

Commentary on INTA Draft Report 1247770EN on EU-India future trade and investment cooperation motion for a parliamentary resolution

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Key Recommendations

- 1) There must be an additional chapter on FDIs and SMEs that must include bilaterally agreed-upon binding guidelines and obligations on human rights, labour and environmental implications.
- 2) All clauses must operationalize the centrality of human rights in EU Foreign Policy and ensure transparency and participation of all stakeholders.

Overarching comment: The resolution in its current form does not operationalize transparency and includes no recognition of the centrality of human rights in the EU's foreign policy.

Given that the European Commission is a black box, and that the trade agreement at hand concerns the world's largest democracy, with a population of over 1.2 billion and a significant diaspora community in Europe, the resolution must incorporate and operationalize transparency concerns. The cross-border ramifications on people-to-people relations cannot be understated. **The resolution must call upon the European Commission to make a full lobbyist disclosure on the trade agreements negotiations.**

As the European Commission has affirmed in its [response](#) to [European Parliament resolution \(2016/2219\(INI\)\)](#), it is committed to keeping human rights, including fundamental principles and rights at work, must be kept high on the trade agenda. The Commission explicitly recognises the importance of consistency and mutual reinforcement between trade policy and the EU's development and broader foreign policies as well as external objectives of EU internal policies. The resolution must therefore recognize and adequately incorporate the centrality of human rights. According to the Commission's [response to European Parliament resolution \(2016/2219\(INI\)\)](#), its approach to ensuring human rights due diligence in supply chains consists largely in engaging with National Human Rights Institutions. India's National Human Rights Commission, however, did not adequately address several concerns by third parties, including religious and caste-based discrimination and atrocities, in its [mid-term report](#) for the Universal Periodic Review in 2020. Given that India is affected by democratic backsliding and the

“shrinking space phenomenon”, the resolution must create a central role for civil society in monitoring the agreement and its negotiation.

Civil society and investigative journalists must be encouraged and enabled to play a critical role throughout the process. The resolution must build on the previous European Parliament [Resolution A9-0124/2021 of 16 April 2021](#) which calls to ensure the **active and regular consultation and involvement of EU and Indian civil society**, including trade unions, faith-based organisations, feminist and LGBTQI organisations, environmentalist organisations, chambers of commerce and other stakeholders in the development, implementation and monitoring of EU-India relations, and ensure this representation is diverse from across all political and social spectrums.

Recommendations for further modifications of clauses

Resolution para 4.

Clause: “Considers that the existing negotiating mandate is comprehensive and broad enough for negotiations to restart; takes the view, however, that an addendum is necessary to ensure that the prospective comprehensive trade agreement contains as integral parts thereof a dedicated chapter for SMEs, a dedicated chapter on raw materials to remove all export duties on raw materials, and ambitious and enforceable trade and sustainable development chapter aligned with the Paris Agreement;”

Comments:

- 1) Given strong people-to-people engagement between the EU and India, this clause must also address Foreign Direct Investments (FDIs), and add them for instance in the dedicated chapter on SMEs. This chapter must include a call for bilaterally agreed-upon guidelines and obligations on human rights, labour and environmental implications, which are binding and accompanied an enforceable right to remedy.
- 2) The clause must define which raw materials are meant, and add that a carbon tax on raw materials must be introduced while removing export duties.

Resolution para 6. iv.

Clause: “a comprehensive chapter on public procurement at all levels of governance in order to enforce the principles of transparency and non-discrimination in public procurement through effective remedy procedures;”

Comment: Recalling the Rafale jet scandal, this clause must mention that the principles of transparency also apply to public procurement in sensitive sectors, such as national security and defence deals.

Resolution para 14.

