

Draft Commission position paper on the Sustainability Impact Assessment supporting the negotiation of an EU-India FTA and IPA

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Table of Contents

1. Introduction	1
2. Overview of the consultants' findings	3
2.1. Modelling approach	3
2.2. Economic impact.....	3
2.3. Foreign Direct Investments (FDI)	4
2.4. Social analysis.....	5
2.5. Environmental analysis	5
2.6. Human rights analysis	5
2.7. Contribution to attainment of EU strategic objectives.....	6
3. COMMISSION SERVICES' VIEWS ON THE SIA'S FINDINGS AND RECOMMENDATIONS	6
3.1. Findings	6
3.2. Recommendations	7
3.2.1. Recommendations related to the economic analysis.....	8
3.2.2. Recommendations related to the analysis of FDI	10
3.2.3. Recommendations related to social analysis.....	10
3.2.4. Recommendations related to the environmental analysis.....	12
3.2.5. Recommendations related to the human rights analysis.	13
4. Conclusion.....	14

1. Introduction

This paper sets out the European Commission services' position on the Sustainability Impact Assessment (SIA)¹ in support of the free trade agreement (FTA) and Investment Protection Agreement (IPA) negotiations between the European Union and the Republic of India.

¹ SIAs are trade-specific assessments carried out by external consultants to support major trade negotiations. The Commission has been carrying out SIAs as part of the EU's trade policymaking since 1999. SIAs are designed to provide negotiators and policymakers with an evidence-based ex-ante assessment of the potential sustainability impacts that may arise from a proposed trade agreement. An SIA assesses how trade-related provisions of the agreement under negotiation could affect economic, social, human rights, and environmental issues in the EU and in the partner countries, but also in other relevant countries (notably developing countries); and proposes measures to maximise the likely benefits of the agreement or mitigate possible negative impacts. The SIA is also an important tool for consultation and communication with stakeholders, contributing to the transparency of trade negotiations.

A strategic partner of the EU and key partner in the Indo-Pacific region, India is an emerging power with enormous economic and geopolitical potential, with a rapidly growing population (in 2023, it surpassed China as the most populous country in the world) and huge development needs, which offers tremendous potential to EU businesses. Yet this potential remains largely untapped as India accounts for only 2.1% of EU total trade and only ranks 10th amongst the EU trading partners. This situation is linked to a continued protectionist tendency in India, including under the recent 'Make in India' and 'Self-reliant India' initiatives, which translates into:

- prohibitive import duties;
- sanitary and phyto-sanitary restrictions;
- a growing number of technical barriers to trade, notably related to domestic standards that deviate from international ones; and
- restricted access to government procurement, particularly in relation to local content requirements.

As a result, EU companies are facing a growing number of trade irritants in India. With a view to address some of these issues, negotiations for an FTA between the EU and India had already been launched in 2007, but had to be suspended in 2013 due to a large gap in the level of ambition of both sides. The termination by India in 2016 of all its bilateral investment protection treaties with Member States² created additional uncertainty for EU investors.

On 8 May 2021, the EU and Indian Leaders agreed to resume negotiations for a “balanced, ambitious, comprehensive and mutually beneficial” FTA, and to initiate separate negotiations on an IPA and another agreement on geographical indications (GIs). On 17 June 2022, Executive Vice-President Dombrovskis and Indian Commerce Minister Goyal formally relaunched trade negotiations and launched separate negotiations for an investment protection agreement and an agreement on GIs.

Against this background, this SIA was commissioned by the European Commission's Directorate-General for Trade and was carried out by the independent consultancy company Trade Impact B.V. It was completed in December 2023.

An SIA supporting an EU-India FTA had been carried out in 2009 when the EU and India first attempted to negotiate an FTA in 2007-2013. However, following the suspension of the talks in 2013 and their subsequent relaunch in 2022, it was necessary to carry out a new, updated analysis, to reflect the major changes that had happened since then on many topics relevant for the SIA. Furthermore, the 2009 SIA did not include a human rights analysis, which is now a requirement.

The SIA thus assesses the potential impacts of the proposed FTA and IPA on economic, foreign direct investment (FDI), social, environmental and human rights aspects, as well as on the attainment of strategic EU objectives. The SIA examines in depth the potential impacts on a few key economic sectors, namely on textile/apparel leather, electric mobility – in particular electric vehicles – and agriculture (rice and sugar).

Finally, the SIA concludes with a number of recommendations deriving from the analysis. They include both suggestions to be considered for the FTA negotiations as well as mitigating measures. The

² This termination was not effective immediately as these agreements had various sunset clauses.

methodology applied is based on the methodological framework set out in the Commission's Handbook for Sustainability Impact Assessment.

