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B7-0292/2011

MOTION FOR A RESOLUTION

further to Question for Oral Answer B7-0214/2011

pursuant to Rule 115(5) of the Rules of Procedure

on an EU-India Free Trade Agreement

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on behalf of the S&D Group

European Parliament resolution on an EU-India Free Trade Agreement

The European Parliament,

- having regard to the Ministerial Declaration of the Fourth WTO Ministerial Conference, adopted on 14 November 2001 in Doha and in particular its paragraph 44 on Special and Differential Treatment (SDT),
- having regard to the World Trade Organisation (WTO) decision on the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and Public Health adopted on 29 November 2005,
- having regard to its resolution of 12 July 2007 on The TRIPS Agreement and access to medicines¹,
- having regard to the OECD Guidelines for Multinational Enterprises, the International Labour Organisation's (ILO) tripartite declaration of principles concerning multinational enterprises and social policy, the codes of conduct agreed under the auspices of international organisations such as the FAO, the WHO and the World Bank, and the efforts made under the auspices of UNCTAD to regulate the activities of enterprises in developing countries,
- having regard to Articles 12, 21, 28, 29, 30 and 31 of the Charter of Fundamental Rights of the European Union,
- having regard to Articles 2, 3 and 6 of the Treaty on European Union,
- having regard to Articles 9, 10, 48, 138, 139, 153, 156, 191, 207 and 218 of the Treaty on the Functioning of the European Union,
- having regard to the Communication from the Commission of 3 March 2010 entitled 'Europe 2020 – A strategy for smart, sustainable and inclusive growth' (COM(2010)2020),
- having regard to the Communication from the Commission of 9 November 2010 entitled 'Trade, Growth and World Affairs – Trade Policy as a core component of the EU's 2020 strategy' (COM(2010)0612),
- having regard to its resolution of 25 November 2010 on trade policy in the context of climate change imperatives²,
- having regard to its resolution of 25 November 2010 on human rights and social and

¹ OJ C 175 E, 10.7.2008, p. 591.

² Texts adopted, P7_TA(2010)0445.

environmental standards in international trade agreements¹,

- having regard to its resolution of 25 November 2010 on corporate social responsibility in international trade agreements²,
 - having regard to its resolution of 6 April 2011 on future European international investment policy,³
 - having regard to its resolution of 17 February 2011 on Europe 2020⁴,
 - having regard to the joint statement at EU-India Summit, 10 December 2010, Brussels,
 - having regard to joint declaration of the European Commission and the Government of India on Culture, 10 December 2010, Brussels,
 - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas the European Union should continue to give priority to a rule-based multilateral trading system, established through the WTO, which offers the best prospects for fair and equitable international trade by establishing appropriate rules and ensuring compliance with them,
- B. whereas the EU should continue to give priority to achieving a balanced outcome of the Doha Development Agenda (DDA), which should support developing countries' integration in the international trading system,
- C. whereas it is essential to identify the right balance between multilateral, bilateral and plurilateral agreements,
- D. whereas the EU is India's largest trading partner accounting for approximately € 84 billion in trade in goods and services in 2009-10. The EU accounted for 20.15% of India's total exports and 13.32% of India's total imports. On the other hand, India accounts for 2.6% of EU's total exports and 2.2% of the EU's total imports,
- E. whereas the EU has been the biggest investor in India with a cumulative volume of about € 20.0 billion since 2000. The EU is also the most important destination of outward investment from India,
- F. whereas India is the largest beneficiary of the Generalised System of Preferences (GSP) scheme; whereas the European Union's imports from India at preferential rate or zero duty amounted to 19.9 billion EUR in 2009 corresponding to 83% of total EU imports from India,
- G. whereas as stated in the 2007/2008 United Nations Development Programme's Human

¹ Texts adopted, P7_TA(2010)0434.

² Texts adopted, P7_T7(2010)0446.

³ Texts Adopted, P7_TA(2011)0141.

⁴ Texts adopted, P7_TA(2011)0068.

