Focus India Publications

November, 2016

Trade Liberalization through Free Trade Agreements (FTAs)

Impacts on Agriculture and People in India

Supported by
Rosa Luxemburg Stiftung, South Asia

Trade Liberalization through Free Trade Agreements (FTAs)

Impacts on Agriculture and People in India

FOCUS ON THE GLOBAL SOUTH

Trade Liberalization through Free Trade Agreements (FTAs) Impacts on Agriculture and People in India

Author : **Vanessa Fischer***

Published in : **November 2016**

Published by *:* **Focus on the Global South, India**
To request copies contact
33-D, 3rd Floor, Vijay Mandal Enclave,
DDA SFS Flats, Kalu Sarai, Hauz Khas,
New Delhi – 110016. India
Tel: +91-11-26563588; 41049021
www.focusweb.org

Supported by : **Rosa Luxemburg Stiftung, South Asia**
Centre for International Co-operation
C-15, 2nd Floor, Safdarjung Development Area Market,
New Delhi - 110016
www.rosalux-southasia.org

"Sponsored by the Rosa Luxemburg Foundation e.V. with funds of the Federal Ministry for Economic Cooperation and Development of the Federal Republic of Germany."

"Gefördert durch die Rosa-Luxemburg-Stiftung e.V. aus Mitteln des Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung der Bundesrepublik Deutschland"

Images by : Afsar Jafri

Design & Printed by : **Indigo,** 9313852068

The contents of this booklet can be freely reproduced and quoted on the condition that the source be mentioned. Focus would appreciate receiving a copy of the text in which the report is mentioned or cited.

This is a campaign publication and for private circulation!

** Vasnessa Fischer is a MA student from Humboldt University (Germany). She did this research under the supervision of Afsar Jafri at Focus on the Global South.*

Contents

Foreword 4

Introduction 5

Free Trade Agreements (FTA): the dominant paradigm to push the free trade agenda 7

A) What are Free Trade Agreements (FTAs) and how are they different from the WTO? 7

B) What are other trade agreements that exist besides FTAs? 8

C) Negative Effects and Problems that come with FTAs 11

India's operational trade agreements and some examples of their impacts 14

A) Operational Agreements 14

B) Impacts of key FTAs 15

New trade agreements under negotiation 25

A) Regional Comprehensive Economic Partnership (RCEP) 25

B) EU-India FTA: Bilateral Trade and Investment Agreement (BTIA) 30

C) Canada-India CEPA 32

D) Australia-India CECA (AICECA) 33

E) India-Israel PTA 33

Conclusion and Recommendations 34

To know more about the impact of WTO on agriculture, please read **"Trade Liberalisation and WTO : Impact on Agriculture and Farmer"** by Afsar Jafri. You can get a copy of this booklet from Focus on the Global South, Delhi Office or download the copy from https://focusweb.org

Foreword

This booklet on India's engagement with Free Trade Agreements (FTAs) comes at an opportune moment. Across the world, both in the north and south, neoliberalism, the ideology that underpins free trade is in a deep crisis of legitimacy. Neoliberal policies that promote privatisation, de-regulation and free trade have created financial crises, pushed job losses, the creation of precarious low paid employment, devastated peasantry and the environment. Added to this, there is also the mounting evidence that free trade benefits the elite 1% at the cost of workers, a fact that was cynically used by right wing politicians such as Donald Trump to challenge FTAs such as the North Atlantic Free Trade Agreement (NAFTA) and Trans Pacific Partnership (TPP).

Despite this, the Indian Government continues to negotiate a range of far reaching bilateral and mega regional trade and investment agreements. This briefing paper shows that India has not remained unscathed from the adverse impacts of existing FTAs. India's first FTA in 2000, with a much smaller neighbouring country Sri Lanka, is proof that if negotiators do not consult with regional governments (in this case the Southern Indian state of Kerala) and take regional differences into account, large sections of the peasantry could suffer the unintended loss of income and livelihoods. The 2010 ASEAN-India FTA has increased India's trade deficit, given disproportionate tariff reductions by India in a range of sensitive items, especially tropical items.

After providing insights on the impacts of existing FTAs, the paper raises the alarm on new FTAs that the Modi Government is negotiating. The most ambitious among them are the European Union-India FTA and the 16 nation Regional Comprehensive Economic Partnership (RCEP). Issues of concern include rules on Foreign Investment which allow Transnational Corporations to sue states, intellectual property rules that will undermine domestic production and the ability of the poor to access affordable medicines and deregulating policies on essential services that will further the drive towards privatisation. Countries such as Australia and New Zealand in the RCEP grouping are aggressively targeting India's dairy sector that creates millions of jobs and provide food security. There are several other FTAs and their potential implications are also red-flagged.

