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No blanket ban by EU on ayurvedic medicines: Azad

PTI

New Delhi, August 02: The European Union has not imposed any blanket ban on Ayurvedic medicines. It has, however, formulated a directive on traditional herbal medicinal products (THMPD), which has restrictive impact on India's exports of herbal medicinal products to EU, Health Minister Ghulam Nabi Azad said in the Rajya Sabha today. In reply to a written question, the minister said Ayurvedic products are currently exported as dietary supplements, for which as of now, there is no registration requirement in most of the countries. However, some countries require notification of such products. Many products have been notified in different countries (Italy, Belgium, Finland and others) by some Indian companies, he said. The minister said India has been doing bilateral consultation with the European Union on Traditional Herbal Medicinal Products Directive since 2004 and has raised its concerns on this issue in the Technical Barriers to Trade (TBT) Committee of the WTO.

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Hina hopeful of getting EU package

Anita Joshua, The Hindu

2 August 2011, Islamabad: Buoyed by her India visit, Pakistan Foreign Minister Hina Rabbani Khar on Monday was hopeful of getting the time-bound Pakistan-specific European Union (EU) package that New Delhi has been blocking for nearly a year now. Briefing journalists here along with Polish Foreign Minister Radoslaw Sikorski, she said that after the bilateral visit to India, Pakistan was hopeful of getting that package. Following last year's devastating floods, the EU had offered trade concessions for a year to help Pakistan's textile industry tide over the difficulties caused by the deluge. India's contention has been that there is no guarantee the waiver will benefit the flood-affectees. Also, it would set a precedent as EU has never in the past made such a concession for a natural disaster. Though India, Bangladesh and Peru are blocking this in the WTO Committee, Pakistan believes that if New Delhi withdraws its opposition, the other two countries will come around. Making an oblique reference to India, Mr. Sikorski said the EU had offered the trade concession to Pakistan as the best possible deal for the situation facing the country, but it needed consensus within the World Trade Organisation (WTO). “One of your neighbours has objections,” he said; adding that Poland would continue with its efforts to “unblock that which is blocked at [the] WTO.” Poland has just taken on the rotational presidency of the EU, and Mr. Sikorski is here both as a representative of his country and on behalf of the Union's High Representative for Foreign Affairs and Security Catherine Ashton. Mr. Sikorski – who had visited India last month – was appreciative of Pakistan's efforts to normalise relations with its neighbours. Stating that it is particularly difficult to do so when there is a history, he cited Poland's own difficulties with its neighbours. The first ever Polish Foreign Minister to visit Pakistan, Mr. Sikorski was particularly appreciative of Pakistan's role in the collapse of the Soviet Union that helped free Poland. “Poland is thankful to Pakistan for what it did then by siding with the free world. You have paid a heavy price for it and we feel your pain.” Mr. Sikorski – who met President Asif Ali Zardari and Prime Minister Syed Yusuf Raza Gilani – said the Pakistani leadership had made it clear that they do not want charity but market access.

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The danger of a trade war

Livemint

21 September 2011: The European Union (EU) plans to impose a carbon emissions levy on all airlines that fly over its territory beginning 1 January next year. The decision could not have been taken at a more inopportune time.

Under the EU Emission Trading Scheme (ETS), airlines will have to account for carbon dioxide emissions. They will have to pay fines in case they do not make allowances for emissions. The ETS will unfold in a phased manner over the next two to three years but there is no denying that once in place, it will hit aviation companies.

Had the matter been one of purely implementing a set of environment-friendly regulations, the protests would have muted after a while. The problem is that this is a trade issue: the EU is loath to apply these rules to European airlines alone as it will hit them adversely, hence it plans to hit everyone equally. This is a pernicious argument.

At this moment, the world can ill-afford a thoughtless scheme such as this one. For one, EU-ETS has the potential to further complicate the next round of global trade liberalization and also bilateral trade agreements. For example, India could very well retaliate by creating hurdles in the EU-India free trade agreement (FTA). This is because, Indian aviation companies are already in financial trouble and they can do without more problems.

Then the proposal is self-defeating for the EU itself. Chances are that aviation hubs such as Frankfurt, Brussels and others will lose out to their rivals outside the EU. Business can easily move to these destinations and worse, the possibility of European airlines being discriminated against cannot be ruled out.

India, the US and other countries have taken a lead against EU-ETS. As reported in Mint today, New Delhi has invited several countries for a round of consultation and coordination. A joint declaration condemning the EU move will be issued. This ought to be just the first step. In case the EU persists with its plan, more realistic steps may need to be taken to dissuade it.

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Utopia lacks sponsors: FTA talks with EU resume without drive

Pallavi Aiyar, Business Standard

September 13, 2011, Brussels: Trade can be a powerful force for economic and social good if the terms on which it is conducted are negotiated fairly. Theoretically, genuine free trade would eliminate borders and boundaries, inviting us to imagine a world where goods, peoples and ideas could flow unimpeded in beneficial symbiosis.

This would be a world where visa queues had lost their power to terrorise. Where Indian architects could, should they so desire, work on projects in Florence and Spanish lawyers argue cases in Mumbai. Where a Belgian postman might slurp at an Alphonso mango on a Sunday afternoon out at the Grand Place, even as a techie in faraway Bangalore opens a fizzy can of Belgium's famous Lambic beer, both without breaking the bank.

This week, another attempt to try and inch towards realising some semblance of this ideal is taking place in the bureaucratic sprawl of the European Union's (EU's) headquarters here. The chief negotiators of the ongoing India-EU free trade agreement (FTA) discussions are meeting here on Monday and tomorrow. The two sides continue to circle each other like weary, but still-wary pugilists.

Deadline after deadline for concluding the deal have been missed since negotiations were launched in 2007. And, despite encouraging noises by trade ministers as to the imminent signing of an agreement, negotiators privately admit to a deadlock.

With Manmohan Singh's United Progressive Alliance (UPA) government besieged by hunger strikers and charges of corruption on the one hand, and an EU beleaguered by fiscal crises and internecine squabbling amongst member states on the other, the India-EU FTA appears to have run out of political steam. A source close to the negotiations on the Indian side reasons that if talks are left to bureaucrats, they will argue till hell freezes over without a result. A political push is what is needed to kick-start what is a politically complicated deal for both parties.

Grinding gears

But, given the current environment in India and the EU, politicians are wont to step cautiously and the political capital that may accrue long-term from an FTA is outweighed by the political risk it will engender in the short term.

As a result, the talks are floundering, with the positions of both sides known, but few compromises in sight. Cars are a particularly sticky point. The Europeans claim they want a 100 percent elimination of tariffs in the auto sector. Indians scoff that this is a fantasy.

"How can we be expected to come down to zero, when our tariffs are as high as 60 per cent? If we are being asked for the impossible, it shows they (the EU side) are not serious," said one source. Hope had centred on a proposal whereby tariffs on high-end, luxury cars in India are abolished, while small and medium car makers retain a degree of protection. While this might be acceptable to some of Germany's upscale auto manufacturers, small car makers in France and Italy are reportedly loathe to agree. The Indian auto industry is unlikely to acquiesce easily, either.

It's not only the chapter on trade in goods that is at an impasse. Formal offers have not even been exchanged when it comes to the arguably more complicated chapter on trade in services. The EU is asking for greater access to a range of sectors, including insurance, banking, legal services and retail. But Delhi is firm that any demands necessitating legislative changes in India, as greater access in the insurance and legal services sectors would, are a red line that cannot be crossed.

'Substance'

Then, EU officials huff in response, there is no point in negotiating an FTA that lacks "substance." "Substance" has emerged as the mantra of choice for the EU side, the argument being that Europe is only interested in an "ambitious" agreement.

India's free trade deals with Japan and Korea, where cars were kept off the table, are held up as examples of agreements lacking in substance. The India-South Korea pact for instance, only included the phasing out of duties on 85 per cent of Korean goods and 93 percent of Indian products.

In contrast, the recently concluded EU-South Korea FTA banishes duties from 99 per cent of Korean imports in Europe and 96 per cent of European exports to Korea. The Europeans say they want a similar level of ambition with the India deal.

The Indians argue that given their high levels of existent tariffs, this is unrealistic. Since the EU's tariffs are already much lower than India's, any agreement will of necessity pinch India more. Delhi, therefore, insists that Brussels accept an asymmetry in the level of tariff reduction.

EU officials counter that while this might, in principle be acceptable, what is important is what sectors are included in the tariffs that are in fact scrapped. In other words, cars, once again.

Meanwhile, the Europeans have yet to make clear their position on one of India's major demands, relating to the temporary stay in the EU of highly skilled Indian service providers like information technology and financial services professionals, architects and so on. An offer to facilitate the movement of Indian professionals within the EU has been the expected trump card that Brussels will play in exchange for concessions from the Indian side.

However, Indian officials say there is still little clarity on what the EU will be able to deliver in this respect, given that visas and immigration are a member-state competency rather than one that the European Commission can directly negotiate. The spectre of an army of "cheap" Indian labour marching into Europe and taking away local jobs is often raised by critics of the FTA which makes it politically very sensitive, given the high levels of unemployment experienced by many EU nations.

An India-EU FTA would not only boost trade — Federation of Indian Chamber of Commerce and Industry estimates that bilateral trade could touch $572 billion by 2015 if the deal goes through — but would also have geo-strategic implications as Europe looks to strengthen its relationship with strategic partners in a new world of emerging economies.

The reality is that despite all its putative benefits, in the absence of a strong political patron on either side, the deal between the world's largest economy and one of its fastest growing competitors looks set to languish in negotiating limbo.

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Europe threatens to break off India free-trade talks

Agence France Presse

27 September 2011: European governments are threatening to break off negotiations with India on a free-trade deal the EU had hoped would be worth 175 billion euros a year, an EU report revealed on Tuesday. Four years after talks began with New Delhi, frustrated European Union trade ministers have taken the decision to signal a fixed deadline for the deal of February 2012, at an already delayed bilateral summit. Otherwise, they say, the offer would come off the table. "A message will be passed to India that if by the time of the summit there is no agreement, there would need to be a pause in the negotiations," ministers agreed according to an official report on the talks seen by AFP. An EU official confirmed the drastic threat, and said that of the 27 EU states, only Denmark spoke out against the high-risk strategy during the talks on Monday. EU Trade Commissioner Karel De Gucht debriefed the ministers on a plan for fall-back positions which could see the EU accept less than it wanted in certain core areas. Painstaking negotiations have been dragged down by big disagreements over "cars, wines, spirits and services," according to an official who attended the talks. Given the mounting scale of the problems, the ministers backed the commission negotiators' so-called "landing zones" idea, but insisted that such "concessions will prejudice the EU in the long term," the official report read. De Gucht hinted at a press conference on Monday that "at a certain point, it requires pragmatism" to reach an agreement. His spokesman, John Clancy, said De Gucht only took the ministers' "general positions" on this fallback planning. In an effort to jump-start the flagging negotiations, European Commission chief Jose Manuel Barroso will meet Indian Prime Minister Manmohan Singh on the sidelines of the G20 summit in Cannes, France, in November, and will also travel to Asia before the end of 2011. Thirteen rounds of talks have been held since India and the EU started discussing a comprehensive market-opening pact in June 2007 to boost bilateral commerce. The two sides originally hoped to conclude a wide-ranging deal by 2010 that could boost bilateral trade to $237 billion (175 billion euros) annually by 2015 from around $92 billion currently. But India and the EU have already been at odds over intellectual property rights involving life-saving generic HIV/AIDS drugs and other medicines which are produced by Indian companies. UNAIDS, the Joint United Nations Programme on HIV and AIDS, has expressed fears that EU proposals for the agreement could make generic HIV drugs unaffordable -- something that New Delhi has pledged to resist.

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Now, EU raises concerns over telecom manufacturing policy

Business Line (The Hindu)

30 September 2011: The European Union has raised concerns against the proposed telecom manufacturing policy on grounds that it may flout WTO norms.

In a letter to the Secretary, Department of Telecom, the EU said that though India has the right to define a domestic manufacturing policy, it should respect the obligations under international law.

