

Lora Verheecke

EU-INDIA TRADE DEAL: BUSINESS AS USUAL?

AN ASSESSMENT OF THE AGREEMENT FROM AN EU PERSPECTIVE



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LORA VERHEECKE

Lora Verheecke is a former trade campaigner and activist based in Brussels. She teaches EU Trade Policy in Lille Catholic University and undertakes independent research on EU trade deals for NGOs, trade unions and political foundations.

CONTENTS

Executive Summary	4
Introduction	5
What are the EU's economic interests?	6
What are the EU's political interests?	7
What are the EU's geopolitical interests?	8
The lobbies behind the push for the trade deal	9
What about (the lack of) transparency?	11
The EU's offensive interests	12
India's offensive interests	16
Yet another dangerous trade deal: What is at stake for people and the environment?	19
References	22

EXECUTIVE SUMMARY

EU-India trade negotiations were relaunched in June 2022. Behind the storytelling of the Commission, Member States and business lobbies lies the reality which can not be hidden for long: the EU-India trade deal is a neoliberal deal, entrenched in the idea that more trade between the two markets will bring significant benefits. Benefits there will be, for Indian and European multinationals but people and the planet will significantly lose from this deal.

Little is known on the negotiations but much can be feared: more expensive life-saving drugs in India and the developing world; the pursuit of the privatisation of Indian public services, especially higher education, deepening current inequalities and in some cases bad working conditions for teachers; millions of jobs lost in India in the automobile and dairy sectors, with a considerable impact for small Indian female farmers.

A lot of resistance to EU demands can be expected from Indian trade negotiators, as in 2013 when negotiations were halted. But Indian demands are no better for people and the planet: more exports of rice and grains with dangerous pesticides and chemicals; more exports of textiles made in very precarious working conditions and with a significant impact on water quality and Indian poor neighbours; legitimisation of the Indian government digital surveillance; loss of health jobs in the EU.

A trade deal for businesses, against the climate, labour rights, data privacy, quality and affordable public services and environmental protection. A deal which must be halted, as other EU trade deals with Mexico, Chile, Mercosur, etc.

INTRODUCTION

In July 2022, BusinessEurope, one of the most influential business lobby groups in the European Union (EU), representing powerful multinationals, met with the cabinet of the President of the European Commission. The latter told BusinessEurope that a trade deal with India is a major priority for the European Commission (European Commission 2022a).

This report intends to highlight the EU business and political interests behind the trade negotiations between India and the EU and analyse who the main winners and losers of this upcoming agreement will be.

In June 2007, the Government of India began trade talks with the EU. The talks were suspended in 2013, due to both disagreements between the parties and strong opposition from the public.

Talks on a Free Trade Agreement, an Investment Protection Agreement and an Agreement on Geographical Indications (GIs) were formally relaunched on the 17th of June 2022.

Regarding the Investment Protection Agreement, despite EU interest (and possibly insistence) on an ICS or Investment Court System (a “reformed” ISDS), it is unlikely that India will accept any form of ISDS. ISDS stands for Investor-State Dispute Settlement. It gives foreign investors the right to sue sovereign states in costly one-way private international courts (Friends of the Earth Europe 2019). Since 2013, India has terminated the vast majority of its investment protection treaties that include an ISDS mechanism. Of the 21 Bilateral Investment Treaties (BIT) that India has signed with EU countries, only those with Latvia and Lithuania are still in force (European Parliament 2021). Indeed, India has a new model for the protection of foreign investors, which requires them to bring their cases before Indian domestic courts and wait for five years before entering into international arbitration processes (BusinessEurope 2021a) such as ISDS. This report will therefore focus on the Free Trade Agreement between the EU and India.

The EU is India’s third largest trading partner, accounting for €88 billion worth of trade in goods in 2021 or 10.8% of total Indian trade. Trade in services between the EU and India reached €30.4 billion in 2020¹.

The EU and India restarted trade negotiations for various geopolitical, political and economic reasons.

1 European Commission: EU-India Free Trade Agreement, Investment Protection Agreement and Geographical Indications Agreement. Available at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/india/eu-india-agreement_en (data obtained on 7 October 2022).



WHAT ARE THE EU'S ECONOMIC INTERESTS?

The EU has many economic interests in concluding a trade deal with India.

India is one of the world's fastest growing economies with a pre-Covid average annual growth rate of 7%. India also has a rapidly growing population. In 2023, India will surpass China as the most populous country in the world. For EU businesses, India offers tremendous potential, especially since trade between the EU and India is currently not significant: India accounts for only 2.1% of EU total trade and only ranks 10th among the EU trading partners (European Commission, DG Trade 2022). India's sheer size, but even more so its unrealised growth potential (given demographics and the comparatively weak current trade engagement), are what make it systemically and strategically relevant (European Parliament 2021).

