



Free Trade Agreements and Corporate Strategy

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India's FTAs

- India's engagement with FTAs
- FTAs codify legal commitments undertaken by the parties to liberalize bilateral trade in goods, services, investment and to provide protection of intellectual property rights (IPRs).
- Commitments under FTAs are normally WTO-plus.

FTAs and the Internationally Expanding Global Supply Chain

- ▶ The purpose of FTAs is to allow faster and greater volumes of business between countries.
- ▶ FTAs promote the global value chain by generating significant cost savings for companies.
- ▶ A reduction in tariffs, non-tariff barriers and a simplification of the rules of origin under FTAs eases the product flow in an international supply chain.
- ▶ In certain sectors where business is volume based, even a small decrease in barriers may trigger a higher flow of goods across the border.

How Do FTAs Affect Business

Tariff and non-tariff concessions will lead to significant cost savings.



Benefits flowing to
business from FTAs

How Do FTAs Affect Business

Benefits flowing to businesses from FTAs

Elimination or phase-out of tariffs on imports or exports

Removal of non-tariff restraints to imports or exports

Removal of restrictions on foreign direct investment

Rights for investors to receive national treatment

How Do FTAs Affect Business

Benefits flowing to businesses from FTAs

Removal of restrictions on trade in services

Removal of export subsidies on competing imported goods

Harmonization of technical regulations, product standards
and conformance procedures

Rules of Origin – Qualifying Criteria

- Rules of Origin determine the national origin of a product.
 - Wholly obtained or produced
 - Not wholly obtained or produced
- ROO determine the eligibility of products to receive preferential market access.
- ROO define methods to ascertain whether a product has undergone “substantial transformation” in the territory of a FTA party.

Rules of Origin – Qualifying Criteria

- ▶ Primary methods to establish substantial transformation:
 - ▶ Change in Tariff Classification – Exported product must fall under a different tariff classification vis-a-vis any non-originating inputs used in its manufacture
 - ▶ Value Added - A certain minimum percentage of the total value addition must be achieved using indigenous inputs
- ▶ ROO an important factor determining the investment decisions of multinational firms
- ▶ ROO under India's FTAs – Dual Criteria

A case study – Leading Automobile Gear Box Manufacturer

Case study – Leading Automobile Gear Box Manufacturer

In October 2003, India signed an agreement with Thailand to operationalize the “Early Harvest Scheme” (EHS) under the framework of the India-Thailand FTA negotiations.

Under the agreement, 84 products including auto components were identified for accelerated duty reduction as set forth below:

- ➔ By March 31, 2004: 50% reduction from existing rates
- ➔ By March 31, 2005: 75% reduction from existing rates
- ➔ By March 31, 2006: 100% reduction from existing rates

In 2004, pursuant to EHS under India Thailand FTA, a leading automobile gear box manufacturer (“the Gear Box Manufacturer”) established a manufacturing unit for producing gear boxes for its assembly plants in Thailand and other countries.

Case study – Leading Automobile Gear Box Manufacturer

The gear box manufacturer capitalized on the duty concessions on gear boxes offered by Thailand under the agreement, which led to a significant growth of India's exports of gear boxes over the years as shown in Table below:

India's Export and Import to / from Thailand (Auto components under EHS) (Value in Million US \$)		
Gear Box (HS code – 870840)		
Year	Export	Import
2001-02	0.01	
2002-03	0.54	
2003-04	0.33	0.01
2004-05	9.05	0.12
2005-06	31.53	1.35
2006-07	35.28	1.27
2007-08	30.24	0.75

Case study – Leading Automobile Gear Box Manufacturer

- ▶ The rising export of gear boxes from India primarily reflects the Gear Box Manufacturer's export performance post tariff concessions under the India-Thai EHS.
- ▶ The Gear Box Manufacturer produces components and vehicles for supply to countries in Europe, Asia and Central and South America.
- ▶ The Gear Box Manufacturer aims to set up an internationally coordinated production system by designating manufacturing bases in India and South-East Asian countries such as Thailand, Indonesia, Malaysia, Philippines and Vietnam.
- ▶ The Gear Box Manufacturer has become part of an international production network.

