



India-EFTA Trade and Economic Partnership Agreement: Key Outcomes and Implications

Introduction

After formally launching negotiations in 2008, India and the European Free Trade Association (EFTA) comprising Switzerland, Iceland, Norway, and Liechtenstein signed the India-EFTA Trade and Economic Partnership Agreement (TEPA) on March 10, 2024. While India signed the Comprehensive Economic Cooperation and Partnership Agreement with Mauritius (India-Mauritius CECPA) in 2021, followed by the India-United Arab Emirates Comprehensive Economic Partnership Agreement (India-UAE CEPA) in February 2022 and the India-Australia Economic Cooperation and Trade Agreement (India-Australia ECTA) in December 2022, the TEPA is the first major free trade agreement signed by India with developed nations under EFTA.¹

According to the Government of India, TEPA is expected to promote investment and generate employment in India.² Importantly, the Indian government expects TEPA to provide exporters access to quality inputs, thereby giving further impetus to the Atmanirbhar Bharat and Make in India programs.³ Notably, while India is negotiating several free trade agreements (FTAs) with various other countries in Europe, the TEPA is being seen as a gateway for Indian exporters to access European and other global markets.⁴

In this context, some of the key outcomes and implications of the TEPA are provided below:

Key Outcomes and Implications on Indian Businesses

TEPA includes a binding obligation on EFTA countries to aim to invest 100 billion USD⁵ into India along with facilitating the generation of 1 million jobs⁶ in India within 15 years from the entry into force of the TEPA.⁷ Reportedly, this is the first such commitment made in an FTA.⁸ If these defined targets are not met by EFTA, India can invoke a three-stage consultation procedure. After the consultation, should India continue to believe that the said targets have not been fulfilled, India can suspend concessions after a further grace period of three years.⁹ Moreover, recourse has been provided for terminating or modifying the suspensions – one of the reasons for termination of suspension is the fulfillment of the defined target.

¹ Ministry of Commerce and Industry, Press release dated 10 March 2024, available at URL: <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=2013169>

² Ibid

³ Id

⁴ Id

⁵ According to Footnote 6 to Chapter 7 of the TEPA, TEPA sets forth indicators to assess if an investment into India is attributable to EFTA countries. For example, an investment routed from outside EFTA shall be considered an investment from EFTA into India if it is shown that the said investments are made by investors of an EFTA country. Additionally, if investments are routed through EFTA countries by investors of third countries (who are either not established in an EFTA country or established in an EFTA country but without substantial business activities in an EFTA country), such investments shall not be considered an investment by EFTA into India.

⁶ According to Footnote 8 to Chapter 7 of the TEPA, the facilitation of 1 million jobs in India by EFTA countries must be attributable to foreign direct investment into India.

⁷ Chapter 7 of the TEPA

⁸ India, EFTA sign free trade deal, Mint, 10 March 2024, available at URL: <https://www.livemint.com/news/india/indiaefta-formally-free-trade-agreement-signed-on-sunday-all-you-need-to-know-11710051688256.html>

⁹ Ibid

Trade and Sustainable Development

TEPA includes a chapter on Trade and Sustainable Development, which is also the first in India's recent FTAs. This chapter provides that the parties would aim towards cooperating and strengthening their trade relations in a manner that promotes sustainable development (including the establishment of a Sub-Committee on Sustainability), as well as requiring each party to seek to ensure that its laws and regulations promote the same. In this regard, the parties expressly reaffirm their obligations under various international instruments that deal with sustainable development, such as the Paris Agreement, the UN 2030 Agenda for Sustainable Development, and the Declaration on Fundamental Principles and Rights at Work, among others.

Notably, the chapter also contains a categorical prohibition on environmental and labour measures being used as a "disguised restriction on trade", with India and EFTA instead noting the "value" of international agreements for addressing environmental and social challenges. This may reflect the approach also adopted by India at the WTO's Thirteenth Ministerial Conference, which argues that sustainable development issues (such as climate change and gender equality) should be kept outside the realm of trade regulation.¹⁰ Thus, while the chapter does recognize the relevance of trade as a tool to achieve sustainable development goals, it also recognizes the importance of such goals being achieved under the context of international agreements that specifically deal with such sustainable development issues.

Trade in Goods

EFTA has offered concessions on 92.2% of the tariff lines which covers 99.6% of India's exports to EFTA countries. These tariff lines cover 100% of non-agricultural products and processed agricultural products (**PAP**).¹¹

India, on the other hand, has offered concessions to about 82.7% of its tariff lines - this covers 95.3% of EFTA exports to India of which more than 80% of exports is of gold to India. India has provided a concession of 1% on the bound duty rate of gold. The applied duty on gold remains untouched.¹²

Additionally, India has given concessions on wine to Switzerland, in a phased manner depending on the CIF value of the wine. These concessions on wine are similar to those implemented by India under the India-Australia ECTA - it may be expected that India may provide similar concessions to other European countries like the UK and the EU, with whom India is negotiating FTAs. Lastly, India has also offered immediate and phased tariff elimination for products like watches and chocolates.