However, the EU has another economic interest in increasing trade with India: reducing its reliance on Chinese manufacturing. Given the change in policy towards China, which is now considered a 'strategic rival' by the EU and has been in a trade war with the US, western policymakers have looked to India as a potential substitute for Chinese manufacturing (European Parliament 2021). The new German coalition, for instance, has prepared a new China doctrine which proposes maintaining a strong relationship with China while multiplying partnerships with other states (Contexte 2022).²

Last but not least, the UK might conclude a free trade agreement (FTA) with India before the EU. Immediately after leaving the European Union, the UK began negotiations with a variety of trade partners. The FTA negotiations between India and the United Kingdom were launched in January 2022 with the aim of concluding them by October of the same year. Due to political instability in the UK, this deadline has been missed but news reports indicate that negotiations are close to completion. EU companies most certainly want the same advantages, in terms of capacity of exports and investments in India, as their UK counterparts, which partly explains why the EU has relaunched its negotiations with India.

EU businesses want to seize economic opportunities in India, but not only before or at the same time as UK companies. EU multinationals also want access to the Indian market before their Chinese and US competitors. Before the Covid-19 pandemic, economic relations between the EU and India were gaining momentum. Even though trade tripled between 2002 and 2018, this pace of growth does not compare favourably with that of US-India or China-India trade relations (23 December 2022). The EU is India's third largest trading partner accounting for 10.8% of total

² Translated by the author.

Indian trade, after the USA (11.6%) and China (11.4%)³. In 2020 for instance, China exported \$64.2B to India and India exported \$18.5B to China. The same year, the United States exported \$26.6B to India and India exported \$49.7B to United States, the main product being pharmaceutical products⁴.



WHAT ARE THE EU'S POLITICAL INTERESTS?

The EU also has many political interests in concluding a trade deal with India. The EU would like to reverse or halt the recent trend of protectionism in India. The European parliament recently asked EU negotiators to prohibit discriminatory 'buy national' practices in India since they are aimed at favouring domestic manufacturing and discouraging imports, and significantly impact market access for EU companies (European Parliament 2022). EU decision-makers and businesses are particularly concerned about the 'Make in India' and 'Atmanirbhar Bharat' ('Self-reliant India') programmes. In May 2020, Prime Minister Narendra Modi gave a speech detailing his 'Self-Reliant India' ('Atmanirbhar Bharat') doctrine. In terms of external trade, its main points focus on expanding domestic production capacity. The campaign also highlights the need to develop India's capabilities in sunrise industries – new industries promising strong growth, such as medical devices and drugs, automobiles, capital goods and advanced technologies – through investment and innovation (European Parliament 2021). The recent 'Make in India' programme means that when European companies want to submit a bid or make a public offer for Indian public services (canteens in schools, government offices, etc.), they have to participate jointly with a local partner and even bring production to India in order to be able to participate (BusinessEurope 2021a). BusinessEurope is demanding that this requirement be removed. EU trade negotiators are therefore taking a close look at this attempt by India to rely more on national manufacturing than imports, which could reduce trade opportunities for EU exports, especially in value-added sectors (automobiles, pharmaceuticals, etc.).

3 European Commission: India. EU trade relations with India. Facts, figures and latest developments. Available at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/india_en (data collected on 23 December 2022).

4 OEC World: <https://oec.world/en> (data collected on 23 December 2022).



WHAT ARE THE EU'S GEOPOLITICAL INTERESTS?

Firstly, the EU has recently agreed a number of trade deals in Asia, including with Japan, South Korea, Singapore and Vietnam and it wants to intensify its presence and influence in the Indo-Pacific region.

Secondly, since the beginning of the war in Ukraine, the EU is trying to maintain cooperation with more "silent" countries in order to prevent them falling under Russian influence. India has a long political history of strategic independence. India has been reluctant to publicly criticise Russian President Vladimir Putin. India abstained in the UN General Assembly on the resolution on the aggression against Ukraine, while 140 countries voted in favour (European Parliament 2022). Furthermore, India and Russia have close defence ties and India has become a major buyer of Russian oil since the start of the Ukraine war (The Economic Times 2022a). Hence, why the EU is actively attempting, most notably through its trade negotiations, to keep India within its sphere of influence.

The trade deal "can also be seen as an indication of where India stands and that it will not run into the arms of Russia, uncritically, as China did," EU official, April 2022⁵

The war in Ukraine has, moreover, provided a perfect political opportunity to be seized by free traders in the EU institutions (Council, Parliament and Commission) to ask for more EU trade deals to diversify its supply chains and not be reliant and dependent on a sole region for imports.

"The EU-India trade deal will help us diversify and secure our supply chains."

President Ursula von der Leyen, April 2022⁶

"India could play an important role in the EU's supply chain diversification strategy post-COVID-19. With European companies looking to diversify their supply chains and reduce their dependencies away from dominant sources, India is well positioned to be an important player in this strategy."

