

EU-India Free Trade Agreement: Flawed Framework for India's Development

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Executive Summary

In October 2006, the European Commission announced its new international trade strategy through *Global Europe: Competing in a Globalized World*. The strategy stressed an aggressive push for market expansion and imports of raw materials from the Global South through a series of free trade agreements (FTAs). The Commission prioritised India as a key strategic target because of its large market and the numerous trade and non-trade barriers against EU interests; and because it sought to complete a far-reaching trade and investment treaty with India ahead of EU competitors. Currently, EU is India's biggest trading partner while India ranks as the ninth biggest for the EU.

Powerful German and European lobbies such as the BDI, European Services Forum (ESF) and the European Federation of Pharmaceutical Industries and Associations (EFPIA) are driving this agenda. The FTA corporate agenda includes massive tariff reductions on a reciprocal basis for market access in trade in goods and includes many WTO plus issues such as an inclusive services and investment chapter, negotiations on government procurement and WTO plus intellectual property protection. Though the FTA also covers competition policy and other WTO issues, this paper looks at the concerns regarding liberalisation of goods, services and investment, intellectual property rights and government procurement. In particular, it looks at these issues from a policy space, food security and livelihood perspective for India.

Though India's growth rate has been between 8-10% in recent years, India continues to hold the largest number of the World's poor. Ninety-two percent of India's 457 million strong workforce resides in the informal sector with no job security and little income. The government of India estimates that it will need to create 200 million jobs by 2020 to deal with the currently unemployed and to absorb new entrants into the workforce. Yet while incomes rose significantly for less than a third of India's population, inequality increased combined with jobless economic growth.

With the backdrop of a financial, food and fuel crisis, policy space for future governments becomes an essential lens with which to assess the FTA's merits. The paper shows that the current proposals on trade in goods would significantly increase food security and livelihood risks for the both the agriculture and manufacturing sector. This is because the FTA demands massive reductions in tariffs and removal of export restrictions without providing adequate safeguards. The FTA combined with the current proposals at the WTO would leave India's agriculture sector significantly vulnerable to price volatility and import surges. This is of paramount importance given that at least five million people depend on the production of a single crop in at least 35 agriculture commodities.

The current trends with liberalisation in manufacturing shows greater casualisation of workers, particularly those linked to exports, and retrenchment as productivity per worker increases. Liberalisation of goods combined with investment may wipe out sectors such as small-scale fisheries as EU trawlers enter Indian seas. It could also lead to increased

exploitation of natural resources, exacerbating the current community-based struggles against forcible land acquisition for industrial purposes and extractive industries. Finally, drastic tariff reductions will result in overall government revenue loss that could lead to a decline in social spending and an increase in domestic taxes.

The EU's combined services and investment formula significantly expands the scope of coverage to affect virtually every government measure at the state, local and central level that is in competition with at least one firm/operator. This is because the FTA will follow a GATS type approach, but also apply it to investment in goods. No commercial sectors are excluded, except those sensitive to the EU.

In services, financial liberalisation has led to extremely risky behaviour, consolidation of financial institutions and lack of transparency as exhibited through the current global financial crisis. In India, it would further exacerbate financial exclusion of the poor from institutionalized credit and banking and significantly increase India's vulnerability to global financial crises. Liberalisation of distribution services could also include many ancillary services linked up and down the supply chain for goods. It would threaten the livelihoods of small retailers and street vendors. Because of the economic might of EU retail firms, it would also lead to undercutting prices for wholesale products, thus impacting livelihoods of farmers and small scale manufacturing firms. Though officials estimate that over 12 million small retail outlets would be impacted, this number grossly underestimates the impacts on the large informal networks that exist around retail, often composed of the poorest of the poor. Large retail operations such as Metro AG have already met with litigation and resistance by local groups and social movements. Finally, the EU seems likely to demand liberalisation of environmental services such as water and wastewater treatment to lock in a policy framework that favours EU corporations such as Thames Water and Viola/Vivendi. This will once again be an extremely contentious issue within India.

The EU's demands for WTO Plus IPR protection would lead to changes in India's IPR policy to meet the needs of the EU's seed and pharmaceutical industries. Such changes would further undermine India's ability to protect biodiversity and Indian plant genetic varieties to create resilient farming systems. These changes could lead to increased costs of commercial seed because the EU advocates for a system of plant variety protection (UPOV 1991) that favours plant breeders' over farmers' rights to seeds. This once again has food security and livelihood implications for India and undermines the Protection of Plant Variety and Farmers' Rights Act, 2001. EU's demand for data exclusivity and other provisions would also limit India's ability to issue compulsory licenses for generic drugs and hence limit access to affordable medicines. Excessive use of IPR protection rules would also result in patent monopolies that exceed 20 years as EU pharmaceutical companies push for patent claims based on minor modifications to patented drugs.

Finally, EU's demands on government procurement (up to 13% of India's GDP) would undermine policy space that would enable India to support small and medium enterprises (SMEs), marginalised constituencies and poorer states through government contracts. The FTA would oblige the Indian government to allow EU firms to compete for such contracts. Moreover, government procurement remains an important tool to boost domestic production during economic recessions. India has thus far resisted these negotiations.

In conclusion, the EU-India FTA could have major food and livelihood security implications for India and will severely restrict policymaking space for future governments. The "free" trade and investment policies the FTA espouses are proving to be highly costly to citizens

while their governments negotiate away their right to regulate. The ongoing global financial, food and fuel crises starkly illustrate the pitfalls of an economically integrated world that lacks adequate checks and balances and economic policies that recklessly believe that markets will get the “prices right” under any circumstances. And they underpin the need to democratise the trade policy process so that parliaments and civil society can have a voice in the choices governments make and so that governments, in return, can be held accountable to their citizens. The impacts of the FTA on India must therefore be carefully examined in light of food and livelihood security and policy space. Unless the current framework is changed and takes into account these considerations, there seems little sense in sealing a deal.

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