Case study – Leading Automobile Gear Box Manufacturer



- ▶ To enhance their production network in India and the ASEAN region to complement one another.
- ▶ To launch small cars in India with engines imported from ASEAN countries.
- ▶ To increase import of critical components like engines from Indonesia to India as part of intra-company trade between Indian and Indonesian entities.
- ▶ To gain from the free trade agreement that India is likely to sign with individual ASEAN countries allowing it to import goods at zero duty.

Key Trade Agreements

- ▶ India is actively engaged in negotiating FTAs with numerous trading partners.
- ▶ This marks a departure from India's cautious approach towards FTAs in the past.
- ▶ India is negotiating FTAs with key trading markets such as the European Union, the ASEAN region, Thailand, Malaysia, New Zealand, Mercosur (Argentina, Brazil, Uruguay, Paraguay), Canada, EFTA (Switzerland, Norway, Iceland and Lichtenstien) among many others.

FTAs Open for Negotiation

Name of the Agreement	Areas open for negotiation
India - EU Broad based Trade and Investment Agreement (BTIA)	Goods, Services and Investment
India - ASEAN (CECA) Services and Investment Agreement	Services and Investment
India – Sri Lanka CEPA	Services and Investment

FTAs Open for Negotiation

Name of the Agreement	Areas open for negotiation
India - Thailand CECA	Goods, Services and Investment
India – Gulf Cooperation Council (GCC) FTA	Goods, Services and Investment
India - New Zealand CECA	Goods, Services and Investment

FTAs Open for Negotiation

Name of the Agreement	Areas open for negotiation
India – Israel FTA	Goods, Services and Investment
India - South African Customs Union Preferential Trade Agreement (SACU PTA)	Goods
India - Mercosur PTA	Goods

FTAs Open for Negotiation

Name of the Agreement	Areas open for negotiation
India – Chile PTA	Goods
The Bay of Bengal Initiative for Multisectoral Technical and Economic Cooperation CECA (BIMSTEC CECA)	Services and Investment
India – Canada FTA	Goods, Services and Investment

EU – India FTA: Industry Expectations

Trade in Goods

Tariff Schedule		Korea	India	Japan
Tariff Elimination	Immediate Elimination (A)	60.6%	3.9%	94% (post-10 years)
	5-year Phase-out (B)	20.5%	3.4%	
	8-year Phase-out (C)	7.5%	64.2%	
	Total (A + B + C)	88.6%	71.5%	
Reduce tariff to 1 – 5 % in 8 years		0.3%	8.8%	6%
Reduce Tariff by 50% in 8/10 years		4.2%	5.0%	
Excluded from concessions		6.8%	14.7%	
Total		100%	100%	100%

EU – India FTA: Industry Expectations

Trade in Goods

S. No.	Sectors / Sub-sectors	Japan FTA		Korea FTA	
		Duty Elimination Phase	Products	Duty Elimination	Products
1.	Automobiles	B10 (Elimination in 11 Equal installments in 11 years)	<p>Most automobile goods have been included under the exclusion list.</p> <p>Some of the goods subject to customs duty elimination include:</p> <p>870432 – Certain motor vehicles for transport of goods (exceeding 5 tonnes)</p> <p>8701 – Tractors</p> <p>8707 – Bodies for motor cars and other passenger motor vehicles.</p> <p>8706 – Chassis fitted with engines for certain tractors</p> <p>870810 – Bumpers and parts of certain motor vehicles</p> <p>8714 – Certain parts and accessories for motorcycles , cycles et al.</p> <p>700711 – toughened glass;</p> <p>700910 – rear view mirrors;</p> <p>830120 – Locks used in vehicles</p> <p>830230 – Certain mountings and fittings</p> <p>840729 – Spark-ignition reciprocating or rotary internal combustion piston engines</p> <p>8512 – Electrical Lighting or signaling equipment</p> <p>854430 – Ignition wiring sets Road wheels, silencers, exhaust pipes et al.</p> <p>(EL)</p>	E-8 (In 8 equal installments in 8 years)	<p>Most automobile goods have been included under the exclusion list. India offers less deeper concessions under the Korea FTA for most goods.</p>