Drafting the SIA entailed a wide consultation of stakeholders, including interviews with the EU and Indian public and private sectors, as well as civil society organisations from both sides. In total, representatives of 66 institutions and organisations were interviewed. In addition, the study was accompanied by an online survey. A virtual meeting with Indian stakeholders was organised in July 2023 and three Civil Society Dialogues were conducted by the Commission.

The final report is publicly available on DG Trade's website: <http://ec.europa.eu/trade/policy/policy-making/analysis/sustainability-impactassessments/assessments/>.

This document constitutes the Commission services' response to the SIA's findings and recommendations.

2. Overview of the consultants' findings

The SIA overall finds that an EU-India FTA would foster trade relations and would have many positive impacts, with, however, some areas that warrant attention to avoid possible negative effects. Moreover, the consultants note that in some of the areas studied, the eventual situation would be determined by domestic policies more than by the FTA.

As a horizontal remark, the Commission services note that the report identifies a number of challenges in India, in particular on labour rights standards, the protection of workers, and the protection of the environment. The Commission services highlight that an FTA and an IPA cannot be expected to solve these issues by themselves, but they could serve as an opportunity to support improvements in these areas – as set out in sections 3.2. of this paper.

2.1. Modelling approach

The starting point for the SIA analysis was the assessment of the FTA's likely economic effects using a Computable General Equilibrium (CGE) modelling produced by DG TRADE. Two scenarios were studied, with different degrees of liberalisation. The two alternative outcomes simulated are:

- A conservative scenario, with a 90% reduction of tariffs on average (resulting from a full liberalisation for most tariff lines and lower liberalisation for some agriculture products on the EU side and the majority of agriculture products on the Indian side), as well as a reduction of Non-Tariff Measures (NTM) by 5% on both sides.
- An ambitious scenario, with a 95% reduction of tariffs on average (also resulting from a full liberalisation for most tariff lines and lower tariff liberalisation for a more limited fraction of agriculture products on both sides), as well as a reduction of NTMs by 10% on both sides.

These scenarios are meant to estimate the theoretical range of possible effects; it is not a prediction of the exact future negotiation outcome.

2.2. Economic impact

The SIA finds that the economic impact of the FTA would be overall positive for both sides. By 2030, compared to the situation without the agreement in place, in the conservative scenario, the EU GDP is expected to rise by €25.5bn (0.1%) and welfare by €23.7bn (0.1%), while India's GDP would increase

by €39bn (0.6%) and its welfare would increase by €18.3bn (0.5%). In the ambitious scenario, the EU GDP would increase by €47.9bn (0.2%) and its welfare by €41bn (0.2%), while the Indian GDP would increase by €69.6bn (1%) and its welfare by €33.8bn (0.8%). In both cases, the ultimate impact is due to an important extent to the reduction of NTMs. Provisions pertaining to, inter alia, Technical Barriers to Trade (TBTs), Sanitary and Phytosanitary Measures (SPS), Good Regulatory Practices, customs and trade facilitation, rules of origin, and investment, will therefore be of significant importance, including at sub-federal level.

In the ambitious scenario, by 2032, bilateral EU exports to India are estimated to grow by 107.6% (€112.5 billion), while India's merchandise exports to the EU are expected to rise by 86.6% (€110.7 billion). Most EU sectors would report more than a doubling in the value of their bilateral exports to India. This translates into an increase of output in many sectors related to trade in goods in the EU, notably minerals, machinery, paper, electronics, and non-ferrous metals, which are some of the EU's largest small and medium enterprises (SME)-intensive merchandise sectors. Some sectors in the EU would, however, experience a loss of output, such as textile, wearing and apparel, or ferrous metals. On the Indian side, the main gains would be reported for textiles, wearing and apparel, chemicals, and leather, while losses would mostly affect machinery, electronics, and paper.

As regards agricultural goods, the FTA's impact is significant for some products in terms of bilateral trade (for the EU, in absolute terms, the main increase of exports is expected for food products; for India, it would concern vegetable oils). However, the trade of agricultural goods between the EU and India being currently low and exclusions from tariff liberalisation being concentrated in these sectors, the FTA's impact on these products is relatively limited in terms of overall production (with no change over 0.5%, downwards or upwards). Only the rice sector would experience a significant production decrease in relative terms in the EU (-6.9% for the ambitious scenario).

On trade in services, the impact on bilateral trade and output is expected to be relatively limited but positive for both sides (an increase below 0.1% for the EU and below 0.5% for India). This modest impact is also due to the fact that the model does not take into account the supply of services via commercial presence (mode 3).

Regarding public procurement, the SIA concludes that participation in EU's and India's public procurement would be slightly higher following the conclusion of an FTA than compared to a situation without an FTA.

The FTA is likely to have an overall marginal effect on South Asian and South-East Asian Least Developed Countries as well as on Türkiye, except for the specific case of the textiles and wearing and apparel sectors, where increased exports from India to the EU would result in some losses for these countries' own exports to the EU.

