



#### CIVIL SOCIETY DIALOGUE

## MEETING ON THE TRADE SUSTAINABILITY IMPACT ASSESSMENT (SIA) IN SUPPORT OF NEGOTIATIONS WITH INDIA AND STATE OF PLAY IN THE EU-INDIA BILATERAL NEGOTIATIONS

**Date:** 21 March 2023

**Time:** 14:30-16:30 CET

**Location:** Webex

#### **Lead speakers**

- Head of Unit South and South-East Asia, Australia, New Zealand - Directorate-General for Trade, European Commission
- Head of Unit Investment and Intellectual Property - Directorate-General for Trade, European Commission
- International Relations Officer - Directorate-General for Agriculture and Rural Development
- SIA Study team led by Trade Impact BV

#### **Moderator**

Civil Society Coordinator - Transparency, Civil society and Communication Unit, Directorate-General for Trade, European Commission

#### **Presentation of the state of play of negotiations**

The Commission provided a detailed state of play of the negotiation, including the outcomes of the 4<sup>th</sup> negotiating round that was held from 13-17 March 2023 in Brussels. As part of this summary, the Commission underlined that while this round had been marked by a slightly more positive dynamic than in the previous rounds, the EU and India's starting positions are very different in many areas and a lot of work remains to be done in order to find compromises. The Commission further stressed the particular importance of the discussions on Trade and Sustainable Development (TSD), including the incorporation of the recent TSD policy review. The next round of negotiations will take place mid-June, and in the meantime numerous discussions will take place at political, Chief Negotiator and working levels. The Commission also mentioned that the discussions on the agreement on Geographical Indications (GI) have been temporarily delayed due to the change of lead negotiator on the Indian side.

The Commission recalled that negotiation-related documents have been published on DG TRADE's website, such as the Council's negotiation mandate, round reports, EU initial textual proposals and the Inception report of the Sustainability impact

Assessment, as part of the Commission's transparency policy: [EU-India agreement: Documents \(europa.eu\)](https://europea.eu).

Regarding the IPA negotiations, the Commission informed that a round is ongoing simultaneously. The aim of the negotiations is to protect EU companies against possible harmful practices of the host country/India. The legal systems of the EU and Member States already offer high protection to foreign investors in the EU and the intent is to ensure such protection for EU investors in India. India has terminated all 22 BITs with EU Member States which leaves a gap of protection for EU investments in India. Over the first four rounds the parties have gone through their respective approaches and text proposals working towards identifying commonalities and differences.

So far, three rounds of negotiations on the Agreement on Geographical Indications have taken place (the last one in December 2022). The discussions have focused on the main principles of the respective Parties' GI systems, which has been an important work in the context of India revising its legal framework as well as on the main principles of the future GI agreement. The Commission recalled the EU key objectives in these negotiations and informed about India's interest to protect non-agricultural GIs, category of products which are foreseen to be covered by the new EU CIGI (Craft and Industrial Geographical indications) regulation.

### **Questions and Answers**

**Algemeen Christelijk Vakverbond van België** was interested to know whether the Investment Protection will be a separate agreement. The Commission confirmed this is the case.

**spiritsEurope** enquired about State Trading Enterprises (STEs) and whether the access to the procurement market for alcoholic beverages is also part of the investment protection discussions. The Commission explained that the IPA does not cover access to public procurement, which is covered by the FTA negotiations.

**The European Services Forum (ESF)** questioned whether India would accept the EU Investment Court System (ICS). Commission replied that India was reluctant but had so far made no proposal on dispute resolution.

**Algemeen Christelijk Vakverbond van België** asked why India has terminated all BITs and now is open for a new IPA with the EU; and what elements of the old investment protection agreements they want to change. The Commission explained that India wants to replace the outdated provisions in its old BITs.

**The London Story (TLS)** asked the Commission not to rush to meet the end of 2023 deadline on the negotiation conclusion at the expense of adequately addressing of human rights concerns. TLS also asked in which way the TSD findings of the SIA, especially those on human rights, would feed into the negotiations? The Commission answered that it is indeed committed to an ambitious deadline, but that this does not mean it will drop its level of ambition, in particular on the TSD chapter, to achieve a quicker result.

**The European Community Shipowners' Associations (ECSA)** enquired about progress on the maritime chapter. The Commission replied that discussions on this chapter are indeed difficult, notably due to the differences of regulatory systems, but that it will continue its efforts in this field.

**Federatie Nederlandse Vakbeweging** asked whether India's ratification of ILO conventions 87 and 98 would be a condition to reach an agreement? The Commission confirmed that this is indeed part of its approach.

**WIDE+** asked whether gender equality is mentioned in India's counter-proposal on the TSD provisions. The Commission explained that India has engaged on this part of the EU proposal, although the level of ambition remains to be agreed.