Original: “Calls on the negotiators, as a matter of priority, to agree on the establishment of a bilateral ex-ante consultation platform between the EU and India designed to facilitate discussions and consultations in advance of any new measures or subsidies that could negatively affect trade or investment;”

Modification: “Calls on the negotiators, as a matter of priority, to agree on the establishment of a bilateral ex-ante, **ex-post and process** consultation platform between the EU and India designed to facilitate discussions and consultations **with the active involvement of all stakeholders** in advance of any new measures or subsidies that **could negatively affect trade or investment, that could negatively affect human rights, or that could negatively affect the environment;**”

Comment: This clause must operationalize the decision in European Parliament resolution (2016/2219(INI)) "for ex-ante monitoring mechanisms before any framework agreement is concluded, and on which such conclusion is made conditional as a fundamental part of the agreement, and for ex-post monitoring mechanisms that enable tangible action to be taken in response to infringements of these clauses, such as appropriate sanctions as stipulated in the human rights clauses of the agreement, including (temporary) suspension of the agreement". Additionally, this clause must call for process monitoring on adverse effects. In addition to consultations on adverse implications for trade or investment, there must be additional commitments to ex-ante and ex-post monitoring and consultation on measures that could negatively affect human rights and the environment. This monitoring and consultation must enable and encourage civil society to play an essential role in ex-ante, ex-post and process monitoring. This clause is so central and vital to the agreement allowing all stakeholders to reap benefits that it must be moved further up in the resolution, and be included as clause number 4.

Recommendations on formulations

Resolution para 2.

Original: “Calls on the Commission and the European External Action Service to pursue all efforts to improve and deepen the relationship with India, a strategic partner of the EU;”

Modification: “Calls on the Commission and the European External Action Service to pursue all efforts to improve and deepen the relationship with India, **who can be** a strategic partner of the EU;”

Explanation: In recent weeks, India’s geopolitical position and historical ties with Russia have shown to make it impossible for India to engage in deep and serious relations with the EU in the form that a strategic partnership would require.

Resolution para 4.

Original: “Considers that the existing negotiating mandate is comprehensive and broad enough for negotiations to restart; takes the view, however, that an addendum is necessary to ensure that the prospective comprehensive trade agreement contains as integral parts thereof [...] an ambitious and enforceable trade and sustainable development chapter aligned with the Paris Agreement;”

Modification: “Considers that the existing negotiating mandate is comprehensive and broad enough for negotiations to restart; takes the view, however, that an addendum is necessary to ensure that the prospective comprehensive trade agreement contains as integral parts thereof [...] an ambitious and enforceable trade and sustainable development chapter **in accordance** with the Paris Agreement;”

Explanation: An addendum emphasizing the Paris Agreement, keeping in line with the principles of a just transition and the European Green Deal, is strongly necessary. However, the Paris Agreement is a binding treaty rather than a guiding document, and the resolution must incorporate this recognition in its wording.

Resolution para 15.

Original: “Considers that the conclusion of the EU-India free trade agreement should be supported with the establishment of a joint committee to provide joint monitoring, structured dialogue, and oversight by the European Parliament and both chambers of the Parliament of India;”

Modification: “Considers that the conclusion of the EU-India free trade agreement **must** be supported with the establishment of a joint committee to provide joint monitoring, structured dialogue, and oversight by the European Parliament and both chambers of the Parliament of India, **and civil society**;”

Explanation: It is essential for the agreement to be democratically monitored, which is partially realized through the oversight of the European Parliament having a large role. The joint monitoring, dialogue and oversight mechanisms must encourage and actively enable civil society to participate.

Resolution para 3.

Original: “Expects a swift follow-up to the EU-India leaders’ meeting in order to openly address values-based cooperation at the highest level in matters of trade and investment; welcomes both partners’ readiness to work towards the conclusion of an ambitious, comprehensive and mutually beneficial trade agreement;”

Modification: “Expects a swift follow-up to the EU-India leaders’ meeting in order to **openly address cooperation based on values of democracy, rule of law and human rights** at the highest level in matters of trade and investment; welcomes both partners’ readiness to work towards the conclusion of an ambitious, comprehensive and mutually beneficial trade agreement;”

Explanation: The original does not clearly define the values meant to be democracy, rule of law and human rights, leaving unnecessary ambiguity. Additionally, openly addressing these values must occur in a transparent and accessible way, as discussed above.