Finally, the SIA expects a possible impact for the EU's outermost regions (ORs), especially for Guadeloupe and for the island of La Réunion, where exports of sugar to the rest of the EU (in particular specialty sugar) could potentially face an increased competition from Indian exports. This could affect their small economies, due to the important relative weight of this sector in these regions. Agriculture sectors might also be impacted in other ORs, such as Canary Islands, Azores and Madeira.

2.3. Foreign Direct Investments (FDI)

The SIA estimates that - everything else being constant – an EU-India IPA modelled on the most recent EU agreements, which would reduce or even remove existing obstacles to FDI, coupled with

appropriate investment protection standards and access to an Investment Court System (ICS), is likely to enhance the stock of bilateral investments from the EU into India by 1.2%.

2.4. Social analysis

The SIA indicates that the employment effects of the future FTA vary a lot between economic sectors. The FTA is estimated to increase production and employment in the EU, mainly in minerals, paper and publishing, machinery, chemicals and electronics and electrical equipment, while in India, major increases are expected in the textile, garment, and leather sectors. Increased imports from India in these three sectors, as well as in rice – and sugar in the case of ORs - may result in corresponding shifts between sectors in the EU workforce.

Real wages are expected to rise in both economies as a result of the FTA, those for unskilled workers about twice as much as those of skilled workers.

2.5. Environmental analysis

On environment, the FTA's main impacts could be related to climate change, air quality, land use and biodiversity.

With regards to climate change, a very marginal increase of CO₂ and other greenhouse gas emissions in the EU and in India is expected to result from the FTA, even in the case of an ambitious scenario, and it would be partially offset by reductions of CO₂ emissions in the rest of the world, due to trade diversion effects. The SIA points to the fact that commitments from both sides to implement the Paris Agreement, their Nationally Determined Contributions, and other Multilateral Environmental Agreements (MEAs) through dedicated provisions in the TSD chapter, would help curbing this increase. Stronger trade in environmental goods, with a strong potential regarding the uptake of Electric Vehicles, also represents a potentially positive impact of the FTA on climate change.

The FTA is expected to have a very slightly negative impact on air quality in India through increased production in impacting sectors (such as dairy and meat), with an increase for instance of 0.5% of emissions of fine particulate matter (i.e. particles that are 2.5 microns or less in diameter - PM_{2.5}) .

Regarding land use, the FTA is expected to result in an overall decrease of surface used for agriculture, but with different situations on both sides (a slight decrease of land use in the EU and a slight increase in India).

Agricultural production in specific sectors such as rice and sugar can lead to an overuse of freshwater and chemical inputs for production in India, which the consultants suggest could be addressed via a dedicated chapter on Sustainable Food Systems.

2.6. Human rights analysis

Based on the results of the economic modelling, the impact of the proposed EU-India FTA/IPA on human and labour rights in the EU is expected to be overall positive, notably in terms of wages. In India, the economic modelling predicts a moderate increase in GDP, welfare, and wages, as well as increased employment in sectors such as textile, wearing and apparel (garment), and leather. However, the SIA points out that pre-existing domestic vulnerability regarding issues related to human and labour rights may prevent the full realisation of the FTA/IPA's potential benefits on wages and employment.

2.7. Contribution to attainment of EU strategic objectives

The SIA looked at how the FTA and IPA would contribute to the attainment of the following strategic objectives for the EU: EU's place in India's trade; supply chains security; alternative outlets and sources of supply for EU operators (alternatives to Russia and others); EU as a strategic partner for India; and promotion of the EU's new approach to trade and sustainability.

The SIA finds that the FTA/IPA has the potential to substantially support all these objectives, but that a lot will depend on the level of ambition eventually achieved in these agreements.

In particular, the EU's share of Indian imports in the ambitious scenario would rise from 8.8% (2022) to 15.3% (2032), and the EU's share of Indian exports would increase from 18.7% in 2022 to 23.7% in 2032. This means that the agreement could significantly increase the EU's place as a major supplier for India and a major destination for its exports, thereby potentially increasing the EU's role as a strategic partner in the Indo-Pacific area. Of course, this result would depend on the level of liberalisation eventually achieved in the agreement.

3. COMMISSION SERVICES' VIEWS ON THE SIA'S FINDINGS AND RECOMMENDATIONS

3.1. Findings

Overall, the SIA findings support the case for negotiating an FTA between the EU and India. The SIA confirms that the FTA is expected to be beneficial to both parties and their populations. In particular, the FTA would contribute to an increase in welfare through a positive economic impact following an increase in bilateral trade and an increase in GDP. The SIA finds that the FTA can bring growth opportunities for businesses, workers, and consumers on both sides. These are precisely the aims that the EU pursues through ambitious and wide-ranging FTAs, including the FTA being negotiated between the EU and India.