¹⁰ Ministry of Commerce and Industry, Press release dated 26 February 2024, available at URL: <https://pib.gov.in/PressReleasePage.aspx?PRID=2009228>

¹¹ Ministry of Commerce and Industry, Press release dated 10 March 2024, available at URL: pib.gov.in/PressReleaseFramePage.aspx?PRID=2013169

¹² Ibid

Snapshot – Bilateral Trade in Goods

Data in USD million	India's Exports ¹³			India's Imports ¹⁴			
Country	CY 2022	CY 2023	Percentage Share	CY 2022	CY 2023	Percentage Share	Trade Balance
Switzerland	1,340.45	1,381.88	73.56%	16,290.70	19,657.16	96.11%	-18,275.28
Norway	475.04	483.93	25.76%	1,028.74	782.27	3.82%	-298.34
Iceland	10.95	12.52	0.67%	1.79	8	0.04%	4.52
Liechtenstein	0.41	0.32	0.02%	5.11	5.17	0.03%	-4.85
Total	1,826.85	1,878.65		17,326.34	20,452.60		-18,573.95

Source: Tradestat, Department of Commerce, Government of India. CY = Calendar Year

Rules of Origin

Stringent rules of origin have been included under the TEPA. For instance, the TEPA requires that preferential tariffs can be claimed against exports from India to EFTA at the time of clearance, only after the production of a certificate of origin issued by a government agency in India or a self-declared certificate of origin issued by an Indian exporter. Similarly, exports from EFTA to India may seek preferential treatment only after the production of an origin declaration provided by an approved exporter established in EFTA, or a movement certificate (i.e. EUR.1) issued by the customs authority in EFTA.

Certain product-specific rules have also been set forth for products falling under Chapters 28 to 40. Additionally, melt and pour requirements have been set forth for products falling under Chapters 72 and 73 that pertain to iron and steel – this appears to be similar to the melt and pour requirement set forth under India-UAE CEPA.

Trade in Services

Market access to services has been offered by both EFTA and India in at least 105 sub-sectors including IT services, business services, personal, cultural, sporting, and recreational services, other education services, and audio-visual services among others.¹⁵ According to the Indian government, EFTA offerings, which include better access through digital delivery of Services (Mode 1), commercial presence (Mode 3), and improved commitments and certainty for entry and temporary stay of key personnel (Mode 4), will simulate India's service exports in sectors of key interest to India.¹⁶

There are also provisions for Mutual Recognition Agreements in professional services like nursing, chartered accountants, architects, etc.

¹³ India's exports to EFTA: India primarily exports diamonds, gold, and certain kinds of chemicals to Switzerland. To Norway, India exports certain chemicals, processed vegetable products, meteorological equipment, and animal feed. India has a small footprint in Iceland and Liechtenstein which primarily consists of twine netting, iron and steel bars and rods, and certain chemicals and iron and steel products.

¹⁴ EFTA's exports to India: India primarily imports gold, coal, soya bean oil, wrist watches, and certain pharmaceutical products from Switzerland. From Norway, India primarily imports petroleum gases, nickel, iron and aluminium scrap, and certain kinds of fertilizers. From Iceland, India only imported USD 8 million of goods in CY 2023. This includes ferroalloys, certain fish fats and oils, coloring matter, and hydrometers. Similarly, Liechtenstein exports certain machinery equipment, measuring apparatus, electromagnets, and specific kinds of metalworking equipment to India.

¹⁵ 'Tough negotiator': Swiss official on India after trade deal with European bloc, India Today, 11 March 2024, available at URL: <https://www.indiatoday.in/india/story/swiss-secretary-of-state-economic-affairs-helena-budliger-artieaga-india-tough-negotiator-after-efta-free-trade-agreement-2513217-2024-03-11>; See also, Ministry of Commerce and Industry, Press release dated 26 February 2024, available at URL: <https://pib.gov.in/PressReleasePage.aspx?PRID=2009228>

¹⁶ Ministry of Commerce and Industry, Press release dated 26 February 2024, available at URL: <https://pib.gov.in/PressReleasePage.aspx?PRID=2009228>

Other chapters: Trade Remedies, Trade Facilitation, TBT and SPS, Government Procurement, Competition

To keep a check on misuse of market access provided under the TEPA, a bilateral safeguard mechanism has been provided to enable both India and EFTA to initiate steps in case of a surge in imports. These provisions are similar to those contained in the India-UAE CEPA and the India-Australia ECTA.

Several other chapters have been included under the TEPA which aim to ensure adherence to WTO-covered agreements on TBT/SPS, cooperate in their dealing with anticompetitive practices to put an end to such practices and their effects on trade, as well as mutual understanding of their government procurement laws, regulations, and agreements.

Conclusion

India's recent endorsement of FTAs, including the TEPA, indicates a strategic shift in its FTA focus towards Western markets such as the UK, the EU, and Eurasia. This shift is primarily driven by India's imperative to identify resilient supply chain partners that provide investment opportunities and facilitate access to goods, services, and technology through tariff relaxation.

In pursuing bilateral agreements, the objective is to eliminate obstacles and ensure more advantageous entry into each other's markets. This approach enables countries to customize agreements based on their distinct requirements, potentially cultivating a more effective and mutually beneficial economic relationship – a direction in which TEPA appears to have progressed.

We trust you will find this an interesting read. For any queries or comments on this update, please feel free to contact us at insights@elp-in.com or write to our authors:

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