CSG, the negotiating agenda covers a range of issues which would undermine the policy space of Indian state thus adversely affecting the livelihoods of millions and will necessitate regressive amendment of laws and policies that protect the rights of farmers, workers, small and medium enterprises, among others; and will undermine the country's environmental security. Further, according to the CSG, the MEPs have proposed strict intellectual property enforcement standards, which go beyond the WTO Agreement on TRIPS. During the seminar on *"Tapping Business Opportunities arising from EU-India FTA"* jointly organized by the EICC and EP's Rapporteur MEP Sajjad Karim on November 11, 2008 in the European Parliament, the EICC had called EU not to adopt protectionist approach (http://www.eicc.be/EICC%20Newsletter%20December%202008.pdf) to the Free Trade negotiation and see India's stand in the spirit of strategic partnership and in the right perspective.

Call it *"Nano"* or *"Nano Europa"*, a rose is a rose

Tata Nano had its first date with Indian roads on 23 March 2009 in Mumbai when Tata Motors launched the much awaited Nano, slated to be the world's cheapest car at less than 1600 Euros. The formal launch came 15 months after the tiny, snub-nosed car debuted at a glittering world Auto Expo in Delhi in 2008, is seen as a determined effort by the Tata Motors to meet its promises and expectation of the people and industry to launch in the first quarter of 2009. The Nano captured global headlines for its ultra-cheap pricing, and later when its manufacturing plant had to be shifted from West Bengal to Gujarat. Tata Motors created waves at the Geneva Auto Show last month by displaying the international version of Tata Nano. Tata group chairman Mr. Ratan Tata had declared that Nano would come on the European market by 2011 in the name *Nano Europa*. Unlike the Indian version, the Europa will feature ABS, driver and passenger side airbags and an electronic stability package. It will also have a three-cylinder engine so that it can keep pace with expressway speeds, unlike the Indian two-cylinder version. Nano has generated wide interest in developed countries since it's unveiling and its presentation in Geneva Auto shows. The car symbolizes the global auto industry's rush to create affordable, lower emission vehicles to tap developing nations. Nano may go on to break all sales and booking records but more importantly it would well be the car which would shape motoring for the masses as the Ford Model T did 100 years ago.

What a difference a year has made in the life of Tata Motors. In early 2008, the company unveiled its Nano to a rapturous media reception of super-cheap cars for the masses. Just weeks later, Tata Motors acquired the Jaguar and Land Rover brands for $2.3 billion from Ford Motor Co in a blaze of glory, and the company revelled in the global spotlight. According to analysts, the high fuel and commodity costs that made the Nano imperative a year ago have faded somewhat, but its place in the history books is still secure, with a popular following that could rival the Beetle, Mini and Fiat 500. Tata has lost some momentum because of the delays, however on the positive side, interest rates on vehicle loans have come down a bit and material costs have also come down, so that's two things they don't have to worry about. Further, oil is below $50 a barrel, after having topped $100 at the time of Nano's unveiling, while steel prices have more than halved since mid-2008. Combined with lower interest rates, vehicle sales in India had their best month in four months in February. So, everything seems to be going the Tata way.

Trademark registry process in India is likely to see sea changes

The trademark registry process in India is likely to be decentralized soon and its offices would be able to issue trademark certificates independently in order to expedite and ease the decision on trademark applications. A trademark is a sign or combination of signs that distinguish goods or services of one person or enterprise from those of another. Its origin dates back to ancient times, when craftsmen reproduced their signatures, or "marks" on their artistic or utilitarian products. The first trademark law in India known as the Trade Marks Act, 1940 was passed in the year 1940. This law was subsequently replaced by the Trade and Merchandise Act, 1958. Thereafter the Government of India several times amended this Act in order to bring the Indian trademark law in compliance with its TRIPS obligations. A trademark registration in India gives exclusive proprietary rights to the rights holder for protection of their trademark in India. However as the Indian legal system is based on the common law system, even an unregistered trademark is entitled to protection and the rights holder of the unregistered trademark can initiate action against a third party.