Development Report, India ranks 128 on the Human Development Index (out of 177 countries); whereas India ranks 62nd on the human poverty index for developing countries among 108 developing countries for which the index has been calculated; and whereas India has one of the highest incidences of child labour,

- H. whereas Negotiations for an a FTA with India were launched in June 2007,
- I. whereas, in accordance with the Treaties, the common commercial policy must be conducted in a manner consistent with all the European Union's objectives, including its social, environmental and development aid objectives,
- J. whereas India is one of the major producer and exporter of generic medicines to the developing world, and therefore any provision on Intellectual Property Rights (IPRs) shall not in any way impact negatively access to affordable medicines,
- K. whereas it is of crucial importance for the EU to ensure better recognition and effective protection of geographical indications (GIs),
- L. whereas the FTA should include binding and enforceable commitments on social and environmental standards and sustainable development and effective implementation of internationally agreed standards in the social and environmental domain, as well as corporate social responsibility standards and decent work,

General Issues

1. Considers that the multilateral trading system remains by far the most effective framework for achieving fair and equitable trade on a global basis; therefore considers that achieving a balanced outcome of the DDA negotiations in the WTO should be considered a priority by the Union negotiators; believes that the Union and India can together contribute towards a successful conclusion of the DDA negotiations; would be concerned if bilateral negotiations were to distract from the achievement of this objective;
2. Notes that the EU and Indian government are after the latest EU-India Summit (December 2010) and more than three years of negotiations on Free Trade Agreement at a crucial point of negotiations; hence encourages the negotiating parties to ensure full consultation, at all stages, with their key stakeholders; calls on both parties to only envisage the conclusion of a fair and balanced FTA in the common interest of both European and Indian societies and economies;
3. Notes that India is the 7th largest economy in the world; The India government foresees 8.6% GDP growth in 2010-11; Regrets that despite sustained economic growth, vast inequalities still persist, with more than 800 million people surviving on less than USD 2 a day; stresses the need to ensure that the FTA would not restrict powers needed by the Indian Government to address poverty and inequality, especially in rural areas where agriculture is the primary activity;
4. Stresses that the FTA includes a binding state-to-state dispute settlement mechanism, provisions on mediation on NTBs, on anti-dumping and countervailing duty measures

and a general exception clause based on Article XX and XXI of the General Agreement on Tariffs and Trade (GATT);

5. Calls on the Commission to include strong and effective safeguard clauses in the FTA;

Sustainable development

6. Recalls that the objectives of the common commercial policy should be fully coordinated with the European Union's overall objectives; that, pursuant to Article 207 of the Treaty on the Functioning of the European Union, the EU's common commercial policy must be conducted 'in the context of the principles and objectives of the Union's external action', and that, pursuant to Article 3 of the Treaty on European Union, it must contribute, inter alia, to the sustainable development, the eradication of poverty and the protection of human rights;
7. Urges the Commission to include legally binding clauses on human rights, social and environmental standards and CSR and their enforcement, with measures in the event of infringement;
8. Asks that this chapter covers as a minimum compliance with the ILO's eight core conventions and four priority conventions and internationally agreed environmental standards, and also provide incentives to enterprises to enter into CSR commitments and an obligation of diligence for enterprises and groups of enterprises, i.e. an obligation to take proactive measures to identify and prevent any violation of human or environmental rights, corruption or tax evasion, including in their subsidiaries and supply chains; asks the Indian government to ratify and effectively apply all the basic conventions of the ILO;
9. Is concerned about the use of child labour in India, which is very often exploited in unsafe and unhealthy conditions; asks the Commission to address the issue during the negotiations on the FTA and asks the Indian government to maximise its efforts to remove the underlying causes in order to end this phenomenon;
10. Considers that failure to comply with basic international social and environmental standards constitutes a form of dumping detrimental to European enterprises and workers;

Trade in Goods and agriculture

11. Notes that India's average applied tariffs have decreased but are still considerably higher than the EU's tariffs, notably, India's average tariff for NAMA is now 10.1% compared to an EU average of 4%; and India's average tariff for agriculture is 31.8% compared to the EU's average tariff of 13.5% EU;
12. Demands that the agreement respects European sensitive sectors, industries and agriculture and protect intellectual property and origin labelling;
13. Calls for priority to be given to tariff reductions on fair trade and sustainable products through the appropriate amendment of EU custom codes;

14. Considers it important that the FTA includes ambitious chapters on Technical Barriers to Trade and Sanitary and Phytosanitary measures; calls on the Commission in this regard to address outstanding issues;