The Commission services are aware that achieving the objective of increasing welfare and societal benefits in both India and the EU, also requires that some specific challenges be addressed, notably regarding labour conditions and labour rights in India. The Commission services note that the SIA findings refer to two modelled scenarios; a conservative and an ambitious scenario. The Commission services underline that due to the assumptions from both scenarios – which might differ from the actual negotiation outcome – and to the inherent limitations of any economic model, neither scenario may reflect the actual effects of the future FTA. This should be remembered when looking at the results of the model. India's high level of tariff and non-tariff protection, as well as its FTAs with other partners, show that reaching the level of liberalisation assumed in the hypotheses of the model will be challenging, even with regards to the conservative scenario. However, the SIA provides useful information and insights with respect to specific sectors and topics, which require special attention and should be addressed.

The SIA also provides useful information on topics, notably on human rights, which can be considered for appropriate follow-up outside the FTA – taking into account the scope of the negotiations.

With regard to the main pillars of the analysis, the Commission services consider the following findings as particularly noteworthy:

- Economic dimension: the SIA shows, in line with the Commission's objective, that a further liberalisation of trade between the EU and India through the FTA would lead to a positive economic effect for both the EU and India. While the overall impact might seem relatively modest in terms of GDP, it is nonetheless significant and clearly positive in absolute terms.
- Social dimension: the Commission services recognise that given the specific characteristics of the model regarding employment (fixed-employment model), its results in relative terms between the different economic sectors are more relevant than its results in absolute terms. In addition, while the FTA's impact on the sugar or fruits and vegetables sectors in terms of output or employment would overall be limited, the FTA has the potential to pose specific challenges to the EU's Outermost Regions. The Commission services also note that the SIA refers to some serious shortcomings in labour conditions and protection of workers' rights in India, such as the high level of informal employment or the occurrence of child labour and forced labour, including in sectors that are projected to grow following the FTA. The Commission services underline that these challenges pre-exist the FTA and that they will continue to exist, regardless of the conclusion of the FTA and IPA. However, the FTA does represent an opportunity to improve these issues – see sections 3.2.4. and 3.2.5. in this regard.
- Environmental dimension: While the SIA contains both positive and negative findings with respect to the environment, the Commission services stress that the SIA points to an overall marginal impact of the FTA in this field. Nevertheless, the Commission services did propose to include some related provisions in the FTA (see section 3.2.5.).
- Human rights dimension: The SIA explores the impact of the FTA on the respect of various human rights, many of which are related to labour or environmental conditions, where pre-existing fragilities have been identified and could be partly addressed in the chapter on Trade and Sustainable Development. Overall, the SIA expects overall positive but limited impact from the FTA on Human Rights.
- Contribution to the attainment of EU strategic objectives: The Commission services note the SIA's finding that the FTA would contribute positively – to various extents – to the attainment of all of the EU's strategic objectives. This fully supports the EU's decision to resume the FTA and IPA negotiations with India.

The Commission services also note the more detailed assessments carried out on the FTA impact on the following three economic sectors: textile/apparel/leather, electric mobility, and agriculture (in particular, rice and sugar). The Commission services agree that these sectors are important areas in the FTA negotiations, and the sectoral in-depth analysis provides useful insight and relevant information in support of the negotiations.

3.2. Recommendations

3.2.1. Horizontal remarks

The Commission services consider it useful that the SIA presents recommendations both on matters that could be covered within the FTA and IPA, and on topics that should rather be addressed through flanking measures outside the agreements. The Commission services are of the view that this integrated perspective can maximise the effectiveness of the proposed measures and underline the importance that the Commission attaches to coherence between various policies. While the Commission aims for an ambitious FTA and IPA with a comprehensive coverage of chapters it must

be recognised that trade agreements will not be able to address all matters of interest or concern. In this respect, it is important to also mention that, in addition to the FTA, IPA and GIs negotiations underway, the EU and India also have a Political Cooperation Agreement (PCA), with a full architecture for cooperation. Moreover, the EU and India have created the EU-India Trade and Technology Council, whose first meeting took place on 16 May 2023, and which offers a platform for cooperations outside of the framework of the FTA, as per its Terms of Reference³.

The Commission services consider that the recommendations included in the SIA broadly support the conclusion of an FTA and IPA that would be balanced, ambitious, comprehensive and mutually beneficial. This is consistent with the objectives set by EU and Indian leadership in the joint declaration of 8 May 2021, where it was decided to re-launch the FTA and IPA negotiations. While these recommendations may not necessarily reflect in full what will be agreed eventually, the Commission services consider that they bring useful value to the negotiation and that they generally support the Commission's position as reflected by the textual proposal it tabled in July 2022.

