

International Trade Select Committee Consultation - UK trade negotiations: Agreement with India

About us

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.

How adequately has the Government undertaken public consultation in formulating its strategic approach / negotiating objectives?

1. While we welcomed the Department for International Trade's (DIT) consultation on these negotiations, we have had concerns about its structure, process and aims.
2. 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.
3. 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.
4. The questions 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.
5. 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.
6. The DIT'S [Strategic Approach Pack](#), published 13th January 2022, failed in most cases to adequately reflect our stated concerns. Calls we had made in our submission were either referenced in non-committal ways or entirely overlooked in the Department's response to the Consultation. 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.

How are the terms of a new trade agreement between the UK and India likely to affect you, your business or organisation, or those that you represent?

7. TJM has a range of concerns about the terms of a new trade deal. These include impacts on international development, the environment and climate change, labour standards, gender equality and women's economic empowerment, intellectual property, and much else besides.
8. **Environment and Climate Change.** 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. Despite the UK's stated climate ambitions, its new trade policy has had a series of worrying aspects.
 - 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. **A race to the bottom on standards.** 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.
 - c. **Process and production methods.** Similarly, 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.
 - d. **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.

9. **Labour rights.** 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.
10. **International Development.** India 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. There are also additional difficulties that Indian workers face, including insecure employment, employment in agricultural industries prone to fluctuating prices, a lack of a robust legal system to protect against corruption, child labour and human trafficking, and a caste system which leads certain demographic groups to face particular forms of economic and social disadvantage. Future UK-India trade must therefore have sustainable development at its heart:

- a. **Agriculture.** The UK must take into account the challenges faced by Indian farmers, dairy producers and others in negotiations around tariffs, and ensure that tariff changes do not lead to an entrenchment of rural poverty from UK produce undercutting domestic producers.
 - b. **Preference erosion.** 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.
 - c. **Retail.** Traditionally, India has limited foreign direct investment in the retail sector, and instead has been committed to supporting small scale family owned shops. However, recent domestic reforms coupled with trade negotiations will heighten concerns among these smaller shops and consumers that retail could be potentially opened up to future dominance of large multinational retailers, harming smaller retailers and farmers.
 - d. **Financial services.** Financial services constitute an offensive interest for the UK given its large financial services sector. Evidence from Traidcraft suggests that the introduction of foreign banks to India has been mixed; they have a poor track record of lending to small business or socially disadvantaged sectors compared to either public banks or domestic private banks. If UK financial services providers are not bound by India's rules aimed at ensuring equitable provisions, there is a danger that they 'cream off' the most lucrative sectors, rendering unsustainable provision for disadvantaged groups.
 - e. **Government procurement.** India's domestic policies, including the Government's position as the single largest procurer of goods and services in the country, used as a tool of social policy with development goals in mind, must not come under pressure from UK businesses.
 - f. **Digital.** India is one of the largest and fastest-growing markets for digital consumers, and has significant ambitions in the digital space, despite facing issues such as a lack of digital connectivity in rural areas, patchy digital infrastructure, and low levels of digital literacy. Given recent growth, India is likely to be in the early stages of developing domestic regulation to protect digital rights and privacy. The UK should therefore adopt a cautious approach to any e-commerce chapter, ensuring that digital resources generated domestically are used in ways that benefit the population, and that digital rights are protected.
11. **Women's rights.** 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 gender-responsive impact assessment process would include early consultation with women's groups to identify priority concerns:

- a. Women working in sectors at risk such as dairy could lose their source of income and have relatively less access to opportunities for re-training.
 - b. Women would disproportionately bear the cost of a locking in of privatisation of public services, particularly health services, as they are likely to find it difficult to pay for them and to take on the burden of additional care.
 - c. Women would disproportionately be impacted by changes to intellectual property provisions which, for example, increase the cost of medicines, or affect farmers' ability to save and re-use seeds.
 - d. If further retail liberalisation leads to widespread entry of large UK retailers to the detriment of smaller shops, this will impact women as small business owners and as consumers potentially paying higher prices.
 - e. If public procurement is liberalised, women-owned businesses could potentially lose existing support.
 - f. Women in other developing countries such as Bangladesh or Ethiopia could be impacted if UK buyers reorient supply chains towards India to take advantage of lower tariffs.
12. Gender chapters in trade agreements suffer from similar drawbacks to labour and environmental chapters, lacking enforceability and potentially giving the impression that the issue has been dealt with. They are no substitute for a more comprehensive approach both during the negotiation process and during ongoing implementation. Similarly, a limited approach focused only on 'how women entrepreneurs can access the benefits of trade' is not sufficient to address the multiple impacts of a trade deal.
13. **Mode 4 and labour movement.** India is likely to push for Mode 4 provisions to make it easier for Indian nationals, particularly health and other professionals, to live, study and work in the UK. The migration and mobility partnership signed between the two parties in May 2021 is a first indication of the importance of this issue.
- a. 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.
 - b. 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. 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.

- c. It is vital therefore 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.

14. Intellectual property. 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.

- a. 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.
- b. 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.
- c. 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.
- d. 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.

How should the Government communicate its progress in negotiations; and seek the views of stakeholders during those negotiations?

15. 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.

16. 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 UK-India 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.

17. 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. 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, regional trade, and a response to the Covid-19 pandemic.