BusinessEurope, September 2021⁷

5 Euractiv 2022b.

6 European Commission 2022b.

7 BusinessEurope 2021a.



THE LOBBIES BEHIND THE PUSH FOR THE TRADE DEAL

The push for a trade deal between India and the EU, as illustrated above, is both political and economic. In terms of politics, it is interesting to see which Member States are more interested in the EU-India trade negotiations and which EU business lobbies are also demanding this deal.

The political impetus in the EU is coming from the Commission, as demonstrated above, but also from Member States. Germany, Sweden, Portugal, Finland, Spain, Italy and France are ambitiously pushing for the pursuit of negotiations in the Council⁸. For instance, during its presidency of the Council, Portugal supported the organisation of the EU-India Business Roundtable in the margins of the EU-India Summit (BusinessEurope 2021b). The Prime Ministers of India and Portugal provided closing remarks for the event⁹. Germany is very interested in an EU-India deal as it is India's largest trading partner in the EU (Institut Montaigne 2021). France's interest in an EU-India trade deal seems to stem from its digital and automobile sectors. Indeed, the French tyre company Michelin was represented in the EU-India Business Roundtable and Paul Hermelin, both chairperson of Capgemini SE (digital and consulting services) and "Special Representative of France for the economic relationship with India" was also present¹⁰.

"Germany is extremely keen on having this FTA."

Dr Phillip Ackermann, German Ambassador to India, 2022¹¹

The Indian government also seems to be pushing for the conclusion of a trade deal with the EU. Indeed, the embassy of India in the EU is working with a leading EU lobbying firm: Alber & Geiger. According to the EU Transparency Register, the Indian government has contracted the

8 Confidential documents, in possession of the author.

9 EU – India Business Roundtable: www.buinesseurop.eu/sites/buseur/files/media/other_docs/2021-05-08_eu-india_business_round_table_-_programme_cet_time_0.pdf (23 December 2022).

10 EU – India Business Roundtable: www.buinesseurop.eu/sites/buseur/files/media/other_docs/2021-05-08_eu-india_business_round_table_-_programme_cet_time_0.pdf (23 December 2022).

11 Financial Express 2022.

law firm to work on the EU-India Free Trade Agreement and the EU Russia Sanctions¹². The Indian government is also supporting the EU media outlet, Euractiv, in which an opinion piece by the Secretary General of the Europe India Chamber of Commerce was published in August 2022. The support includes a Twitter feed from the Indian embassy in Belgium on certain webpages from Euractiv (Euractiv 2022a).

The business impetus for a trade deal with India is coming from a variety of EU business actors. There were 28 meetings between the EU's Directorate-General For Trade and external stakeholders on EU-India trade negotiations between the 1st of January 2021 and the 26th of September 2022. 27 of these 28 meetings were with business lobby groups and one with an NGO: Eurogroup for Animals. In 21 months, there were therefore 27 meetings between EU trade negotiators and business lobbyists on EU-India trade relations, more than one a month. Out of those 27 meetings, four were with BusinessEurope, three with SpiritsEurope and two with Euratex (European textile industry) and FoodDrinkEurope (Agribusiness) (European Commission 2022c).

In those meetings, EU trade negotiators update lobby groups on the status of EU-India negotiations¹³. Lobby groups also organise sessions for EU trade negotiators to provide them an overview of business sectors in India¹⁴.

However, it is difficult to obtain a more precise picture of the specific business groups and political interests that are driving the negotiations between the EU and India.

12 EU Transparency Register: <https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=67820416722-09> (data collected on 11 November 2022).

13 European Commission (2022). Participation in the DigitalEurope Market Access Working Group. 21 September 2022. www.asktheeu.org/en/request/12173/response/41923/attach/3/email%20Redacted.pdf?cookie_passthrough=1 (23 December 2022).

14 European Commission (2022). Meeting with FoodDrinkEurope Trade Group on EU-India bilateral negotiations. 12 July 2022. www.asktheeu.org/en/request/12174/response/41457/attach/5/Document%201.pdf?cookie_passthrough=1 (23 December 2022).



WHAT ABOUT (THE LACK OF) TRANSPARENCY?

Despite recent improvements in EU transparency on trade negotiations, little is known. While the proposed EU texts might be public¹⁵, they do not correspond to the actual documents discussed on the table as Indian or joint proposals are not available. Furthermore, while there is a monitoring group on the EU-India trade negotiations in the European Parliament, MEPs are still kept in the dark about salient issues in the negotiations. To date, they have received no official documents on the negotiations and will probably only receive the texts at the final stage of the negotiations, as with other trade agreement monitoring groups. The European Council documents, in which the Commission provides detailed explanations on the status of the negotiations, are not public and are therefore only available to the relevant public servants and ministers in each Member State. Needless to say, the European public is still being kept in the dark about the EU-India trade deal.