With India having liberalized many sectors of its economy, there is a lot of interest amongst various businesses to set up a base in India or to sell their products or services in India. However a major concern for them is protection of their Intellectual Property (IP). Although the Indian legal framework has improved, India is still seen as weak in IP enforcement. Many foreign and domestic Applicants have been able to successfully register their marks in India and Indian courts have upheld many of those registrations and granted favourable decisions to rights holders. At present, there are five trademark offices in the country located in New Delhi, Mumbai, Kolkata, Chennai and Ahmedabad. Currently, only Mumbai office, can issue certificates for all applications submitted before different patent offices. But under the new process, all the five offices would be entitled to issue trademark certificates which will save both time and money. Further, the patent office is preparing to become fully modernized and digitalized by 2011. India aspires to have a world-class intellectual property administrative system, which would be fully modern and digital.

Ericsson finds India's telecom market as fantastic as US and China

With more than 10 million new phone connections being added every month in India, which at present is on par with markets like the US and China, India may become the fastest growing market for multinational telecom equipment vendor Ericsson. According to the company sources, India is contributing eight per cent of company's revenues, which is on par with North America and China. In 2008, Nokia - the world's largest cell phone maker - had announced that India surpassed the US to become the second biggest market for the company after China. Ericsson, a Swedish telecom vendor, is a leading network provider adding a base station (used by mobile operators for offering wireless services) in India every nine minutes on behalf of different service providers like Airtel, Vodafone, Idea and BSNL among others. Ericsson has a manufacturing facility in Rajasthan. It is therefore no surprise why Nokia, Ericsson are eyeing India's MVNO market. According to a report, raft of foreign telcos, hardware vendors hope to capitalize after government opens door to virtual operators. The MNCs are considering offering mobile services in India, after local regulators gave the go-ahead for MVNOs to enter the market. Being able to enter a huge market with a population of 1.2 billion people when the mobile penetration rate is extremely low at around 26% is certainly a dream prospect for MVNOs, and many are finding it hard to resist. In the face of the global slowdown, Ericsson embarked upon a major cost cutting exercise which has saved the company 6.5 billion dollars in 2008. It has further targeted cost savings to the tune of 10billion Swedish Krona over the next 18 months. Within the country, Ericsson is pinning hopes on 3G mobile telephony, which has been delayed due to some administrative reasons.

Net overseas investment in India tops $62 billion

Net claim of non-residents on India as reflected by the net international investment position (assets – liabilities) as of end-September 2008, increased by $10.2 billion to $62.2 billion from $52.0 billion at end-June 2008. The total external financial assets of the country declined by $19.7 billion to $358.2 billion as of end-September 2008 over the previous quarter mainly due to fall in reserve assets to the tune of $25.8 billion. Among the other components of external financial assets, direct investment abroad increased by $3.2 billion over the previous quarter to $55.9 billion as of end-September 2008. Other investment increased by $2.9 billion over end-June 2008 and stood at $15.4 billion at end-September 2008. The international investment position (IIP), compiled at the end of a specific period is the statement of the stock of external financial assets and liabilities of a country. The financial assets consist of the country's financial claims on non-residents and financial liabilities consist of the country's financial liabilities to non-residents. These transactions are classified according to institutional resident sectors, namely, monetary authority, government, banks, and other sectors, including corporate sector. The net international investment position (the stock of external financial assets less the stock of external financial liabilities) shows the difference between what an economy owns in relation to what it owes. As per the Special Data Dissemination Standard of the International Monetary Fund (IMF), data on IIP are to be disseminated on annual basis (quarterly encouraged) with a time lag of two quarters. In India, since the quarter end-June 2006 onwards, the IIP is being disseminated on quarterly basis with a lag of less than two quarters. The quarterly IIP as at end-June 2008 was released on RBI website on 10 December 2008.

