

IND0019 - Trade Justice Movement

The Trade Justice Movement (TJM) is a UK-wide network of sixty civil society organisations, with millions of individual members, calling for trade rules that work for people and the planet. Our members include trade unions, NGOs, consumer groups and faith organisations. Together we are calling for trade justice, where the global system of trade ensures sustainable outcomes for ordinary people and the environment.

What are the potential benefits for the UK of an FTA with India, and what are the potential downsides?

1. TJM has several areas of concern about a proposed FTA with India. Although both countries have apparently [agreed to leave aside 'sensitive' areas](#), the UK Government's objectives include:
 - a. Competing with Indian farmers by securing "comprehensive access for UK agricultural goods into the Indian market"
 - b. Exploring rule changes relating to medicine production via "patent provisions which achieve an effective balance between rewarding research and innovation, whilst ensuring access to medicines"
 - c. Locking in rules for India's fast-growing IT sector by pursuing "a comprehensive digital chapter [and preventing] unjustified data localisation".
2. Given these statements, there are meaningful concerns that 'sensitive' policy areas will not be excluded from the negotiations. This response seeks to discuss some of those areas in more detail.

In what ways may the UK or specific sectors (e.g. education and research) benefit from relaxed visa rules for Indian citizens? Might India's demands for relaxed visa rules go beyond what would benefit the UK economy? If so, how could such risks be mitigated?

3. Increasingly open borders between the UK and India are welcome, and there is strong evidence that free movement of people can lead to economic prosperity as well as the sharing and transfer of knowledge, ideas and capital. However, there are also risks associated with such movement. Mode 4 provisions must not lead to the exploitation of Indian workers coming to the UK, nor to the undercutting or unemployment of those already in the resident labour market.

4. Care must also be taken to address potential 'brain drain' whereby India foots the bill for training workers, only for its own services or industries to face staff shortages due to high rates of emigration. It is vital that these impacts are properly assessed and addressed during the FTA negotiation process, and that any opening of borders is accompanied by shared commitments to labour standards and avoiding undermining important services and industries.

How do you evaluate the Government's Negotiating Objectives (Outline Approach) and initial economic scoping assessment included in the Government's strategic approach? Are the UK Government's aims sufficiently ambitious? If you represent a sector, we would be interested to hear about any objectives your sector would like to see achieved. What should UK negotiators be aiming for on tariffs, rules of origin, services, digital trade, intellectual property, mutual recognition and mobility?

5. The DIT'S [Strategic Approach Pack](#) failed in most cases to reflect concerns TJM had raised in its consultation response. Calls we had made in our submission were either referenced in non-committal ways or entirely overlooked. Wording used by the Department in their response on issues such as the environment, gender, and labour rights made no meaningful commitment to use negotiations as an opportunity to create change. Of the areas cited here, TJM has particular concerns about intellectual property.
6. During EU-India negotiations, the EU put pressure on India to reform its Intellectual Property (IP) regime to protect European firms' patents when operating in India. This was resisted by India, and is likely to be a sticking point in UK-India negotiations as well. The UK should not apply pressure in important areas such as pharmaceuticals and health and farming.
7. India's IP regime has enabled it to develop a large and successful pharmaceutical and health sector, and it is home to the world's largest vaccine manufacturer, including affordable generic products. An open approach to intellectual property has encouraged innovation and technology transfer, as well as lower medicine prices to the benefit of public health in India and many other countries.
8. There is a risk that the UK seeks to go beyond the WTO TRIPS agreement in the trade agreement. This was a concern in the attempted EU-India trade agreement, whereby an insistence on data exclusivity would have forced Indian generic drug manufacturers to repeat the innovator

company's costly and time consuming tests; public authorities would no longer have been able to rely on existing test data to approve the generic drug. These measures would enable big pharmaceutical companies to maintain prohibitively high prices on medicines and drastically restrict India's ability to produce and export cheap, generic versions of drugs.

9. India's approach to IP has also been important in supporting its many small scale farmers. The Union for the Protection of New Plant Varieties 1991 (UPOV '91), to which India has refused to accede, affords plant breeders a 20-25 year monopoly over seeds that are new, distinct, uniform and stable. Farmers are not allowed to produce, reproduce, sell or exchange seeds of these varieties without the breeder's permission. This system can lock farmers into reliance on monopoly seed companies, and sometimes also use of associated agrochemicals as well.
10. India's refusal to join UPOV '91 was controversial during negotiations with the EU, as the bloc tends to insist on this in their FTA negotiations. It is unclear what the UK's approach to this issue will be, although it is a signatory to the Convention. We would urge the UK not to put pressure on India to sign.