Ironically, the new FTAs are being negotiated when the Indian Government itself is conducting a review of India's trade performance, pushed by sections of the Indian Industry that have seen huge job losses and stagnation of exports. The author ends with a set of useful recommendations that will help ensure India's policy space and protect the livelihoods of workers and peasants from the onslaught of the new generation mega FTAs.

We hope that this publication will be useful for peasant groups and civil society organisations in order to better understand India's trade policy and its impacts. This in turn should help them to articulate their concerns and push for alternatives from elected representatives and officials of the Indian Government.

Benny Kuruvilla

Introduction

Over the past two decades, an increasing number of countries have been following a policy of ever-progressing trade liberalization. India has by no means been an exception to this trend. Despite the tremendous impacts of trade liberalization on Indian agriculture in particular and on people's livelihoods in general, the consequent Indian governments do not seem to lose their enthusiasm for free trade.

In general, trade liberalization aims at the reduction or complete removal of trade barriers between two countries or amongst a group of countries. This involves the reduction or the removal of both tariff-barriers (such as duties, export subsidies and surcharges) as well as non-tariff-barriers (such as hygiene standards, quotas or licensing rules).

Within the last twenty years there has probably been no other instrument that has influenced and promoted the free trade regime as much as the World Trade Organization (WTO) did. This intergovernmental organization had emerged out of the GATT[1] in 1995 and since then aimed at *"ensuring that trade flows as smoothly, predictably and freely as possible."*[2] While the former GATT had only covered trade in goods, with the founding of the WTO, two new treaties, namely GATS (General Agreement on Trade in Services) and TRIPs (Agreement on Trade-Related Aspects of Intellectual Property Rights) were added to the agenda of this new organization. This means that for more than two decade now, trade liberalization does not only cover the trade in goods, but goes much further and also includes the trade in services and investments, as well as other areas such as intellectual property rights, economic or technical cooperation and competition. Under the Agreement on Agriculture (AoA) the free trade regime, moreover, found its way into the agricultural sector, requiring all WTO members to liberalize their agricultural markets and remove all "trade distorting" measures such as subsidies and domestic supports. What is more, is that with WTO a dispute settlement was introduced, which allows the punishment of members that violate trade rules. This mechanism, together with the ongoing removal of trade barriers (especially in the agricultural sector), makes it more and more difficult for governments today to undertake policies that would secure their domestic agricultural and manufacturing sectors. This is especially alarming when it comes to developing countries[3] which highly rely on such policies in order to ensure food security for their population.

---

[1] *GATT: The "General Agreement on Tariffs and Trade" (1948 – 1995) was a multilateral agreement regulating international trade. Its purpose was the reduction of tariffs and other trade barriers and the elimination of preferences.*

[2] *WTO: https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr00_e.htm*

[3] *Today, developing countries constitute about two thirds of the WTO's 164 members (WTO: https://www.wto.org/english/thewto_e/whatis_e/tif_e/utw_chap6_e.pdf*

In the past, developing countries have consistently pointed out to this fact. They also revealed how the AoA has created a massive dumping mechanism for developed countries' cheap subsidized agricultural products that have been destroying the livelihoods of small farmers and peasants as they are no longer able to compete with the cheaper goods from developed nations that have been imported into their markets.

Due to such disagreements between developed and developing countries over the agriculture issues, negotiations at the WTO have been stalled for almost a decade since the launch of the Doha Round.[4] However, developed nations, with the United States of America (US) and the the European Union (EU) leading the way, found new ways to move forward the free trade agenda in the meantime. Today, so-called "Free Trade Agreements"or "FTAs" especially the mega FTAs like Trans-Pacific Partnership (TPP), Trans-Atlantic Trade and Investment Partnership (TTIP) or Regional Comprehensive Economic Partnership (RCEP) are the latest strategy of developed countries to push for access into new markets. As they bring with them unforeseen outcomes for millions of people, many questions can be raised; most of all, in what ways are these trade agreements affecting people in India and other developing countries? Are there new agreements that are being negotiated at the moment? And what are their possible impacts for Indian people in the near future?

This booklet attempts to answer some of these questions in the following four chapters:

Chapter One will provide detailed information on free trade agreements in general and explain how such agreements are different from the WTO.

Chapter Two names some of India's existing trade agreements and shows some of the negative impacts they already had for people in India.

Chapter Three examines new trade agreements that are currently under negotiation and refers to their projected consequences in different fields, such as agriculture, and access to medicine.

Chapter Four will give a conclusion and some ideas and perspectives on how to (re)act on the new free trade regime.

---

[4] *Developing and developed countries first disagreed on issues such as agricultural subsidies and tariffs at the Doha Round in 2001, in Doha, Qatar.*

Free Trade Agreements (FTA): the dominant paradigm to push the free trade agenda

A) What are Free Trade Agreements (FTAs) and how are they different from the WTO?