EU – India FTA: Industry Expectations Trade in Goods

S. No.	Sectors / Sub-sectors	Japan FTA		Korea FTA	
		Duty Elimination Phase	Products	Duty Elimination	Products
2.	Pharmaceuticals	B10 (Elimination in 11 Equal installments in 11 years)	Mostly all goods falling under Chapter 30 are subject to duty elimination.	E-8 (In 8 equal installments in 8 years)	Mostly all goods falling under Chapter 30 are subject to duty elimination.
3.	Medical Equipment	B10	Mostly all medical equipment falling under Chapter 90 subject to tariff elimination	E-8 (In 8 equal installments in 8 years)	Mostly all medical equipment falling under Chapter 90 subject to tariff elimination .
4.	Alcoholic Beverages	Exclusion list		Exclusion list	

EU – India FTA: Industry Expectations Trade in Goods

S. No.	Sectors / Sub-sectors	Japan FTA		Korea FTA	
		Duty Elimination Phase	Products	Duty Elimination	Products
5.	Textiles	List A	<p>Mostly all textiles and apparel goods are subject to tariff elimination.</p> <p>In particular, goods falling under Chapters 52 through 63 are subject to immediate tariff elimination.</p>	E-8 / E-5	<p>Several goods fall under the exclusion list.</p> <p>Chapter 52 – EXC/E-8</p> <p>Chapter 53 – RED/E-8</p> <p>Chapter 54 - EXC/E-8</p> <p>Chapter 55 - EXC/E-8</p> <p>Chapter 56 – E-8/E-0</p> <p>Chapter 57 - EXC/E-8</p> <p>Chapter 58 – E-8</p> <p>Chapter 59 - EXC/E-8</p> <p>Chapter 60 – E-8</p> <p>Chapter 61 - EXC/E-8</p> <p>Chapter 62 – E-8</p> <p>Chapter 63 - E-8</p>

EU – India FTA: Industry Expectations Trade in Goods

S. No.	Sectors / Sub-sectors	Japan FTA		Korea FTA	
		Duty Elimination Phase	Products	Duty Elimination	Products
6.	Aviation	B10 (In 11 Equal installments in 11 years)	<p>Mostly all aircraft and parts are subject to tariff elimination. The goods include:</p> <p>8802 – Aircraft (helicopters, aeroplanes) 8803 – Propellers and rotors and parts thereof 8805 – Aircraft launching gear</p>	E-8 (In 8 equal installments in 8 years)	<p>Not all aircraft subject to tariff elimination.</p> <p>880211 and 880212 – Certain helicopters – EXC</p> <p>Certain airplanes under the RED list , not subject to tariff elimination.</p>

EU – India FTA: Industry Expectations

Trade in Services

“Trade in Services” is a supply of service:

- i. from the Area of a Party into the Area of other Party (cross border supply);
 - ii. in the Area of a Party to the service consumer of the other Party (consumption abroad);
 - iii. by a service supplier of a Party, through commercial presence in the Area of the other Party (commercial presence); and
 - iv. by a service supplier of a Party, through presence of natural persons of that Party in the Area of other Party (movement of natural persons).
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- ▶ Concessions on Market Access
 - ▶ Concessions on National Treatment

EU – India FTA: Industry Expectations Trade in Services

Market Access Limitations

- a. Limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
- b. Limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- c. Limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economics needs test;

EU – India FTA: Industry Expectations

Trade in Services

- d. Limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;
- e. Measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and;
- f. Limitation on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

EU – India FTA: Industry Expectations Trade in Services

C. Telecommunication Services

(In addition to these services, India has taken commitments on Data & Message Transmission Services and Audiovisual Services.)