The Ministry of Communication and IT had floated a proposal to reserve 30 per cent of all electronic equipment procurement to items manufactured in India. This includes telecom gear and IT peripherals. When the policy is announced, telecom companies, both private and public sector, will have to buy 30 per cent of their hardware from those that have manufacturing base in the country or face penalty. The policy also gives fiscal benefits to local products in terms lower taxes.

If implemented, it will have major impact on European manufacturers, including NokiaSiemens, Ericsson and Alcatel-Lucent.

"The proposed preferential access measures favouring Indian manufactured products appear to run counter to Article III:4 of the GATT 1994, as such measures would result in imported products facing a less favourable treatment than that given to domestic like products," the EU letter said.

The letter signed by the Ambassadors of Italy, Finland, Denmark, France, Germany and Sweden has also been sent to the Commerce Ministry.

US seeks clarification

The US Government had also raised similar concerns over this issue earlier as the proposed policy will also impact American manufacturers such as Cisco, HP, Motorola and Dell. The US has specifically objected to bringing procurement by private companies within the ambit of the new policy.

The US has asked, "Could India please clarify how the preference regimes for domestic purchases carried out by private sector enterprises that are licensed by the Government qualify as 'products purchased for Governmental purposes' so as to constitute government procurement under the terms of the GATT Article III-8a?"

The US has asked this as part of the fifth Trade Policy Review of WTO. Under international trading protocols, WTO members are not allowed to give protection to local products except when procured by governmental agencies.

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India-EU free trade pact nearing conclusion: Sharma

PTI

New Delhi, October 13, 2011 -- India is hopeful of concluding a comprehensive free trade agreement with the European Union (EU) in the near future, as the negotiations are in advanced stage with the 27-nation bloc. "We are in the final stage...We were hoping to achieve it this year and I remain hopeful that we will able to do it within the next few months," Commerce and industry Minister Anand Sharma said here today. India is in talks with the EU, its biggest trading partner, since June 2007 for liberalising trade in goods, services and investment through a Broad-based Trade and Investment Agreement (BTIA). Already 13 rounds of talks have taken place. The FTA would involve slashing of duties on over 90 per cent of the trade and opening up of the mutual markets for services and investment. Officials from both sides have remained engaged in resolving differences on key issues like opening up of markets in auto and auto components, wines and spirits, and intellectual property rights and services. The two-way commerce stood at USD 75 billion in 2009-10. India has already implemented comprehensive FTAs with countries like Japan, Malaysia and South Korea.

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India-EU free trade pact likely by February

PTI

31 Oct, 2011, NEW DELHI: India and European Union are at an "intense" stage of negotiations for reaching the much-delayed free trade agreement, hoping that a deal can be struck before their annual summit in February. "Intense efforts are underway. Both the sides are determined to conclude the negotiations, preferably before India-EU Summit in February here," Commerce Secretary Rahul Khullar told media. Having held several rounds of talks, the two sides are likely to finalise their positions on opening of trade in services in November, sources said. With India's over 57 per cent Gross Domestic Product (GDP) coming from services, this area is of particular interest to New Delhi while negotiating trade opening deal with any country or a bloc. Besides, India-EU would hold bilateral talks in Geneva on the sidelines the WTO Ministerial meeting in December, they said. India is in talks with the EU, its biggest trading partner, since June 2007 for liberalising trade in goods, services and investment through a Broad-based Trade and Investment Agreement (BTIA). Already 13 rounds of talks have taken place. The difficult areas holding the BTIA are the EU's demand on India to slash duty in the automobile sector, high duties on liquor and wines. New Delhi is pressing for binding commitment on the number of visas which should be allowed to Indian professionals who go on short-term assignments to any of the the 27 nations. "The real challenge is how in the next two months, we can narrow our existing negotiations gap," the sources said. The trade pact would involve slashing of duties on over 90 per cent of the trade and opening up of the mutual markets for services and investment. Recently, European Commission director general of trade Jean-Luc Demarty met Khullar and discuss the progress in BTIA, besides other issues. The two-way commerce stood at USD 75 billion in 2009-10. India has already implemented comprehensive FTAs with countries like Japan, Malaysia and South Korea.

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India-EU trade pact 'unlikely' by Feb

Elizabeth Roche, Livemint

November 15 2011: In a sign that the ambitious India-European Union (EU) free trade agreement (FTA) could be delayed further, a senior European official said the pact was unlikely to be signed in February when India is scheduled to host the annual India-EU summit.

"I don't think we can sign the agreement no matter what happens by the summit" on 10 February, said David O'Sullivan, chief operating officer of the European External Action Service. Sullivan assists Catherine Ashton, the EU high representative for foreign affairs and security policy.

"I think the idea would be to say that we have successfully concluded the negotiations by the time of the summit," said O'Sullivan, who is in India for the first India-EU foreign policy consultations ahead of a proposed visit by Ashton in January. Ashton's visit is expected to prepare the ground for the India-EU summit in February.

"We are committed to the FTA with India. The negotiations are taking some time; and negotiations always take some time, especially trade negotiations," he said of the talks on the pact that began in 2007.

Indian automobile and wine associations are opposed to significant concessions to European multinational corporations, fearing loss of market and competitiveness. Differences over intellectual property rights (IPR) and government procurement are also yet to be resolved.

While the EU is keen to have greater market access to India, including a large number of agricultural products, India is keen on fewer restrictions on the temporary movement of Indians working in Europe.

"It is not a mystery. We need some liberalization by India in automobile and a few sectors," Sullivan said in response to a query on the contentious issues involved in the negotiation.

The pact is India's most ambitious because the EU is already its largest trading partner. Annual bilateral trade between India and the European Union totals around €77 billion. India ranks ninth on the EU's list of major trading partners.

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EU to ease visa rules if India opens its market

Amiti Sen, ET Bureau

The European Union is ready to ease visa rules for professionals if India agrees to open up more of its sectors and markets.

November 22, 2011,New Delhi: The European Union is ready to ease visa rules for professionals if India agrees to open up more of its sectors and markets as part of a proposed free-trade agreement the two sides hope to sign early next year. While all 27 EU member states have approved liberalised visa norms for professionals, the Indian government could also allow entry to legal and accountancy pros, a commerce department official told ET, adding that New Delhi is open to lowering duties on costly spirits and automobiles as well. Chief negotiators from both sides are meeting next month in Brussels to finalise the agreement, scheduled to be signed during the India-EU summit in February. The EU is India's largest regional trading partner, accounting for $90 billion of trade in 2010-11, equally balanced between the two sides. European countries are also ready to do away with the contentious "labour market test" and take on individual commitments for increased visas for various categories of Indian professionals. "The labour market test is an inhibiting clause that disincentivises hiring of foreign professionals," said Arpita Mukherjee, professor, Icrier. Most EU countries give out work permits to foreigners only after ensuring that their own labour do not get left out. Employers in the EU have to advertise for a job locally for a specified amount of time before a foreign worker is allowed to fill up the post. Although some exceptions to the labour market test have been made for some highly skilled sectors in a few countries, it is mostly applied across sectors. For India, the big-ticket beneficiaries of the visa relaxation rule would be the information technology and the IT-enabled services sectors, the official said. Other gainers would include structural engineers, medical support services, architects, accountants and teachers. Commitment on a minimum number of visas to be issued by EU countries annually could cut both ways, said an expert in services trade at a Delhi-based research organisation. "Since it would be a kind of quota, we have to make sure that the commitment that we are getting is more than what is anyway allowed in these countries," he said. The commitment would be for both contractual service suppliers who visit a foreign country to fulfill a work contract as well as individual professionals. India's demand for free movement of professionals is known as Mode 4 in technical parlance while the EU, in return, wants greater openings in Mode 3, which means setting up of commercial presence. It wants professionals in sectors such as legal and accountancy to be allowed to set up practice in India. "There is a possibility of allowing legal professionals in some corporate segments, but it is being opposed big-time by large legal firms," the official said. The EU also wants commitments for allowing investments in both single brand and multibrand retail. "While the decision on allowing foreign investment in multi-brand retail or further easing in single brand will be applicable to all countries, the EU wants us to take on commitments in these so that the rules are not changed later," the official said. While India is open to slashing duties on high-end spirits such as Scotch, it wants to protect cheaper products like local wines. The government may also lower duties on automobiles, but the cuts are not expected to be very sharp.

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Telecom manufacturing policy sends negative signals, says EC

Thomas K Thomas, Hindu Business Line

New Delhi, Nov. 21: The European Commission has told the Communications and IT Minister, Mr Kapil Sibal, that the move to give preferential treatment to domestic manufacturers of telecom equipment raised questions about India's commitment to open and fair conditions of doing business.

In a letter to Mr Sibal, European Commission's Vice-President, Ms Neelie Kroes, said that the proposed manufacturing policy sent negative signals to the international business community and warned India of losing out on future innovations.

“The proposals fail to appreciate the way research and development is conducted and intellectual property developed, in today's world of widely distributed knowledge. By imposing local registration of IPR, India risks losing out on future innovation by shutting doors on innovation taking place interdependently across our economies,” Ms Kroes said in the letter.

Second letter

This is the second letter from the European Union on the issue. In September, the Ambassadors of Italy, Finland, Denmark, France, Germany and Sweden had raised concerns against the proposed telecom manufacturing policy on grounds that it may flout WTO norms.

The Ministry of Communication and IT had floated a proposal to reserve 30 per cent of all electronic equipment procurement to items manufactured in India. This includes telecom gear and IT peripherals. When the policy is announced, telecom companies, both private and public sector, will have to buy 30 per cent of their hardware from those that have manufacturing base in the country or face penalty. This goes up to 80 per cent by 2020. The policy also gives fiscal benefits to local products in terms lower taxes.

If implemented, it will have major impact on European manufacturers, including Nokia Siemens, Ericsson and Alcatel-Lucent.
“We strongly believe that implementation of these proposals will not only have the potential to harm the EU and its ICT industry, but it will not be in India's own interest. Indian consumers and SMEs will pay higher prices than needed if domestically manufactured telecom products are given preferential market access,” the latest letter from EC said.

The US Government had also raised similar concerns over this issue earlier as the proposed policy will also impact American manufacturers such as Cisco, HP, Motorola and Dell.

Local manufacturers

On the other hand, local manufacturers are pushing for more concessions in the proposed policy. According to the Telecom Equipment Manufacturing Association of India, the Government should be concerned about the huge import bill arising out of importing telecom gear.

They have also presented a case for creating an R&D fund that will be used to creating Indian IPR. Indian products account for just two per cent of the overall demand in the market estimated to be worth Rs 54,700 crore.

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India plans to retaliate against EU emission cap for airlines

Arun S, Business Line (The Hindu)

24 November 2011: India is considering taking multi-pronged retaliatory measures against the European Union over the latter's carbon-emission-cap norm from January 1, 2012, for all airlines operating within and into the EU. This is because the new emission caps would result in increased costs for airlines, including those from India such as Jet Airways, Kingfisher Airlines and Air India that have flights to the EU, leading to increased airfares. Besides, if the airlines pass on the compliance costs (including costs incurred on more fuel-efficient planes) by pushing up transportation prices of goods taken from India to Europe and vice-versa, it could make Indian exports uncompetitive. Incidentally, the norm comes at a time when most Indian airline companies are struggling financially. The proposed retaliatory measures by India could include litigation over the issue, annulment of some bilateral agreements, challenging the issue at the World Trade Organisation and raising the issue during the talks on the United Nations Framework Convention on Climate Change, official sources told Business Line. Some kind of retaliatory measure can be taken concerning any sector that is of interest to the EU, including airlines, they added. *NOT TO IMPACT INDIA-EU FTA* However, they said, the new EU norm is not likely to impact the ongoing India-EU Broad-based Trade and Investment Agreement as the issue is being taken up with the EU separately on a bilateral level by the Civil Aviation Ministry by co-ordinating with the Commerce Ministry. The International Civil Aviation Organisation had reportedly asked the EU to exempt non-EU airlines in its emissions trading system (ETS). This was on the lines of what India and many other countries had sought. Around 35 countries, including India, have opposed this EU norm on carbon-emission cap and have requested the EU to withdraw it, the sources said. “They (EU) can impose any measure on their (EU-based) airlines. But when the same is being extended to companies from other countries also, it will affect their obligations with their trading partners,” an official said, adding, however, that the new norm is not India-specific and has affected even countries such as the US and China. According to reports on the EU's ETS regulation, airlines from all nations would be taxed (they will have to buy extra carbon-emission allowances), if they exceed the specified emission cap while operating to and from the EU.

