

Evaluation of Indo-Polish Relations: A Realistic Approach under Legal framework of FTA

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ABSTRACT

Since Poland joined the European Union, it had become a new gateway to the European market for the Indian goods and services. It is important to note that India and Poland shared some uniqueness, though very different. Historically, both nations had a long fight for independence. Both nations experienced the nationalization process of their industries. They also equally experienced a period of socialist economic system and also enjoyed close relations with the Soviet Union. Most strikingly, both countries had undergone economic transformation whereby both systematically and gradually transited their economies from socialist models to capitalist one. In central Europe, Poland had been considered as the main partner of India, in terms of trade and economic cooperation. India viewed Poland as a link between it and the Western Europe. Both entities are in the process to reform their legal framework to improve political and socio-economic relations by reducing legal barriers.

Keywords: India, Poland, Bilateral Relations, European Union, Legal Issues, and Trade Cooperation

Introduction

The relations between India and Poland are friendly and culturally deep-rooted for over centuries. These are exemplifying by peace, and cooperation in the international arena. Poland being one of the largest countries in the Central Europe, and the continuous growth of its economy even in the period of recession in the European Union, both looks at each other to augment their economic relations further, in the era globalization and liberalization. In this case, the study also purposed to evaluate the role of the European Union in the relations between Poland and India.

The main purpose of the study was first to establish the evolution of India and Poland relations and to determine the kind of obstacle for both Poland and India faced during the development process. In relation to this, the study also sought to find out the factors that contributed to sustenance of the relationship. The study was done qualitatively by utilizing a historical case-study approach to research. The method used in data collection and analysis was textual reviews, comparison and establishments of facts and implications. The study also investigates towards the evolution of relations that existed between India and Poland, and the factors that helped India and Poland to sustain their relations.

Lastly, the study sought to find out how the challenges were being resolved by the two entities, where the European Union and India have substantial grounds to cooperation in the global economy and politics, which seems to be a great potential for Indo-Polish relations.

Poland- A Rising Star in the Central and Eastern Europe

Poland considered as one of the healthiest and high-income economy of the post-Communist countries and is currently one of the fastest growing economies, within the European Union. Poland is also among the three most attractive FDI destinations in the world and recognized as a country among the highest returns on foreign investment. With its transition to a democratic polity and market economy, high growth over the last decade, its size and strategic location seems destined to play a key role in the region and in Europe's future.

After the collapse of the Soviet Union in 1990, many of its former satellites would have done just about anything to avoid getting sucked back into Moscow's orbit, and to solidify a place in the West. The leaders of Warsaw have been putting reforms in place for more than decade, not so much by studying what has worked in Europe, but by working to fulfill the requirements to join the EU and adopt the common currency of the Eurozone, in order to gain access to the new markets and generous findings the European Union offers newcomers. True to form, Europe has been focused less on the demands of dynamic growth than on ensuring stability as newcomers join. The EU membership criteria are centered on building institutions, which simply mean a functioning parliament; apolitical court; honest government bureaucracies including the police; free press and media so on.¹

Poland has been recognized as breakout nations after 2004 joining the European Union, when many of the EU member states are strongly effected by the economic crisis, Poland is the only economy in Europe that did not contract in 2008, 2009, and today it has the most vibrant labor market in Europe, creating jobs at a pace so rapid that many immigrant Poles are returning from the United Kingdom, United States and other hard-hit nations to find work at home.

With a population of 38.5 million, Poland is the only nation in Eastern Europe with a domestic market large enough to economic growth, regardless of troubles in the rest of the world. Things are so much better right now that not only are Poles bringing their money home, they're bringing themselves with it. Over the last decade, after the European Union opened up service industries to cross-border competition, the "Polish plumber" became a symbol of Western European fears of a great inrush of cheap labor from the East. Now the Polish plumber is heading home. While Poland lost 150,000 jobs during the recession, it has since added them all back plus 100,000 more, and the unemployment rate, which had fallen steadily before the crisis is falling again.

¹ R. Sharma, *Breakout Nations: In search of the Next Economic Miracles*, (ALLEN LANE, Penguin Group, 2012), 99-103.

Despite relatively high income Poland has not yet priced themselves out of global competition. The inflation-adjusted value of the Polish zloty has remained flat for decade.