Moreover, when BusinessEurope met with representatives of the cabinet of the President of the European Commission, they stated that the role of the Trade and Technology Council (TTC), in the context of the EU-India trade negotiations, was “to maintain a constant political input in the technical work¹⁶.” However, there have been no more follow-up announcements since the official press release of the TTC (First Post 2022). The European public and the European Parliament are also being kept in the dark about the work on this political dialogue on trade and technology between the EU and India.

“The EU-India Council on Trade and Technology (TTC) is a great thing. That is where players like us need to be participating.”

Ashish Kumar Gupta, Senior Corporate Vice President and Head of Europe and Africa at HCL Technologies Ltd., September 2022¹⁷

In all trade negotiations, each Party has offensive and defensive interests. Offensive interests are the advantages you want the deal to bring to your economy.

15 EU-India agreement: Documents. Free Trade Agreement: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/india/eu-india-agreement/documents_en (23 December 2022).

16 European Commission (2022) Meeting conclusions between BusinessEurope and the Cabinet of President von der Leyen. 14 July 2022. www.asktheeu.org/en/request/11823/response/40350/attach/html/4/Ares%202022%206847562%20Meeting%20minutes%20BE%20and%20ML%2014072022.pdf.html (23 December 2022).

17 Friends of Europe 2022, minute 16:25.



THE EU'S OFFENSIVE INTERESTS

One of the main EU offensive interests is the protection of intellectual property rights in the pharmaceutical sector. Trade agreements have a chapter on intellectual property rights (IPR). They confer monopoly rights over intangible goods and services — methods of doing business on the internet, trademarks, computer programs, designs, manufacturing processes, drug formulations or types of rice. They give such IPR owners the right to prevent anyone from making or using their “creation”. It is ironic that while IPR chapters are key aspects of many “free” trade and investment agreements, they are little more than protectionism¹⁸.

“Intellectual property rights (IPR) has been one of the most contentious issues before India during trade talks with countries such as the U.S. and the European Union (EU) in the past.”

Fortune India, May 2022¹⁹

India and the EU are both major producers and exporters of pharmaceuticals. In the area of vaccine production, for instance, the EU has a 51% share of global trade in vaccines, making it the world’s largest exporter of vaccines. However, India accounts for 81% of vaccine imports by developing countries (European Parliament 2021).

In 2013, one of the reasons for the failure of the EU-India Free Trade Agreement was a strong intellectual property regime (IPR), especially in the pharmaceutical sector. India is aspiring to become the “pharmacy of the world”, because of its strength in the generic drugs sector. But the EU pharmaceutical industry is concerned by this and argues that the enforcement of IPRs is weak in India and that the Indian government is applying a restrictive interpretation of Intellectual Property Rights to facilitate the replacement of more expensive life-saving medicines with cheaper generic drugs (Blanc 2014). Protection of pharmaceutical patents has therefore become a serious bone of contention (Institut Montaigne 2021) because India is refusing such protection. If the EU was to enforce strong IPR rights in the pharmaceutical sector in the deal, India’s opportunities to produce generic drugs would be seriously limited. This could have an impact on access to medicines, not only in India but also in the developing world.

¹⁸ Intellectual property: www.bilaterals.org/?-intellectual-property (23 December 2022).

¹⁹ Fortune India 2022.

“Touching manufacturing of generic medicines is completely non-negotiable.”

Indian official, November 2022²⁰

“Biosimilars and generics flood the Indian market and blatantly violate the IP rights of the Innovators.”

BusinessEurope, September 2021²¹

Strong intellectual property rights is not only an offensive interest of the EU in the pharmaceutical sector. It is also one in the digital sector. BusinessEurope has recently complained that India is currently considering a source code review for 5G. This would require companies selling critical infrastructure and public communication networks to deposit their source code with a third party for review. European businesses are up in arms about this as they fear losing control over their IPR and want to see their technologies in India without any government regulations and without any transfer of technology (BusinessEurope 2021a). This business demand has made it into the recent European Parliament resolution that states that “5G must not be deployed in India using mandatory technology transfer such as the forced disclosure of source codes, algorithms and encryption keys.” (European Parliament 2022)

A trade deal between India and the EU will not only focus on how goods can move more easily between India and the EU, the deal will also have an impact on trade in services. Regarding the latter, the EU has two major offensive interests: public procurement and services.

Public procurement refers to the purchase by governments and state-owned enterprises of goods, services and works. EU companies would like to be able to provide those services to Indian governments in the transport, catering, water, etc. sectors. BusinessEurope is asking EU trade negotiators to make this access a top priority at the national, federal and local levels²². When the Commission reported on progress in the negotiations to the Council, negotiators complained to Member States that India did not want to include access to public procurement at state level in the agreement²³, meaning the possibility for EU companies to offer services not only to the Indian federal state but also to Indian regional states.

“Protectionist trade instincts are still alive in India, particularly when it comes to access to public procurement sectors, among others.”