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India, EU reach an understanding over not detaining generic drugs from India

India Pharma

News 9 December 2011, New Delhi: Jyotiraditya M. Scindia, Minister of State for Commerce & Industry informing Rajya Sabha, the upper house of the Indian Parliament, said that India and European Union (EU) reached an 'Understanding' to guide border enforcement of intellectual property in the EU and thus will not detain Indian generic medicines while in transit through EU. It may be noted that India had initiated dispute settlement consultations on May 11, 2010 at the World Trade Organisation (WTO) with the European Union (EU) after several rounds of discussions directly with EU could not produce any results. The issue was taken up by India when generic medicines while in transit through EU were detained invoking the EC's Regulation 1383/2003 against goods suspected of infringing intellectual property rights (IPRs). As per the understanding reached between the two parties, EU has agreed to replace Regulation 1383/2003 with a new regulation. The European Commission has already approved a proposal for a new regulation and said that the proposed new regulation is being reflected upon in EU's Parliament.

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A European pill best avoided

S. Srinivasan, Business Line (The Hindu)

The proposed India-EU FTA will compromise our generics segment and health security.

January 3: Even as India's generic pharma industry establishes itself as a major supplier for developing countries, barriers are being put up to inhibit the free flow of trade. The WTO was set up to ensure that trade flows “as smoothly, predictably and freely as possible.” Its multilateral dispute-settling mechanism has been functioning reasonably well, though it has its share of critics.

All this is set to change with bilateral free trade agreements (FTAs). Secret negotiations have been on — since 2007, with early 2012 as the deadline — between the Government of India and EU for finalising the India-EU FTA. Indeed, one needs to ask why these negotiations are conducted without consulting Parliament and State Governments.

PROPOSED TRIPS REGIME

The basis of bilateral FTAs is reciprocity, but reciprocity between unequal partners never works — well, it always works against the interests of the less equal party. To illustrate how unequal: India's GDP is 3 per cent of the EU's GDP; while India accounts for just 1.8 per cent of the external trade of EU, the EU accounts for 20 per cent of India's trade; India's largest source of FDI is EU, while India accounts for 1 per cent of EU's total FDI.

The India-EU FTA aims to liberalise “substantially all trade” between the two trading blocks on a “reciprocal” basis and apart from trade in goods, the FTA will have substantive provisions on services, investment, public procurement, intellectual property (IP) rights and some other areas.

The proposals on IP are likely to create new hurdles for generic medicine manufacturers in particular. The IP measures demanded are ‘TRIPS Plus' — that is beyond what is mandated by TRIPS/WTO. These include data exclusivity, patent term extensions, enforcement measures, border measures, increase criminalisation of IP infringement under the guise of acting against “counterfeit” medicines.

Acceding to data exclusivity measures would delay entry of generics in India. It will require generic manufacturers to repeat the clinical trials already done by the originator company. Such an act would be a violation of human rights, where proving bio-equivalence to the originator's products would have sufficed.

In Guatemala, a study published in 2009 in Health Affairs concluded that IP measures on data exclusivity and patents of the CAFTA (Central American Free Trade Agreement) were “responsible for the removal of several lower-cost generic medicines from the market in Guatemala and for the denial of entry to a number of others.”

Another way to delay entry of generics — and this was being demanded earlier in the EU-India FTA talks — is the extension of patent term beyond the TRIPS-mandated 20 years, calculated usually from the date of filing of the patent. The move is to “compensate” for the time taken by the patent office to examine the patent and by the Drug Controller General of India to approve for marketing and manufacture.

BROADER PUNITIVE STEPS

Closely allied to these are IP enforcement measures: injunction provisions, border measures, and third party liability. Border measures in the proposed FTA legitimise the seizure of goods on visual inspection/mere suspicion of IP infringement, and even destroy seized goods — this is what happened in the several seizures of medicine exports from India to Africa/South America while transiting Amsterdam. This interferes with India's freedom to export generic medicines to countries in need and the right of such countries to import such medicines.

TRIPS allows for seizure only on violation of copyright/trademark and, that too, at the border only. The proposed TRIPS-Plus border measures applies not only to import, but to export, re-export, goods in transit and the duty of intermediaries to disclose information.

Also on the anvil is a proposal — called third party liability — to hold to task everybody involved in the supply, sale and manufacture of “counterfeit” goods. And this would make liable those in the trade chain as well as suppliers of bulk medicines and excipients used to make the medicine.

Injunction provisions being suggested in the FTA will make it incumbent on the Indian judiciary to give preference to IP status of medicines over the health rights of the poor, sometimes giving injunctions even before patent validity is established.

INVESTMENT PROPOSALS

Investment in EU-India FTA is being sought to be defined to include “IP rights, goodwill, technical processes and know-how as conferred by law.” Foreign investors, if the investment proposals go through, would be able to sue the Government of India if any measures (say price control or compulsory licensing) taken by the Government, are seen not to protect their investments (read IP / patent rights, or profits or “goodwill”).

The resulting arbitration will be before secret arbitral tribunals in places like London or Singapore. The decisions arrived at are binding and cannot be challenged under national laws.

Till date, at least 81 governments have been sued in more than 400 investment treaty arbitration claims. Millions, and in some cases billions, have been paid by governments to investors, as a result of such arbitration. Chapter 11 of the North American Free Trade Agreement (NAFTA) has helped North American investors sue Mexico, a developing country, and of course helped US investors sue the Canadian government and the other way around.

Investment proposals, first conceived in then West Germany, in 1957, are a “legal monster” that refuses to go away. Finally, the chickens have come home to roost with recent news of Germany's nuclear phase-out being challenged by the Swedish energy company, Vattenfall.

A Government of India that is reluctant to issue compulsory licenses will be further inhibited, when such draconian investment proposals are in place, to use TRIPS flexibilities for public health reasons.

Additional investment proposals are being sought in the name of “fair and equitable treatment” and “full protection and security” to investors. These terms are undefined as the case law on this is still a work in progress and it is left to the arbitral tribunals to determine what is “fair and equitable”. Arbitral decisions often aren't concerned with the public health motivations behind any regulatory action.

A related requirement that is being put forward is granting European investors the same treatment as domestic investors. This isn't fair, as governments giving preferential treatment to local stakeholders, say SSIs, can be sued. Indeed, some of the proposed “performance requirements” provisions make it illegal to ask foreign investors to use local inputs and local personnel.
At stake is access to low-priced medicines for millions of poor patients in Africa and Latin America who source medicines from India's generic medicine industry.

The EU Parliament routinely instructs the European Commission on what stands are to be taken on various contentious issues in the FTA. We would wish our Parliament and our courts take suo moto action to take the India-EU FTA out of the closet and put it in public domain, before letting the Government sign on the dotted line — and sign away, perchance, our health security, and the livelihoods of the poorest.

(The author is associated with LOCOST, Medico Friend Circle and All India Drug Action Network.)

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EU insists on government supply contracts

Amiti Sen,ET Bureau

11 Jan, 2012, NEW DELHI: The European Union (EU) has indicated that if India keeps government supply contracts out of the bilateral trade and investment agreement, it could affect flow of business to Indian joint ventures and subsidiaries established in the region. The Indian government makes purchases from other countries but has not made any commitment to continue doing so. The EU, which is negotiating the terms of the agreement with India, is keen on making it binding on India to do so. At a recent official-level meeting in Brussels, EU officials claimed that EU's purchases from non-EU sources was about 16% of total government sourcing done in the region, and not below 1% as claimed by research bodies in India and some other countries. "EU officials say that all firms in Europe that have investments from a foreign country are also to be considered as non-EU sources. By including government contracts going to such firms, the EU claims that foreign sourcing increases to 16%," an Indian official told ET. If India does not get into a bilateral government procurement agreement (GPA) with the EU, then Indian companies, including subsidiaries and joint ventures established in the 27 EU countries, could be deprived of the current business they are getting, the EU officials warned. Since India is not a part of the GPA of the World Trade Organisation, the EU could ban government sourcing from Indian companies, if it likes. The EU's annual procurement is estimated at $277 billion, against the global government sourcing valued at $1.3 trillion and India's $1.5 billion. "While the EU cannot discriminate on the basis of ownership of firms established in the region, it can certainly discriminate on the basis of sourcing that these firms do from foreign countries," said Abhijit Das, head, Centre for WTO Studies, IIFT. This means that if there is a subsidiary of an Indian company in the EU or a joint venture that sources from India, then the GPA allows banning such firms for bidding for government orders. Das, who recently concluded a study for the commerce department on the benefits of GPA, maintains that India has little to gain in the EU. Contesting the EU claim of 16% sourcing from non-EU countries, Das said that as per the EU's notification in the WTO's GPA committee in 2006, the sourcing was just 0.3%. "We do not know on what basis it is making its claim," Das said. Unfortunately, India's own data on the business that Indian joint ventures and subsidiaries in the EU get from the government is almost non-existent. "We have tried to get the data from Indian IT and other companies, but they are not forthcoming. The commerce department has to carry out a detailed study on the numbers to analyse the situation better," a government official said. The EU is keen to get into a GPA with India to ensure that the country does not stop its global purchasing at any point of time. "The Indian government does make purchases from foreign countries, but the country has not taken on any commitments in the area. The EU wants India to give a guarantee that the sourcing would not stop in the future," the official said.

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'Darjeeling Tea' tag: EU-India meet in February

Sutanuka Ghosal, ET Bureau

Kolkata: The European Union is all set to clear the air over its decision to allow some European blenders a five-year transition period for selling 100% Darjeeling tea in packet. EU lawyers will engage in a discussion with the Darjeeling tea industry, commerce ministry and Tea Board officials on February 10 to work out a solution to this issue which has irked Darjeeling tea producers. The EU notification says that for the existing blends mixing Darjeeling tea with non-Darjeeling tea, the EU regulation foresees a five-year transition period during which the term can continue to be used. After this period, these blends would have to be renamed. "This notification has come into effect from November 10, 2011. We had been pursuing the matter with the Union government as well as with lawyers in Germany, France and the UK for a review of the decision," said Sanjay Bansal, chairman, Ambootia group. The blenders have been handed a caveat in the sense that only those people whose products were in the market five years before October 14, 2009 can continue selling their blended product as Darjeeling tea for the next five years. EU has registered the term Darjeeling as a protected geographical indication (PGI) for black tea originating from the West Bengal region. It is the seventh non-EU product name to get a protected status within Europe, following Columbian coffee and five Chinese products. At least one of the stages of production, processing or preparation must take place in the specified area for the industry to obtain the label. EU's decision to grant PGI is being considered as a defining moment because nearly three-four million kg of made Darjeeling tea is exported to European countries. The 80-odd gardens in Darjeeling produce around 10 million kg of made tea annually but industry officials estimate that around 40 million kg gets sold as Darjeeling tea across the globe a year. In this light, the EU's decision is considered important. The process of granting a geographic indicator began with India according the GI status to Darjeeling tea in 2003. This was after the World Trade Organisation approved the Trade Related Intellectual Property Rights in 1995. Darjeeling tea has been added to over 1,000 names of agricultural products and foodstuffs protected as PGI in the EU. Meanwhile, Darjeeling tea industry has clocked a 12% increase in production in 2011.

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India-EU free trade agreement talks at ‘final, critical stage’

Elizabeth Roche, Livemint

Jan 16, New Delhi: Talks between India and the European Union (EU) to conclude a free trade agreement (FTA) have reached their “final, critical stage”, an EU statement said on Monday after negotiations between the two sides.

It appears unlikely though that the pact would be signed at the India-EU summit in February as planned.

“It is expected that the summit will endorse a tight roadmap for conclusion (of the FTA) in the coming months,” said the statement issued at the end of talks between the Indian foreign minister S.M. Krishna and EU high representative for foreign and security policy Catherine Ashton in Bangalore, the clearest indication yet that the pact would not be sealed at the summit.

