

**GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA**

UNSTARRED QUESTION NO:486
ANSWERED ON:23.11.2009
TAXATION CONCERNS BETWEEN INDIA AND EU
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Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

- (a) whether the European Commission has expressed concerns over the discriminatory taxation on wines and spirits in several Indian States;
- (b) if so, the details thereof and the reaction of the Government in this regard; and
- (c) the steps being taken to promote sustainable trade between the European Union (EU) and India and the outcome achieved in this regard?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (SHRI JYOTIRADITYA M. SCINDIA)

Part (a) and (b): Yes, the European Commission (EC) has raised the issue of discriminatory taxation on the import of wines & spirits in some of the Indian States by seeking consultations with India under the extant Rules and Procedures Governing the Settlement of Disputes (DSU) of the WTO.

In respect of the State of Maharashtra, the EC has complained that the 'Special Fee' imposed on imported bottled wines and spirits are in excess of domestic like products and are therefore, inconsistent with Article III.2 of GATT regarding 'national treatment'. EC has also complained that the exemption from excise duty to wines manufactured as own brand from the grapes produced within the State of Maharashtra amounts to conferring a subsidy upon the use of domestic over imported goods and thereby subjecting imported wines to a higher tax burden than domestic like products. The EC has also alleged that the exemption from excise duty for domestic wine is inconsistent with Article 3.1 (b) and 3.2 of the Agreement on Subsidies and Countervailing Measures (ASCM) which deals with Prohibited Subsidies. The EC has also contended that the exemption from excise duty to the domestic wines is inconsistent with Article III.4 of GATT regarding 'national treatment'.

In respect of the State of Tamil Nadu, the EC has complained on two counts (a) violation of Article III.4 of GATT due to the perceived prohibition or restrictions on the import/sale of imported wines and spirits in the state, and (b) the "special fee" on imported wines and spirits appears to be in excess of internal taxes imposed on domestic like products and thereby in violation of Article III.2 of GATT. Tamil Nadu State Marketing Corporation Ltd. (TASMAC) is the state monopoly beverages corporation for distribution and sale of liquors in Tamil Nadu.

In respect of the State of Goa, the EC had complained that the 'import fee' and 'label recording fee' imposed on imported wines and spirits were inconsistent with Article III.2 of GATT as these subject imported BIO bottled wines and spirits to internal taxes in excess of internal taxes applied on like domestic products.

In respect of the State of Karnataka, the EC has complained that the "additional special fee" and "special fee" imposed by Karnataka Government subjects imported wines to internal taxes in excess of similar taxes on domestic like products. According to the EC, these measures are inconsistent with Article III: 2 of GATT regarding national treatment.

In respect of the State of Andhra Pradesh, the EC has complained that the State of Andhra Pradesh appears to apply the 'assessment fee' and the 'import fee' in a way that subjects imported wines and spirits to internal taxes in excess of those applied on domestic like products and are, therefore, inconsistent with India's obligations under Article III.2 of GATT relating to 'National Treatment'. The EC has also complained regarding the policy of purchase and sale of Andhra Pradesh Beverages Corporation (APBCL), a wholly-owned Corporation of the State Government, alleging that the policy of purchase of imported wines and spirits by APBCL does not afford opportunity to producers from other countries to compete for participation in its purchases or sales. According to the EC, the procurement policy of APBCL violates the principle of national treatment under Article III.4 of GATT, violates Article XI of GATT by maintaining restrictions on imports and violates Article XVII of GATT regarding failing to make the purchase by a State Trading Enterprise in accordance with commercial considerations.

More recently, the EC has also complained regarding the imposition of 'Vend Fee' by the NCT of Delhi in respect of imported wines & spirits which according to the EC, subjects these to internal taxes in excess of internal taxes applied on domestic like products and thereby in violation of Article III:2 of GATT.

Government of India has been working closely with the State Governments with a view to bring about compatibility of the various

States' taxation policies on imported wines & spirits in line with India's obligations under the GATT and WTO Agreements.