What specific protections should be sought on the environment and climate? What is your assessment of how goods and services traded under an agreement with India could affect both countries' carbon (and other greenhouse gas) emissions?

11. In the context of a future UK-India trade agreement, it is essential that climate change is put at the heart of the deal to ensure that it does not conflict with the UK's climate ambitions:
 - a. **Investor-State Dispute Settlement (ISDS).** ISDS allows firms to sue governments for policies which harm their profits. While the aim is to mitigate against unreasonable and unpredictable government behaviour, in practice, ISDS has [been used to challenge](#) all sorts of important environmental regulations, including: the phase-out of coal-fired power stations, water pollution controls in Germany, a ban on fracking in Canada, and various regulations on mining in East Asia and South America. It is likely that India will be resistant to a wholesale incorporation of ISDS within any new trade agreement, and it is important that the UK does not put pressure on India to capitulate in this area, particularly given the implications for climate goals.

- b. **Process and production methods.** WTO rules make it difficult to ban products on the basis of process and production methods (PPM), even where these methods are harmful for the environment. Trade deals can make products with worse PPMs even more competitive, and force the UK to lower its own standards. TJM understands that a Carbon Border Adjustment Mechanism (CBAM) is being considered, under which imported goods do not face the same emissions taxation in production that similar goods face in the UK. This creates questions about the effect it would have on workers in the supply chain who are less able to assert their rights, and the extent to which it would become harder for India to export to the UK, while the UK benefits from a tax on production that it has essentially outsourced.
- c. **Regulatory cooperation standards.** Finally, there is the likelihood of regulatory cooperation chapters being pursued. Given that the negotiations will be geared towards increasing trade rather than tackling issues like climate change, this risks a shared reduction, rather than increase in standards.

What protections should be sought on human, labour, women's and minority rights?

12. It is important that the UK's future trade and investment agreements uphold workers' rights, decent jobs and fair pay, not just in the UK but worldwide. India has ratified six of the eight ILO core Conventions (it has not ratified Convention 87 Freedom of Association and Protection of the Right to Organise and Convention 98 Right to Organise and Collective Bargaining) and it has a weak recent track record of upholding labour rights. In particular, India has not implemented the convention on harassment and violence at work. In 2020, the ILO [expressed deep concern](#) about labour law amendments which weakened the requirement for tripartite consultations.

A UK-India FTA could impact on labour rights in several ways:

- a. **Vulnerable and marginalised communities.** It is crucial that any trade agreement promotes equal opportunity for vulnerable and marginalised communities such as Dalits, Muslims, Adivasis and women in hiring and promotion practices. Work environments must be conducive for people from these groups to work freely without harassment.

- b. **Workers in vulnerable sectors.** Trade unions around the world have consistently [cautioned against](#) trade deals that expose vulnerable sectors to premature competition, or which put pressure on public services either through lost tariff revenue or pressure to liberalise or lock in the privatisation of those sectors. These measures have serious impacts for workers' rights which are often overlooked by traditional impact assessments.
 - c. **Investment protection provisions.** There are a limited number of known ISDS cases challenging labour regulations; however, such challenges are possible. For example, when Egypt raised its minimum wage, which had previously been kept unsustainably low by the Mubarak regime, it was [sued by French multinational Veolia](#). Although the government won on this occasion, the case took six years, and whilst the cost to the government was not publicised, it is likely to have been in the region of US\$8 million.
 - d. **A lack of binding commitments.** Traditional labour chapters in trade agreements are inadequate in mitigating these risks as they are weakly worded and often very difficult to enforce. To address labour rights concerns in an FTA, it is important to have an effective impact assessment and review process, as well as legally binding commitments.
13. According to [ActionAid](#), discrimination against women is widespread in India. Women living in the poorest areas have almost no access to financial services, land and inheritance rights. Domestic violence, rape, harassment, acid attacks and 'honour killings' are frequently reported. Modern FTAs affect the rights and well-being of women in their diversity of roles as workers, producers, traders, consumers (including of public services) and taxpayers and carers. Traditionally, however, the gender impacts of FTAs are assessed only in terms of the jobs or business opportunities they might create. This needs to change. A genderresponsive impact assessment process would include early consultation with women's groups to identify priority concerns.

What risks could a trade agreement with India pose to the UK's food safety standards, animal and plant health or animal welfare standards? How could any such risks be mitigated?