Jamie Shea, Friends of Europe, April 2021²⁴

When BusinessEurope discussed the Commission’s trade agenda with the cabinet of President von der Leyen, the business lobbyist identified two major interests for EU companies in India.

20 Economic Times 2022.

21 BusinessEurope 2021a.

22 BusinessEurope 2021a.

23 Confidential documents, in possession of the author.

24 Friends of Europe 2021.

One of them was services²⁵. The Indian economy is largely closed to foreign service providers, especially in professional services, including accounting, architecture and legal services (European Parliament 2021). This makes it very costly and complicated for a German architectural company to build office towers, hospitals, schools, etc. In the 2009 Trade Sustainability Impact Assessment of the EU-India trade deal, the authors found that the agreement would lead to a major economic boost for EU insurance companies as it aims to liberalise insurance services (ECORYS 2009), meaning EU multinational companies would be able to sell their insurance products to Indian consumers. In the Australia-India free trade agreement, insurance and banking services in India, as well as higher and adult education services, are open to Australian companies (KPMG 2022). Depending on the details of the final agreement between the EU and India, EU companies might also be able to provide higher and adult education services in for-profit establishments. This could further privatise public services or lock in existing privatisation. Currently, the privatisation of the Indian educational system has led to a lack of diversity in higher education (as the poor are unable to access such institutions) and, in some cases, of teachers being paid less than the amount specified by regulatory agencies (Datta / Kundu 2021). If more EU companies are allowed access to the Indian education system, this pattern of privatisation and its accompanying negative impacts will only worsen and cannot be reversed.

EU companies are also keen on exporting products to India that they cannot currently sell easily due to high taxes, called tariffs in trade jargon.

For instance, the European wine and spirits lobby is asking for a reduction in tariffs for its exports to India. Indeed, since 2013, tariffs have increased on wine and alcohol (Institut Montaigne 2021). Today, for EU alcoholic beverages sold in India, they can be as high as 150%; for EU wines, tariffs are 100% or more (BusinessEurope 2021a). According to BusinessEurope, India would be willing to be flexible and not eliminate but reduce those tariffs for European wines and spirits sold in India (European Commission 2022a), as part of the EU-India trade agreement.

In its private meeting with the cabinet of Ursula von der Leyen, BusinessEurope also indicated that India would be willing to be flexible and not eliminate but reduce tariffs for European cars sold in India (European Commission 2022a). However, publicly, the business lobbyist is asking for a complete elimination of tariffs on vehicles and vehicle components (BusinessEurope 2021a). But, as BusinessEurope is well aware, the Indian government is reluctant to open its market entirely to European car imports. Indeed, in 2016, even though the automotive sector contributed 7.2% to India's GDP and generated employment for about 32 million people (producing 29 million vehicles, of which 4 million were exported), automakers suffered a year-on-year decline of more than 30% in 2019-20. Protecting such a key sector, now recovering from the Covid-19 crisis, may remain one of India's priorities in the course of the trade talks (Institut Montaigne 2021). However, if more European cars were to be imported into India, millions of people could lose their jobs in the Indian automotive sector.

25 European Commission (2022) Meeting conclusions between BusinessEurope and the Cabinet of President von der Leyen. 14 July 2022. Available at: www.asktheeu.org/en/request/11823/response/40350/attach/html/4/Ares%202022%206847562%20Meeting%20minutes%20BE%20and%20ML%2014072022.pdf.html (23 December 2022).

The EU is also keen to increase its agricultural exports to India, especially in the dairy sector. According to a European negotiator, the dairy sector will be a “very, very, very big part of the discussion.” (Institut Montaigne 2021)

India is a major dairy producer. In 2020-2021, India produced 210 million metric tonnes (MMT) of milk, which constitutes 23% of the world’s milk. India has also become a cheese exporter, with its exports growing at a rate of 16% between 2015 and 2020. Recent Indian initiatives also provide support to companies with meeting the quality standards set by importing nations.

“We are confident that India is well poised to emerge as a leading exporter of dairy products in times to come.”

Parshottam Rupala, Minister for fisheries,
animal husbandry and dairying, November 2022²⁶

The EU is also a dairy exporter. In 2013, when the EU-India trade negotiations failed, the Bharatiya Janata Party (Indian People’s Party), then in opposition, campaigned against the talks, “citing the potential flooding of the Indian market with ‘dairy, poultry, sugar, wheat, confectionery, oilseeds, plantation products and fisheries’ (Institut Montaigne 2021). Indeed, the EU would like to export more dairy products to India, but is currently unable to do so due to tariffs (taxes) as well as sanitary rules in India. According to EU trade negotiators, “SPS [sanitary and phytosanitary] requirements” are equally “problematic” – if not more so (Institut Montaigne 2021).

“India continues to employ both tariff and non-tariff barriers in an effort to insulate small, shareholder dairy producers from competition.”

