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Freedom of Trade in India and EU: Lessons to be learnt from the European Union

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ABSTRACT: This Paper discusses the provisions pertaining to Freedom of Trade in India and European Union. It embarks on a comparative analysis of the two regimes in the field of Freedom of Trade. The Paper concludes by highlighting the similarities that exist between the two jurisdictions and the lessons to be learnt from the enforcement of the free trade clauses.

KEYWORDS: Freedom of Trade, Trade, Constitution of India, European Union, EU

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I. INTRODUCTION

The European Union (EU) is a unique economic and political union between 27 European countries. The predecessor of the EU was created in the aftermath of the Second World War. The first steps were to foster economic cooperation: the idea being that countries that trade with one another become economically interdependent and so more likely to avoid conflict. The result was the European Economic Community, created in 1958 with the initial aim of increasing economic cooperation between six countries: Belgium, Germany, France, Italy, Luxembourg and the Netherlands.[1] Since then, 22 more countries joined (and the United Kingdom left the EU in 2020) and a huge single market (also known as the 'internal' market') has been created and continues to develop towards its full potential.[2]

Since, India is also a union of several states and retains its federal character, it becomes imperative to study the legal provisions in India generally vis-à-vis the European Union and particularly with respect to Freedom of Trade as it is the topic under consideration in this specific paper.

PROVISIONS UNDER THE CONSTITUTION OF INDIA

The scheme of the Constitutional provisions on the Freedom of Trade and Commerce emerges in the shape of Articles 301-307 of Part XIII of the Constitution of India.

Article 301 of the Constitution of India provides that subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

Further, Article 302 provides that Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one state and another or within any part of the territory of India, as may be required in the public interest.

Furthermore, Article 303 provides that notwithstanding anything in Article 302, neither the Parliament nor the Legislature of a State shall have the power to make any law giving, or authorizing the giving of, any preference to one State over another, or making or authorizing the making of, any discrimination between one State and another, by virtue of any entry relating to trade and commerce in any of the Lists in the Seventh Schedule. Moreover, Clause(2) of Article 302 provides that nothing in Clause (1) shall prevent the Parliament from making any law giving, or authorizing the giving of, any preference or making, or authorizing the making of, any discrimination if it is declared by such law that it is necessary to do so for the purpose of dealing with a situation arising from scarcity of goods in any part of the territory of India. Article 304(a) consists of two clauses where each clause operates as a proviso to Articles 301 and 303. According to Article 304(a), a State legislature may, by law, impose on goods imported from other States, any tax to which similar goods manufactured or

[1] https://op.europa.eu/webpub/com/eu-what-it-is/en/ (accessed on February 2, 2022)

[2] *Ibid.*

produced within that State are subject, so however, as not to discriminate between goods so imported and goods so manufactured or produced.[3]

Article 304 empowers the States legislatures, notwithstanding anything in Articles 301 and 303, to make laws to regulate and restrict the freedom of trade and commerce to some extent. A restriction imposed by a State law on freedom of trade and commerce declared by Article 301 cannot be valid unless it falls within Article 304.

Notwithstanding anything contained in Article 301 or 303, Article 304(b) authorizes a State Legislature to impose by law such reasonable restrictions on the freedom of trade, commerce and intercourse with or within that State as may required in public interest. The proviso to Article 304(b) says that no bill or amendment for this purpose shall be introduced in the State Legislature without the previous sanction of the President.

Moreover, existing laws[4] and nationalization laws are saved by Article 305 from the operation of Article 301 and Article 303 except insofar as the President may, by order, otherwise direct.[5]

Article 19(1)(g) of the Constitution of India

In addition to Article 301, Article 19(1) (g) confers on every citizen a fundamental right "to practice any profession, or to carry on any occupation, trade or business". "Reasonable restrictions" may be imposed on the exercise of this right "in the interests of the general public" and particularly, it shall not affect the operation of any law relating to the professional or technical qualifications necessary for the exercise of such right or a law creating the state monopoly in any trade, business, etc wholly or partially.[6] However, the restriction imposed must be by a law and not by an executive direction. There is an uncertainty about the relationship of Article 19(1) (g) with Article 301 and their scope and area of operation in the light of each other. Is one independent of the other? Do they operate in different and separate fields; or do they control the scope and meaning of each other? Is it of any consequence if the conclusion is reached that their scope and sphere is different from each other? As is discussed below, some of the High Courts have tried to answer these questions but the Supreme Court had no occasion to answer them categorically.[7]