Poland has long been a regional trendsetter in fact it was the first satellite state to break from the Soviet orbit. In recent years it has developed a strong education system that produces a talented workforce, a growing cadre of small to medium-sized companies that are competitive across Europe; well-run banks far stronger than those of its old nemesis, Russia, and good-quality consumer companies. The central bank is genuinely independent of political interference. In many ways these rising stars in the East look more solid than their Western model.

The Relations between Poland and India

A. Historical Relations

Historically, the relations between India and Poland can be discussed within the framework of two successive eras. The first era is the pre-Soviet period that ended with the declaration of fall of Soviet Union in 1989. The second era is the period of 23 years following democratic Republic of Poland after 1989 onwards.

The findings indicated that the relations between India and Poland began in 15th century; this was the period when number of Polish writers, soldiers and missionaries visited to India with the interest to know Indian culture, civilization, Philosophy, and spiritual India. In 1820 the first book “History of Ancient India” written by Polish Historian ‘Joachim Lelewel’ was published. A chair of Sanskrit was setup in the Jagiellonian University of Krakow in 1893. An Indological centre and research in studies in Universities of Warsaw, Krakow, Wroclaw, and Poznan were established, where in an active research is going in Indian studies especially in Sanskrit, Hindi and recently started Tamil studies.

During the World War II around 6,000 Polish people were persecuted, they were sheltered in India for long time. Mr. Maurycy Frydman-Bharatananada, a lawyer and engineer contributed to development of industry in India. In Hyderabad still lives a very old now Ms Kira Banasinska, who took care of Polish children refugees from Russia, received and accommodated by India during Word War II. Apart from the above, during the Colonial fight for Independence, Mahatma Gandhi, and Jawaharlal Nehru extended their full cooperation and supported the Independence movement of the Polish people which is remembered by the Polish people even today. This in turn led to establish a World Association of Poles from India with a good number of members all over the world. At the beginning of 20th century the Polish Painter Norblin was employed by the Maharaja of Jodhpur (which now in the State of Rajasthan), where his paintainings could be seen even today. The assassinations of Mahatma Gandhi’s paintings by Feliks Topolski are adorned in the President’s Bhavan of India.

Two prominent Poles; Murice Friedman (Swami Bharathananda) and Wanda Dynowska (Umadevi) were closely associated with the Freedom struggle of India and their contribution through literary writing are memorable even today. The official diplomatic relationship between India and Poland began in 1954. Before, a

commercial agreement had been signed in 1949. India established its embassy in Warsaw in 1957. During the period of Cold war due to the friendship with Russia, both have become friends.

A solidarity movement led by Lech Wałęsa in 1980 became a symbolic movement for unity and over time it became a political force against communist rule to bring free and democratic parliamentary election in 1989.² After the collapse of the Soviet Union and the end of cold war both started establishing relations in a broader perspective and started developing their amity through their common friend United States of America. After the decline of communist regime in 1989, both the democracies strengthened their relations through the Parliamentary system and a number of delegations and heads of states of both started visiting each other to augment their further relations. These political ties led both of them to consider each other an important ally in their relations with other European and Asian nations.

B. Contemporary Relations

Poland was found to be India's largest trading partner in within the region of Central Europe and again the sixth largest economy in the European Union. Therefore, Poland served as the main "gateway" through which India could easily access the expansive European market. In this case, there were greater incentives of the investors from Europe and also a greater opportunity and chance to realize growth for Poland.³

India's economic potential had made it one of the most significant Poland partners within the Asian region. Poland's exports to India mainly constituted equipment for power stations, arms, railways equipment, steel products and mining equipment among others. From the beginning of 2004, Polish exports to the Asia nations, India inclusive, had been rising. It was noted that during the initial years of the 21st century, the trade volume between India and Poland rose by about 30 per cent. Poland's main imports from India included coffee, pepper, tea, tobacco, cotton products and fiber. This amounted to approximately \$498.3 million. In the period between 2005 and 2006, the exports from Poland to India amounted to approximately \$89 million. This mainly included military ware and geophysical services. Exports of machines and other equipment during the same period amounted to approximately \$32 million. At the end of 2008, Polish investments in India amounted to approximately €35.6 million while that of India in Poland amounted to approximately €28 million.⁴

However, Poland was found to have recorded serious trade deficit in its commercial relations with India. The relations between India and Poland could have been affected by the ambivalent perception of India toward the European Union.⁵ Poland was the sixth biggest economy within the European Union; this was considered in terms of size. It was noted that during the 2009, when the experienced an economic global

² R. Kuzniar, *Poland's Foreign Policy after 1989*, Wydawnictwo Naukowe SCHOLAR, (Warsaw, 2009), 35.