Part (c): The steps being taken to promote sustainable trade between the European union (EU) and India and the outcome achieved in this regard?

1. India- EU are engaged with each other on a regular basis through India –EU Joint Commission and its Sub-Commissions where all contemporary issues relevant to trade and commerce are discussed for expansion of trade and economic cooperation.

The following Sub-Commissions are actively engaged in mutual consultations:

India-EC Sub-Commission on Trade

India-EC Sub-Commission on Economic Cooperation

India-EC Sub-Commission on Development Cooperation

Under these sub- commissions Joint Working Groups/Committees in the sectors of Textiles, Agriculture & Marine Products, Steel, Environment, Information Technology & Communications, Science & Technology, Sanitary & Phyto Sanitary / Technical Barriers to Trade issues, Pharmaceuticals & Bio Technology, Food Processing Industries, Consular issues and Customs Cooperation have been set up to promote trade and bilateral cooperation.

2. Annual Indo-EU Summits are held co-chaired by Prime Minister of India and the Prime Minister of the Country holding the Presidency of EU at the time of the Summit and the President of the European Commission. Different aspects of trade and economic cooperation are reviewed by the Summit. 9th EU-India Summit, was held on 29th Sept 2008 at Marseilles, France.

3. India and EU had set up a High Level Trade Group (HLTG) to study and explore ways and means to deepen and widen their bilateral trade and investment relationship. The HLTG submitted its report to the India-EU Summit held in Helsinki on 13th October, 2006. Endorsed by the Summit, India and EU have commenced negotiations for a broad based bilateral trade and investment agreement (BTIA) covering Trade in goods, Sanitary & Phyto-sanitary Measures and Technical Barriers to Trade, Trade in services, Investment, Intellectual Property Rights and Geographical Indications, Competition Policy, Customs and Trade Facilitation, Trade Defence, and Dispute Settlement.

The 7th round of India-EU BTIA negotiations was held in Brussels during 13-14 July, 2009.

4. As an outcome of these sustained activities, EU has been India's largest trading partner consistently. India- EU bilateral trade has seen sustained growth and has crossed US\$ 80 billion.

4.1 India- EU trade:

The trade flow between India and EU during the last eight years is as follows: US\$ Billion

Year Exports to EU Imports from EU Total Trade
Value Growth % Value Growth % Value Growth %

2000-01	10.31	10.45	10.37	(-)	5.56	20.68	1.77	
2001-02	9.84	(-)	4.53	10.44	0.68	20.28	(-)	1.93
2002-03	11.52	17.07	12.54	20.11	24.06	18.64		
2003-04	14.44	25.34	14.99	19.54	29.43	22.32		
2004-05	17.25	19.40	18.05	20.41	35.30	19.95		
2005-06	23.23	34.66	26.00	44.04	49.23	39.46		
2006-07	26.78	15.28	29.80	14.61	56.58	25.20		
2007-08	34.49	28.79	38.41	28.87	72.90	28.84		
2008-09	38.95	12.88	41.65	8.38	81.10	11.28		

India-EU bilateral trade is on a higher trajectory since 2002-03 and the growth in bilateral trade is between 18% - 28% on year-on-year basis except the year 2005-06 when a growth of around 40% was recorded. Even in 2008-09 in face of the global economic down turn, India- EU trade has seen a growth of over 11%.

India's share in EU's trade has increased progressively:

India's share in extra EU imports was 1.6% in 2005, 1.6% in 2006 and 2.4% in 2007.

India's share in extra EU exports was 1.7% in 2005, 2.3% in 2006 and 3.0% in 2007.

4.2 EU investment in India:

Countries of European Union are significant overseas investors in India, especially in the core/infrastructure sectors and technology dominant fields. EU investment in India has reached US\$ 16.7 billion with approvals of US\$ 20.9 billion. The following sectors have attracted investment from EU are Fuels (power & oil refinery), transportation, telecommunications, services (financial & non-financial) and chemicals (other than fertilizers).