3.2.2. Recommendations related to the economic analysis

Summary of the SIA recommendations

The SIA recommends that to maximise the positive economic impacts of a future FTA, negotiators should seek to conclude an agreement that results in the greatest degree of liberalisation possible. However, for products where economic impacts and adjustment costs are expected to be greater, negotiators could consider phasing in tariff reductions, allowing for lengthier transitions for full liberalisation, or even exclusion from liberalisation altogether. For the EU, this would relate to textiles, apparel and sensitive agricultural products esp. rice and sugar, whereas for India, this would include electronics, machinery, and sensitive agricultural products esp. dairy or meat. To facilitate trade in agri-food products, multiplicity, and differences in standards across importing jurisdictions should be reduced. Moreover, SPS measures should be based on international standards and their imposition justified by providing scientific evidence. The future FTA should strengthen adherence to the principles of the WTO TBT Agreement. It should also strive for the maximum harmonisation of domestic standards with relevant international standards and simplification and reduction in NTBs as these are amongst the main issues discouraging MSME-participation in trade and GVC-integration. The FTA should also consider meaningful liberalisation of the public procurement markets on either side, including at the sub-national levels, by removing existing 'buy local' regulations and also implement non-discrimination in the award of government contracts. The services chapter should emphasize liberalisation of market access and behind-the-border barriers to Mode 3 and facilitation of Mode 4 trade in services. The agreement should also include a comprehensive Digital Trade chapter with strong rules on data protection and security and ensuring that cross-border data flows are not limited by data localisation requirements.

Views of the Commission services

The Commission services note that one of the main findings of the SIA is that the FTA can bring opportunities for businesses, workers, and consumers on both sides. These are precisely the aims that the EU pursues through ambitious and wide-ranging FTAs, such as the FTA under discussion.

³ [EU-India: new Trade and Technology Council \(europa.eu\)](https://european-council.europa.eu/media/eu-India%20new%20Trade%20and%20Technology%20Council%20(TTC).pdf)

On the level of ambition of tariff liberalisation, the Commission services concur with the SIA findings that positive economic effects can be achieved through a higher level of liberalisation, and that many EU economic sectors, both in goods and services, would gain from the FTA. The Commission services recall that the first EU-India FTA negotiations were stopped in 2013 due to a divergence in the level of ambition, a situation that should be avoided. While India's current high level of tariff protection represents a significant challenge for the negotiations, the Commission services aim for an ambitious level of liberalisation, in line with the guidance provided by EU and Indian leaders. In the meantime, while overall positive economic effects can be achieved through a higher level of liberalisation, and many EU economic sectors would gain from the FTA, the Commission services acknowledge that a special attention should be given to the EU economic sectors which are expected to experience more significant adjustments as a consequence of the FTA (for instance textile, wearing and apparel, leather, rice and sugar). In this respect, the Commission services concur with the recommendation of the SIA that it could be relevant for some products to introduce gradual liberalisation only or to exclude them from full liberalisation. Finally, the Commission services agree that given the growing importance of services and their increasing intertwinement with trade in goods, an ambitious outcome should also be pursued on that point, within the limits of the competences foreseen by the EU Treaties regarding the movement of persons.

With respect to liberalisation of trade between the EU and India, the Commission services concur with the SIA finding that on top of tariffs reduction, the FTA provides an opportunity to reduce non-tariff barriers (NTBs) in various sectors, which is of high importance to fully reap the potential benefits offered by the FTA. As mentioned by EU operators and as rightly pointed out by the SIA, multiple Indian NTBs, while often pursuing legitimate policy objectives (preservation of quality, protection of consumers), effectively restrict or prevent imports into India. For example, the multiplication of Quality Control Orders that prescribe standards that sometimes diverge from international standards and require a long and burdensome certification procedure, is a significant issue reported in many sectors, including textiles, automobiles or machinery. Even in the case of low tariffs, differences for instance in regulatory standards can be an important obstacle to trade, in particular for SMEs. For example, due to sanitary and phytosanitary (SPS) barriers, exporting certain agriculture products to India is often very slow and sometimes not possible at all for EU Member States. Indian import procedures remain opaque, with market access applications sometimes blocked for several years without explanation, or non-conformities reported by Indian authorities at their border without details allowing corrective actions. This is precisely why the EU has tabled ambitious proposals for chapters on TBT, GRP (Good Regulatory Practices), Transparency, or SPS. India's current practices reported in the SIA, as well as India's FTAs with other partners, show that this will be a complex area of negotiation. Nevertheless, these chapters should allow to better align norms on international standards, reinforce transparency and facilitate trade, while preserving each side's regulatory space to pursue legitimate policy objectives. In relation to Trade Facilitation, the Commission services also concur with the SIA's recommendation that the FTA should include trade facilitative provisions on rules of origin and procedures, including enabling exporters or producers to self-declare the origin of their products. This type of self-certification system has already been successfully implemented by India in the GSP (REX system).

