

Resolution of disputes a hurdle in India-UK investment pact talks

UK wants to tweak exhaustion of local remedies clause; India's stand is non-negotiable

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Even as India and the United Kingdom (UK) are making progress in trade negotiations, both sides are yet to iron out differences in the proposed investment pact over resolution of disputes. One of the contentious issues that the UK is uncomfortable with is the exhaustion of 'local remedies' clause under India's model bilateral investment treaty that India adopted seven years ago.

People aware of the matter told *Business Standard* that India's stand had been clear. Since it has an independent judiciary, all legal channels will have to be exhausted before companies initiate international arbitration. "India's position on this aspect is non-negotiable," one of the people cited above said.

The UK, however, believes that mandating this provision will make the process of dispute resolution longer. The commerce department and the finance ministry have had discussions on tweaking this clause. However, no conclusion has been reached, the person said.

New Delhi and London are negotiating an investment treaty as a separate agreement (Bilateral Investment Treaty) that will be concluded simultaneously with the trade agreement. Commerce and Industry Minister Piyush Goyal is on a two-day visit to the UK (July 10-11) to assess the progress of the trade agreement.

London has been eager to have



Commerce Minister Piyush Goyal with UK Secretary of State for Business and Trade Kemi Badenoch in London PHOTO: TWITTER/@PIYUSHGOYAL

Goyal meets UK counterpart to discuss free trade deal progress

Commerce and Industry minister Piyush Goyal met Kemi Badenoch, his counterpart in London to discuss the progress of the free trade agreement (FTA) between India and the United Kingdom (UK).

"(We) discussed how both sides can add further momentum to the India-UK FTA negotiations for a mutually beneficial deal," Goyal said in a tweet on Tuesday.

Goyal was on a two-day visit to

the UK, which began on July 10, with India hoping that the visit will further propel the discussions and pave the way for a comprehensive and mutually beneficial agreement.

Till now, out of 26 policy areas, 14 were substantially closed for negotiations, while significant progress was made in other chapters. The 11th round of negotiation is currently underway in London.

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an investment pact after India terminated the BIT with the UK, following the adoption of new Model BIT in 2016. BITs enable reciprocal promotion and protection of investments—protection to foreign investors in India and Indian investors in the foreign country.

The idea behind the reframing of Indian Model BIT text was mainly due to the rise in the number of arbitrations against India by foreign investors, including cases involving British telecom behemoth

Vodafone, Cairn Energy.

Industry sources said not only the UK, several countries had raised concerns about some of the protectionist measures in the new model of BIT. In the past, lobby group UK India Business Council (UKIBC) had told *Business Standard* that the clause could cause legal issues for a number of years and companies would want faster arbitration, with flexible arbitration arrangements rather than having to work through the Indian legal system.