



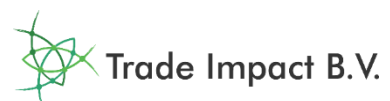
Trade Sustainability Impact Assessment (SIA) in support of Free Trade Agreement and Investment Protection Agreement negotiations between the European Union and the Republic of India

Draft Inception Report

Executive summary

March 2023

Prepared by consortium led by Trade Impact B.V.
March 2023



The views expressed in the report are those of the consultant,
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EXECUTIVE SUMMARY

Introduction

India is the 3rd largest economy in the Asia-Pacific region (after China and Japan) and one of the EU's strategic partners. Given the size of its economy and population, and dynamic pre-COVID-19 economic growth, its relations with the EU represent potential for significant trade and investment flows, and cooperation between the Parties. However, this potential remains largely untapped, because of reasons that include domestic Indian policies, notably the "Make in India" and "Self-reliant India" initiatives and related market access barriers (some of which will be analysed at later stages of this study, together with reasons underpinning their adoption).

As bilateral relations gain momentum, during their 2020 summit, EU and India Leaders agreed to work towards "balanced, ambitious and mutually beneficial" trade and investment agreements, further opening markets and creating a level playing field (Joint Statement, 2020). In 2021, they agreed to launch talks on three separate agreements: a Free Trade Agreement (FTA), an Investment Protection Agreement (IPA) and an agreement on geographic indications (GIs). The Parties considered the future trade and investment agreements as an integral part of their renewed Strategic Partnership against the background of global challenges, including the COVID-19 pandemic and the following economic recovery, as well as climate change (Joint Statement, 2021). The EU also sees enhanced relations with India as a contribution to its strategic objectives (ToR, 2022).

In June 2022, the EU and India resumed trade negotiations and launched parallel negotiations on investment protection and GIs (European Commission, 2022f). Since then, three negotiation rounds were held in 2022 and the 4th one is ongoing in mid-March 2023. As part of the process and in line with its transparency-related commitments, the Commission has published proposals for legal texts tabled in the negotiations and reports from negotiation rounds on its website¹.

Sustainability Impact Assessment (SIA)

Pursuant to a well-established practice, and further to the decision to resume trade and investment negotiations with India, the Commission (Directorate General for Trade) commissioned an independent external study, to examine potential impacts of the future agreements. The study in object is conducted by a consortium led by Trade Impact B.V. Its findings will feed into the negotiations and provide guidance regarding solutions, which may help achieve the goals of supporting economic growth and job creation, enhancing social inclusion, and promoting sustainable development in the EU and India, as well as reducing potential negative impacts of the agreements. The Trade Sustainability Impact Assessment (SIA), which started in January 2023 and is to be completed by the fall 2023, is composed of two interlinked parts:

- A robust analysis of potential economic, social, environmental, and human rights-related impacts of the future EU-India FTA and IPA on the EU, India, and other countries. The analysis will examine effects, which may be created by the reduction of tariffs and Non-Tariff Measures (NTMs), as well as by certain provisions adopted in the future agreements. It will be based on results provided by the economic (CGE²) model and other methodological tools as well as other data and information sources, including legal texts tabled in the negotiations, feedback from EU-India dialogues, and cooperation activities in areas relevant for the study, such as the Trade and Technology Council. The analysis will help identify sustainability priorities and issues requiring particular attention and further analysis.

¹ EU-India agreement. Documents: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/india/eu-india-agreement/documents_en

² Computable general equilibrium (CGE) model. For ease of understanding, we will refer to it in our study as "the economic model". The results of the modelling exercise will be provided by the European Commission.

- Its findings will inform the negotiators. In the final phase, the study team will formulate policy recommendations and proposals for flanking measures, with the objective to:
 - strengthen positive impacts
 - mitigate any negative impacts of the agreements under negotiation, and
 - monitor both categories above, in order to propose and enforce corrective measures, as may be required.
- A wide consultation/stakeholder engagement programme aimed at gathering additional information and testing preliminary findings from the analysis.

The study will also consider how the two agreements under negotiation may contribute to the EU's strategic objectives detailed in the Terms of Reference (ToR).

Phases of the study and the structure of the draft inception report

The study will be divided into three phases: inception, interim and final.