The Commission services note that the SIA expects the FTA to have a positive impact on SMEs, which are the backbone of economies both in the EU and in India. Indeed, according to the SIA, the provisions proposed by the EU on public consultations, impact assessment, retrospective evaluation, and

exchange of information on good regulatory practices would reduce the costs of regulatory heterogeneity and compliance and facilitate SME participation in trade. On top of this, the Commission has tabled a specific chapter on SMEs, in order to help them reap the benefits of the FTA. The Commission aims for instance at the establishment of one single website gathering all the information that SMEs need in respect of the opportunities created by the future FTA.

Regarding the liberalisation of public procurement, the Commission services agree that the FTA should aim at a meaningful liberalisation of the public procurement markets, creating a level playing field between Indian and EU suppliers for a sizeable share of the public procurement markets, including at sub-national level. This resonates with the issues faced by EU operators confronted with the 'Make in India' policy, which hamper their participation to public procurement in India and which does not have an equivalent in the EU. The Commission services also recognise that this will be a challenging area to negotiate.

Regarding digital trade, the Commission services note the SIA's recommendation to include a comprehensive Digital Trade chapter in the FTA, with strong rules supporting data protection and security and avoiding data localisation requirements. This is reflected in the EU's tabled proposal in this area.

Finally, the Commission services duly note the SIA's finding that increased competition from India could be felt in outermost regions in certain specific sectors, such as sugar (including specialty sugar). The Commission services underline in this context that its text proposal includes a specific bilateral safeguard mechanism designed to take into account the specificities of these regions.

3.2.3. Recommendations related to the analysis of FDI

Summary of the SIA recommendations

Given the existing identified FDI policies that can have a restrictive effect in both the EU and India, a modern and robust EU-India IPA should be negotiated, which addresses the highlighted areas of concerns. Hence, state-of-the-art investment / investor protection clauses, combined with a state-of-the-art dispute resolution mechanism such as the ICS are needed. In addition, mediation, and other dispute resolution mechanisms suitable in particular for SMEs, which would assist in resolving problems of foreign investors, should be considered. These elements will contribute to achieving a high level of investment and investor protection, transparency, and fair treatment, which in turn will provide confidence to foreign investors and thus stimulate bilateral FDI flows.

Views of the Commission services

The Commission services fully agree with the objectives underpinning the SIA's recommendation to provide a high level of protection to foreign investments. As recognized in the SIA, these recommendations are consistent with the proposal tabled by the EU for the IPA, including national treatment and ICS-based dispute resolution. This is particularly relevant since the termination by India of all its Bilateral Investment Treaties since 2015, which creates significant uncertainties for EU investors.

3.2.4. Recommendations related to the social analysis

Summary of the SIA recommendations

While the reduction of tariffs and NTMs should support job creation in both Parties, sectors already under pressure should be either liberalised over a longer period, only partially liberalised, or even excluded from liberalisation. India should extend legal protections, including minimum wages and social security coverage on all workers, improve implementation of the domestic legislation and ratified ILO conventions, and strengthen the labour inspection system to ensure effective enforcement. It should also create favourable conditions for trade unions' operation. International brands sourcing in India should start paying prices allowing for payment of decent wages to workers and should avoid applying unfair practices. Moreover, they should increase transparency regarding their suppliers and apply effective monitoring regarding respect for workers' rights along the supply chain, beyond tier one suppliers. The Government of India acting with the private sector should develop and make widely available affordable vocational training programmes to give young people and existing workers an opportunity to get upskilled and receive higher income. Building on the EU proposal, the Parties should adopt provisions in the TSD chapter underpinning respect for labour standards. The EU should improve the proposals for Due Diligence Directive and Forced Labour Regulation to ensure their effectiveness in the fight against forced labour and child labour by integrating some suggestions from civil society organisations.

Views of the Commission services

As mentioned under the recommendations for the economic dimension, the Commission services concur with the SIA's findings that, while overall, positive economic effects can be achieved through a higher level of liberalisation, some economic sectors require special attention, which might include for example a longer staging for tariff liberalisation or exclusion from full liberalisation.

The Commission services agree with the principles underlying the SIA's recommendations on the necessity to support equal access for women to education and career development, although it should be stressed that the recommendations in this chapter are only broadly related to the FTA. On consumer protection, the Commission services would underline that the EU already has well-functioning market surveillance mechanisms that will continue to ensure high levels of consumer protection, regardless of the content of the FTA. The Commission services also underline that the text tabled for the chapter on digital trade includes provisions on the protection of online consumers and on the fight against unsolicited direct marketing communications.