14. There is a risk that negotiations could put pressure on the UK to reduce its product standards or allow imports of goods made using practices banned in the UK as part of seeking a trade agreement. For instance, India's pesticide regulation is far laxer than the UK's. India is the world's second

highest user of pesticides after China. It has been [reported](#) that around eight to ten 20 tonne containers of Indian grown basmati rice are being returned every month due to high pesticide residue levels which don't meet the domestic standard of the importing country. This implies that

India stands to gain from an equivalence agreement that could have the effect of lowering UK pesticide standards, in addition to other agricultural and food standards, and might seek to achieve this as part of FTA negotiations.

How may an FTA with India affect UK trade with other developing countries; if there is a risk of trade diversion, how could this be mitigated?

15. It is important to note that India itself remains a country with [high levels of poverty](#) and economic inequality. While the middle class in urban areas has grown, the vast majority of Indians live in rural areas in relative poverty. It is estimated that around 84 million Indians (or 6% of the population) live in extreme poverty; more than the entire UK population, which makes India the country with the highest absolute number of poor people in the world. Future UK-India trade must therefore have sustainable development in both India and in other developing countries at its heart.
16. The UK Government must ensure that it carefully assesses the impact of liberalisation of trade in products such as textiles, clothing, footwear, and horticultural products. Reduced tariffs for these goods from India could lead to other countries, including Bangladesh, Cambodia and Nepal, currently benefiting from low or zero tariffs having their margin of preference eroded, and drastically losing out as they are forced to compete with India.

How would you rate the Government's mechanisms for engaging with stakeholders and seeking input into the negotiations? What is your assessment of how well Government departments are coordinating with each other to help deliver the best outcomes in the negotiations?

17. While we welcomed the Department for International Trade's (DIT) consultation on these negotiations, we have had concerns about its structure, process and aims. Questions put forward were often poorly framed. They failed to recognise that many organisations might reasonably have doubts about the benefits of a UK-India FTA, especially given that the slow and repeatedly stalled negotiation process between the EU and India demonstrates that both parties may - following consultation

and scoping assessments - question whether such a deal brings sufficient benefits.

18. The questions in DIT's consultation were very business-oriented. While it is important to hear the views of UK businesses, this should not mean neglecting the input of UK and Indian civil society, which represents a range of interests including those of workers, the environment, development aims, animals and wider society. The questions instead focussed on tariffs and trade flows, while there was little focus on the impact of trade on wider issues. In particular, areas including climate change, food standards and animal welfare were noticeably absent or only superficially covered.
19. The Department should clarify whether there are any proposals for a civil society forum as part of a future UK-India deal. The Government should outline how civil society organisations can feed into the trade deal, both during negotiations and when the deal is in force, including how inputs through the Strategic Trade Advisory Group and the Thematic Working Groups will be properly considered at ministerial level.
20. In addition to these questions about civil society involvement in the scrutiny of trade negotiations, and as has been raised by a number of organisations including businesses, trade unions, environmental organisations and other NGOs, the UK's democratic and scrutiny processes during its trade negotiations are extremely weak compared to other countries and expose a democratic deficit in an important area of government policy.
21. Although some verbal reassurances about scrutiny of new trade deals were offered by ministers during the passage of the Trade Act (2021), it remains unclear how a UKIndia FTA will be scrutinised. It is essential that the Government incorporates the following procedural safeguards as it begins negotiations:
 - a. During negotiations: there should be a presumption of transparency and the Government should provide regular updates to MPs and the public, with opportunities for questions, and release the texts from negotiation rounds where appropriate.
 - b. After negotiations: MPs should have a guaranteed debate and vote on the final deal, with the ability to reject it.

- c. At all stages: there should be public consultation with civil society groups and businesses, to ensure the deal has broad support from a variety of constituencies.

- 22. DIT should complement all scoping assessments with full impact assessments at the point of signature, so that MPs and the public can see the fully expected impact of a trade deal before considering ratification. A pre-negotiation scoping assessment cannot give a full account of the impact of the deal before it is agreed. Impact assessments should ideally be conducted by a body independent of DIT and appropriate methodology should be employed to take into account a wide range of social and environmental impacts, not just economic impact.

- 23. In the case of UK-India trade negotiations, impact assessments should as a minimum cover sustainable development, impact on vulnerable communities, the environment and climate change, animal welfare, human rights, social justice between Global North and Global South countries, and regional trade.