The day-long Ashton-Krishna talks were aimed at setting the agenda ahead of the summit in New Delhi on 10 February, the statement said.

Both sides “reiterated our commitments to intensify our cooperation in diverse fields including trade and investment, movement of peoples, energy, science and technology and counter-terrorism”, according to a statement by India’s ministry of external affairs.

Talks for concluding the ambitious pact started in 2007 but have stalled over contentious issues such as tariffs and government procurement. Indian automobile and wine associations are opposed to significant concessions to European multinational firms, fearing loss of market share.

While the EU is keen to have greater market access in India, including a large number of agricultural products, India is keen on fewer restrictions on the temporary movement of Indians working in Europe. There are differences over intellectual property rights as well.

The EU as an economic bloc is India’s largest trade partner. In 2010, it imported goods worth €33.2 billion from India and exported goods worth €34.7 billion. Services exports to India stood at €9.8 billion and imports at €8.1 billion, according to EU figures.

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India-EU summit plans 'strict' road map for free trade pact

Amiti Sen, ET Bureau

Feb 2, 2012, NEW DELHI: The India-EU summit scheduled in New Delhi next week will lay down a 'strict' road-map for conclusion of the ambitious bilateral free trade pact and also strengthen cooperation in security. Commerce and industry minister Anand Sharma briefed Prime Minister Manmohan Singh on Wednesday on the progress made in the FTA negotiations and the areas that still need to be sorted out.

"The PM was briefed on the status of the India-EU agreement and by when it could be reasonably expected to be concluded," a government official told ET.

Both sides are expected to agree on working towards completing and signing the pact before the calendar year ends, the official added. "Both India and the EU were keen to end negotiations in time for the summit. Since it is clearly not happening, the next feasible time line seems to be before the year ends," he said. Prime Minister Singh, together with EU president Herman Van Rompuy and European Commission president Jose Manuel Barroso, are expected to announce a detailed road map for concluding the pact, officially known as the bilateral investment and trade agreement, at the summit scheduled on February 10.

Negotiators from both sides have reached an agreement broadly on almost all issues, but "last-mile" give and take still remains. India has agreed to reduce duties on automobiles and high-end liquor like Scotch, but the EU is still trying to persuade it to cut duties further on automobiles and also reduce taxes on wine.

India, on its part, is trying to get steeper commitments on opening up of the services sector by the EU. It has been promised higher number of professional visas and removal of the restrictive labour market test by the EU.

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Cars, software, services threaten EU-India trade deal

Sebastian Moffett and Matthias Williams, Reuters

** European automakers aim at expanding Indian market * Tariffs on European autos still high * Indian software industry wants better EU access * Full accord unlikely before summit as leaders had hoped*

Brussels/New Delhi, Feb 6 : Hopes of India and the European Union striking a free trade deal at a summit this week are fading fast, with differences over duties on cars and market access for software and service companies standing in the way of an accord.

At stake is an agreement that would create one of the world's largest free-trade zones by population - covering 1.8 billion, or more than a quarter, of the world's people.

Disagreement over duties on car imports, India's tariff on European cars is nearly 10 times greater than Europe's on Indian vehicles, and a dispute over access for Indian software companies to the EU market are set to scupper an agreement, with time running out on negotiations.

EU leaders will meet their Indian counterparts in New Delhi on Feb. 10, having declared at a summit last year that they hoped to sign a free-trade deal before the meeting.
Publicly, officials in both Brussels and New Delhi are remaining upbeat.
"We're trying to wrap things up, see what you can close, see what you can't close," said one senior Indian government official, speaking on condition of anonymity. "Things are slowly but surely falling into place."

But not everyone is hopeful. The EU ambassador to India suggested in January that the best that could be expected from the summit was a "political framework" for a deal further down the road, without a timeline being set.

With the Doha round of global trade talks effectively dead, the world's major economies are looking more to bilateral trade agreements. The European Union, the world's largest trading bloc by value, struck a deal with South Korea last year and is in negotiations with Japan, Canada, Malaysia and others.

For India, an Free Trade Agreement (FTA) would help its rapidly growing companies expand into the EU, the country's biggest trade partner, the buyer of more than 40 billion euros ($52 billion) worth of Indian goods and services in 2010. Europe, large parts of which probably sank into another recession last quarter, wants access to a vast, young, vibrant market of 1.3 billion potential customers.

Trade between the two is growing - the total value of EU-India goods and services exchanged was 86 billion euros in 2010. While trade with India represented just 2.4 percent of the EU's total, the percentage has been gradually increasing.

But while there are advantages to be gained on both sides from closer trade ties, the current economic fortunes of the two could not be more different.

SOMETHING FOR EVERYONE?

India, Asia's third-largest economy after China and Japan, has enjoyed two decades of rapid growth powered by IT and outsourcing, even if manufacturing has lagged, weighed down by red tape and creaky infrastructure.

Europe has been mired in financial difficulties, with rising unemployment and a debt crisis that has forced three countries to seek emergency loans and left several others on the brink. Autos are a core export for Europe. Premium brands such as BMW AG and Volkswagen Group's Audi would like to sell more to India's newly wealthy.

But Indian places tariffs of 60 percent on imported EU cars, while the EU takes just 6.5 percent of the price of cars imported from India, according to the European Automobile Manufacturers' Association (ACEA).

As a result, the EU exported just 4,002 cars to India in 2010, compared to 223,000 imported from India.

"These are prohibitive tariffs," said Ivan Hodac, ACEA's secretary general. "The market is basically closed to us."
Last year, with FTA negotiations under way, a high-profile Indian politician wrote to Prime Minister Manmohan Singh asking for autos to be excluded from any deal.

"The industry people here...would like a few more years before they feel that they are really able to match up with the global players," said Biswajit Dhar, a New Delhi-based trade expert. "We're still not right out there in terms of scale."

So far, negotiations have established that India would be prepared to cut tariffs to 30 percent, according to Hodac, but it may not be sufficient to make a deal possible.

"Negotiating between equals means that at the end somewhere in time, not too far from now, we have to open markets - zero tariffs," said Philippe de Buck, director general of lobby group Business Europe.

"You can't open the market without any reciprocity."

For its part, India wants to ease visa regulations that restrict growth for the software and services companies, such as Tata Consultancy Services or Wipro, that have driven Indian growth. The companies want to deliver services to European customers in a way that involves engineers staying for a short period in the EU to do things such as installing systems. But some EU countries are wary of allowing more foreign workers at a time of rising joblessness.

"If we're entering into an FTA there has to be some preferential treatment for the partner country, otherwise why are you entering into an FTA?" said Manab Majumdar, Assistant Secretary General of the influential business lobby group FICCI.

The EU has its own wish-list for better access to growing Indian sectors, such as in legal services or supermarkets.

In November New Delhi decided to open its supermarket sector to foreign retailers such as Tesco and Carrefour, only to row back on the decision after protests from domestic retailers and opposition politicians. Brussels wants to see that big-ticket reform back on track.

As recently as November, India's trade minister said India and the EU expected to finalise an FTA by early 2012.

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'We want an ambitious, balanced trade agreement'

Pallavi Aiyar, TNN

Feb 9, 2012: Polyphonic and pluralistic, the world's two most populous democracies, India and the European Union will hold their annual summit in New Delhi on February 10. What was to have been the big-ticket announcement, an India-EU free trade agreement, however, remains mired in disagreements. Europe, in the meantime, is struggling to bring a sovereign debt crisis under control which, if unchecked, will have serious implications for the global economy and India's own economic health. In an email exchange, European Union President Herman Van Rompuy spelt out Europe's take on the current state of play in India-EU relations:

Q: In India, the EU continues to be seen primarily as a trading block. But you are keen on developing a 'strategic partnership' with New Delhi that extends beyond this trade focus. What shape do you envisage this strategic partnership taking? The European Union is a global leader in trade, but through the Lisbon Treaty our Union has acquired a new, more political identity as well. The EU is quickly becoming an actor with not only an interest but also a capacity to contribute to solving world's challenges. As global players India and the EU share a responsibility to work together in addressing the key issues, be it the maintenance of international peace and security, the improvement of global economic governance, setting the world on a path of sustainable development or combating climate change. The trade dimension will maintain a privileged role in our relationship. It is perfectly natural in light of the fact that the EU is India's first long-standing trade partner. And this fundamental pillar would be further strengthened when the free trade agreement will be finalized. Q: Is the EU disappointed by the pace of the free trade agreement negotiations? A result was widely expected by this summit; instead, we have another missed deadline. How transformative will the successful conclusion of the FTA talks be for India-EU relations? We want to reach an ambitious and balanced agreement. This may indeed take some time. We have, since the beginning, agreed to put the content of the agreement before it's timing. Both sides have worked hard to progress towards the conclusion of the negotiations, but there are some critical areas which remain to be resolved. There is strong political will on both sides, and we are confident that an ambitious agreement will be achieved soon. Progress in the negotiations for an ambitious and balanced FTA between the EU and India would be very useful to pave the way for concluding the largest free trade area the world has ever seen. Q: EU leaders have openly turned to China for investment in the European Financial Stability Facility (EFSF), the EU's bailout fund for countries in fiscal trouble? Will you also be looking for Indian investments to shore up the fund? Managing the difficulties of the Eurozone and the European sovereign debt crisis is primarily a European responsibility. In the course of the last two years, the EU has achieved significant progress in addressing the structural deficiencies of the euro architecture, and there is every reason to be confident that our efforts will be successful. The EFSF would, of course, welcome investment in its Co-Investment Funds from India as well as from other interested countries. From an economic point of view, it is a fundamentally sound decision to invest there. Q: Regional issues will figure on the agenda of the India-EU summit. Are there any plans for concrete cooperation with India in Afghanistan? Developments in our respective neighborhoods demand our shared attention and responsible action. The concerns on the Iranian nuclear programme or the unacceptable situation in Syria are indeed on our agenda. I plan to ask Indian leaders to apply their considerable leverage to Iran and help in convincing the Iranian leadership to give up their sensitive nuclear programme and return to the negotiating table. The EU and India share the view that an independent, stable and prosperous Afghanistan is in the interest of both the region and the world. We are actively contributing to such an outcome, in a concerted manner, through long-term engagement in the country, beyond 2014.

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Drugs may get costlier, HIV+ patients protest

TNN

Feb 11, 2012, NEW DELHI: Hundreds of HIV positive people staged a march in the city on Friday to protest against the free trade agreement between the European Union and India. They were demanding a white paper on the pact and wide consultation with stakeholders before implementation. The rally with protesters carrying giant inflated medicine pills was held from Mandi House to Parliament Street around 10 am.

The support group for people with HIV AIDS, including the Delhi Network of Positive People and Medecins Sans Frontieres - an international, independent organization for medical humanitarian aid - claimed that certain clauses in the deal like 'intellectual property enhancements' and 'data exclusivity' could effectively block the production of generic drugs by Indian companies.

"Millions of patients in poor countries, many in Africa, are unable to pay sky-high Western prices to treat illnesses that include HIV, malaria, asthma and cancer. For HIV alone, India makes more than 80% of the world's medicines," said Leena Menghaney from MSF.

She said that two broad provisions in the agreement - one on intellectual property rights and the other on investor lawsuits - would make it much easier for international pharmaceutical giants to sue the Indian government, drug manufacturers and distributors. It will curtail production of many lifesaving drugs, or cause prices to increase to levels many cannot afford, said Menghaney.

Kavaljit Singh, director, Madhyam said due to competition among generics producers in India, the price of first-line HIV medicines has dropped by more than 99%, from US$10,000 per person per year in 2000 to roughly $150 presently. "This significant price decrease has supported the massive expansion of HIV treatment worldwide: more than 80% of the HIV medicines used to treat 6.6 million people in developing countries come from Indian producers, and 90% of pediatric HIV medicines are Indian-produced. MSF and other treatment providers also use Indian generic medicines to treat other diseases and conditions," he said. The activists demanded that the government make the details of the agreement being discussed public and hold wide consultations before giving any final approval to the same. "Public view must be considered," said Biraj Patnaik, principal adviser to the commissioners of the Supreme Court on the Right to Food.