Monica Ganley, analyst, September 2020²⁷

The Indian dairy industry employs more than 80 million rural households, with the majority being small and marginal farmers as well as the landless (Ministry of Fisheries, Animal Husbandry & Dairying 2022). If the highly subsidised EU dairy products were to enter the Indian market, a very significant portion of those 80 million rural households would lose their sources of income. This would significantly impact poverty and inequality in India. India has high levels of economic inequality: it has both the world’s third highest number of billionaires and one quarter of the global total of people living in extreme poverty. While the middle class in urban areas has grown, the vast majority of Indians live in rural areas in relative poverty. Importing cheap EU dairy products will also impact gender equality as the Indian dairy industry is made up of over 190,000 small cooperatives, in which over five million women work (Trade Justice Movement 2022).

While it is one of the offensive interests of EU trade negotiators, the European business sector is aware that India is unlikely to concede on this matter (European Commission 2022a). The list of EU trade offensive interests is long, and so is the list of their impacts in India. If India was to respond positively to EU demands, it would do so on the condition that the EU agreed to its demands. India also has a long list of offensive interests in its trade deal with the EU.

26 The Hindustan Times 2022.

27 Dairy Herd Management 2020.



INDIA'S OFFENSIVE INTERESTS

While the EU is generally open to Indian services, in reality, this trade is limited by visa requirements for Indian business travellers to the EU (mode 4 trade) (European Parliament 2021), meaning that Indian IT companies, for instance, have a hard time bringing their engineers to work in the EU. India would like the trade deal between the EU and India to include an offer for a number of visas to be issued to Indian professionals to work in the EU, especially for Indian IT engineers (Institut Montaigne 2021). In 2013, the EU (which then included the UK) made an offer of 50,000 visas but most of them were for the UK. It is unknown what India is now demanding and what the EU is willing to offer. Nonetheless, current debates on immigration in various EU Member States could make it difficult for the EU to maintain or raise its 2013 offer (Institut Montaigne 2021). Furthermore, while trade is an EU competence, work permits and visa rules are member state competences, increasing political hurdles. Today, there are many Indian migrants in Italy in low-skilled jobs in the agricultural sector. However, if India was to obtain visas, it would be mostly for high-skilled jobs in the IT sector, which could have an impact on employment in certain sectors in selected Member States. However, it should be noted that the EU has a shortage of certain professionals in the IT sector: systems analysts, software, web and multimedia developers, as well as application programmers (European Labour Authority 2021, 7). Once the details of the agreement are known, an assessment of the impact on the quality of jobs would be required. If Indian professionals work in the EU under Indian contracts, this might create unfair competition with workers under EU contracts and could lead to an erosion of labour standards in the EU.

India also has offensive interests in the services sector, much like the EU, but they are mainly focused on one sector: IT and digital services. In 2013, when negotiations on a trade deal between the EU and India were suspended, Indian negotiators sought “data secure status” for the country, which would reduce compliance costs for Indian software providers in the EU (Institut Montaigne 2021). Indeed, the free flow of data is a major concern for trade in digital services between the two countries (e.g. to facilitate the sale of Indian applications, software, etc. in the EU market). In July 2022, BusinessEurope highlighted data as a problematic issue at the EU and India trade negotiation table (European Commission 2022a). The EU does not deal with flows of personal data in trade negotiations. Instead, countries that have a similar level of privacy protection to the EU can be recognised through unilateral adequacy decisions, which allow the transfer of personal data from the EU to the other country (European Parliament 2021). Such an adequacy decision, despite not being part of the future EU-India trade deal, will be part of the negotiations between the EU and India. The Indian parliament is currently

adopting a data protection law, with similar protections to the main EU data protection law (GDPR – General Data Protection Regulation). European negotiators are therefore confident that India will adopt a law that sufficiently protects personal data to allow for an EU adequacy decision with India (Institut Montaigne 2021).

If the Indian system is recognised as equivalent by the EU, the Indian IT sector would therefore be able to export more digital products to the EU. This would be a major economic gain for India as the IT sector in India accounts for 8% of GDP and 52% of exports of services. This would also be a major political gain for the EU as India's acceptance of EU rules on data privacy would bring them closer to being accepted as international standards (Institut Montaigne 2021).

Notwithstanding the above, there may be remaining data privacy concerns that are overlooked by EU trade negotiators in order to conclude a trade deal. Under the current system, and possibly under future Indian data protection law, the Indian government enjoys extensive rights of data surveillance (European Parliament 2021). Attention will have to be given to this aspect in order for EU and Indian citizens data to be free from unjustified government surveillance, especially given India's recent track record on human rights. Under India's Unlawful Activities Prevention Act for instance, a number of journalists and campaigners have faced interrogation, raids, threats or physical assault, which have been condemned by independent human rights experts at the UN (Trade Justice Movement 2022).

