

# Non-trade treat on trade talks table

Led by Trade Minister Piyush Goyal, India's approach to FTA talks has seen a perceptible shift

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A delegation from the European Free Trade Association (EFTA) was in for a pleasant surprise when it came calling in April for preliminary talks for a trade deal. India's trade minister, Piyush Goyal, during a meeting with this delegation, proposed the inclusion of a chapter on gender equality and women in the negotiations for a free trade agreement (FTA).

The EFTA delegation promptly agreed. It got something that would have been an unlikely entry in the trade talks menu until recently.

Goyal's openness to a non-trade issue such as gender in FTA talks is not a volte-face, but it does show a perceptible shift. India was once an ardent critic of including in FTA talks non-trade issues such as government procurement, digital trade, labour, gender, environment, etc, that go beyond traditional trade matters such as tariffs and market access.

But now, it has begun to embrace them, having pivoted towards forging stronger economic ties with its key strategic trade partners in the West.

The change was driven by the realisation among Indian policymakers that these subjects had become an indispensable part of modern bilateral trade deals and that the chances of inking an FTA with the developed nations would be bleak if India remained unwilling to even initiate discussions.

As a result, the country is now negotiating matters related to digital trade, government procurement, gender-related inclusive growth, and sustainability in bilateral trade deals. The shift comes at a time India is busy negotiating and signing FTAs (see: *In FTA Mode*).

FTAs allow India greater opportunities for exports since tariffs are either reduced or eliminated. This also helps small and medium enterprises sell their products overseas.

In the recently signed trade agreement with the United Arab Emirates (UAE), India, for the first time, opened up its government procurement market. This will put companies from the UAE on a par with Indian companies

while bidding for central government tenders, though only in select sectors. India also incorporated a chapter on digital trade in the FTA with the UAE, which includes cybersecurity, personal data protection, cross-border flow of information, and other such areas.

"There are things to which we have been saying no. There is a departure we will see in some of the FTAs going ahead. We are taking every government department and industry on board," says a senior government official who does not want to be named.

In the case of the interim Economic Cooperation and Trade Agreement deal with Australia, matters related to government procurement and digital trade were not included but are now being negotiated in the run-up to the finalisation of the Comprehensive Economic Cooperation Agreement.

Deep Kapuria, chairman of the Hi-Tech Group and Global Innovation and Technology Alliance, says the industry will have to look at adhering to ESG (environmental, social and governance) norms, which are becoming mainstream through provisions under trade agreements.

After shelving the Regional Comprehensive Economic Partnership (RCEP) at the last minute in November 2019, India

was being looked upon as an unreliable trade negotiator. However, the country shifted gears and started negotiating FTAs with economies with which it had more complementarities.

By April 2022, India had signed FTAs with the UAE and Australia, and is now negotiating trade deals with the UK, Canada, EU and the EFTA nations, signalling that it is open for business.

According to Sachin Chaturvedi, director general at Research and Information System, after walking out of RCEP, India has now become proactive in the inclusion of industry consultation at the beginning of negotiations. "At this point, consultation has been in partnership with them, especially in identifying areas where we need to open up and in identifying priority areas," Chaturvedi says.

Until about a decade ago, India signed trade deals mostly with its neighbouring countries, focused on tariff reduction and investment

## IN FTA MODE

FTA partner, status, sectors that gain

### UAE

Signed Feb 2022; effective May 2022

> Labour-intensive sectors as well as services

### Australia

Signed Apr 2022; effective Dec 2022

> Textiles, apparel, pharma, leather, machinery, electric goods, furniture

### UK

11 rounds completed in July; next round in August

> Apparel and pharma to auto; easier movement of skilled professionals

### Canada

9 rounds completed in July

> Textiles, leather, chemicals, machinery, motor vehicles; easy movement of skilled professionals

### EU

5 rounds completed in June

> Textiles, leather, chemicals, machinery, electrical equipment; easy movement of skilled professionals

### EFTA

Launch of talks to be announced

> Textiles, leather goods, pharma, iron and steel, tourism, construction services



Piyush Goyal, Trade Minister

issues. But western countries are a different cup of tea. During negotiations with the EU 16 years ago, India resisted the trade bloc's insistence that non-trade issues be addressed within the FTA. The talks were eventually stalled.

The new approach, while it makes things easier with western countries, also raises a few issues.

According to the New Delhi-based think tank Global Trade Research Initiative, commitments on these issues in FTAs may prove too onerous and would increase the cost of manufacturing and services. The FTA texts would provide legal justifications to India's FTA partners for

imposing non-tariff barriers on imports, ostensibly for promoting sustainability.

"For example, if India's exports fail to meet the stringent environment or labour obligations specified in the FTA, India's apparel exports may become ineligible for benefits under the FTA. Similarly, taking commitments in data flows and digital trade when the domestic policy frameworks are not ready may not be in India's best interests," says a report by the think tank.

That may be the reason why India is being commitment-cautious. For instance, in the digital trade chapter in the FTA with the UAE, the commitments are only of "best endeavour"

in nature and not binding. They can be discussed at a later stage.

In any case, this is not a major transformation in attitude. "In the case of labour standards, the UK and the EU want very strict imposition of labour rights. In India, we are going the other way. We are going for a flexible labour market. Similarly, India is not comfortable with strict environmental standards as they are lagging behind our net zero target (commitment made in COP)," says Biswajit Dhar, distinguished professor at the Council for Social Development.

As non-trade issues in FTAs become unavoidable, it will be interesting to see how far India goes.

Since India and Canada plan to sign a limited trade deal, or an early harvest pact, India is pushing for exclusion of controversial chapters such as labour,

## NON-TRADE ISSUES THAT INDIA IS EMBRACING

- Government procurement
- Digital trade
- Labour
- Gender-related inclusive growth
- Climate sustainability

environment, digital trade, and intellectual property rights. In the case of comprehensive FTA negotiations with the European Union and the United Kingdom, all these chapters are being discussed, but India has made its red lines clear. India will push to make the chapters on labour and environment "best endeavour" in nature.

At the World Trade Organization (WTO), the country has been opposing environment, labour standards, and gender issues to be brought into the trade arena and made part of multilateral trade rules. The WTO and FTAs, it says, are not the right forums for discussing such issues and that non-trade issues, if made a part of trade deals, may be used as non-tariff barriers by developed nations against imports from developing countries.

There is additional caution in the case of small companies. "In the government procurement chapter, we want to reassure our small and medium enterprises. We cannot compromise on that. We are flexible, but without compromising on this aspect," says the unnamed government official quoted above.

The industry, too, is not on board since any commitment on these issues would have had a direct impact on labour costs and competitiveness, and thus on the viability of businesses.

It will be glad to see there is no volte-face, only pleasant surprises.