**ESF** asked whether the EU would consider an "early harvest" deal and whether negotiations on digital services has started. The Commission confirmed that discussions on digital trade have begun and clarified that its ambition remains to conclude an ambitious and comprehensive deal, without adopting an approach aiming at an "early harvest" or "phase 1" agreement.

**SolarPower Europe** asked whether the EU had received any indication from the Indian side that they might consider exempting EU solar products from the basic custom duty or at least reducing it.

**The European Tyre Industry** enquired about any progress on the automotive Annex and asked what kind of approach could be expected, mentioning the agreements with Korea and Vietnam.

**Insurance Europe** asked if there had been progress with regard to financial services, in particular insurance.

On the three last questions, the Commission explained that the negotiations have not reached the stage where liberalisation of specific products is discussed.

**International Federation for Human Rights** asked whether India's proposal included commitments at State level to protect human rights and to enforce United Nations Guiding Principles on Business and Human Rights ? They also asked about the EU's stance on the Human Rights clause and on independent and dedicated domestic advisory groups (DAGs). The Commission confirmed that the inclusion of sub-federal level is a horizontal issue in the negotiations, due to the federal nature of India, but it is too early to say what the final result will be.

**spiritsEUROPE** asked whether India already came up with a preliminary position on which are the sensitive sectors for them as regards trade in goods and noted that many issues for them are at the level of Indian States. The Commission reiterated its remark that liberalisation of specific sectors had not been discussed yet.

**Freshfel Europe** asked about the level of EU ambition concerning market access for fresh products, in particular regarding SPS barriers and issues raised recently in the WTO Committee like the GMO-free certificate. The Commission acknowledged the importance of the issue and mentioned that in parallel to the FTA discussions, trade irritants will also be discussed in the context of the newly established Trade and Technology Council.

**Algemeen Christelijk Vakverbond van België** asked how far the EU could lower its level of ambition, in particular on the TSD chapter, without weakening its position in other FTA negotiations.

**Amfori – Trade with Purpose** enquired about the EU's position on sustainability.

On the last two questions, the Commission confirmed the high importance of the TSD chapter in its approach.

**MedTech Europe** enquired about the date of the next negotiation round. The Commission answered it would likely take place on 12-16 June 2023.

**Jacques Delors Institute** asked whether the autonomous instruments put in place by the EU (such as CBAM, deforestation regulation, due diligence) could replace TSD

chapters, and whether the European Parliament had expressed a position that the TSD chapter with India would need to diverge from the TSD policy review. The Commission replied that these initiatives have been raised by India, but that they do not replace TSD chapters in FTAs, all the more after the last trade policy review.

**International Confederation of European Beet Growers (CIBE)** asked what are the basic parameters regarding future market access offers and when the Commission expects a more substantial discussion on market access, especially on agriculture. The Commission explained the internal process that needs to be followed before a market access offer can be tabled and that the discussions are still at the stage of the format of these potential offers.

**Organisation pour un réseau international d'indications géographiques** asked if the list of GIs sent to the Indian authorities will be published soon and if the Commission will be able to share it. The Commission has not yet shared the EU GI list with India and prior to that will share it with the Member States in the Council TPC.

## **Trade Sustainability Impact Assessment (SIA)**

### **1. Introduction**

In the introductory remarks, DG TRADE reminded that in line with the well-established EU practice, further to the re-launch of the negotiations with India, a Trade Sustainability Impact Assessment (SIA) study had been commissioned. It had started in January 2023 and is being delivered by a study team led by Trade Impact.

As all SIAs, this one will also need to be integrated i.e., based on a comprehensive approach which looks at both, benefits and costs and covers economic, social, human rights and environmental considerations in a single document. It is being carried out by an independent team of external consultants whose analysis and findings will need to be evidence-based, using a range of methodological tools and information sources. The study will contribute to the transparency around negotiations and impacts of the future EU-India trade and investment agreements, and will provide an opportunity for stakeholders to be informed and consulted, and thus to contribute to the analysis.

The study will have three phases, the inception, interim and the final one and will be concluded in October 2023, i.e., before the planned end of the EU-India negotiations. Consultations with stakeholders in the EU and India will follow throughout all phases of the study.

DG TRADE emphasised, there is an expectation of an in-depth analysis, in line with the priorities of the EU trade strategy and the new approach to trade and sustainable development (TSD). Moreover, as already mentioned, the study will also play an important role in reaching out to stakeholders in the EU and India to consult them on the sustainability impacts of the agreements under negotiation.