New visa restrictions on Indian professionals will impact every UK Company

Britain is putting in place new immigration restrictions on professionals from India and other non-EU countries. It is learnt that from April, the basic requirements to enter Britain under the Tier 1 category (highly-skilled) of the points-based immigration system will be raised. Over 25,000 people, including many from India, last year entered Britain under Tier 1 system--the route which offers access to Britain's labour markets to highly skilled individuals, such as scientists and entrepreneurs, who can come in without a specific job offer. The qualification and minimum salary levels (drawn before coming to the UK) for Indian and non-EU professionals is likely to be raised to masters degree and 20,000 pounds from the current requirement of undergraduate degree and 17,000 pounds. The government is expected to announce the new measures as part of a 10-point plan which aims at cutting overall levels of immigration by next year. Only those industries officially recognised as having skills shortage will be able to recruit from outside the European Union. Other changes could include migrants' families banned from Britain. The plans according to the ministry are part of a new drive to use the flexibility of the government's "points-based" system. The Indian government has repeatedly raised the issue of visa barriers hindering Indian companies legitimately doing business in the UK at the highest levels. One estimate says work permits issued to Indians doubled in 2008 to almost 50,000 in total. A case to limit overseas workers to shortage sectors only is likely to affect companies in the ICT, professional services, and other high-end sectors across the spectrum, as most of these don't figure on the periodically updated shortage lists. Based on the Migration Advisory Committee last report, overseas companies were able to use shortage sectors for only about 9% of total overseas recruitment in 2007 while the rest had to meet the resident labour test. The Think London, London's main inward investment agency, has said that the change in rules for skilled migrant workers will have an impact on every UK-based company that is employing foreign skilled workers, including overseas companies in London. FDI by overseas companies accounts for 13% of the total jobs in London, about 500,000, according to Think London figures.

EICC calls for harmonization of Visa policy of EU countries

The EICC has criticized the restrictive visa policy of the European Union countries to Indian business people. In a statement the Secretary General Sunil Prasad has said that the rigid and unhelpful attitude of EU member countries' goes against the spirit of EU-India strategic partnership as due to the visa restriction it has become practically impossible for Indian business people to fulfil setting up businesses in Europe and also to conclude any business collaboration. Following increasing complaints by Indian businessmen facing problems in getting EU Schengen visa and the high-handed manner in which they are sometimes treated, particularly at airports and border crossing points by immigration officials in Europe, the Secretary General expressed his disappointment. The Secretary General decried that five years on after the signing of the strategic partnership, the visa problem is still crying for a solution. According to the Secretary General, on one hand the EU wants the bilateral trade with India to reach 160 billion Euros by 2015 and free trade agreement signed by 2010 and on the other hand it is creating road blocks and preventing Indian business to enhance trade with EU. This approach of the visa issue to Indian business is going to be the single most spoiling factor to achieve this target, he said. He also called for harmonization of visa procedures by the EU counties in India and asked the EU countries to explore effective means to improve the system so that the synergy to reinforce improving trade between EU and India is met as according to him, at this time of economic recession in Europe, EU needs business collaboration and improving trade with India more than what India needs from Europe. Therefore, this issue according to the Secretary General, needs a sense of urgency in the EU countries,

3 year lock-in for FDI in real estate, rules FIPB

Foreign investors in Indian real estate cannot sell their stakes to another foreign investor before three years, according to the Foreign Investment Promotion Board (FIPB), the body that clears such proposals. With this announcement the FIPB has overruled a provision in FDI policy that exempts foreign players from the rule in cases where fund transfer is from one non-resident to another. Till now, the three-year lock-in was applicable only on foreign investment in real estate and not on investors. The FIPB view is contrary to the stand taken by the department of industrial policy and promotion (Dipp), the nodal agency that formulates FDI rules in the country. Dipp's view is that a foreign investor can repatriate funds if it offloads its stake to another foreign investor as the actual investment in a project would remain intact and only its ownership would change. "Though Press Note 2 of 2005 has an enabling clause to permit sale of investment between two non-residents before the end of lock in, it has not been allowed so far," a senior official in the commerce and industry ministry has said.

The Indian Government has allowed FDIs for several industries in the recent past. FDI in Real estate is being permitted since January 2002. Despite the fact that it is almost a year, since the FDI was allowed in Real Estate, the response is not encouraging. FDI in real estate can create major inflows of funds that can enhance domestic investment to achieve a higher level of real estate development. FDI can certainly bring in the funds at reasonably cheaper rates, besides new ideas and technologies, which would enhance the efficiency of the Indian construction industry. A major part of the cumbersome procedures of the government and RBI are simplified with the FDI policy. So, the impact on the real estate industry can be significant, leading to increased competition levels among the local developers, in terms of price, quality and timing. Under PN 2, the government allows up to 100% FDI in real estate projects with certain conditions like a three-year lock-in on investments, minimum capitalization of $5 million and a minimum project size of 10 hectares.