FREEDOM OF TRADE IN THE EUROPEAN UNION(EU)

The European integration began with the Treaty of Rome[8] in 1957. The motivation for the original six nations that formed the first association was that economic cooperation was the best defence against a resumption of the kind of political strife that cumulated in wars earlier in the century. The European Union is a supranational and intergovernmental organization comprising of 27 member states including UK. The prosperity arising from membership in a large integrated market was an important attraction for newer states joining the Union.[9]

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3 Faisal Fasih, "Freedom of Trade and Commerce", available at http://www.legalservicesindia.com/article/article/freedom-of-trade-&-commerce-148-1.html (Accessed on July 2, 2013).

4 An "existing law" as defined in Article 366(10) means "any law, ordinance, order, bye-law, rule or regulation passed or made before the commencement of the Constitution by any Legislature, authority or person having power to make such a law, ordinance, order, bye-law, rule or regulation".

5 *Bangalore W.C. & S. Mills Co*. v. *Bangalore Corp.,* AIR 1962 SC 562.

6 THE INSTITUTE OF COST ACCOUNTANTS OF INDIA, An Insight of Goods & Services Tax (GST) in India October 2015, 136 (Volume I - Text).

7 Though some observations were made in *Saghir Ahmed* v. *Uttar Pradesh*, AIR 1954 SC 728 at 742 and *State of Bombay* v. *R.M.D.C.*, AIR 1956 SC 699 at 713 but the question is still open as is clear from *Automobile Transport Co.* v. *State of Rajasthan*, AIR 1962 SC 1406 at 1423.

8 Treaty establishing the European Union (EU).

9 Kathleen Macmillan, *A Comparison of Internal Trade Regimes: Lessons for Canada*, (May 29, 2013), *available at*: http://www.ppforum.ca/sites/default /files/Macmillan%20-

Much before England joined the European Community, Lord Diplock, speaking extra-judicially, said that he believed the common law could gain from a closer contact with, and an understanding of, the civil law.[10]

While the EU has no central government *per se*, supranational bodies have been essential in fostering and enforcing its single market. As Pelkmans[11] has noted, the European Commission exerts an active role as guardian of the treaty. The Commission has significant resources at its disposal to ensure implementation and enforcement of EU law. It encourages businesses and individuals to submit complaints so that it is aware of how the regime is operating and can act to uphold free market principles.

The EU is founded not upon an express constitution but upon several treaties, chief amongst which is the Treaty on the Functioning of the European Union (TFEU)[12] because it constitutes the legal order of the EU.[13]

The aim of the TFEU is "to lay the foundations of an ever closer union among the peoples of Europe . . . by pooling their resources to preserve and strengthen peace and liberty".[14] Further to that aim, the objective of the EU is the integration of the economic and monetary policies of the various Member States for the establishment and preservation of an internal market free from internal barriers to trade.[15]

The policies of the EU achieve this objective and, thereby, establish and preserve the single market. Article 34[16] of the Treaty on the Functioning of the European Union (TFEU)[17] guarantees free trade in goods among the Member States of the EU by prohibiting quantitative restrictions on imports and all measures having equivalent effect.[18]

The most important of the policies in this respect are the :Four Freedoms": (1) the Free Movement of Goods, (2) the Free Movement of Workers, (3) the Freedom of Establishment and to Provide Services, and (4) the Free Movement of Capital.[19]

The principal freedom is the Free Movement of Goods.[20] It applies to all products (whether manufactured or not) that have a monetary value and are taken across member state border into another member state border.[21]

%20A%20comparison%20of%20internal%20trade%20regimes %20-%20lessons%20for%20Canada.pdf, (accessed on June 2, 2015).

10 See 'The Common Market and the Common Law' (1972) 6 *The Law Teacher* 3, 16.

11 Jaqes Pelkmans, "Addressing Internal Market Barriers in the EU", *Paper for the Conference on Addressing Internal Market Barriers*, Sponsored by the Forum of Federations and the CD How Institute, Toronto, (February, 2010).

12 The Treaty of Lisbon 2007 renamed the European Community (EC) Treaty (Treaty of Rome 1957) as the Treaty on the Functioning of the European Union (TFEU). It entered into effect on December 1, 2009.

