

# EU asks India not to scrap bilateral trade treaties with member states

SUBHAYAN CHAKRABORTY

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Expressing grave concern about India's 'unilateral' decision to terminate bilateral investment treaties (BIT) with 23 European countries, the European Union (EU) has warned that investments from its member countries to India would stop. It asked India to keep these individual agreements in force until a new agreement is signed.

India plans to replace these 23 treaties with a pan-EU treaty as part of its aim to attract and safeguard foreign investment while protecting public interest.

In a letter to Finance Minister Arun Jaitley on November 15, European Commission Vice-President Jyrki Katainen expressed concern about the lack of any legal protection for investors from EU nations.

The letter, reviewed by *Business Standard*, termed the move by India 'unilateral' and pointed to rising capital costs and legal uncertainty as concerns that will keep away investors.

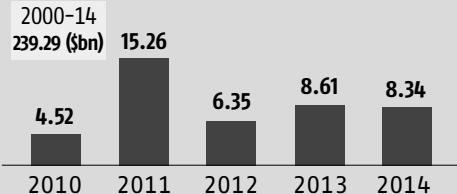
India has been pushing for the new model BIT, released in 2015. This is expected to provide the framework based on which individual agreements will be negotiated with other nations. However, the hitch lies in the fact that most negotiations are not time-bound whereas the existing treaties themselves would end over the coming year.

In a process that started during the United Progressive Alliance regime, the finance ministry in 2015 had served notice to 57 nations of its intent to terminate and re-negotiate the existing BITs. Already, the country has reportedly terminated several treaties. The urgent letter from the EU comes at a time when India's treaty with the Netherlands is set to be terminated this month. The country has been a steady investor and is the sixth largest source of foreign direct investment into India, accounting for \$18.92 billion between 2000 and 2016. The EU has asked the validity of the treaty be revised for a period of six months, to be renewed if needed.

The total investments from the EU stands at \$64.07 billion or 26.78 per cent of the cumulative inflows

## INDIA'S FOREIGN INFLOW'S DEVELOPMENT

### FDI inflow from EU nations



Figures till 2014  
Source: Department of Industrial Policy and Promotion

received by the country between 2000 and 2014. The EU, whose member countries have significant business interest in India, has shown willingness to sit down for talks in the coming weeks provided the Dutch treaty is extended.

However, negotiations will take time owing to differences over crucial provisions of the model BIT, a senior government official said under condition of anonymity.

One of these is the Investor-State Dispute Settlement Mechanism, which allows companies to seek international arbitration only when all domestic legal options have been exhausted. A number of countries including the US and Canada have made clear their concerns with the provision. Notably, the EU has placed the resolution of the BIT issue as a condition for starting talks on trade, as is evident from a similar letter by Cecilia Malmström, EU trade commissioner to commerce minister Nirmala Sitharaman in September.

Katainen, who visited India earlier this month, had also pointed to it as a sore sticking point in trade negotiations. On the Bilateral Trade and Investment Agreement (BTIA) — the official free trade pact with the EU — which has been pending since 2007 on account of a number of bottlenecks, he had said the EU was awaiting India's signal.

Negotiations on BTIA had seen 16 rounds of talks at the level of chief negotiators till 2013, after which talks had stopped till July this year. The deadlock has continued due to differences on greater market access sought by both sides for merchandise exports. Commerce ministry officials said the EU has consistently sought lower import duties on a range of commodities such as automobiles and wine products.

Other than being one of India's largest trading partner and its biggest export destination, the bloc has also been New Delhi's 'strategic partner' since 2004. Two-way commerce dropped to \$88.4 billion in 2015-16, from \$98.52 billion in the previous year.

The EU's share in India's total trade has also progressively shrunk in recent years. While Indian exports to the bloc constituted 22.52 per cent of all outbound trade in 2005-06, the figure had come down to 16.95 per cent in 2015-16. Imports have witnessed a similar slide over the same period, going down from 17.42 per cent to 11.52 per cent.