Furthermore, the free flow of data between India and the EU could extend to health data. This could have significant labour impacts in the EU as Indian radiologists would be allowed to analyse X-rays of EU patients. This concern has been raised by trade unions in the UK in respect of the UK-India trade deal. Indeed, developments in digital healthcare could lead to increased outsourcing of healthcare jobs, with secure roles in the UK being lost to more insecure jobs with poorer terms and conditions in India (Trade Justice Movement 2022).

Much like the EU, India also has offensive interests in the goods sector. Indian companies would like to export more agricultural and manufactured goods to the EU.

India is likely to seek increased exports of rice, sugar and grains to the EU. However, in the case of rice, there are two stumbling blocks in the EU. The first is Italy, which is a major rice producing country and has already voiced its opposition in the Council to increased imports of Indian rice to the EU²⁸. The second is the high level of pesticides found in Indian rice. Since the EU has lowered the residue limits for certain pesticides in imported rice, some consignments of Indian rice have been rejected at the EU's borders (The Hindustan Times 2021).

Regarding sugar, the EU sugar lobby has asked EU trade negotiators not to allow more imports of Indian sugar products in the EU. Indeed, India has a subsidy program in place to support its farmers, such as minimum prices for sugar cane. The EU sugar industry would like India to remove those programs before Indian sugar exports to the EU are made easier. If India was to alter its sugar policies, Indian farmers could suffer greatly²⁹.

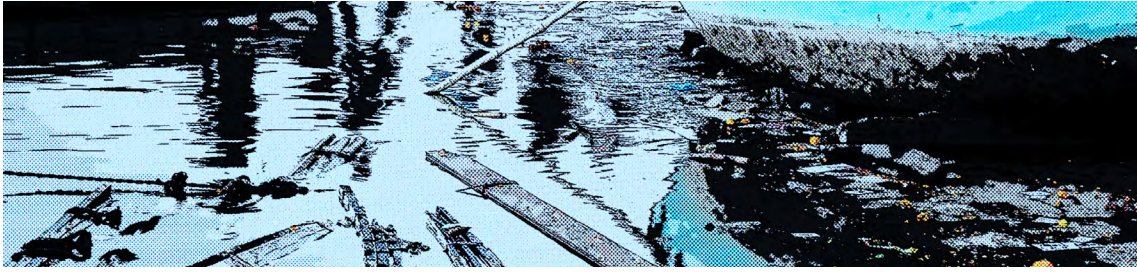
28 Confidential documents, in possession of the author

29 European Commission (2022) Meeting with FoodDrinkEurope Trade Group on EU-India bilateral negotiations. 12 July 2022. Available at: www.asktheeu.org/en/request/12174/response/41457/attach/5/Document%201.pdf (23 December 2022).

Until 2013, when negotiations were still underway between India and the EU, increased exports of grains from India to the EU were also expected. This would mean that Indian farmers would be likely to increase production and use more fertilisers in the grains sector (ECORYS 2009). If grains are included in the trade deal between the EU and India, this would have a disastrous impact, not only on biodiversity and water quality in India, but also on the health of Indian farmers who would be more exposed to dangerous substances.

Recent trade deals that India has agreed with markets other than the EU indicate that India is seeking greater market access for its pharmaceutical products. Such access is part of the country's proposed free trade agreement with the UK and India has already secured greater market access for its pharmaceutical industry in trade deals with the United Arab Emirates (UAE) (Economic Times 2022b) and with Australia (KPMG 2022).

As noted above, between the 1st of January 2021 and the 26th of September 2022, Euratex, the lobbyist for the European textile industry, had two meetings with EU trade negotiators on the EU-India trade deal. The European sector could be worried about the consequences of increased Indian imports in this sector. Indeed, Indian trade negotiators are likely to seek easier access to the EU market for Indian textiles. Under the Australia-India trade agreement, 96% of Indian goods exports to Australia will immediately enter duty-free, including in the textile sector (KPMG 2022). In the 2009 Trade Sustainability Impact Assessment of the EU-India trade deal, the authors found that the agreement will lead to significant shifts in production in the apparel and leather sectors, where output in India is expected to increase considerably (28% for both), while the EU will face a slight decline in output (-1.4% and -3.3%, respectively) (ECORYS 2009). The current EU-India deal is therefore likely to reduce job opportunities in the European textile sector and provide a boost to an industry that is not synonymous with decent working conditions in India. The vast majority of Indian textile workers are women. Informal employment, low pay and exploitative working conditions are a feature of the sector, with estimated pay rates of as little as 11p an hour for goods produced for major western brands (Trade Justice Movement 2022). Furthermore, the 2009 Trade Sustainability Impact Assessment of the EU-India trade deal also found that negative effects on water quality are expected from increased output in the textiles and apparel sector (ECORYS 2009).



YET ANOTHER DANGEROUS TRADE DEAL: WHAT IS AT STAKE FOR PEOPLE AND THE ENVIRONMENT?

The negative impacts on humans and the environment stem from future chapters of the EU-India trade deal. Needless to say, they complement the more structural impacts of the entire future deal between the EU and India.