13 Gonzalo Villalta Puig, "The Constitutionalisation of Free Trade in Federal Jurisdictions", Working Paper 4, *Centro de Estudios Políticos y Constitucionales*, (Madrid, Spain, 2011), *available at*: http://www.cepc.gob.es/docs/working-papers/working_paper4.pdf?sfvrsn=4, (accessed on June 5, 2015).

14 Preamble, TFEU.

15 *Supra* note 13.

16 Formerly Article 28 of the European Community Treaty (ECT).

17 The Treaty of Lisbon 2007 renamed the European Community (EC) Treaty (Treaty of Rome 1957) as the Treaty on the Functioning of the European Union (TFEU). It entered into effect on 1 December 2009.

18 *Supra* note 13.

19 *Ibid.*

20 This freedom is governed by Articles 28 – 37 of the TFEU. F. Burrows, *Free Movement in European Community Law*, (1987); C Barnard, *The Substantive Law of the EU: The Four Freedoms*, (2nd Edition, 2007). For an Australian statement, G. Moens, "Free Movement of Goods in the European Community", 17 *Melbourne University Law Review*, 733 (1990).

21 *Commission* v. *Belgium*, (*Walloon Waste*) (Case C-2/90) [1992] ECR I-4431; *Chemische Afvalstoffen Dusseldorp BV* v. *Minister van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer* (Case C-203/96) [1998] ECR I-4075. The provisions apply equally to goods either manufactured or produced in the EU and to those goods in 'free circulation' in the EU, regardless

There are two types of barriers to the free movement of goods: fiscal barriers and non-fiscal barriers. Under Article 30, fiscal barriers include customs duties and charges having equivalent effect.[22] Under Article 34,[23] non-fiscal barriers include quantitative restrictions and measures that have an equivalent effect on imports.[24] A measure that infringes Article 34 is contrary to EU law.[25]

The two phrases that lie at the core of Article 34 are "quantitative restrictions" and "measures having equivalent effect". The ECJ[26] has interpreted both these phrases in a large body of cases.[27]

The phrase "quantitative restrictions" in Article 34 was defined in *Geddo* v. *Ente Nazionale Risi,*[28] as "measures which amount to a total or partial restraint of, according to the circumstances, imports, exports or goods in transit". One example of a quantitative restriction

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of their country of origin: *Suzanne Criel (née Donckerwolcke) and Henri Schou* v. *Procureur de la République* (Case 41/76) [1976] ECR 1921.

22 A charge having equivalent effect is any charge, however small, whatever the destination and mode of application, that is imposed unilaterally on goods because they cross a border.

23 Article 34 reads: "Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States". Article 35 does the same for exports. It reads: "Quantitative restrictions on exports, and all measures having equivalent effect, shall be prohibited between Member States".

24 Article 34 has direct effect: *Ianelli & Volpi SpA* v. *Meroni,* (Case 74/76) [1977] ECR 595.

25 Articles 34 and 35 are addressed to the Member States and, therefore, apply only to acts or omissions on behalf of the Member States. The actions of, at least, six entities have been held capable of infringing Arts. 34 and 35: local governments (*Aragonesa de Publicidad Exterior SA and Publivía SAE* v. *Departamento de Sanidad y Seguridad Social de la Generalitat de Cataluña,* (Cases C-1/90 and 176/90) [1991] ECR I-4151); semi-public bodies (*Apple and Pear Development Council* v. *K J Lewis Ltd.,* (Case 222/82) [1983] ECR 4083); nationalised industries (*Commission* v. *France,* (Case 21/84) [1985] ECR 1355); regulatory agencies and professional bodies under statutory authority (*R* v. *Pharmaceutical Society of GB, ex parte Association of Pharmaceutical Importers* (Cases 266 and 267/87) [1989] ECR 1295); the police force (*R* v. *Chief Constable of Sussex, ex parte ITF Ltd.,* [1998] 3 WLR 1260); EU institutions (*Denkavit Nederland BV* v. *Hoofdproduktschap voor Akkerbouwprodukten,* (Case 15/83) [1984] ECR 2171; *Criminal Proceedings against Rene Kieffer and Romain Thill,* (Case C-114/96) [1997] ECR I- 3629).

