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B7-0293/2011 }
B7-0294/2011 } RC1

JOINT MOTION FOR A RESOLUTION

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

replacing the motions by the following groups:

S&D (B7-0292/2011)

Verts/ALE (B7-0293/2011)

GUE/NGL (B7-0294/2011)

on an EU-India Free Trade Agreement

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on behalf of the Verts/ALE Group

Helmut Scholz

on behalf of the GUE/NGL 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 the Council Conclusions on the EU Role in Global Health, particularly paragraphs 16(a) and 18(c) thereof,
- having regard to the Council Conclusions on Policy Coherence for Development,
- having regard to the Trade Sustainability Impact Assessment for the FTA between the EU and the Republic of India, of 18 May 2009, and the Commission services position paper on this Assessment, of March 2010,

¹ OJ C 175 E, 10.7.2008, p. 591.

- having regard to its resolution of 25 November 2010 on trade policy in the context of climate change imperatives¹,
 - having regard to its resolution of 25 November 2010 on human rights and social and environmental standards in international trade agreements²,
 - having regard to its resolution of 25 November 2010 on corporate social responsibility in international trade agreements³,
 - having regard to its resolution of 6 April 2011 on future European international investment policy⁴,
 - having regard to its resolution of 17 February 2011 on Europe 2020⁵,
 - having regard to the joint statement issued at the EU-India Summit on 10 December 2010 in Brussels,
 - having regard to the joint declaration of the European Commission and the Government of India on Culture issued on 10 December 2010 in Brussels,
 - having regard to Rule 115(5) 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 most suitable framework 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 into 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, while the EU accounted for 20.15% of India's total exports and 13.32% of India's total imports, but on the other hand, India accounts for 2.6% of the 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 billion since 2000, and 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)

¹. Texts adopted, P7_TA(2010)0445.

². Texts adopted, P7_TA(2010)0434.

³. Texts adopted, P7_T7(2010)0446.

⁴. Texts adopted, P7_TA(2011)0141.

⁵. Texts adopted, P7_TA(2011)0068.

scheme; whereas the European Union's imports from India at a preferential or zero rate of duty amounted to €19.9 billion 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 Development Report, India ranks 128th 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 on an 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 producers and exporters of generic medicines to the developing world, and therefore any provision on Intellectual Property Rights (IPRs) must 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,
- M. whereas small farm agriculture and related activities are the mainstay of 70% of India's population and among that section of the population women in agriculture constitute over 60% of the active workforce; whereas India has slipped to the 67th position out of 84 countries on the Global Hunger Index and its food security remains fragile; whereas a significant part of its population is dependent on small-scale fisheries which are challenged by industrial fisheries for exportation, threatening the food safety of millions of Indians,
- N. whereas India has not signed the Non-Proliferation Treaty (NPT); whereas the Nuclear Suppliers Group has lifted the embargo on India's nuclear trade,

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 be a distraction from the achievement of this objective;
2. Notes that, after the latest EU-India Summit (December 2010) and more than three years of

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negotiations on a Free Trade Agreement, the EU and the Indian Government are at a crucial point in the 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; considers that the multiple crisis the world is facing should lead the EU and India to maintain a prudent approach at any stage of the trade negotiations and insists that an FTA should not precondition any legislative changes either in Europe or in India;

3. Notes that India is the seventh largest economy in the world and that the Indian 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 does 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 eventual FTA must include a binding state-to-state dispute settlement mechanism, provisions on mediation on NTBs, anti-dumping and countervailing duty measures and a general exception clause based on Articles 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;
6. Calls on the Commission to insist during the negotiations that India ratify the NPT;

Sustainable development

7. 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 sustainable development, the eradication of poverty and protection of human rights;
8. 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 any infringement;
9. Asks that this chapter cover, 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;
10. 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;

11. Considers that failure to comply with basic international social and environmental standards constitutes a form of dumping detrimental to European enterprises and workers, and asks the Commission to clarify these issues before concluding any trade deal;

