India-EFTA Trade & Economic Agreement: A Win-Win Deal

In March, India marked a pivotal milestone in its pursuit of sustainable development, economic growth, and strengthening of its international trade presence by signing the Trade and Economic Partnership Agreement (TEPA) with the European Free Trade Association (EFTA). Established in 1960, EFTA serves as an inter-governmental organization dedicated to fostering free trade and economic integration between its four non-EU Member States: Switzerland, Iceland, Norway and Liechtenstein.

It has taken 21 rounds of negotiations, commencing back in 2008, to finally ink a "modern and ambitious Trade Agreement" with an important economic bloc out of the three (EU and UK being the other two) in Europe.

Trade Agreements are arrangements between two or more countries that primarily agree to reduce or eliminate customs tariff and non-tariff barriers on substantial trade between them. Trade Agreements, normally cover trade in goods, and services, including Intellectual Property rights, investment, government procurement and competition policy, etc.

Under a Trade Agreement, duty concessions are required to be extended only to such imported goods that are 'made in' the exporting country. Each Trade Agreement contains a set of rules of origin, which prescribe the criteria that must be fulfilled for goods to attain 'originating status' in the exporting country. Such criteria are generally based on factors such as domestic value addition and substantial transformation in the course of manufacturing/processing.

According to the Department of Commerce data[1], India's exports to EFTA countries reached USD 1926.43 million, while the imports were at USD 16738.93 million in FY 2022-23. The exports are mostly comprised of organic chemicals, electrical machinery, woven apparel or clothing accessories, aluminium and articles thereof. Conversely, India's imports mainly comprise of pharmaceutical products, electrical machinery, mechanical appliances, optical, medical, and surgical instruments, as well as clocks and watches.

1. tradestat.commerce.gov.in

The Trade and Economic Partnership Agreement (TEPA) comprises of 14 chapters, with its primary focus on market access related to goods, rules of origin, trade facilitation, trade remedies, sanitary and phytosanitary measures, technical barriers to trade, investment promotion, market access on services, intellectual property rights, trade and sustainable development and other legal and horizontal provisions.

Some of the key highlights of the TEPA are:

Investment and Job Creation Commitment

EFTA countries would invest (FDIs) USD 100 billion in India over the next 15 years while facilitating the generation of 1 million direct employment in India through such investments. However, this would not cover Foreign Portfolio Investments (FPIs).

Resultantly, TEPA is slated to give impetus to "Make in India" and Atmanirbhar Bharat initiatives by encouraging domestic manufacturing in sectors such as Infrastructure and Connectivity, Manufacturing, Machinery, Pharmaceuticals, Chemicals, Food Processing, Transport and Logistics, Banking and Financial Services and Insurance.

Tariff Concessions

EFTA would offer 92.2% of its tariff lines, equivalent to 99.6% of India' exports, including full coverage of non-agricultural products and tariff concession on processed agricultural products. On the other hand, India would provide concessions on 82.7% of its tariff lines, which cover 95.3% of EFTA exports, of which more than 80% of imports are of Gold. The effective duty on Gold would remain untouched. However, the tariff reductions would not apply to sectors like dairy, soya, coal, and certain sensitive agricultural products.

India has offered 105 sub-sectors to the EFTA while securing commitments in 128 sub-sectors from Switzerland, 114 from Norway, 107 from Liechtenstein, and 110 from Iceland.

Such preferential customs duty benefits shall be subject to the rules of origin and requisite documentation (for proof of origin). Further, under the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (CAROTAR), importers are required to fulfill the following obligations to avail duty benefits:

- Declare that goods qualify as originating goods.
- Possess adequate information regarding the country of origin.
- Furnish information in a prescribed manner (viz., Form I).
- Ensure the accuracy and truthfulness of the information with reasonable care.
- Note that merely submitting a Certificate of Origin (COO) might not be sufficient to claim preferential duty benefits. Importers will need to gather additional information about the imported goods beyond the COO and retain the said data for five years.
- Exercise diligence in obtaining and ensuring the accuracy of information.
- Verify the information to prevent the denial of Customs duty benefits during the goods clearance process.
- Engage exclusively with compliant foreign suppliers to avoid any obstacles in benefiting from exemption benefits.

Anti-Dumping Measures

The parties have agreed not to take anti-dumping measures in an arbitrary or protectionist manner. The anti-dumping duty, if any, shall be imposed by applying the 'lesser duty' rule, i.e., a duty that is less than the dumping margin, when such lesser duty would be adequate to remove the injury to the domestic industry.

Services Trade Expansion

TEPA would stimulate India's exports in sectors like IT services, business services, personal, cultural, sporting, and recreational services, other education services, audio-visual services, etc., the Agreement also has provisions for Mutual Recognition Agreements in professional services like nursing, chartered accountancy, architecture, etc.

It would provide an opportunity to integrate into EU markets. Over 40% of Switzerland's global services exports are to the EU. Indian companies can look to Switzerland as a base for extending their market reach to the EU.

Commitment on Intellectual Property Rights (IPRs)

The IPR commitments have been aligned with the standards of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. TEPA seeks to provide adequate, effective, and non-discriminatory protection and enforcement of IPRs. India's interests in generic medicines and concerns related to the evergreening of patents have been addressed vide the Agreement.

The Agreement recognizes the importance of trade facilitation in promoting efficient and transparent procedures to reduce costs and ensure predictability for the trading communities. It has also acknowledged the importance of good corporate governance and corporate social responsibility while reaffirming the rights of the governments to regulate and set their sustainable development policies and priorities.

With investment commitments that are likely to create jobs for India's young aspirational force in the next 15 years, this landmark deal would facilitate technology collaboration and access to world-leading technologies in precision engineering, health sciences, renewable energy, innovation, and R&D. This, in turn, would bring in significant economic benefits to both sides.

Given the enhanced market access and simplified customs procedures, India should witness better integrated and more resilient supply chains along with new opportunities for businesses and individuals.

While TEPA is touted to be a win-win deal for both sides, excluding sensitive Indian sectors like dairy and certain agricultural products from duty concessions might limit the benefits to some EFTA exporters.

It is imperative to note that although the parties have signed the Trade Agreement, it will only come into effect following ratification by the respective governments. The same can hopefully be expected early next year (viz., in 2025).

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