26 The ultimate arbiter in such cases is the European Court of Justice which bases its decision on established legal doctrine. The regime was specifically designed to be de-politicizing and the intention was to foster a sense of common cause in defending the treaty. In terms of logistics, companies who wish to defend their treaty rights proceed first to their national courts. The EU Commission often gets involved and will refer cases to the European Court of Justice. When the Court hears a legal action against one member state, other states can participate in the proceeding on either side of the issue. Rulings of the European Court of Justice are usually adopted by member states. In the few cases when member states have rejected court findings, they have been subject to daily fines. The significance of the free trade jurisprudence of the ECJ is already known. Simpson, for example, has written: "The free trade norms administered by the European Court of Justice afford useful examples. Those principles are grounded explicitly in a desire to secure the economic benefits of free trade". *See* A. Simpson, "Grounding the High Court's Modern Section 92 Jurisprudence: The Case for Improper Purpose as the Touchstone", 33 *Federal Law Review* 445 (2005).

27 *Geddo* v. *Ente Nazionale Risi* for quantitative restrictions and *Procureur du Roi* v. *Benoit and Gustave Dassonville* in conjunction with *Rewe-Zentrale AG* v. *Bundesmonopolverwaltung für Branntwein (Cassis de Dijon),* for measures having equivalent effect. For commentary on the cases, P. Oliver, "A Review of the Case Law of the Court of Justice on Articles 30 to 36 EEC in 1984", 22 *Common Market Law Review,* 301 (1985); T. Van Rijn, "A Review of the Case Law of the Court of Justice on Articles 30 to 36 EEC in 1986 and 1987", 25 *Common Market Law Review,* 593 (1988); L.W. Gormley, "Recent Case Law on the Free Movement of Goods: Some Hot Potatoes", 27 *Common Market Law Review,* 825 (1990); and R. Rawlings, "The Eurolaw Game: Some Deductions from the Saga", 20 *Journal of Law and Society,* 309 (1993).

28 (Case 2/73) [1973] ECR 865.

is the imposition of a quota on the importation of selected goods.[29] Another example is the imposition of outright ban on the importation of selected goods.[30] The phrase "measures having equivalent effect"[31] in Article 34 was defined in *Procureur du Roi* v. *Benoit and Gustave Dassonville* as:[32]

"All trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trades are to be considered as measures having an effect equivalent to quantitative restrictions".[33]

The *Dassonville* formula extends Article 34 to any measure that might affect trade as well as measures that either definitely or probably would affect trade or have actually done so.[34] Measures that expressly discriminate against goods imported from other Member States or that obstruct the act of importation will fall within the ambit of Article 34.[35] Similarly, the ambit of Article 34 is wide enough to encompass measures that discriminate against particular goods imported from other Member States notwithstanding that they are expressed to apply equally to domestic and imported goods.[36] Consequently, measures that are expressed to apply equally to domestic and imported goods but that, by their terms, discriminate against particular categories of traders from other Member States fall within the ambit too.[37] In other words, any measure that could hinder trade with other Member States will be held to be a measure having equivalent effect even if it applies equally to domestic and imported goods.[38]

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29 *SpA Salgoil* v. *Italian Ministry of Foreign Trade,* (Case 13/68) [1968] ECR 453.

30 *Commission* v. *Italy,* (Case 7/61) [1961] ECR 635; *Commission* v. *United Kingdom (French Turkeys),* (Case 40/82) [1982] ECR 2793; *Kemikalieinspektionen* v. *Toolex Alpha AB,* (Case C-473/98) [2000] ECR I-5681. S. Bronitt, F.R. Burns and D. Kinley, *Principles of European Community Law: Commentary and Materials,* 233 (1995). In this regard, positive actions will infringe Article 34.

31 Lesley Zines has observed that: "in relation to quantitative restrictions and "all measures having equivalent effect" there has been some disagreement as to whether the measures referred to are those which have the purpose or effect of reducing the volume of trade between the States, or all measures which prevent the individual from trading . . . . This debate is somewhat reminiscent of the dispute in the High Court in the 1930's regarding the correct interpretation of Section 92 of the Commonwealth Constitution. Evatt J. was the principal proponent of the view that Section 92 did not strike at a State law that did not have as its aim or substantial effect the reduction in volume of inter-State trade. Sir Owen Dixon on the other hand, regarded Section 92 as guaranteeing the right of the individual to trade inter-State . . . whatever the purpose or effect of the law that purported to prevent him and whether it was likely to increase or decrease the total volume of inter-State trade". Leslie Zines, "The Balancing of Community and National Interests by the European Court", 5 *Federal Law Reliew* 190 (1973).