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New Delhi, Brussels Expect Autumn Trade Deal, Barroso Says

Bridges Weekly Trade Digest

15 February: India and the EU hope to finalise negotiations for a free trade pact serving 1.7 billion people by this autumn, European Commission President José Manuel Barroso said last week after a bilateral summit.

The India-EU summit, held on 10 February in New Delhi, had previously been set as the deadline for concluding the trade talks, after officials from both sides confirmed that the discussions were moving at "full steam ahead."

However, reports later emerged that, despite progress having been made, the two sides were unlikely to meet their self-imposed February deadline. Negotiations toward an India-EU trade pact have been underway since 2007, with differences over services and automobile tariffs among the key issues preventing the two sides from reaching an agreement.

Barroso, speaking on 13 February at an event in Mumbai, noted that some stumbling blocks still remain in the areas of procurement and services. However, in the area of tariffs - a long-standing issue between Brussels and New Delhi, particularly with regards to automobiles and wine - "basically the work is done," he continued.

"The negotiations have progressed steadily and I am happy to report that we have made a significant step forward," Barroso said in a statement following Friday's summit.

"Our positions are now closer in all areas and the contours of the final agreement are emerging. We have therefore committed to intensify these negotiations. I expect the finalisation of these negotiations in autumn."

EU-India trade has more than doubled, from €28.6 billion in 2003 to over €67.9 billion in 2010, according to European Trade Commission official data. Trade in commercial services has tripled from €5.2 billion in 2002 to €17.9 billion in 2010.

European Trade Commission estimates indicate that India would gain €5 billion and the EU over €4 billion in the short run alone, should the pact be finalised.

Earlier this year, at the annual World Economic Forum in Davos, Switzerland, British Prime Minister David Cameron made a strong call for finalising the New Delhi-Brussels talks by the end of this year, as part of a broader push for the EU to focus on bilateral deals in the absence of a multilateral Doha agreement at the WTO .

Officials from New Delhi and Brussels also inked declarations on areas such as energy, research, and innovation co-operation. In the energy declaration, the EU and India agreed to work together "to

improve energy security, safety, sustainability, access and energy technologies," with efforts focusing on areas such as the development of low carbon sources and increased energy efficiency.

Access to medicines

The subject of access to medicines drew particular notice in the days preceding the forum, with some non-governmental organisations - including Oxfam and Médecins sans Frontières (MSF) - making public calls for negotiators to avoid including intellectual property provisions in the pact that go beyond those in the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement.

“We have watched too many people die in places where we work because the medicines they need are too expensive,” Unni Karunakara, International President of MSF said. “We cannot allow this trade deal to shut down the pharmacy of the developing world.”

India currently supplies over 80 percent of HIV and AIDS medicine currently used in developing countries. Critics fear that including strict IP provisions in the pact could hinder India’s ability to provide affordable, high-quality generics to developing country consumers.

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Distant second best

Business Standard

India's mixed record on bilateral FTAs

New Delhi Feb 20, 2012: In December last year, the push to try and complete the Doha round of trade talks ended in failure at the World Trade Organisation's headquarters in Geneva. The Doha round had begun 10 years earlier, in 2001, but has run into several stumbling blocks; disagreement over agricultural subsidies and controls, in particular, has consistently held up progress. Meanwhile, new issues have arisen in the past decade, such as the rise of informal barriers to trade like differing labelling standards. Unsurprisingly, many countries have moved forward on bilateral trade deals. Such agreements are frequently less than ideal – they can divert, rather than increase, trade – but given the Doha deadlock, there are few alternatives. India's landmark trade agreement with the Association of Southeast Asian Nations, or Asean, is coming into force in stages. The section dealing with the free movement of goods became effective in 2010, and it is now reported that the agreement on services trade should be ratified by the end of March. Trade has not increased to the degree it should have; India has held back on slashing tariffs, with the commerce ministry claiming that one or two Asean countries, too, have delayed full ratification.

Tardiness in ensuring that the gains from freer trade are available to India's consumers and producers is visible, too, in the ongoing negotiations for a comprehensive trade agreement between India and the European Union (EU). The EU's trade department estimates the gains from trade as being substantial — in the region of Euro 5 billion. Yet negotiations for the Broad-based Trade and Investment Agreement, or BTIA, have been on for seven years, and 13 rounds have failed to produce any result. The idea is to essentially remove tariffs on as many as 90 per cent of tradeables. Yet some sector-specific concerns have been raised. India's automobile manufacturers, for example, have claimed that tariff-free imports of European cars would cause them to lose a "level playing field". Such claims for protection are by and large unpersuasive, and auto tariffs should not be allowed to derail the agreement. However, worries about the effect of the EU's much more stringent intellectual property rules on India's consumers of generic pharmaceuticals are of greater moment. There are also questions as to whether India's trade in generics with pharma-hungry markets in Africa will be hit. Assuaging these concerns must be given the highest priority by negotiators from both sides.

While freer trade is essential to build up depth in markets and stability for manufacturers and service providers, much research shows that bilateral and plurilateral trade agreements are simply not as effective as multilateral trade liberalisation. A multitude of different agreements with varying exceptions and concessions confuses the medium-sized exporter, who finds it difficult to respond to the opening up of these markets. For example, India signed a trade agreement with Chile in 2007. But instead of shooting up, trade with Chile declined from $2.3 billion in 2007-08 to $2.1 billion in 2010-11. While pushing for more and clearer free trade agreements (FTAs), India must not lose sight of the fact that the only real magic bullet for trade is the completion of the Doha round.

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EU will offer more than India in trade deal: Envoy

Sanjay Jog, Business Standard

Mumbai, Feb 25, 2012: The European Union will offer more concessions that India in the proposed free trade agreement.

The EU Ambassador to India Joao Cravinho on Friday said: "Concessions to be offered by EU will be more than those provided by India. However, it will benefit both." The challenge in the execution of the FTA was quite big as it was going to cover a population of 1.75 billion he said.

"By far, the FTA between EU and India will be the biggest, considering the coverage of population. But at the same time it will be deep in terms of level of tariff reduction and the sectors that will be covered. India and European Union (EU) are yet to arrive at a consensus on opening of markets for services, wine, spirits and automobile sectors., he said.

Besides, both the countries still differ on the issue of sanitary and phytosanitary standards (SPS) applied by EU. However, Cravinho said, given the level of complementarity between the two economies, EU and India would successfully arrive at an agreement to finalise the deal by the end of the year.

Speaking at the sidelines of the FICCI's national executive committee meeting here, Cravinho told Business Standard: "Currently, a lot of technical negotiations are going on between EU and India. There has been a high level of ambition but both EU and India are not underestimating the complexity of issues faced by both. There is a question of opening of markets by both in services sector and also in wine, spirits and automobile. One thing is clear that EU and India have gone too far down the road and it is difficult to turn around. We are hopeful that FTA will be finalised by end of year."

He said EU and India negotiators were tying up the loose ends.

As far as SPS is concerned, Cravinho admitted that Indian companies have raised concerns about the standards. Similarly, EU has put up its argument in favour of SPS. "However, the proposed FTA will devote a special chapter on SPS as well as non-tariff barriers. The objective is to ensure uniform trade advantages and safety for consumers," he added.

Cravinho said the FTA could provide a stimulus for further opening of the Indian economy and it will have a multiplier effect. "Indian economy is still inward-looking. This policy served quite well in the past but it may not do so in future in the current globalisation. If Indian economy remains protective, it will continue to be less competitive. However, I strongly believe the FTA can provide stimulus for further opening of the Indian economy."

As far as the opening of the multi-brand retail is concerned, the EU Ambassador noted that the Indian government has clarified that it was consulting cross sections in order to arrive at a consensus before putting in place a legal framework.

On trade between EU and India, Cravinho said there was further scope to tap potential. "Trade between EU and China is six times compared with India. Chinese economy is three and half times of India. However, due to complementarity in economies and democratic set up, trade will further grow between EU and India," he added.

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European Union whines despite India agreeing to halve import duty on its wines

Amiti Sen,ET Bureau

22 March, 2012,New Delhi: India has proposed to halve import duties on wines and spirits bought from the European Union under the bilateral free trade agreement being negotiated between the two, but the 27-country union is demanding steeper cuts. Last month, EU officials argued liquor imported from the region would become affordable for Indian customers only if there are 'meaningful' cuts in duties. "They said that state taxes on liquor were extremely high in some cases which raised the incidence of duty on foreign liquor to very high levels. Customs duty on liquor, therefore, needed to be reduced substantially," an official familiar with the talks said. India imposes 150% customs duty on wines and spirits, which it has now proposed to cut to about 75% for the EU countries. New Delhi has also offered to reduce duties further to about 40% on some categories of alcohol over the next four years after implementation of the FTA. The EU has demanded an immediate reduction in import duties to about 30% so that there is a substantial dent in the total incidence of taxes, an official said. EU trade commissioner Karel De Gucht had last month expressed his unhappiness with India's offers. Due to high taxes imposed by states, incidence of taxes on foreign liquor was as high as 200%-790% of the sale price, depending on the type of liquor and its price and also the state in which it is being sold, an EU report had noted. India's import of alcoholic beverages went up 55% in the first three quarters of the fiscal to 593 crore, compared to 382 crore in the same period last year, according to figures compiled by the commerce department. Given these imports, India is reluctant to make steeper cuts as its domestic industry is still in its nascent stage and slashing tariffs is a politically sensitive issue. "We have insulated the liquor sector from all free trade agreements we have signed so far. Although we are ready to cut duties on both wines and spirits for the EU, it cannot expect us to be insensitive to the demands of our industry," the official said. These offers are, of course, linked to EU's readiness to open markets for items such as textiles and fisheries and substantially liberalise its services sector. Both sides hope to implement the FTA in goods, services and investments, later this year.

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India bans its airlines from paying EU carbon tax

AFP

NEW DELHI, March 23, 2012: India has barred its airlines from complying with the European Union's carbon taxation scheme, with the government saying no Indian carrier would share emissions data with the EU. "Though the European Union has directed Indian carriers to submit emission details of their aircraft by March 31, 2012, no Indian carrier is submitting them in view of the position of the government," Civil Aviation Minister Ajit Singh said Thursday in parliament.

"Hence the imposition of carbon tax does not arise," he said. The European Union imposed a carbon tax on air travel with effect from January 1, but no airline will face a bill until 2013 after this year's carbon emissions have been tallied.

India's resolution to boycott the scheme comes on the heels of China's decision last month to ban its airlines from complying with the EU directive. The EU has said the carbon tax will help the 27-nation European bloc achieve its goal of cutting emissions by 20 percent by 2020 and that it will not back down on the plan. The EU has argued that the cost for airlines is manageable, estimating that the scheme could prompt carriers to add between 4 and 24 euros ($32) to the price of a round-trip long-haul flight. Over two dozen countries, including Russia and the United States, have opposed the EU move, calling it a violation of international law.

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EU won't get further access to government business

Amiti Sen, ET Bureau

April 2, 2012, New Delhi: India will not concede to EU's demand that European companies be allowed to participate in procurements made by public sector enterprises in the country as part of a free trade agreement being negotiated.

New Delhi has said that its commitment on government procurement will not go beyond the existing domestic provisions that allow foreign companies to bid for procurements by ministries and departments for self consumption, according to a government official.
The EU has sought unhindered access to India's government procurement market estimated at about $150 billion per annum.

"The EU has positioned government procurement as a critical area for signing the free trade deal," the official told ET. "It is insisting that India should provide market access in Central entities and PSUs, but India has put its foot down."

The government has stressed that procurement market access being discussed would cover purchases for government purposes only and not what is done for commercial sale or resale. That is why PSUs can not be covered. Sourcing by the Indian Railways and the National Highways Authority of India will also remain restricted territories for EU companies.

In a meeting with EU trade commissioner Karel De Gucht in Delhi last month, commerce and industry minister Anand Sharma explained that India was in the process of formulating a public procurement law which would be mandatory for all Central government entities engaging in procurement.