The EU-India trade deal will increase imports and exports of goods which will therefore lead to an increase in greenhouse gas emissions. By way of example, the scoping assessment for the UK-India trade deal estimated trade-related transport greenhouse gases emissions (GHG) to increase by 18% to 36%, depending on the extent of the agreement (Trade Justice Movement 2022). In the 2009 Trade Sustainability Impact Assessment of the EU-India trade deal, the authors also found that increased air traffic caused by higher trade flows in the services sectors may negatively affect global GHG emission levels (ECORYS 2009).

Furthermore, the reduction in tariffs for goods traded between India and the EU could create trade distortion, meaning that certain goods would be cheaper to import from India than from Bangladesh, Nepal and Cambodia. The scoping assessment for the trade deal between the UK and India found that the textiles, clothing, and footwear sectors in developing countries are the industries most likely to be negatively affected by increased UK-India trade. Reducing a country's export competitiveness can often lead to a 'race to the bottom' in terms of standards, as countries seek to compete on price. This could mean that the FTA between India and the UK would lead to poorer working conditions and undermine existing social and environmental protections in third countries (Trade Justice Movement 2022). There could be a similar impact with the EU-India trade deal, depending on which Indian sectors will have easier, cheaper access to the EU market.

With all these impacts in mind, it could be difficult for the EU Commission and Council to convince the EU parliament to ratify the trade deal between the EU and India. Moreover, in recent years, the EU parliament has been more vocal in its demands for the inclusion of non-trade related objectives in EU trade deals, such as commitments relating to labour, climate or gender. This has led the EU to recently review the chapters on sustainable development in its trade agreements. In addition to helping to secure the support of political parties in the European Parliament, they

also re-legitimise trade deals in the eyes of the European public, giving the impression that public concerns are now incorporated into EU trade jargon.

“In contrast to the politicians’ soaring rhetoric, a considerable body of analysis agrees the TSD [Trade and Sustainable Development] chapters are fairly useless both as written and as applied.”

Sharon Anglin Treat, IATP, September 2021³⁰

Indeed, non-trade commitments in any EU trade deal have no impact on the trade-related provisions of the agreement. If the EU-India trade deal leads to an increase in Indian textile exports to the EU, thereby increasing the number of poorly-paid, precarious jobs in India, the commitments made relating to labour will not ensure that those jobs are required to comply with minimum labour standards. As previously shown, the objective of the trade deal between India and the EU is to increase trade between the two markets. Any consideration of its impacts on people and the planet is secondary. EU negotiators believe that more trade will bring more growth to the EU, but this growth is blind to the climate, gender, environmental, social and other impacts.

“We have also a Korea-US FTA that includes strong provisions on sanctions in case of violation of labour standards. But neither the Korean or the US government want to take any action under this chapter, as it is not easy to make use of this provision because they have to give some evidence that the violation of labour rights had a negative impact on trade relations between the two parties.”

Ryu Mikyung, International Director at the Korean Confederation of Trade Unions (KCTU), March 2021³¹

In India, trade negotiators currently tend to refuse non-trade policy objectives in trade deals. In the UK-India trade deal, India has accepted commitments on gender policy so far but discussions are still ongoing and difficult between the two parties on labour and environmental commitments³². Furthermore, certain issues from the draft Trade and Sustainable Development Chapter of the unfinished 2013 EU-India trade deal remain unresolved today. For instance, in terms of labour rights, India has not ratified the International Labour Organisation’s fundamental conventions C087 and C098, which concern freedom of association and collective bargaining (European Parliament 2021). In relation to human rights, India is only a signatory to the UN Convention Against Torture but not yet ratified or implemented it (Trade Justice Movement 2022).

30 IATP 2021.

31 Bilaterals 2021.

32 Conversation with a UK trade expert, who has been able to see recent versions of the UK-India trade agreement.

“We believe that India’s poor track record on human rights abuses should be adequate reason for the UK to halt its pursuit of a trade agreement with India.”

Ruth Bergan, Director of the Trade Justice Movement, 2022³³

Behind the narratives of the EU trade negotiators lies the reality, which cannot be hidden for long: the EU-India trade deal is a neoliberal agreement, entrenched in the idea that more trade between the two markets will bring significant benefits. While there will indeed be benefits, for Indian and European multinationals, people and the planet will be the big losers from this deal.

There are currently trade deals between the EU and other countries in the world that have still not been ratified (e.g. Colombia) due to public opposition. Mobilisation by civil society (NGOs, trade unions, etc.) has changed EU trade policy, albeit only slightly. However, this move in the right direction needs to be pursued with current and future trade deals (EU-Mercosur, EU-Mexico, etc.) While the EU-India trade deal might not be concluded in 2023, it should not be forgotten in current and future mobilisations of civil society against the dangerous EU trade agenda.

33 Trade Justice Movement 2022.

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