³ Kugiel, *The Polish Institute of International Affairs*, no. 21 (2012), 1-5.

⁴ Brownislaw Komorowski et al., *New Challenges in the multipolar world: How to strengthen the EU-India relations?* (Warsaw: Thinktank, 2011), 9-19.

⁵ Komorowski et al., *New Challenges in the multipolar world: How to strengthen the EU-India relations?*

crisis, Poland was the only nation from the European Union to record an approximate 1.8 per cent growth.

With respect to economic cooperation with Poland, Patryk Kugiel stated that the quality and intensity of economic and political cooperation between the two countries had not yet reached their complete potential in the past two decades, despite largely positive historical relations between these nations. Both are among the top twenty world economies, and are among the political leaders in their respective regions, so Poland and India must now explore ways to upgrade bilateral cooperation in the emerging multi-polar world. The success of economic transformations that were initiated in the early 1990s, and also the stable economic growth the two have experienced even during the times of global economic crises, coupled with their increasing Poland's political influence in the bloc of the European Union considered on one side, and the rise of India within the scope of global economy and politics on another side implied that a complementary relations between Poland and India. This also meant that the two countries could benefit more from each other having closer links.⁶

Diplomatic and Defense Relations

Apart from the diplomatic relations, India and Poland have excellent defense relations ranging from military cooperation to comprehensive cooperation relations including training and participation of peacekeeping operations of the United Nations. Both have signed a Defense cooperation Agreement in 2003. For modernization of tanks and air defense strategies India gave a \$ 600 U.S. contract to Poland. The T-72 tank with 800 horsepower engines were fitted with 1000 hp engine and also fitted with modern fire control systems and night vision equipments. Both India and Poland are considering privatization of their defense industries and see good prospects for mutual investments. Both regularly exchange visit and training programmes for the defense personnel of India in the latest techniques of research developed by the Poland Research institutes in defense matters. India also acquired 625 assault parachutes from the Polish company Air-Pol with automatic devices ensuring their reliable opening, with a total value of US \$1.5 million. Poland also delivered a batch of 80 WZT-3 ARVs to the Indian Army in 2001 for use in Kolar gold field facility in Karnataka and next in 2004. The final batch of 40 WZT-3 ARVs were assembled in India from kits supplied from Poland.⁷

Apart from the above, trading aspects, basing on the 1974 Indo-Polish Cooperation Agreement both started exchanges in the areas of science and technology with more focus on the scientific and technological developments and to benefit each other by mutual exchange of scholars and to develop scientific and technological equipments. Basing on the developments both wants to privatize their defense industries in order to benefit through FDI investments and to reduce the burden of the economies on the defense sector. Poland being as a member of the European Union need to follow all rules and regulations implemented by the European Union for achieving all goals. To develop relations with Poland as well as the EU countries new upcoming and on

⁶Kugiel, *The Polish Institute of International Affairs*, no. 21 (2012), 1-5.

⁷ http://en.wikipedia.org/wiki/India%E2%80%93Poland_relations (17th July 2012).

going discussion on “Free Trade Agreement” is very important for the mutual benefits.

European Union-India Free Trade Area

Poland markets itself as an attractive gateway to the European Union and Commonwealth of Independent States (CIS) markets. It is already India's largest trading partner in Central Europe and willing to adopt Free Trade Area Agreement along with the European Union regulations. It is very much important to analyze FTA for the improvement of future relations between India European Union and Poland.

The search for a Free Trade Area between the European Union and India began in 2007. However, due to hard issues, the agreement has taken longer than it was expected to materialize. The relations between the European Union and India were set to go a notch higher after the meeting that took place in New Delhi in February 2012. A free trade pact between the European Union and India was expected enhance the bilateral trade relations between the two entities. The pact was also to enhance, between the two entities, economic and investment cooperation and was also expected to set the momentum for growth of the two entities.