Regarding working conditions and labour standards, the Commission services confirm that the Trade and Sustainable Development (TSD) chapter of the future FTA, including its labour rights-related commitments, is one of the key areas of the FTA negotiations between the EU and India. The Commission services stress the need for the FTA to respect each side's sovereignty and right to regulate, in particular in relation with some recommendations in the SIA that are only broadly related to the FTA. The Commission services see the chapter on TSD as an opportunity to ensure that competition does not take place at the expense of labour rights as defined in the ILO Fundamental Principles and Rights at Work. The Commission services endorse the SIA's recommendation that each side should ensure effective enforcement of ILO Conventions already ratified and aim at ratifying the remaining conventions. In this respect, the Commission services support in particular the SIA's recommendation for India to ratify the outstanding fundamental ILO Conventions No. 87 and No. 98 regarding freedom of association and the right to collective bargaining. This corresponds to the textual proposal the Commission services tabled in July 2022. On the SIA's suggestion to put in place a mechanism allowing for the submission of complaints in case labour rights are violated, the

Commission services stress that one of the EU's Single Entry Point (SEP) functions is precisely to receive complaints related to the respect of TSD chapters in FTAs (not only on labour-related issues but on all areas covered by the TSD chapters).

The Commission services also note that many recommendations in this section, notably on corporate social responsibility, are addressed to the private sector. In this respect, the Commission services underline that provisions on promoting responsible business conduct / corporate social responsibility practices are included in the EU's text proposal. Moreover, the Commission services stress that the proposals on a Directive on Corporate Sustainability Due Diligence and on a Regulation on forced labour products, both currently under consideration by the EU legislator, aim at addressing some of the issues mentioned in the SIA. The Commission services also recall that as per its usual practice, it has duly consulted civil society organisations on both proposals.

3.2.5. Recommendations related to the environmental analysis

Summary of the SIA recommendations

The Parties should follow the new EU approach to TSD chapters in FTAs and agree binding commitments related to climate change and environment, including the Paris Agreement becoming an essential element of the FTA, and agreeing roadmaps with concrete commitments, in particular regarding biodiversity. The EU and India should also cooperate under the Sustainable Food System chapter to support the uptake of sustainable farming methods in India and to reverse biodiversity loss related to food production. The Parties should also include into the FTA provisions on the conservation of water resources, water use and wastewater treatment. The FTA should also be used to leverage trade in environmental goods and to support, e.g., the uptake of electric vehicles. The EU should consider capacity building activities for Indian stakeholders to inform about recent EU requirements such as in the Deforestation free product Regulation and (once adopted) Corporate Sustainability Due Diligence Directive.

Views of the Commission services

The Commission services note that apart from a few specific sectors, the FTA's environmental impact is likely to be marginal. Nonetheless, the Commission services stress that the EU's text proposal on the TSD chapter fully follows the new EU approach to TSD chapters in FTAs⁴. Commitments to the effective implementation of MEAs as well as non-regression clauses (i.e. not lowering the levels of environmental protection in order to encourage trade and investment) are important priorities for the EU. On the SIA's recommendation regarding roadmaps, the Commission services consider that on a case-by-case basis, these can be useful to address TSD priorities together with trade partners. Based on the outcome of the EU-India TSD negotiations, the Commission services will explore appropriate tools to work together with India to bring about concrete improvements on sustainability issues. Possible roadmaps should recognise a role for civil society in monitoring their implementation. It should also be noted that FTA negotiations aim to enhance and facilitate trade and investment in goods and services of particular relevance for climate change mitigation and adaptation, such as renewable energy, energy-efficient products and services. This is of course supported by the pursued elimination of tariff and NTMs for many environmental goods and services, but commitments in chapters such as Services or Energy and Raw Materials (ERM) would also be relevant for environment

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions: The power of trade partnerships: together for green and just economic growth, COM(2022) 409 final.

and climate objectives. The Commission services also agree with the SIA's conclusion that the Regulation on deforestation-free products, as well as the future Directive on Corporate Sustainability Due Diligence – the latter being still subject to an ongoing legislative process - will play an important role in addressing some potential environmental impact of the FTA. In this context, the Commission has already reinforced its engagement with third countries in the areas of outreach, awareness raising and capacity building in relation to the implementation of European Green Deal measures. It will continue to facilitate the collaboration and the engagement among companies and supply chain actors, with the involvement of Indian stakeholders.

This being said, the challenges posed by the differences of economic development in the EU and India should not be underestimated. These differences mean that the EU and India have substantial divergences in the way they approach the relation between trade and sustainable development. In this perspective, the Commission services intend to build on existing cooperation activities between the EU and India and to further intensify those. For instance, India has set itself ambitious targets in renewable energy, notably solar energy or renewable hydrogen. In addition to helping to fight climate change, these objectives also bring many trade opportunities to EU companies, which are already advanced in such technologies. The Commission has underlined in its Communication on The European Green Deal⁵ that the EU should continue promoting and implementing ambitious environment, climate and energy policies across the world and that it will step up bilateral engagement with partner countries, notably with G20 partners. In this context, the Commission services note that the EU has deepened its cooperation with India on climate policy with the Clean Energy and Climate Partnership, as well as through the International Solar Alliance, founded by India and France and to which the EU is a partner organisation. The Commission services also stress the EIB's support to the India Hydrogen Alliance (IH2A), with a €1bn funding for large-scale green hydrogen hubs and projects across India. As for the promotion of information exchange on effective policy making in the field of water quantity and quality, the Commission services note that this area is not covered by the ongoing FTA negotiations. While not everything can be covered under the FTA, the Commission services fully support effective policy making in the field of water quality.