Since the draft bill is still being discussed with stakeholders, the minister said it might not be possible for India to undertake commitments on areas that are still under discussion.
"India has also clarified that procurement market access being discussed would cover procurement for government purposes only and not that done for commercial sale or resale," the official added.

A number of developed countries, including the EU and the US, are keen that India join the government procurement agreement of the World Trade Organisation that is a plurilateral agreement signed between 42 member countries. India is an observer in the GPA meetings, but has so far resisted attempts of other countries to rope it in.

India has also asked the EU to clarify what India would gain by including government procurement in the bilateral free trade agreement. According to a study carried out by the Centre for WTO Studies at the Indian Institute of Foreign Trade, total government sourcing done by the EU from foreign companies is less than 1% of total purchases.

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Drug makers critical of EU non-tariff barrier

Joe C Mathew, Business Standard

New clause makes it compulsory for Indian drug regulator to check quality

New Delhi, April 15, 2012: Indian companies supplying drug raw materials (bulk drugs) to European countries have just discovered a 10-month-old directive of the European Union (EU), taking effect January 2013, which can create a new non-tariff-barrier for exports.

A clause says Indian drug regulatory authorities must certify the products exported by these companies maintain quality and follow the good manufacturing practices prescribed by EU drug regulators. Domestic drug makers say the Drugs Controller General of India is neither authorised under the law or conversant enough with the EU GMP Standards to issue such a certification.

The companies will have to produce such certificates even after their manufacturing facilities and products (meant for exports) get all regulatory clearances directly from the EU drug regulatory authorities.

The directive, promoted with the stated aim of protecting people from falsified medicines, is essentially a protectionist measure to save the EU bulk drug industry. In the absence of such certification, API (active pharmaceutical ingredient) manufacturers in India will not be able to export APIs to EU member-states.

Any consignment without such certification will be seized, says D G Shah, secretary general of the Indian Pharmaceutical Alliance, an association of leading domestic drug makers.

“We were not aware of this clause until some of the domestic drug exporters started getting letters from their importing partners in the EU, demanding such certifications. We have approached the government as the industry alone cannot resolve this issue,” Shah added.

Indian manufacturing facilities already hold the highest number of regulatory clearances from European authorities. The EU accounts for a little more than a quarter of India’s annual bulk drug exports, worth Rs 20,000 crore.

The directive (2011/62/EU) of the European Parliament (dated June 8, 2011) -- essentially meant to amend an existing code relating to medicinal products for human use, to prevent the entry of falsified medicinal products -- makes it compulsory that all bulk drugs reaching EU ports should be accompanied by a written quality confirmation from the competent authority of the exporting third country. So, the Indian drug regulator will now have to confirm that the products exported were produced in units maintaining GMP standards equivalent to those of the EU.

The directive also wants the Indian regulator to subject such manufacturing plants to regular and surprise inspections, to ensure effective GMP enforcement and report any findings relating to non-compliance.

At the moment, all exporting countries, including EU members and the US, have their own regulatory approval and inspection systems to ensure the quality of medicines that reach their supply chain. While non-compliance can result in penalties and even an export ban, the

Indian drug regulator has never before been made responsible for the quality of such products.

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India-EU trade deal runs into liberalization hurdle

Asit Ranjan Mishra, Mint

The deal may not happen unless govt eases foreign investment rules in banking, legal, postal services, say analysts

May 6, 2012, New Delhi: The proposed free trade pact between India and the European Union is stuck because India has failed to open up sectors such as legal and postal services for foreign investment and further liberalize sectors such as banking, insurance and pension, besides the contentious multi-brand retail.

Admitting this for the first time, a top commerce ministry official said the deal is unlikely to materialize unless India allows higher foreign investment in some of these sectors. “The future of the deal is now at the hands of the politicians,” the official said, requesting anonymity.

After the ongoing Parliament session is over on 22 May, the deal could still be sealed if the government pushes through some of the reforms till it gets busy with the presidential elections in July, he said. After that, the assembly elections in Himachal Pradesh and Gujarat by the end of the year may limit the scope of any significant policy decision, he said.

The government has become even more cautious in carrying out key economic reforms after it had to postpone its decision to allow 51% foreign direct investment in multi-brand retail following protests from opposition parties and some key allies such as the Mamata Banerjee-led Trinamool Congress. A decision on a less politically contentious issue of allowing FDI in the beleaguered aviation sector by foreign airlines has also been delayed even after open support from key ministries within the government.

Talks for the bilateral trade and investment agreement between the two sides started in 2007. Both sides have missed at least five deadlines, the latest being in April, to complete the negotiations. They held the 14th round of talks in the last week of April.

According to the EU, India is expected to gain €5 billion and the EU at least €4 billion in the short-term alone. The EU as an economic bloc is India’s largest trade partner. In 2010, it imported goods valued at €33.2 billion from India and exported goods worth €34.7 billion. Services exports to India stood at €9.8 billion and imports at €8.1 billion.

The deal is not making headway because India does not have the laws in place, according to Arpita Mukherjee, professor at the Indian Council for Research on International Economic Relations, a Delhi-based think tank.

“India’s approach of ‘give nothing and get nothing’ in trade negotiations does not work with the EU,” Mukherjee said. “They want a solid package which they can sell to their domestic stakeholders, especially when their economy is not doing well.”

She said India is also not able to derive a good package in services from the EU because it has nothing to offer in return.

Joao Cravinho, EU ambassador and head of delegation to India, told reporters last week that he expects the negotiations to be concluded by the end of this year.

However, he said clarity on issues such as duty concessions on wines and automobiles from the Indian side and liberalizing the visa regime for Indian professionals from the European side needs to be worked upon.

Cravinho hoped that greater clarity is expected on the pact during the scheduled June visit to Brussels by trade minister Anand Sharma.
"We hope when minister Sharma goes to Brussels, there will be an occasion for some clarity on the horizons," Cravinho said. "When the political leadership meets in June, perhaps we can have a breakthrough."

On the visa issue, Cravinho said: "We can liberalize the visa regime. I hope we can significantly improve the opportunity for India to send people to EU to send people to send services to European companies."

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Despite slowdown, trade with EU grows 22%

Sidhartha, TNN

May 30, 2012, New Delhi: Amid the gloom from Europe, there is finally some good news for India. For the first time, tradewith the 27-member bloc went past the $100 billion mark in 2011-12.

According to preliminary data available with the commerce ministry, bilateral trade with EU went up 21.5% to $110 billion during 2011-12, compared to a tad over $90 billion in the previous year.
Of this, exports are estimated to have gone up around 13% to $53 billion, which is lower than the overall export growth of around 21% for India.

Imports rose 28% to around $57 billion, with growth again being marginally lower than the overall number of 32%. On both counts, the growth rate is also lower than what was witnessed in 2010-11.
While data is still being collated, traditional powerhouses-the UK, Germany and the Netherlands-saw growth rates of 27%, while there was some slowdown witnessed in Italy and France, two countries that are now getting affected by the spreading contagion.

Trade experts and officials suggested that the overall demand for gems and jewellery and high-end textiles may be impacted by the slowdown in Europe but demand in several segments are seen to be inelastic. According to the detailed numbers for April-January, which are available on the commerce department website, the trends remained largely the same.

For instance, in case of the UK, cotton readymade garments remained the largest item in India's export basket, growing almost 11% to $863 million during the first 11 months of the financial year. Ditto for the Netherlands, where oil remained the top draw with shipments growing over 8% and their value topping $4 billion.

Although gems and jewellery is among the segments hit by the fresh downturn, import of diamonds from Belgium, with Antwerp being the trade hub, was estimated at close to $3.3 billion.

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Striking the BTIA bargain

T S Vishwanath, Business Standard

Jun 7, 2012: India and the EU must address the issues of domestic regulations and trade facilitation to truly benefit from the agreement Later this month, Commerce Minister Anand Sharma will meet his European counterpart, European Union (EU) Trade Commissioner Karel De Gucht, in Brussels to take forward the Bilateral Trade and Investment Agreement (BTIA). The two sides have evinced interest in completing the negotiations by the end of the year so that all the requisite internal clearances are received and the bilateral pact can be implemented by the middle of 2013.

For both partners, BTIA holds importance, especially since the current economic situation across the globe presents very little possibility of building exports to boost domestic economic growth. The euro-zone countries are fighting a recession, with Germany alone showing signs of growth. The German model in the recent years has been supported by exports to emerging markets. This has not been received well by other EU countries that believe that Berlin needs to do more to help intra-EU trade. Pacts like the India-EU BTIA can help other EU countries tap large developing country markets like India better.

For India, the recent months have not yielded much in terms of growth and a bilateral agreement with one of the largest trade and investment partners – the EU – can help take growth back to the earlier estimates of close to 10 per cent.

The two sides have in the recent months said they have been able to iron out most differences on issues such as tariffs, including in the more sensitive areas of automobiles and wines and spirits. This is certainly important since these issues have been on top of the agenda for these negotiations for long.

However, two important areas have not found mention in any of the announcements made by the two sides in the run-up to the final round of discussions that are expected to begin following the meeting between the Indian minister and EU trade commissioner.

The two issues which have the capability to derail the best of agreements are domestic regulations and trade facilitation.

Trade facilitation has been a core area of focus for the EU for long at different forums. Trade facilitation, according to some studies, is important to tackle since quicker exchange of goods can help bring down costs of trade by about 10 per cent. Every extra day of turnaround time for goods can hurt trade by about four per cent, according to figures provided by the World Trade Organisation (WTO). Therefore, for ensuring that trade remains free, it is important to focus on harmonisation of procedures between the two partners.

In a speech, Pascal Lamy, director general of WTO, had brought together some data to show how countries differ in the time taken for clearing papers for export or import. According to him, "for OECD countries it takes on average about four separate documents and clearing the goods in an average of ten days at an average cost of about $1,100 per container. By contrast, in sub-Saharan Africa almost double the number of documents are required and goods take from 32 days (for exports) to 38 days (for imports) to clear at an average cost per container of between $2,000 (for exports) and $2,500 (for imports). However, the overall world champion at trade facilitation is Singapore, where four documents are required and goods are cleared in, at most, five days at an average cost of around $456 per container".

This contrast clearly brings about the need for New Delhi and Brussels to discuss the possibility of ensuring that trade facilitation remains a top priority.

The other area that can trip the bilateral agreement is the plethora of technical regulations. Europe, with 27 countries, provides a big challenge for exporters. For instance, in countries like Spain, exporters point out that it is mandatory to label required information in Spanish. Moreover, exporters find that there are some voluntary standards adopted by consumer groups or by supermarkets and so on. These standards are not notified at the WTO. These voluntary standards are typically higher than international standards and exporters find it difficult to comply since there is lack of transparency in such standards. Therefore, while tariffs may come down, it will still be difficult for Indian exporters to tap the EU market to its maximum potential if such barriers remain.

The next three to four months are crucial to put together a pact that will benefit both sides. Though the two sides have worked to converge on some key issues, it is equally important that barriers such as regulations and trade facilitation are tackled adequately so that BTIA remains beneficial for business on both sides.

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Won't ban airlines, but impose penalty: EU

Nayanima Basu, Business Standard

June 19, 2012, New Delhi: The European Union (EU) has decided it would not ban foreign airlines that have refused to share their carbon emission data from entering EU airspace. However, it said stringent financial penalties would be imposed if these failed to comply with the laws by January 2013.

Refusal to share carbon emission data is a violation of the EU's emissions trading system (ETS) laws. In January, the 27-member EU bloc had decided to include the aviation sector under the EU ETS. Since then, it has asked all domestic, as well as foreign airlines, to comply with the changed laws and share their carbon emission data with Brussels. The airlines would now need to follow a specific benchmark on carbon emissions or pay a carbon tax, along with a penalty.

However, India and China have refused to share the data. The two nations also indicated severe implications if the EU banned their airlines from entering its airspace.

"In the case of 2011 data, the penalties were not the same throughout the EU, but were determined by each member state. These apply to airline operators administered by the respective member state. Overall, however, it can be said the penalties for this violation of EU law take the form of financial penalties. No airline will be banned from flying to the European Union because it did not submit their 2011 data," Valero Ladron, EU spokesperson for climate action, told Business Standard.