In the findings of this study, during the summit meeting, matters related to security were also extensively discussed at numerous levels. The study found out that during the summit, the security matters that were given attention included terrorism, cyber-security and piracy among others. In relation to energy issues, the summit was also found to have had a joint declaration on their commitment to actually strengthen their cooperation in the areas of energy and also had a discussion with regard to launch of what was described as an innovative partnership. In this regard, the two entities promised to work close with each other security, safety and efficient and the development and enhancement of clean energy.

During the study, it was also realized that even though the proposed Free Trade Area between the European Union and India, there were non-governmental entities that opposed the imminent deal; these oppositions could be the reasons the deal had taken about five years without reaching a consensus. The study further investigated what could have been causing the oppositions. The outcome showed that the request by the European Union for what was referred to, as data exclusivity was one of the causes for opposition to the imminent agreement. The entities concerned argued that the request would prevent India drug manufacturers from producing or processing cheap generic drugs. The issue of data exclusivity implied that there would be a period of during which producers of drugs could maintain a monopoly on the production process, especially in cases where new drugs would be innovated. According to the obtained information, the data exclusivity clause was meant to enable drug-manufacturing companies to regain their cost of producing new drugs before other firms were allowed to engage in the production of similar drugs.

Analysis of some texts indicated that protests started in India following the resumption of talks between India and the European Union to finalize the agreement of Free Trade Area; according to the findings of the study, the European Union side argued that it only needed mutual agreement between it and India. Another potential obstacle to the achievement of this agreement was noted to be the domestic politics

within the Republic of India. There was a common suspicion of the process of the trade liberalization between the two nations within the Congress, India's ruling party; this was in contrast with the position taken by the government. This was found to be coupled with downright antagonism to trade from other interested parties within the governing coalition like the communists.

Further on the findings of the study, it was noted that the European Union wished that the free trade pact to take care and clarify matters of deeper integration between the two entities. These included the policy of competition in trade between the two entities, the rights set out for foreign investors, practices for open government purchasing and also clauses that could create pretexts for future trade protection. Even though the proposed Free Trade Area between the European Union and India is ambitious for both entities, the plan is also like to face obstacles related to the different stages of their economic developments. The European Union economies are more advanced than the economy of India. The success of the agreement will also depend with the Republic of India's government of the day given that some ruling coalition members were found to be against the entire plan of a Free Trade Area between the European Union and India.

According the results of other analysis, it was discovered that the imminent Free Trade Agreement between the European Union and India would have some negative consequences; these had been brought to the attention of the two entities but they tended to press on with their bid to finally achieve the agreement. The analysis showed that most Indians felt that the agreement would deny most poor people, both from within India and those in third developing countries, access to affordable drug. This would actually be the possible case given that initial cost investments in new drugs are normally. Further analysis showed that the dire consequences of having the clause of data inclusivity would be that only the rich individuals in both the middle and upper classes would have access to drugs.

Even though the ambitious Free Trade Area planned agreement had been pursued for five years between the European Union and India, it was evident that there were some significant obstacles. That threatened its materialization. It was noted that India still had imposed high tariffs in some sectors of its economy while at the same time demanded more access to the European market for its goods and services. This was viewed by the European Union representatives as being unfair to economic and commercial cooperation the two entities. Besides, there was the issue of the European Union demanding that India reduce tariffs on products such as wine, motor vehicles and milk and dairy products. According to the views of scholars and students of economics, the products from the European Union region were heavily subsidized and hence would sell cheaper in India than the local similar products. The potential consequence was found to be a possible "death" to the local industry producing similar products, especially dairy sector.

It was also noted that all car manufacturers in India were also found to be concerned about reduction of tariff being implemented on finished automobiles otherwise referred to as Completely Built Units. The study exposed the fact that there was a significant concern that lowering tariffs on Completely Build Units would harm the local industry of car manufacturers. Further possible consequences noted with respect to lowering of tariffs on such cars included reduced investment in automobile industry

by the local Indians and loss of employment opportunities. Moreover, it was noted that India would increasingly become dependent on foreign manufactured cars from the European Union countries.

