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Overview of Investment Promotion and Protection Clauses in the FTAs signed by India and their Impact on Rajasthan

1. Introduction

- 1.1. India has signed 14 Free Trade Agreements (FTAs) as of 2024, with key partners including EFTA, Mauritius, the UAE, and Australia. These FTAs aim to enhance trade by reducing or eliminating tariffs and fostering investment, technology transfer, and comprehensive economic cooperation.**
- 1.2. Key features in most of the FTAs also include investment protection clauses that ensure fair treatment, protection against expropriation, and access to Alternative Dispute Resolution (ADR) mechanisms.**
- 1.3. The agreements emphasise transparency, predictability, and non-discrimination, making India a more attractive destination for foreign direct investment (FDI) in sectors like manufacturing, technology, and infrastructure.**

2. Strategic Significance, Gains and Emerging Opportunities from FTAs

- 2.1. A critical benefit of FTAs is the attraction of Foreign Direct Investment (FDI), particularly in promoting green and gender-friendly jobs.**

- 2.2. FDI in renewable energy, clean technology, and infrastructure supports both economic growth and environmental sustainability. Additionally, FTAs often include gender-equity policies, ensuring that economic benefits are distributed fairly across all population segments.
- 2.3. In a recent interview with *Hindustan Times*, the Australian High Commissioner Philip Green mentioned that the Economic Cooperation and Trade Agreement (ECTA) has positively impacted India's exports to Australia, surging by 66% over the past five years, nearly double the 37% growth in its global exports.
- 2.4. According to Green, this significant increase is attributed to the ECTA, facilitating easier exports for Indian firms, and leading to higher profits and job creation. Key sectors showing notable growth include apparel (up 20%), iron and steel (up 25%), and agricultural goods (up 30%) in the last five months. Handicrafts, particularly carpets, hold significant importance as well. Notably, 4% of all carpets exported from India find their market in Australia.
- 2.5. Australia and India are now engaged in upgrading the FTA into a Comprehensive Economic Cooperation Agreement (CECA). Hectic negotiations are on. While there's no specified timeline, both countries are committed to pushing for an early resolution. With seven or eight rounds already completed and another round scheduled soon, significant progress has been made.

3. Factual Data on FDI Received by India

- 3.1. India has been a leading recipient of FDI among developing nations, and FTAs have played a pivotal role in enhancing foreign direct investment (FDI) in India. Notably, FDI inflows surged by 26.4% in the first quarter of FY 2024-25, amounting to approximately \$22.4 billion.**
- 3.2. Rajasthan, in particular, is well-positioned to benefit from increased investments, particularly in sectors such as textiles, MSMEs, and renewable energy. Despite a decrease in foreign investments from US\$ 910 million in 2022-23 (April-March) to US\$ 265 million in 2023-24 (April-March), representing a decline of approximately 69.58%, the State remains poised to capitalise on future opportunities.**
- 3.3. Japan is the 5th largest investor in the Indian economy with cumulative FDI inflows of \$41.91 Bn from Apr 2000 to Mar 2024. Currently, over 1,439 Japanese companies are operating in India. Key sectors include automobiles, Electronics System Design & Manufacturing (ESDM), Medical Devices, Consumer Goods, Textiles, Food Processing and Chemicals.**
- 3.4. Fortuitously, more than 50 Japanese companies, including Daikin, Nissin Brake, Mytex Polymer and Nippon Pipe, have invested over Rs 6,000 crore in the Special Japanese Economic Zones in Neemrana.**
- 3.5. We have a comprehensive economic partnership agreement (CEPA) with Japan other than being members of Indo Pacific Economic Forum, which too has clauses on trade and supply chains, among others.**

- 3.6. The India-EFTA FTA, signed in March 2024, signifies a strategic shift for India by expanding beyond traditional trade to comprehensive economic cooperation. EFTA countries have pledged USD 100 billion in investments over the next 15 years, targeting key sectors and potentially creating one million jobs in India.**
- 3.7. Additionally, our Minister of Industries, Col Rajyavardhan Singh Rathore, along with the CEO of Rajasthan Export Promotion Council, Mr P R Sharma, recently completed a successful week-long trip to Switzerland, aimed at promoting investments in Rajasthan and attracting investors. Further efforts with other three members of EFTA: Norway, Lichtenstein and Iceland are in process.**

4. Regulatory hurdles in India's Free Trade Agreements (FTAs)

- 4.1. These arise from challenges in aligning domestic policies with international obligations, where investor protection clauses play a key role in overcoming these barriers.**
- 4.2. FTAs often encounter issues like navigating diverse legal systems and managing foreign investors' expectations, particularly in dispute resolution.**
- 4.3. These mechanisms address judicial delays through alternative dispute resolution and safeguard against arbitrary domestic policy changes. Despite concerns about sovereignty, these clauses are crucial for attracting foreign direct investment (FDI) by offering legal assurances that mitigate regulatory challenges in cross-border investments.**

5. Counterfactual Analysis: Pros and Cons of FTAs in India

5.1. Pros:

- 5.1.1. Investment Promotion:** FTAs attract foreign investment, offering a stable environment for investors in sectors like manufacturing and technology.
- 5.1.2. Job Creation and Skills Development:** The influx of FDI through FTAs leads to job creation and skills enhancement across various sectors, improving workforce employability.
- 5.1.3. Technology Transfer and Innovation:** FTAs facilitate technology transfer from advanced economies, spurring innovation in sectors such as healthcare and renewable energy.
- 5.1.4. Market Access and Export Growth:** By reducing tariffs, FTAs open new markets for Indian businesses, boosting exports in sectors like textiles, pharmaceuticals, and IT.

5.2. Cons:

- 5.2.1. Economic Disparities:** The economic differences between India and FTA partners can disadvantage traditional industries, potentially leading to job losses.
- 5.2.2. Stringent IPR Protections:** FTAs impose strict intellectual property rights, challenging domestic innovation, particularly in pharmaceuticals.
- 5.2.3. Regulatory Hurdles:** Harmonising India's regulations with FTA partners is complex, potentially hindering trade and investment.

5.2.4. Environmental and Social Impacts: FTAs may neglect environmental and social concerns, risking degradation and inequity if industrialisation is unsustainable.

6. Conclusion

- 6.1. In conclusion, while India's Free Trade Agreements (FTAs) have significantly enhanced foreign direct investment (FDI) and bolstered economic growth, particularly in key sectors like manufacturing, technology, and renewable energy, they are not without challenges.**
- 6.2. Regulatory hurdles, such as aligning domestic policies with international obligations and navigating diverse legal systems, can hamper the full potential of these investments. However, the inclusion of investment protection clauses and Alternative Dispute Resolution (ADR) mechanisms within these agreements offers critical safeguards, ensuring fair treatment and stability for foreign investors. The trouble is that these are weak, but yet daring investors are willing to take the risk of investment considering the opportunities which exist and arise.**
- 6.3. To fully capitalise on the benefits of FTAs, including the creation of green and gender-friendly jobs, India must continue to promote a stable and predictable investment environment. One major handicap is contract enforcement due to judicial delays and uncertain policy measures, like retrospective taxation.**

- 6.4. This requires ongoing efforts to harmonise domestic regulations with international standards, address barriers and hurdles, environmental and social concerns, and ensure that the economic benefits are equitably distributed.**
- 6.5. By overcoming these hurdles, India can strengthen its position as an attractive destination for global investments, driving sustainable growth and development across the nation, including Rajasthan.**
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