Trade in goods, agriculture and energy

12. 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%;
13. Demands that the agreement respect European sensitive sectors, industries and agriculture and protect intellectual property and origin labelling;
14. Considers that the Commission should duly analyse the risk to development involved in enhancing the access of the European agribusiness sector to the Indian agricultural sector – which could harm small and medium-sized farms – as well as in increased single-crop farming and use of pesticides, monopolisation of land, reduction of biodiversity and an increased rural exodus;
15. Expresses its concern about the extension and enforcement of Intellectual Property Rights through provisions going beyond what is required under World Trade Organisation agreements that could contribute to hunger and malnutrition by denying small-scale and subsistence farmers' rights to seeds and sharing of knowledge and could undermine people's basic rights to a livelihood, food and access to healthcare, education and research;
16. Calls on the parties to better take into account the effect of changed land use on land and water quality and the fundamentally female workforce, due to liberalisation measures; warns against problems with family farming in the dairy sector both in India and in Europe;
17. Calls for priority to be given to tariff reductions on fair trade and sustainable products through the appropriate amendment of EU customs codes;
18. Considers it important that the FTA include ambitious chapters on Technical Barriers to Trade and Sanitary and Phytosanitary Measures; calls on the Commission in this regard to address outstanding issues;
19. Recalls the foreseeable increase in energy needs following an increase in trade, and calls on the parties to work out a common and affordable energy supply plan in accordance with the necessity to curb GHG and climate change;

Trade in services

20. 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;
21. 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;

22. Considers that, despite the offensive interest of India in Mode 4, any opening-up of services under Mode 4 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;
23. 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;
24. 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, such as drinking water supply and cultural and audiovisual services; expects the Commission to give an assurance that speculative financial instruments will also be explicitly excluded from the scope of the agreement;

Investment

25. Stresses that the investment chapter must promote high-quality investments which respect the environment and encourage good working conditions; furthermore demands that the investment chapter respect the right of both parties to regulate, in particular in the areas of national security, the environment, public health, workers' and consumers' rights, industrial policy and cultural diversity;
26. Calls on the Commission to exclude an investor-to-state dispute settlement mechanism from the Agreement, as it empowers investors from the other counterpart to take international legal action against the Indian or EU governments, while national investors only have access to national courts, in the EU as in India, and as it could undermine policy initiatives across Europe, from the local to the European level, concerning environmental, social or tax legislation, putting European taxpayers at risk of paying millions of euros in legal expenses;
27. 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;
28. Deplores the fact that the Commission did not wait until the EP had adopted its resolution on the future investment policy before proposing a draft mandate for investment negotiations to the Council; asks the Commission and the Council to fully take into account the opinion expressed in that resolution when drafting the mandate for investment negotiations;

Public procurement

29. 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 SMEs, in public procurement procedures, without prejudice to the multifunctionality of procurement policies; recalls that procurement efficiency is a secondary policy goal for India while procurement is primarily a policy tool to distribute public revenue according to needs for regional cohesion and local technology development imperatives;

30. 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

31. 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;
32. 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 coordinate actions to address effectively the fight against counterfeiting and, in particular, against counterfeit medicines that are detrimental to patients' health;
33. Asks the Commission 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 is therefore detrimental to developing countries' access to medicines and public health policy;
34. Stresses that a high level of protection of geographical indications is of crucial importance, and calls on the Commission to ensure the recognition and effective protection of GIs;

Impact assessments

35. 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 an aid to decision-making by the Council and the European Parliament;
36. Asks the Commission to present a detailed sectoral assessment, which should examine the impact on all sectors which could be affected by the FTA; requests a specific chapter on its impact on European employment;
37. 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 the necessary freedom of policy-making and regulatory capacities to shape economic and social policies that serve their people;
38. Underlines that the FTA should ensure that increasing bilateral trade brings benefits to the maximum number of people and contributes to India's achievement of the Millennium Development Goals (MDGs), including preventing environmental degradation;

39. Regrets the limited scope of the existing SIA on the FTA with India, and asks for a swift assessment/further studies to be made on the issues of human rights, the right to food and public health, India's informal sector and the compatibility of the planned liberalisations with the achievement of the MDGs;
40. Stresses that the FTA should include a continued monitoring and comprehensive review system, in order to determine the socioeconomic 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

41. 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 stages of the negotiations;
42. 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's 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;
43. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States and of India.