This notion was a representation of other scholars whose ideas were presented in the literature review; the scholars had argued that such a move would reduce imports India's import tariffs by 90 per cent of all the possible tradable goods and services. This was projected to over a period of ten years. It is important to note that if the reduction in tariffs on imported cars would not be managed appropriately, it could result in the reduction in domestic output, massive loss of jobs, substantial revenue tariffs and negative implications on trade balance.

Another issue that would contribute as an obstacle was related to opening up of the Indian banking sector; according to the finding of the study, the European Union wanted India to do away with restriction on its banking licenses and foreign ownership of financial institutions as part of the Free Trade Area deal. The European Union had also requested India to do away with priority sector lending on locally incorporated European Union-based banks and other financial institutions. All these requests were viewed as suspicious by India.

Legal Scenario

Though both have a number of legal provisions, they need to update the legal regulations in several areas, especially in the area of intellectual property laws. In both the countries, copy right piracy is a common factor, which needs to be further, strengthened. The electronic piracy needs to be curbed.⁸ In other Intellectual property rights such as, Patents and trademarks and services are concerned the Polish law and provisions are better than India. Since Poland being a member of various European Agreements on IPR it could develop a better system.

Poland and India together entered in several bilateral treaties and Agreements to improve socio-economic relations under given legal framework:

- Agreement on Promotion and Protection of Investments (1996)
- Agreement on Avoidance of Double Taxation (1981)
- Protocol on Foreign Office Consultation (1996)
- Agreement on Cooperation in Science and Technology (1993)
- Agreement on Cultural Cooperation (1957)
- Agreement on Cooperation in Combating Organized Crime and International Terrorism (2003)
- Agreement on Defense Cooperation (2003)
- Extradition Treaty (2003)
- Agreement on Economic Cooperation (2006)
- Bilateral Agreement on Shipping (1960)
- Agreement on Cooperation in the field of Health Care and Medical Science (2009)
- Agreement on Cooperation in the field of Tourism (2009)

⁸ International Intellectual Property Alliance (IIPA) Report on Copy Right Privacy and Protection 2010 report on Poland; <http://www.iipa.com/rbc/2010/2010SPEC301POLAND.pdf>, (retrieved on 16.10.2010).

However, there are a number of modifications suppose to be implemented by both the governments e.g. Patent Act requires more tough restrictions on Patenting system, high punishment for the piracy of the drugs, policies for invention's claim etc.

Recommendations:

This should be considered in light of the fact that the terms of relations between Poland and India is continuously changing and hence may change in future. The way the relations have changed in the past was established through the study. Therefore, it is only logical to consider the status of the relations between Poland and India may not be the same in future, especially with the possible signing into an agreement the proposed Free Trade Area agreement between the European Union and India.

Therefore, future studies should narrow the scope and focus of the research study to investigate the relations between India, Poland and the European Union. This is because the contemporary relations between India and the European Union have taken the approach of bilateral relations. India need to bring some immediate changes in following areas:

- India should follow a tough regime with IPR as a member of WTO.
- Need to be establish a good coordination between International Laws and Municipal Laws e.g. the *Novartis* case against the ACT the anti every green clause protects the companies of domestic market was dismissed by the *Madras High Court* on the ground of jurisdiction between international law and municipal law.
- The Copy Right Law 1957 needs to be amended to prevent piracy.
- The Indian contract ACT, which is the major law for commercial purpose, needs a through revision.
- The company law, competition act and other aspects of IPR need to be broader based.
- IPR policy perspectives need to be propagated than limiting it to specific fields.
- The pharmaceutical aspects need to regulate.
- Foreign players need to be encouraged in all sectors.

There are certain fears both sides. However, the progressive approach, which India is looking for, is acceptable and need to be enchased by both the partners.

Conclusion

Poland was found to be India's largest trading partner in within the region of Central Europe and again the sixth largest economy in the European Union. Therefore, Poland served as the main "gateway" through which India could easily access the expansive European market. In this case, there were greater incentives of the investors from Europe and also a greater opportunity and chance to realize growth for Poland. India and Poland shared similar democratic values and numerous converging strategic interests and also unexploited potential economic cooperation. No doubt, the deepening relations and the assurance of Poland to India to support the seat for Security Council and other various issues certainly augment the relations between the two. There is a need to develop legal research and other aspects particularly in International Trade and Law in India. The two nations were also found to have serious

and implicating disagreements between them. This was a strong point for bilateral cooperation between the two nations.

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