The inception phase, as discussed in this draft inception report, provides background for the study, and defines its scope and objectives (chapter 2). It gives an opportunity to fine-tune the methodological approach (chapter 3) and to finalise planning for the consultation process (chapter 4) and further stages of work (chapter 5). In this phase, the study team will also prepare tools for stakeholder engagement (e.g., the website, an e-mail account, Twitter and LinkedIn accounts, and questionnaires for online consultations) and identify the main issues for negotiations and key stakeholders.

The interim phase will start with an analysis of the situation in the EU and India since 2010 (in areas identified in the ToR), observed trends, and influencing factors. The preliminary findings will be captured in a heat map, while a comprehensive impact analysis will follow for the rest of that phase. Desk research will be complemented by stakeholder engagement and chosen aspects will be addressed in more detail in case studies.

The analysis will be completed in the final phase when conclusions and recommendations will be formulated. The final report will also include a chapter to summarise findings from the analysis linked to the EU's strategic objectives and explain how certain elements of the agreements under negotiation, and recommendations from the study may contribute to achieving those objectives.

The proposed methodology (general analysis)

The economic analysis will follow similar steps as indicated above and will commence with a description of trade and investment relations between the EU and India since 2010, observed trends and factors influencing the situation. This will include the evolution of EU-India trade in goods and services, a review of existing research on the potential effects of an EU-India FTA, and an analysis of current tariff and non-tariff barriers between the EU and India. The analysis will also cover participation of SMEs in trade between the Parties, conditions for bilateral investment, participation of economic operators from the EU and India in public procurement procedures of the other Party, and customs operation. Findings that require further attention will be captured in a heat map. The study will then follow with an impact assessment which seeks to determine economic impacts of the reduction of tariffs and NTMs between the EU and India. This will include effects on trade creation and diversion, value chain diversification, and SMEs, and other costs and benefits, including on GDP, public revenues, and overall welfare effects. The analysis will also estimate impacts on Least Developed Countries (LDCs), the EU's Outermost Regions (ORs) and some third countries, e.g., China, Russia, and Türkiye. It will finish with conclusions and recommendations. Throughout the study, diverse methodological tools and data sources will be used, e.g., the economic (CGE) model, structural gravity analysis, statistics, and evidence provided by stakeholders.

The additional investment-related analysis will seek to determine likely impact of the future IPA on investment flows between the EU and India. It will start with a literature review on

the drivers and international policy recommendations regarding how to attract foreign direct investment (FDI). Against this background, the investment climates and conditions in the EU and India and their changes over the last few years will be analysed, as well as access for EU investors to the Indian market, and vice versa. Based on legal analysis and stakeholder engagement, the study will identify similarities and differences between both investment environments and determine the extent to which some elements can be considered as barriers or new enablers to FDI. In a similar way, the EU and Indian approaches to investment promotion and protection will be analysed. Findings from all parts of the analysis will provide guidance for IPA negotiators regarding barriers to be reduced and elements to be introduced or enhanced to attract and facilitate the EU investment to/in India and Indian investment to/in the EU, while keeping them consistent with social, environmental, and human rights-related obligations and commitments of the Parties.

The social analysis seeks to respond to the question of how a reduction of tariffs and NTMs between the Parties through the conclusion of an FTA and IPA may affect a range of social aspects in the EU and India. It also seeks to determine potential direct and indirect social impacts of other provisions of the future agreements. Areas covered by the analysis include employment, gender equality, working conditions, labour standards, public policies and services, and welfare effects (e.g., wages, poverty, and inequality). We also analyse three cross-cutting issues: consumer rights, informal sector, and corporate social responsibility (CSR) / responsible business conduct (RBC) practices. For each of these areas, the analysis starts with a consideration of the current situation in the EU and India, observed trends and influencing factors. Issues identified at that stage as requiring attention and further analysis will be marked in a heat map. The study will then follow with a comprehensive impact analysis. In addition, chosen aspects will be considered more in detail in a dedicated case study. The analysis will finish with conclusions and policy recommendations, as well as proposals for flanking measures aiming at strengthening positive and mitigating any negative impacts of the agreements under negotiation. Throughout the study, desk research will be complemented by stakeholder engagement to test preliminary findings and receive additional evidence.