Trade in Services

15. Notes that trade in services between the European Union and India is relatively unbalanced; the EU exports 1.9% of its services to India, while India exports 11,6% of its total exports to the European Union;
16. Recognises that services are the fastest growing sector of the Indian economy; notes that India has offensive interests in the General Agreement on Trade in Services (GATS) Mode 1 and Mode 4 liberalisation;
17. Considers that despite the offensive interest of India in Mode 4, any opening up of services under mode IV must not hamper or prejudice the fundamental principle of equal treatment for workers, and must guarantee the full implementation of the principle of equal pay for work of equal value;
18. Points out that service liberalisation must in no way hinder the right to regulate services, and especially to maintain and develop strong public services, an essential element for development and social justice;
19. Calls on the Commission to draw up the list of services that are to be covered in accordance with the principle of a positive list and to exclude from it public services, and cultural and audio-visual services;

Investment

20. Stresses that the investment chapter shall promote high quality investments, which respect the environment and encourage good working conditions; Furthermore demands that the investment chapter respects the right of both parties to regulate, in particular in the areas of national security, environment, public health, workers' and consumers' rights, industrial policy and cultural diversity;
21. Calls on the Commission to exclude from the scope of investment agreements public services and sensitive sectors such as culture, education, national defence and public health;
22. Deplores that the Commission did not wait until the EP adopted its resolution on the future investment policy before proposing a draft mandate on investment negotiations to Council; asks the Commission and the Council to fully take into account the opinion expressed in this resolution when drafting the mandate for investment negotiations;

Public procurement

23. Notes that India has agreed to include public procurement in the FTA; calls on the Commission to negotiate effective and transparent procurement systems; considers it important to ensure symmetry and transparency, in particular for SME's, in public procurement procedures, in full respect of the multi-functionality of procurement policies,
24. Considers that the EU must pay special attention to SMEs, and therefore suggests that in all development cooperation programmes between the European Union and India, SMEs could be strengthened through measures to help to finance local projects proposed by citizens;

Intellectual Property Rights

25. Welcomes India's firm commitment to a strong IPR regime and to the use of TRIPS flexibilities in international and domestic legislation to meet its public health obligations, particularly in relation to access to medicines; encourages its rigorous implementation and enforcement while maintaining access to essential medicines; calls on the EU and India to ensure that commitments under the FTA do not preclude access to essential medicines whilst India is developing its capacity from a generic to a research-based industry; stresses that these negotiations must be compatible with protecting biodiversity and traditional knowledge;
26. Calls on the Commission and the Indian authorities concerned to jointly work out a common definition of counterfeit medicines in a way that would not be harmful to access to essential medicines, and co-ordinate actions to address effectively the fight against counterfeiting and, in particular, against counterfeit medicines that are detrimental to patients health;
27. Asks the EC not to request data exclusivity in the context of IPR negotiations, as stated in the EP Resolution of 12 July 2007, and to recognise that data exclusivity would have far-reaching consequences for the production of generic medicines and therefore is detrimental to developing countries' access to medicines and public health policy;
28. Stresses that the high level protection of geographical indications is of crucial importance, calls on the Commission to ensure the recognition and effective protection of GIs;

Impact assessments

29. Insists on the absolute necessity for the Commission to make independent impact assessments that are publicly disclosed and updated as the negotiations advance in order to check coherence with other policies of the EU and make them a decisional aid instrument for the Council and the European Parliament;
30. Asks the Commission to present a detailed sectoral assessment, which shall examine the impact on all sectors which could be affected by the FTA; Requests a specific chapter on its impact on European employment;

31. Encourages the parties also to address the potential disadvantages of the FTA and the ways in which human development and gender equality may be adversely affected by the rapid opening of markets; recognises the right of governments to maintain necessary policy space and regulatory capacities to shape economic and social policies that serve their people;
32. Underlines that the FTA should ensure that increasing bilateral trade brings benefits to the widest number of people and contributes to India's achievement of the Millennium Development Goals (MDGs), including preventing environmental degradation;
33. Stresses that the FTA should include a continued monitoring and comprehensive review system, in order to determine the socio-economic impact of the agreement; calls for provisions of the FTA to be adjusted in line with the conclusions of this review;

The European Parliament's role

34. Considering the impact of trade negotiations in the economic, social, health and environmental fields and the need for democratic control over complex issues, recalls that Parliament has to be kept adequately informed at all stage of the negotiations;
35. Asks the Commission and the Council to take fully into account the requests of the EP expressed in this resolution before concluding the FTA; recalls that the FTA requires the EP consent in order to come into force; calls on the Commission and the Council not to propose any provisional application of the agreement before the EP has given its consent;
36. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States and of India.