He added airlines that would continue to emit more than the prescribed cap on emission would be asked to either reduce emissions or pay for the emission. Airlines can either make the payments on their own, or pass on the costs to passengers. This would mean a one-way ticket from Brussels to Delhi would cost an additional € 1.55.

"The EU legislation, like all other legislation, is very clear. If a company breaks our law, penalties would apply. We all have to take action as quickly as possible to address this source of emissions," Ladron said, adding emissions from international aviation in Europe had doubled since 1990. These, he said, may even triple by 2020.

Officials in the Ministry of Commerce & Industry have said India would not follow any unilateral decision by another country, only adhere to laws currently being worked out by the United Nations' International Civil Aviation Organisation (ICAO). The civil aviation ministry had said no airline would share emission data with the EU. Civil aviation minister Ajit Singh had earlier stated in case the EU imposed any restriction on Indian carriers, India would respond strongly to this.

At present, only two Indian carriers — Air India and Jet Airways — fly to Europe. A query sent to Jet Airways went answered.

"For more than 15 years, the ICAO has tried to tackle the aviation sector's increasing contribution to greenhouse gas emissions. But after years of little progress at the international level, the European Union has decided to act. We are, however, still pushing for a global agreement under ICAO. The day ICAO succeeds, we will modify our legislation accordingly," said Ladron.

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India, EU spar over protectionism

Times of India

New Delhi, June 22, 2012: Ahead of next week's ministerial meeting in Brussels, officials from the European Union and India on Thursday sparred over protectionism and tax law changes made by New Delhi. EU ambassador Joao Carvinho told a press conference that the trading bloc had written to Indian authorities, citing protectionist moves such as a higher duty on imported vehicles, ban on cotton export and stipulating a local sourcing norm for telecom equipment. "It is closing markets instead of opening up," he said. In addition, he said EU had sought clarifications on the government's move to retrospectively amend the law to levy capital gains tax on Vodafone but was yet to hear from Indian authorities. Officials in the commerce department shot back, saying Carvinho was "singing the wrong tune" and pointed to independent studies to argue their case. "An Unctad-WTO-OECD report has said that there has been a declining trend in imposition of new trade restrictive measures in India," a senior official said. The slugfest took place days before the commerce and industry minister reaches Brussels to take stock of progress on the bilateral trade and investment agreement. "For a deal to be attractive, it has to be broad-based," Carvinho said, while pointing to negotiations with Canada, Japan and Mercosur, the Latin American trading bloc. He admitted that there were gaps on services, where EU is demanding opening up of sectors such as retail and finance and India wants easier access for its citizens in the European markets. On goods, there has been progress with EU agreeing to preferential access for Indian textiles in return for lower import duty on cars and wines and spirits. The EU ETS, introduced on 1 January 2005, earlier covered sectors such as energy-intensive industrial installations. Following the EU legislation adopted in 2009, air operators would also be covered.

According to the new laws, every year, airlines would receive tradeable allowances covering a certain level of carbon dioxide emissions from their flights. At the end of every year, operators must surrender a number of allowances equal to their actual emissions during that year.

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India-EU free trade talks may conclude by Oct, signed by Nov

Arun S., Hindu Business Line

Brussels, June 26, 2012: India and the European Union on Tuesday decided to chalk out a roadmap to complete their Free Trade Agreement (FTA) negotiations by October-November this year.

The FTA – officially known as Broad-based Trade and Investment Agreement (BTIA) – is likely to be signed during the next India-EU Summit, expected to be held in November.

The Commerce, Industry and Textiles Minister, Mr Anand Sharma, said, "After a number of rounds of negotiations, issues of concern to both sides have been identified. We must devote our energies to addressing these issues as expeditiously as possible."

"India is keen on a successful and balanced outcome of the negotiations at an early date," he added. He stated this after meeting the EU Trade Commissioner, Mr Karel De Gucht, here and taking stock of the progress of the negotiations. The ministerial-level meeting followed the talks between the Commerce Secretary, Mr S.R. Rao, and his counterpart as well as between the Chief Negotiators from both sides on Monday. This was the 15th round of FTA negotiations.

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According to official sources, talks on the services sector dominated this round. On cross-border supply of services (outsourcing), the EU raised doubts on whether India is data-secure.

Pointing to the presence of several Fortune 500 companies in India, including their research and development centres, Mr Sharma insisted that India is data secure and sought greater market access for Indian companies providing cross-border supply of services to the EU.

India also demanded that EU ensure freer movement of Indian service professionals, including from the IT sector, through the FTA.

New Delhi also asked the EU to do away with certain "restrictive" safeguard clauses, saying they may come in the way of India availing itself of the concessions offered by the EU in the FTA.

Besides, India has sought more market access in agricultural products.

Meanwhile, the EU has sought clarity on greater market access in wines and spirits and the automobile sectors. The EU also raised protection of Intellectual Property Rights, including Geographical Indications and patents.

Despite the Euro Zone crisis and the slowdown in the Indian economy, trade between India and EU in 2011 increased to $108.8 billion from $83.46 billion in 2010.

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FTA with EU soon, to benefit textile exports

Dilip Kumar Jha & Sharleen D'Souza, Business Standard

July 11, Mumbai: In a move that could improve the weakening sentiment in the Indian textile industry, the government is set to sign a free trade agreement (FTA) with the European Union (EU) by the end of the current calendar year.

Revealing this on the sidelines of the 55th National Garment Fair organised by the Clothing Manufacturers Association of India (CMAI), Kiran Dhingra, secretary, ministry of textiles, said, "We hope the FTA with the EU would be signed by November– December."

The EU accounts for 49 per cent India's annual apparel exports of $13 billion. Hence, it is significant for the domestic textile industry. The economic slowdown in the EU has pulled down India's apparel exports by over 50 per cent to that region in the last few years. As a consequence, readymade garment manufacturers are now exploring other destinations, such as South America, West Asia and East Asia for compensating at least a part of the decline in the export business.

Asked about details of the FTA, Dhingra said, "The FTA with the EU is different from those signed with other countries. The textile industry will see a major boost once the FTA is signed."

Elaborating, Textile Commissioner A B Joshi said, "India's readymade garments will be priced on par with competing countries, including Bangladesh and China. Since the quality of Indian garments is on a par with its competitors, we see no reason why exports would not see a warm response."

Indian goods cost 10 to 15 per cent more than Chinese products and 15 to 20 per cent higher than Bangladesh's products.

Apparel exports have been the worst hit during the ongoing global slowdown. During the first half of the current financial year, these are likely to remain lower than they were in the same period last year. But, the second half is expected to be better, due to the efforts by garment manufacturers on new markets, Dhingra added.

According to Rahul Mehta, president of CMAI, once the FTA is signed, the cost of apparel originating from India would be the same as that from China and Bangladesh. Bangladesh falls under the category of least developed country due to which it benefits from duty-free exports to the EU. China, on the other hand, produces cheaper garments.

"Indian exporters will definitely benefit with the FTA. between India and the EU. Currently, we lose market to China, which will change as soon as the FTA comes into play," said D K Nair, secretary general of the Confederation of Indian Textile Industries.
India's total textile exports in the last financial year stood at $33 billion, of which 49 per cent was exported to the EU. There is an import duty of 9.6 per cent per garment and five per cent on other textile items, which will be abolished as soon as the FTA is signed.

In a similar response as Nair, Premal Udani, chairman of CMAI, said, "The FTA with EU will put Indian exporters on a par in pricing with China, as well as Bangladesh."

The targets set for textile exports year-on-year has not been met for the past several years. After the FTA, however, India would be able to achieve this, as Indian businessmen continue to have entrepreneurial skill for exploring new markets and new means for strengthening the business sentiment and going forward.

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Cabinet to back airlines' no to EU carbon tax

Nayanima Basu, Business Standard

11 July, New Delhi: The Union Cabinet is likely to soon pass a resolution endorsing the fact that Indian airliners would not share their specific carbon emission data with European Union (EU) authorities. This will be the first time since the imbroglio began over the buzz that government was going to officially communicate to the EU that it would not adhere to the latter's changed emission trading system (ETS) laws.

While around 35 countries have refused to follow the EU's new directives on carbon emission, only India and China have even refused to share their carbon emission data with Brussels. The government is also likely to indicate it is open to the idea of reviewing all the separate bilateral agreements on civil aviation that India has with each of the 27 member-states of the EU, a senior official involved with the issue told Business Standard.

The government has also hinted at strong retaliation if the EU imposes severe penalties on Indian air carriers. The official noted the number of flights European airlines operate in India are more than thrice the number that India operates to Europe. Also not ruled out is taking the issue to the World Trade Organization's (WTO) dispute settlement body, as the "last resort".

"The Cabinet will endorse the decision that India will not share its data. If need be, we are also open to the idea of reviewing the bilateral arrangements on aviation with each of the member-states and find an amicable solution to this problem. We are open to sit on the negotiating table and explore ways to mitigate the issue," the official, who refused to be identified, said.

The cabinet will also officially communicate to the EU that it would not be party to any sort of "extra territorial imposition". Only the guidelines being worked out under the United Nations' International Civil Aviation Organization (ICAO) would be followed. The latter talks, to put a cap on carbon emission by international airliners, have been on for the past 15 years at the ICAO and remain inconclusive. As a result, the EU had come up with its own rules to check the emission targets of all airlines polluting the European skies.

Earlier, the EU had threatened India and China with a ban on their airlines from European skies. However, last month, the EU spokesman for climate action, Isaac Valero Ladron, had told Business Standard that it would impose financial penalties, not ban the airlines.

The 27-member bloc had decided to include the aviation sector under the EU ETS in January this year. Since then, it has asked all domestic and foreign airlines to comply with the changed laws and share their respective carbon emission data with Brussels. These airlines would now need to follow a specific benchmark on carbon emission or pay a carbon tax, as well as face penalties. While other countries have shared their data, India and China have refused to do so.

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Scotch, European wines to get cheaper after FTA

Amiti Sen, Economic Times

16 July, New Delhi: Prices of Scotch whisky and exotic European wines may almost halve in the country after India and the European Union sign a bilateral free-trade deal currently being negotiated. New Delhi has expressed its willingness to reduce duties from 150% to 40% on whiskies priced more than $7 per litre and wines above $4 per litre if the European Union gives more access to Indian services industry and labour-intensive goods, a government official told ET. This will make them 44% cheaper. "We are ready to open our markets wider for European liquor. But the duty cuts will be above the stipulated threshold levels to avoid competition from the cheaply priced variety," the official said. The offer, however, is contingent upon India getting its due in the area of services where it sees great opportunities in Europe, and gets more access for labour-intensive goods such as textiles and leather. While European liquor, like all other domestic and imported alcohol sold in the country, will continue to attract state taxes-which ranges from 30% to over 100%-the incidence will be less as the taxes are mostly applied on landed price of alcohol in states, said analysts. "Most state government levy taxes on alcohol on the price at which they land in the states, which also includes the import duties. So, if import duties are slashed the incidence of state taxes will also go down," said S Madhavan, partner affairs in charge at PwC India. For instance, the landed price of a bottle of French wine priced $4 per litre is $10 after levy of 150% import duty. If a particular state imposes 100% state duties on it, the price that the consumer pays for the brand is $20 per bottle, or about Rs 1,100. Now, if India slashes import duties to 40%, then the landed price of the same wine will be $5.6. After levying 100% state duty it will be available to the customer at $11.2, or about Rs. 616, which is 44% less than the current prices. This will also make it comparable with several Indian wine brands. While lowering of duties could give some competition to the country's wine producers, industry sources say that imported whisky from Europe will not impact local whisky producers as they cater to different segments. "There is a wide gap between the most expensive Indian whisky and a standard Scotch whisky," a spokesperson of the Indian unit of Pernod Ricard, world's second-largest spirits maker, said. "For instance, a 12-year Scotch Whisky is priced at Rs 3,400 in Delhi vis a vis the most expensive Indian whisky at Rs 800. Even if the duty comes down, the Scotch whisky will be priced at more than Rs 2,500,"
the person said. Of the total 240 million cases of alcohol sold in India, just about a million cases are imported. Both India and the EU are keen to sign the FTA, formally known as the bilateral investment and trade agreement, by the end of this year. But for that to happen, a number of contentious issues including visas for professionals, recognition of India as a data secure country and easing of government procurement rules in India have to be ironed out.