The environmental analysis considers what kind of effects the FTA / IPA creates for different elements of environment through the reduction of tariffs and NTMs, and other provisions. It also looks at different channels through which impacts can be generated, e.g., the scale effect (impacts resulting from increased production encouraged by the agreements), the structural effects (impacts resulting from changes in the structure of the economy triggered by the agreement, with some sectors growing and others contracting), technology effect, and product effect (both related to efficiencies resulting from an increased competition and an increase in the availability of diverse goods and services, including environmental ones). In the first step, the analysis will describe the situation in the EU and India since 2010, observed trends and influencing factors in five impact areas (climate change, air quality, land use, ecosystems and biodiversity, and waste management and water quality) and two sectors (agriculture, with sub-sectors to be specified yet, and transport). Identified issues requiring further attention and analysis will be marked in a heat map. The study will then follow with the impact analysis in four thematic priority areas (identified in the preceding step), one of which will be examined in a case study. The analysis will finish with formulation of conclusions and recommendations, and proposals for flanking measures.

The human rights analysis looks at how the EU-India FTA / IPA could affect the enjoyment of human rights and state's responsibilities in this area. In the first step, it will identify international human rights obligations of the Parties based on the ratification status of core international human rights conventions. It will then follow with a description of the situation in the EU and India in the reference period regarding respect for human rights, identifying trends and pre-existing vulnerabilities. As in other pillars, issues requiring further analysis will be marked in a heat map. This will be followed by a detailed impact analysis of two specific human rights identified in the preceding steps as likely to be affected by the FTA / IPA. The underpinning evidence will include relevant human rights indicators, outcomes of the economic modelling, legal texts tabled in the negotiations, and stakeholder views. The

analysis will also be deepened through a case study. It will be completed with conclusions and recommendations, as well as proposals for flanking measures.

Case study selection

We propose conducting three case studies. They will provide an in-depth analysis of chosen sustainability priorities, complementary to the general part of the study. In consideration of potential topics, we will use the following selection criteria:

- the importance of the matter for the EU's strategic objectives,
- the importance from the economic, social, human rights or environmental angle (the evidence will be provided by the preliminary baseline analysis, i.e., the screening and scoping, the outcomes of which will be summarised in a heat map),
- the estimated magnitude of the expected economic, social, environmental, or human rights FTA / IPA impact (based on the economic model),
- the importance for stakeholders (evidence will be received in consultations),
- the relevance, importance, or sensitivity from a negotiating perspective (guidance will be provided by negotiators),
- complementarity to the general part of the analysis, offering a more in-depth insight.

While the topics will be selected after the preliminary analysis, it is likely that one of them will focus on social aspects, one on environmental aspects, and one, on human rights. Also, while each case study will be tailored to its topic, all will follow a similar structure. They will start with a definition of the subject matter and the scope of the analysis, and follow with a description of the background, such as the situation in the EU and/or India regarding the subject matter, the latest developments and influencing factors. The case studies will then provide a quantitative and qualitative analysis of the FTA / IPA effects on the subject matter, and a few main conclusions. They will then finish with policy recommendations and proposals for flanking measures.

Consultations programme

The wide-ranging consultations programme of the SIA rests on four pillars including:

- digital communication tools (a dedicated website, with a feedback mechanism, e-mails, and Twitter and LinkedIn accounts),
- public online survey, meetings, and focused interviews with relevant stakeholders,
- Civil Society Dialogue meetings with EU stakeholders,
- meetings with the Inter-Service Steering Group bringing together the Commission's and the European External Action Service's (EEAS) officials.

The engagement will follow throughout all stages of the study and will have multiple aims. It will provide stakeholders with information about the study, its objectives, timeline, and the opportunities to engage. As the analysis progresses, consultations will focus on sharing updates with stakeholders and seeking their feedback on outcomes. Moreover, the consultation process will help gather additional evidence for all parts of the analysis to underpin the scope, findings, conclusions, and recommendations. Relevant stakeholders will be identified throughout the project, as the needs for data, information, and feedback are defined. They will include business associations, trade unions, NGOs, think tanks, academia, and consumer organisations, among others. Preliminary lists of EU, India, and international stakeholders have been provided in chapter 4 of the Annex to this report.

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