32 *Procureur du Roi* v. *Benoit and Gustave Dassonville,* (Case 8/74) [1974] ECR 837.

33 *Id.,* at 852.

34 *Criminal Proceedings against Jan Van de Haar,* (Joined Cases 177-178/82) [1984] ECR 1797; *Criminal Proceedings against Karl Prantl,* (Case 16/83) [1984] ECR 1299.

35 *International Fruit Co NV* v. *Produktschap voor Groenten en Fruit [No 2],* (Joined Cases 51-54/71) [1971] ECR 1107; *Commission* v. *United Kingdom (Re UHT Milk),* (Case 124/81) [1983] ECR 203. See also *Commission* v. *Ireland (Re 'Buy Irish' Campaign),* (Case 249/81) [1982] ECR 4005; *Apple and Pear Development Council* v. *KJ Lewis Ltd.,* (Case 222/82) [1983] ECR 4083.

36 *Commission* v. *Italy (Re Aged Buses),* (Case 50/83) [1984] ECR 1533 and *Italy* v. *Gilli and Andres,* (Case 788/79) [1980] ECR 2071.

37 *Officier van Justitie* v. *de Peijper,* (Case 104/75) [1976] ECR 613 and *Procureur du Roi* v *Benoit and Gustave Dassonville,* (Case 8/74) [1974] ECR 837; Also see *Criminal Proceedings against Oosthoek's Uitgeversmaatschappij BV,* (Case 286/81) [1982] ECR 4575.

38 *Rewe-Zentrale AG* v. *Bundesmonopolverwaltung für Branntwein (Cassis de Dijon),* (Case 120/78) [1979] ECR 649; *Commission* v. *Germany (Re Beer Purity Laws),* (Case 178/84) [1987] ECR 1227; *Walter Rau Lebensmittelwerke* v. *De Smedt PVBA,* (Case 261/81) [1982] ECR 3961; and, *Ludomira Neeltje* v. *Barbara Houtwipper,* (Case C-293/93) [1994] ECR I-4249. See further the Communication of the Commission of 3 October 1980, extracted in D Wyatt and A Dashwood, *The Substantive Law of the EEC,* 136 (2nd Edition, 1987) and L.W. Gormley, "Cassis de Dijon and the Communication from the Commission", 6 *European Law Review* 454 (1981). For the scope of measures having equivalent effect, see also Article 2 of Commission Directive 70/50/EEC of 22

Principles of "Mutual Recognition" and 'Harmonization'

Mutual recognition is one of the finest and smartest innovations of the EU.[39] Regulatory alignment in the EU is achieved through a combination of harmonization and mutual recognition. Mutual recognition was not part of the original European market. It first emerged in the European Court of Justice's *Cassis de Dijon* case[40] in 1979 which established that "any product lawfully produced and marketed in one member state, must, in principle, be admitted to the market of any other member state".[41] The principle of mutual recognition was subsequently incorporated into the Single European Act (1986) and Maastricht Treaty and member states are obliged to abide by the mutual recognition rule for goods and services of other member states in spite of differences in technical or quality specifications. Exceptions exist for sectors that hold special public interest such as health, security and the environment.[42]

While the EU has gone on to explore deeper means of integration through harmonizing divergent standards[43] and devising coordinated policy approaches, these efforts are greatly enhanced by the fact that they are underpinned by the mutual recognition concept.[44]

Harmonized standards now apply to roughly 75 per cent of goods traded in the EU and these standards are of two categories: mandatory (relating to health, safety and environmental protection) and voluntary (which are established by relevant standards organizations and relate to technical specifications). In case of mandatory standards, it is an obligation for the Member states to adopt them mandatory standards and include them in their national legislation but in case of voluntary harmonized standards, member states are required to comply only with the essential characteristics of voluntary harmonized standards. Members are required by directive to notify the Commission in advance of all draft regulations and technical standards that they are planning to introduce in their national legislations. The Commission assesses the draft regulation to ensure conformity with mutual recognition and harmonization requirements. This process provides an opportunity for other member states to comment on the proposals prior to their introduction. In terms of ongoing monitoring, the Commission produces an annual report on the functioning of the internal market that identifies barriers.[45]

Indeed, ensuring the free movement of goods (and the process of economic integration to which it relates) within the EC has been a major factor underlying its status as one of the most powerful trading blocs in the world.[46]

The association has evolved significantly over the five decades through political design, evolving case law and treaty amendments.[47] Its origin was essentially as a customs union that removed internal tariffs and created a common external tariff. The association gradually extended to regulatory matters with the introduction of the mutual recognition

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December 1969 based on the provisions of Article 33 (7), on the abolition of measures which have an effect equivalent to quantitative restrictions on imports and are not covered by other provisions adopted in pursuance of the EEC Treaty (70/50/EEC).