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EU wants more trade concessions from India

Nayanima Basu, Business Standard

New Delhi, July 19, 2012: Negotiations for greater market access in the services sector between India and the European Union (EU) under the India-EU investment and trade agreement have taken an adverse turn, making the November deadline for signing the deal implausible.

EU feels India has not offered it the same services sector concessions it offered Korea and Japan. India, however, says it has given the EU more than what was offered to its other trading partners.

EU has also clarified it cannot progress further, unless it bags a good deal in multi-brand retail, insurance, banking, postal & courier services, legal services and accountancy services. However, India has told Brussels while the government here is working towards policy reforms in the multi-brand retail, insurance and civil aviation segments, reforms in banking, postal and courier & legal services would not be possible, according to commerce department officials involved in the talks.

"Given the prevalent sensitivities and the situation of the economy, we are not in a position to give them (EU) any assurance, as the roadmap of reforms is not clear. But we have given them commitments in areas like single-brand retail, computer reservation services, environmental services and bank branches.

These have not been offered to any other trading partner. In certain cases, the departments concerned have gone back from commitments to Japan and Korea because of certain regulatory changes being contemplated. We are having a fresh look at these areas to see where improvement is possible," a senior commerce department official told Business Standard.

The matter was extensively discussed during Commerce & Industry Minister Anand Sharma's visit to Brussels in June, when he met EU Trade Commissioner Karel de Gucht.

India, on its part, has asked the EU to do away with the 20 per cent threshold in the safeguard clause introduced under the Mode-4 quota of services trade relating to the free movement of Indian professionals under a relaxed visa regime. Under services trade negotiations, India has also demanded it be recognised as a 'data-secured' country. As the EU doesn't recognise India as a 'data-secure' nation, Indian firms are not able to secure large-scale government contracts. The EU has decided to undertake an assessment to ascertain whether India meets its standards.

However, Indian officials fear after the study, there is a strong possibility of the EU regarding Indian laws on data security as unsatisfactory, diluting actual access in cross-border supply of services by India.

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US, EU, Japan pile pressure to remove local content clause

Amiti Sen, Economic Times

July 20, 2012, New Delhi: India's major trade partners-the US, the EU and Japan-have stepped up pressure to remove local content requirement clause in the ambitious national solar mission project and manufacture of certain electronic products.

However, New Delhi is preparing to defend its policies strongly at the World Trade Organization right till the dispute panel level.

"There is a possibility that US may launch a formal dispute against India, especially for the domestic content clause in the National Solar Mission, but we will fight it," a commerce department official told ET.

The US, the EU and Japan recently asked for a special meeting of the Trade Related Investment Measures or Trims committee of the WTO to address concerns on domestic content requirement or compulsory local-sourcing clause in some policy measures in India, Brazil, Indonesia and Russia.

India's decision to grant preference to domestically manufactured electronic products on security grounds, taken earlier this year, and the 30% mandatory domestic sourcing requirement in the JNSSM were strongly criticised by the three members.

The US expressed concern about telecom licensees in India having to purchase telecom equipment locally and wanted to know if the domestic sourcing requirement covered all private agencies. "The US wanted to know which clause of security exceptions was being invoked and how security concerns are addressed by domestic content and value addition requirement," the official said.

India maintained that security issues are sacrosanct for all WTO members, and a detailed discussion was not possible since these issues are sensitive and confidential and are dealt on the basis of advice from security agencies.

The EU asked for a timeline on when detailed guidelines of the IT policy was expected, but India refused to give any date.

"We do not expect much trouble on electronic goods sourcing as we are well within our rights to take such measures for security reasons," the official said.

The ground, however, may be a bit wobbly when it comes to defending the requirements under the JNSSM that asks all investors to compulsorily use solar modules manufactured in India and source at least 30% of input locally.The Trims does not allow any member to impose sourcing restrictions without ample justification. New Delhi is now waiting for the next Trims committee meeting to see what the US, the EU and Japan plan to do on the matter. "We are prepared to fight it till the end, and we will do so," the official said.

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After aviation, India to oppose EU's maritime carbon levies

Tarun Shukla & Neha Sethi, Mint

New Delhi, 23 July, 2012: India plans to oppose at an environment conference in Washington later this month the European Union's (EU's) proposal to levy carbon emissions taxes on aircraft and ships.

The aviation ministry will present India's opposition to the EU's emission trading scheme (ETS), said two government officials who declined to be named.

Consultations with the environment ministry on the matter ended last week.

The European Union earlier this year began considering a proposal to bring the maritime sector under the purview of its carbon emissions levy, though it has been facing resistance from several nations, including India, to a similar levy for airlines using its airspace.

The EU "proposes to regulate emissions arising from all ocean-going ships which touch their boundaries or ports by including their emissions in the EU-ETS," said one of the officials mentioned earlier.

"This is a dangerous trend since while inclusion of aviation in the EU-ETS remains contentious, the EU is going ahead with the inclusion of the maritime sector also in the scheme," the official said.

India's shipping ministry has already written to the EU opposing its proposed emissions levy on ships entering EU waters, a ministry official said, also declining to be named.
The likely impact of the proposed new levy on Indian ships couldn't be ascertained immediately.

The EU spokesman for climate action, Valero Ladron, said the EU is pursuing an international agreement on global measures to reduce greenhouse gas emissions from international maritime transport.

Considerable efforts are being made primarily in the International Maritime Organization (IMO) and the United Nations Framework Convention on Climate Change (UNFCCC), he said."In the light of these efforts, the EU is considering all the options to address maritime emissions. Bringing maritime into the EU-ETS is just one of the options that are being assessed. No decision has been taken yet," he said.

The EU has maintained that the levy under its emissions trading scheme is not a tax and is challenging countries opposing its proposals.

An environment ministry official, who, too, did not want to be identified, said India will oppose in the IMO if the EU includes the maritime sector for emissions taxation. "It is not clear yet as to when they plan to put it in place. They have only started consultations. It hasn't come to a stage where we need to think of steps to be taken, though just like the aviation sector, there are a series of steps which are possible," this official said. "The EU is trying to take it out of the negotiations in UNFCCC by taking it to the IMO and they are trying to force it through that route," the official added.

Prodipto Ghosh, distinguished fellow with New Delhi-based non-profit The Energy and Resources Institute, said the EU is setting a bad precedent. "The EU-ETS has already been very strongly resisted. Thirty five countries have agreed on countermeasures to be taken and to put sanctions on the EU.... If we allow them to do this in these sectors, then EU can propose to do this in other sectors such as mining, power, land transport, steel, etc., which are all energy-intensive sectors," he said.

R.S. Vasan, head of strategy and security studies at the Centre for Asia Studies, said the EU's proposal for the maritime sector is a concern for India because a lot of the country's exports and imports are dependent on the sea. "But unlike China, the number of ships owned by India is a small percentage. So China is more at risk because it has more number of ships. Developing countries should come together and look at some precedents of instances where India and China have resisted before. They should resist this in organized forums and take their time to first upgrade technology," Vasan said, adding that more often than not clean technology from the developed world is denied to the developing world.

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Indian drug firms lobby against EU's new directive

Vidya Krishnan, Mint

July 24, 2012: Indian drug companies are lobbying against a move by the European Commission to check the import of counterfeit drugs through a directive that comes into effect in about a year from now.

According to the Pharmaceuticals Export Promotion Council of India (Pharmexcil) lobby group, the country's drug exports to the European Union (EU) were worth $1.93 billion (around Rs.10,769 crore) in 2010-11. If India fails to get an EU equivalence certificate by 2 July 2013, when the rule is set to go into effect, 30% of this could be affected, the lobby group said.

Industry and government officials say they don't have the manpower or the resources to be able to comply with the new directive.

Under the EU falsified medicines directive, each shipment of active pharmaceutical ingredient (API) or drug raw materials from India should be accompanied with a written confirmation, vouching that the quality of the exports conforms to EU standards. The legislation was adopted by the EU Council in May 2011 with the objective of preventing the entry of fake drugs.

Failure to provide this "equivalence certificate" would mean loss of business for India, said D.G. Shah, secretary general of the Indian Pharmaceutical Alliance (IPA) lobby group.

"The EU initiative is protectionist and while they are citing safety and public health as reasons, it is clear that they want to protect their domestic pharmaceutical companies from competition," he said. "We can only hope that the Indian government will respond appropriately, keeping this in mind."

The EU and the Indian drug companies have been in conflict before. In 2008, the Netherlands seized Indian drug consignments on the ground of patent infringement, triggering a trade dispute between India and the EU. The incident had prompted the Indian government to approach the World Trade Organization (WTO).

The term "falsified medicinal product" in the European Commission's directive is of particular concern in India.

"While the directive is pertaining to API, the word 'falsified' could be used broadly to apply to generic drugs made in India," said C.M. Gulati, editor of the *Monthly Index of Medical Specialities*, a journal on prescription drugs available in India. "If an Indian company makes a generic version of a drug patented by a multinational pharma company, it could come under this directive and be treated as a 'falsified' or spurious drug and be confiscated."

At a meeting with industry representatives on Monday, the department of pharmaceuticals (DoP) sought a response from the Drug Controller General of India (DCGI) about the feasibility of training Indian drug inspectors on EU standards.

"We have sought DCGI's position on the matter and we are concerned by the use of 'falsified'. We have also proposed a meeting with representatives from the commerce and health ministries on the matter. We do not want to delay this any further as our exports will be adversely affected," said Raja Sekhar Vundru, joint secretary, DoP.

The government appears to be convinced that the Indian drug companies have a case.
"We are looking at various alternatives, including approaching WTO...," said a commerce ministry official who didn't want to be named. A questionnaire sent by *Mint* to the European Commission did not elicit a response at the time of going to press.

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You may have to pay just 10% duty on Porsche and BMW

Amiti Sen, Economic Times

New Delhi, July 30, 2012: Cars manufactured in the European Union, including luxury makes such as Porsche and BMW, could be available in India at prices only marginally higher than in Europe as the government is likely to agree to a 10% duty on a fixed quota of cars imported from the EU as part of a free-trade agreement being negotiated between the two sides.

India is considering allowing imports of 2.5 lakh cars on which only a 10% tariff will be levied, compared to the normal rate of 60%, marking the first significant challenge the heavily protected Indian automobile industry has had to face from imports. The imports will be spread over five years, starting with 40,000 cars in the first year and rising by 5,000 units every year thereafter.

"We may bring down tariff to a low level of 10% for a fixed quota of cars every year for five years. We think our industry can deal with this," a government official told ET.

New Delhi is also considering reducing import tariffs by half from 60% to 30% for cars outside the quota once the proposed India-EU free trade agreement is implemented.

The European Union is keen that India commit itself to extending the liberalized import regime for the quota of 2.5 lakh cars beyond five years, but New Delhi has said that it will review the situation after five years.

"We want to keep some room for maneuver if the need arises,' the official said. Greater market access for automobiles, wines & whiskies is on top of the EU's wish list for the FTA, formally called the bilateral trade and investment agreement.
In exchange, India expects to get more visas for its professionals, a relaxation of EU norms that require manufacturers keep elaborate database on chemicals used in their products.

India's wishlist also includes recognition as a data secure country for carrying out off-shore operations, a quality certificate for its herbal products and lower duties on labour intensive products such as leather and textiles.

The concessions on automobiles and alcohol, if they form part of the final agreement, will be unique as they are absent in similar agreements it has entered so far with countries like Singapore, Japan, Malaysia, South Korea, Sri Lanka and the ten-member Asean.

The Indian automobile industry has criticized the government's move to liberalise imports.
SIAM has warned that imports will deter investments as foreign car makers would prefer to export their cars to India rather than set up manufacturing facilities.

French carmaker Peugeot has put off its plans to invest in India, reportedly, in the hope of reaping benefits of lower duties once the India-EU FTA gets implemented.

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