### **2. Presentation of the draft Inception Report**

The study team presented the draft Inception Report focusing on the methodology in analysing economic (including investment related), social, environmental, and human rights-related impacts of the trade and investment agreements under negotiations. The Report also includes the proposal for an approach to selecting case studies and outlines a broad consultation programme, with various forms of stakeholder engagement. The study team reiterated that the draft Inception Report with an Annex had been published on 15 March 2023 and comments to both can be submitted to the study team by e-mail, by 31 March. Likewise, comments to the long list of case study topics and additional suggestions will be welcome by 31 March.

More information about the study is available on the project website<sup>1</sup>, which also includes a contact form. The slides from the presentation are attached to these minutes and will also be available on the project website.<sup>2</sup>

### **3. Questions and Answers**

**International Confederation of European Beet Growers (CIBE)** inquired about the planned parameters of the economic model that will be used in the study, including disaggregation of sectors and modelling scenarios. Another question was related to the definition of "impact alerts" planned to be used in the heat map. Moreover, CIBE will appreciate to be consulted to contribute to the study.

The study team informed that in the economic part of the analysis, various tools and analytical methods will be used. This includes analysis of trade statistics, the use of the economic model and the gravity model for estimating impacts for public procurement and foreign direct investment (FDI). Regarding the economic model, it has been designed by the Commission and the study team members have not seen the modelling results yet. In addition, the study team suggests consulting the already published Annex to the draft Inception Report, where section 1.2 outlines the parameters of the economic model, as available to the study team.<sup>3</sup> The study team also takes note of CIBE availability for consultations.

**International Federation for Human Rights (FIDH)** referred to the proposed methodology suggesting that negative impacts of the agreements under negotiation should ideally be prevented from occurring and the SIA should also include proposals of measures to this effect. Moreover, recommendations should be precise, incl., e.g., proposals for concrete wording for legal clauses and mechanisms. Likewise, the impact assessment analysis should take into account concrete potential clauses of the FTA and IPA. That said, the study should not try and pre-judge potential outcomes of the ongoing negotiations but focus on impact assessment.

The study team responded that the analysis and its findings will need to be evidence-based and to this end, the team will use the economic model, diverse data, and information sources, including texts tabled by the EU in the negotiations with India, and stakeholders' views. Recommendations will be based on them as well. However, as the study will need to be concluded before the negotiations end, and the study team will not have access to details of the ongoing talks, including proposals tabled by India, there will be no attempt to estimate potential outcomes of the negotiations, as this would be a pure speculation.

Reacting on the study team's request for signalling interests and concerns related to the ongoing negotiations and impacts of the two future agreements, **the European Services Forum (ESF)** stressed the importance of market access for services in the EU-India relations.

**The London Story (TLS)**, referred to the draft Inception Report which does not explicitly mention religious minorities and castes among the vulnerable groups and inquired why. Another question was if there will be a recommendation to the EU negotiators to include a reference to specific vulnerable groups (beyond women, recognised in the proposed gender clause) in the TSD chapter.

Given the limited time towards the end of the meeting, the study team did not manage to respond to these questions. However, as the same comment has been provided in writing to the study team, as a comment to the draft Inception Report, it will be considered at the time of a revision of the Report by early April. Moreover, the religious minorities and castes will be included, where appropriate (depending also on data availability) into the already ongoing analysis of the current situation in the

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<sup>1</sup> <https://www.eu-india-tsia.eu/>

<sup>2</sup> <https://www.eu-india-tsia.eu/consultations>

<sup>3</sup> The economic model should split out the sugar sector, as well as rice, grains, vegetables & fruits, meat, dairy, other agrifood, and processed food. See: <https://www.eu-india-tsia.eu/resources>

EU and India. Finally, while it is too early to speak right now about future recommendations from the analysis, the study team observes that groups of the population facing challenges on the labour market and/or discrimination in the employment and occupation, are covered by the ILO fundamental convention No. 111 and, in the case of India, ILO reports focus on people from Scheduled Castes and Tribes and Dalits, among others. Therefore, the labour rights of these groups will be addressed, in case there are commitments of the Parties in relation to the effective implementation of the ratified ILO fundamental (or all) conventions.

**spiritsEUROPE** inquired whether it will be possible to widen one of the proposed case studies (on Intellectual Property Rights) to consider the impact of the FTA on illicit trade and counterfeit products (including for alcoholic beverages).

The study team has taken note of the proposal. It will be considered along other preliminary topics, and against the selection criteria. The study team observes that the analysis will include only three case studies, with topics thought as being most relevant for the SIA (having the highest scores against the selection criteria and covering areas where data availability will provide a solid foundation for a sound analysis). Therefore, there is no guarantee at this stage that the case study on IPR will be selected.

DG TRADE thanked the study team for the presentation and participants for discussion and concluded the meeting.