Sector or sub-sector	Limitations on market access	Limitations on national treatment
a) Voice telephone services (7521**) + Cellular mobile telephone	1) Unbound 2) None	1) Unbound 2) None
b) Packet switched data transmission services (7523**) <ul style="list-style-type: none"> i) Radio Paging services ii) Internet Services 	3) The service will be permitted to be provided as per the licence agreement only after the operator gets a licence from the Designated Authority. The operator should be a company registered in India with maximum foreign equity direct and / or indirect not exceeding 74 percent.	3) None except the following: <ul style="list-style-type: none"> (a) The Chief officer in charge of technical Network operations, Chief Security officer and officer / officials of the licensee companies dealing with the lawful interception of messages should be resident Indian Citizens.
c) Circuit switched data transmission services (7523**)	For foreign equity more than 49 percent, FIPB approval would be required	(b) The Majority Directors on the Board of the licensee shall be Indian Citizens.
d) Telex Service (7523**)	Number of licences, may, however, be limited due to scarce resources such as right of way and spectrum availability subject to a minimum of two licences in each service area.	(c) The positions of the Chairman, Managing Director, Chief Executive Officer and / or Chief Financial Officer, if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs in India annually.
e) Telegraph Services (7523**)	Resale of telephone services is not permitted	(d) Operation and maintenance of telecom network by Indian engineers only.
f) Facsimile Services (7521** + 7529**)		(e) Government Public Sector Undertakings
g) Private leased circuit services (7522** + 7529**)		
h) Others <ul style="list-style-type: none"> i) V-sat Services ii) Global mobile personal communication services 		
	4) Unbound except as in the horizontal section	4) Unbound except as in the horizontal section

EU – India FTA: Industry Expectations Trade in Services

7. FINANCIAL SERVICES

The commitments in financial services are made in accordance with the GATS and its Annex on Financial Services. All the commitments are subject to entry requirements, domestic laws, rules and regulations, guidelines and the terms and conditions of the RBI, Securities and Exchange Board of India, Insurance Regulatory and Development Authority (IRDA) and any other competent authority in India.

The sectors/sub-sectors listed below are in accordance with the listing in the Annex on Financial Services of the GATS.

A. Insurance and Insurance Related Services

<p>Life insurance 5(a) (i) (A)</p>	<p>1) Unbound 2) Unbound 3) None except establishment would be through incorporation with foreign equity not exceeding 26 percent. 4) Unbound except as in the horizontal section.</p>	<p>1) Unbound 2) Unbound 3) None 4) Unbound except as in the horizontal section.</p>	
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In addition, India has taken commitments on non-life insurance services, reinsurance and retrocession services, insurance intermediation services (limited to reinsurance) and services auxiliary to insurance such as consultancy, actuarial and risk assessment.

EU – India FTA: Industry Expectations Trade in Services

B. Banking and Other Financial Services (excluding insurance)		
<p>Acceptance of deposits and other repayable funds from the public 5(a)(v)</p> <p>Lending of all types, including consumer credit, mortgage credit, Factoring and financing of commercial transactions but excluding factoring Ex. 5(a)(vi)</p> <p>All payment and money transmission services including credit, charge and debit cards, travellers cheques and bankers' drafts 5(a)(viii)</p> <p>Guarantees and commitments 5(a)(ix)</p> <p>Trading for own account of the following: - money market instruments</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) In each of the services given below in which commitments are being undertaken for Banking and non-banking financial services companies, access is subject to fulfilment of minimum capitalisation norms. For all activities listed in this section of the Schedule excluding factoring and venture capital.</p> <p>(a) through branch operations and as a wholly owned subsidiary of a foreign bank licensed and supervised as a bank in its home country and subject to regulations of RBI.</p> <p>(b) India shall give favourable consideration (For greater certainty, "favourable consideration" does not impose a legal obligation to grant a permission) to the application for establishment of branches by Japanese banks, provided that they meet India's requirement relating to the establishment of bank branches. The favourable consideration shall be given up to ten applications over four years.</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) For all activities listed in this section of the Schedule excluding factoring and venture capital.</p> <p>(a) Public sector enterprises can invest surplus funds in term deposits only with scheduled commercial banks (including Wholly Owned Subsidiaries) incorporated in India; their investment of surplus funds in term deposits with Wholly Owned Subsidiaries would be subject to guidelines by RBI.</p> <p>(b) For transferable securities, unbound except for entities established in accordance with the limitations specified in the market access column.</p>

In addition, India has taken commitments on Venture capital, Financial leasing, Asset management, participation in issues of all kinds of securities, Provision and Transfer of Financial Information, Financial consultancy services.