Finally, the Commission services agree with the SIA's proposals regarding the promotion of Sustainable Food Systems (SFS), notably with the support to sustainable agricultural production techniques, as reflected in the EU's tabled proposal for the chapter on SFS.

3.2.6. Recommendations related to the human rights analysis.

Summary of the SIA Recommendations

The Parties should include into the FTA a human rights clause that consists of an 'essential elements' and a 'non-execution' clause to ensure its enforceability. Moreover, the Parties should consider adopting roadmaps with clear commitments and targets in order to address shortcomings and make progress regarding the implementation of human and labour rights. Such roadmaps may also be used to define exact timelines regarding the ratification of the remaining ILO fundamental Conventions unless they are already ratified prior to the FTA signature. The EU and India should negotiate a robust TSD chapter in line with the new EU approach and consider expanding the mandate of Domestic Advisory Groups, to be proposed under the Institutional chapter, to human rights related issues under

⁵ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, COM/2019/640 final.

the FTA. An effective complaint mechanism under the FTA should also be considered to facilitate action in case the Parties fail to respect their obligations under the TSD chapter. Detailed recommendations also include, among others, a need for India to align its existing labour legislation with relevant international standards and effectively implement it; to ensure meaningful participation of independent civil society organisations in the monitoring and implementation of the Agreements; and to put in place effective mechanisms to prevent and mitigate water pollution by industries, notably those whose production is likely to increase as a result of the FTA/IPA.

Views of the Commission services

The Commission services agree with the SIA's recommendation that the FTA should include a clause on essential elements of the agreement. The Commission is currently reflecting on how to approach this in the specific context of the EU-India FTA.

The Commission services note that the SIA section on human rights largely overlaps with the one on the social analysis and reiterates its comments on the corresponding recommendations. In particular, TSD is one of the key areas of the FTA negotiations and the Commission services aim at an ambitious outcome regarding all main components of the corresponding chapter. However, the challenges brought about by the differences in the levels of development between the EU and India should be kept in mind.

The Commission services recall that there already exists a complain mechanism in the EU (the SEP) that covers all issues related to TSD chapters in FTAs.

The Commission services note that many of the SIA's recommendations are addressed to the Government of India and concern domestic policy issues, such as poverty or education, that only relate indirectly to trade and that exist regardless of the presence or absence of an FTA. While the Commission services broadly support the principles underpinning these recommendations – in particular the ones included in ILO conventions and MEAs – and are open to discussing related cooperation provisions where relevant in the FTA, they recall that it is for India to decide how it intends to approach these issues.

4. Conclusion

This SIA provides a comprehensive overview of the potential economic, social, human rights and environmental impacts of the future FTA between the EU and India. It is based on both quantitative and qualitative analysis, and provides the Commission services, stakeholders and the wider public with useful information and insights on key topics and interests in support of the negotiations. It also provides useful information on the present trends in economic, social, human rights and environmental cooperation and governance in the bilateral relationship between the EU and India. In conclusion, the findings and recommendations of the SIA confirm that there is a strong case for an ambitious FTA and IPA between the EU and India. The FTA and the IPA are expected to bring economic benefits to both sides and across all the main indicators. At the same time, the SIA identifies some sectors and areas that need to be handled carefully in order to prevent possible negative impacts. The recommendations for measures that the SIA proposes to be included within the FTA and IPA are broadly consistent with the key objectives that the Commission pursues in the negotiations, as reflected in the text proposals which the EU has submitted. The SIA recommendations for

accompanying measures relate to areas which are part of the ongoing and future cooperation agenda between the EU and India. Moreover, the Commission services welcome the very comprehensive and active engagement with stakeholders both in the EU and in India. All civil society dialogues organised in this context have been well attended. The involvement of stakeholders has been crucial to the SIA process. In addition to collecting ideas, positions and factual information on the ground, the SIA process allowed the raising of awareness on the on-going negotiations both in the EU and in India. The Commission services are confident that such awareness raising, which is one of the SIA's objectives, will also lead subsequently to a better implementation of the FTA and IPA, allowing stakeholders to benefit from the future FTA and IPA to a greater extent. As negotiations move forward, the Commission services remain committed to keep engaging with interested stakeholders to ensure the continued transparency of the negotiations and to promote an open dialogue with civil society actors.