39 Jaques Pelkmans, "Addressing Internal Market Barriers in the EU". *Paper for the Conference on Addressing Internal market Barriers sponsored by the Forum of Federations and the CD How Institute,* (Toronto, February, 2010).

40 *Rewe-Zentral AG* v. *Bundesmonopolverwaltung für Branntwein,* Case 120/78, European Court Reports 00649 (1979).

41 Official Journal of the European Communities, No. C256/2.

42 *Supra* note 9.

43 To illustrate the extensive efforts devoted to harmonization of standards, in 1985, there were 125 European standards. This number grew to over 19,000 by 2010. Jaques Pelkmans, "Addressing Internal Market Barriers in the EU". *Paper for the Conference on Addressing Internal market Barriers sponsored by the Forum of Federations and the CD How Institute,* (Toronto, February, 2010).

44 *Supra* note 9.

45 *Ibid.*

46 P.J. Smith, "Free Movement of Goods within the EC and Section 92 of the Australian Constitution", 72 *Australian Law Journal,* 477 (1998).

47 These treaty revisions include the Single Europe Act of 1986, The Maastricht Treaty of 1991, Amsterdam Treaty of 1997, Nice Treaty of 2000 and the Lisbon Treaty ratified in 2009.

concept initially applied to the food sector. Common European standards, first for electrical products and later for a wide range of sectors including construction materials and machinery, followed. More recently, there have been repeated attempts to liberalize trade in services between member states.[48]

COMPARATIVE ANALYSIS

An analysis of the EU trade regime discussed suggests a number of observations relevant to India. The first concerns the motivation behind addressing internal barriers and role that it plays in the design of the regime.

Before embarking upon a discussion on the differences in the two regimes, it is essential to consider their similarities *inter se*. The basic architecture of the EU legal regime discussed provides some indications of similarity with the position in India. Both the jurisdictions rely to a greater extent on judicial review to enforce constitutional provisions governing market integration. Under both the jurisdictions, individuals and businesses have direct access to courts or tribunals whose task it is to determine whether a measure is incompatible with constitutional requirements for free internal trade. The decisions of these courts and tribunals are final and enforceable. The EU's Treaty of Rome prohibitions against measures "capable of hindering directly, or indirectly, actually or potentially, intra-Community trade" have been used to advance freer internal trade.

The EU was driven by a desire to forge a strong political union through closer economic integration. The EU's interest in internal market integration has been growing steadily. Because the EU is at its heart a political pact, strong supra-national institutions are a distinguishing feature of its internal trade regime.

Another distinguishing architectural aspect is the institutional support for internal trade in the European Union. The European Commission is regarded as the "guardian" of the internal market and participates actively in cases before the European Court of Justice.[49]

Further, the European approach has been very effective in addressing incompatible technical, regulatory and professional licensing standards. The EU has a mutual recognition regime as a way of fostering internal trade. The advantage of a mutual recognition regime is that it is a pragmatic mechanism for overcoming incompatible regulatory regimes and yet does not require a major bureaucracy to oversee. The E.U. remains very committed to further market integration with the passage of national legislation and cooperative efforts by sub-federal governments to harmonize policies and standards.[50]

A final observation is that, the internal trade regimes of both India and EU have continued to evolve. There is a strong commitment in the EU to improving the functioning of their internal markets at both the political and official level. The European Commission has an ambitious work program for reform particularly in the area of services.

Of all the reasons for further comparative analyses, one is particularly important from a practical point of view. India is emerging as one of the largest player in world trade today with the window of opportunity for exporters becoming ever larger and more transparent. It is obviously in the interests of those traders and of India as a whole to ensure that obstructions to the free movement of goods and services within India are kept to a minimum.

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48 *Supra* note 9.

49 *Ibid.*

50 *Ibid.*