EU – India FTA: Industry Expectations Trade in Services


<p>(including cheques, bills, certificates of deposits) - foreign exchange - transferable securities Ex. 5(a)(x)(A) (B) (E)</p> <p>Clearing services for other banks for cheques, drafts and other instruments Ex. 5(a)(xiv)</p>	<p>(c) Banks are allowed to install ATMs at branches and at other places identified by them. Installation of ATM at a place other than in licensed branches is treated as a new place of business and requires a licence. Licences issued for ATMs installed by foreign banks will not be included in the ceiling referred to in item (b) above.</p> <p>(d) Investments in other financial services companies by branches of foreign banks licensed to do banking business in India individually not to exceed 10 percent of owned funds or 30 percent of the invested company's capital whichever is lower.</p> <p>(e) Licences for new foreign banks may be denied when the maximum share of assets in India both on and off balance sheet of foreign banks to total assets both on and off balance sheet of the banking system exceeds 15 percent.</p> <p>(f) Foreign banks are subject to non-discriminatory resource allocation requirements.</p> <p>(g) In addition, foreign banks are permitted to invest in private sector banks through the FDI route subject to foreign equity ceiling of 49 percent and subject to the condition that in the case of foreign investors having prior collaboration in that specific service sector in India, FIPB approval would be required.</p> <p>(h) For transferable securities, in addition to the above, through establishment of locally incorporated joint venture company with foreign equity not exceeding 74 percent. The foreign equity participation will be limited to recognised foreign stock broking companies.</p> <p>4) Unbound except as in the horizontal section.</p>	<p>4) Unbound except as in the horizontal section.</p>
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EU – India FTA: Industry Expectations Trade in Services

4. DISTRIBUTION SERVICES (EXCLUDING LIVE ANIMALS)			
B. Wholesale Trade Services	Agricultural raw materials (6221**)	1) None	1) None
	Food excluding beverages and tobacco (6222**)	2) None	2) None
Textiles, clothing and footwear (6223)	Household appliances, articles and equipment (6224)	3) None subject to approval of RBI/FIPB and conformity with FEMA, as applicable.	3) None except that conditions in the MA column would apply.
		4) Unbound except as in the horizontal section.	4) Unbound, except as in the horizontal section.
Miscellaneous consumer goods (6226)			
Machinery, equipment and supplies (6228)			
C. Single Brand Product Retail Services (excluding in prohibited sectors as specified under the FDI Policy-Circular No. 2 of 2010, and in the following sectors: petroleum and natural gas and petroleum and natural gas products and tobacco), subject to the following conditions:	(a) Products to be sold should be of a 'Single Brand' only.	1) Unbound	1) Unbound
		2) Unbound	2) Unbound
(b) Products should be sold under the same brand internationally i.e. products should be sold under the same brand in one or more countries other than India.	(c) 'Single Brand' product-retailing would cover only products which are branded during manufacturing.	3) FDI up to 51 percent allowed subject to approval of RBI/FIPB and conformity with FEMA and any other laws and regulations, as applicable.	3) Unbound
		4) Unbound except as in the horizontal section.	4) Unbound except as in the horizontal section.

In addition, India has taken commitments on commission agents' services, franchising services in respect of single brand retailing services.

EU – India FTA: Industry Expectations Investment

Sectors	FTA with Japan	FTA with Korea
Investment	Defined as: every kind of asset owned or controlled by an investor	
	<p>Salient features:</p> <ul style="list-style-type: none"> • National treatment • MFN treatment • Access to Courts of Justice • Prohibition of Performance Requirements • Easy transfers relating to investment • Expropriation • Investor-State Dispute Settlement Mechanism 	<p>Salient Features:</p> <ul style="list-style-type: none"> • National treatment • No performance requirements • Transparency • Non-conforming measures • Transfers relating to investment within Countries made simpler • Expropriation • Investor-State Dispute Settlement Mechanism
Page 32	Presentation title	 ERNST & YOUNG <i>Quality In Everything We Do</i>



Thank you

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