Free Trade Agreements (FTAs) are – besides the WTO – another way of liberalizing world trade today. In contrast to the WTO (which functions in a multilateral way[5]) FTAs are bilateral agreements, in which two or more countries or country blocs agree to reduce or eliminate trade barriers between one another. As such, they are an exception to the most-favoured nation (MFN) treatment[6], one of the fundamental principles of the WTO.

India signed its first FTA in 1998 with neighbouring Sri Lanka, followed by trade agreements with several other countries/blocs, including South Korea, Japan, and ASEAN.

In addition, trade agreements and the WTO do not only differ in how they are structured, but also in their scope. Although free trade agreements are "only" bilateral, they often go beyond what is set in the WTO.

First of all, whereas in the WTO so-called "bound tariffs"[7] are set, under FTAs tariffs are often directly eliminated or reduced to almost zero percent, making it a faster and way more aggressive form of trade opening.

Secondly, while the WTO grants safeguard measures[8], special provisions and some degree of flexibility to developing and least developed countries[9], FTAs mostly do not allow for any sort of safeguard measures or special provisions for developing countries.

---

[5] *Multilateralism refers to the cooperation of multiple countries on a given issue. International Organizations such as the United Nations (UN) or the World Trade Organization (WTO) are multilateral in nature.*

[6] *Most-favoured nation (MFN) treatment is a key principle underlying the multilateral trading system. Article 1 in GATT ("Trade without discrimination") states that WTO members have to treat all other members equally concerning trade barriers. In practice, this means that if one WTO member country lowers or reduces tariffs for another WTO member country, these tariff reductions have to be extended to all other WTO members as well. Under WTO, member countries, thus, cannot discriminate between their trading partners. In Article XXIV of the GATT (trade in goods), and Article V of the GATS (trade in services), it is ruled that FTAs are an exception to the MFN.*

[7] *Bound rates are fixed maximum duties that are binding once a country joined the WTO and members cannot raise their duties above this level.*

[8] *As safeguard measures the WTO allows its members to take a temporarily restricted "emergency" action (i.e., restrict imports of a product temporarily) to protect a specific domestic industry from an increase in imports of any product which is causing, or which is threatening to cause, serious injury to the industry.https://www.wto.org/english/tratop_e/safeg_e/safeg_e.htm*

[9] *The "General System of Preferences" gives developing countries more time to fulfil their commitments within the WTO, and excludes their exports to developed countries from the MFN (theoretically this means that developed countries may lower their tariffs for developing and least developed countries, without also having to lower tariffs for other rich countries).*

Thirdly, FTAs cover areas that have been limited in their scope in WTO. For instance, the WTO's TRIPs (Agreement on Trade-Related Aspects of Intellectual Property Rights) set some minimum standards on so-called Intellectual Property Rights (IPRs).[10] Many FTAs now go far beyond these minimum standards set in the WTO's TRIPs agreement and demand the inclusion of so-called TRIPs-plus[11] provisions.

Lastly, FTAs cover new areas that have not been included in the WTO at the multilateral level (such as government procurement, investment, e-commerce, global value chain etc.) and, thus, pose new challenges and unknown consequences.

World Trade Organization (WTO)	Free Trade Agreements (FTAs)
- multilateral	- bilateral
- follows MFN	- one exception to MFN
- maximum duties are fixed	- severe duty reductions, up to 0%
- includes safeguard measures	- no safeguard measures
- special provisions for developing countries	- no special provisions for developing countries
- includes trade in goods, services, and investments	- new areas included (such as public procurement)
- limited scope in IPRs (TRIPs)	- extended scope in IPRs (TRIPs-plus)

Trade liberalization through FTAs seems even more pervasive and dangerous than the WTO. But why then are developing countries consistently signing such agreements? It might be partly due to the fact that many FTAs are being negotiated between a developed and a developing country. Unlike the negotiations that take place at the WTO, in FTA negotiations developing countries are on their own. They lack the possibility to build coalitions and stand together against the more powerful developed nations. As a consequence in the past, many developing countries have seen themselves with no other option but to sign such trade agreements.

B) What are other trade agreements that exist besides FTAs?

FTAs are not the only bilateral trade pacts that are pushing forward trade liberalization today. Other agreements include so-called Preferential Trade Areas (PTAs), Comprehensive

[10] *The WTO's "Agreement on Trade-Related Aspects of Intellectual Property Rights" (TRIPS) sets rules and minimum standards of intellectual property regulations (such as patent) between its members. It was negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994. In 2001, developing countries, concerned that developed countries were insisting on an overly narrow reading of TRIPS, initiated a round of talks that resulted in the Doha Declaration. The Doha declaration is a WTO statement that clarifies the scope of TRIPs, stating for example that TRIPs can and should be interpreted in light of the goal "to promote access to medicines for all".*

[11] *TRIPs-plus = any set of obligations concerning IPRs that goes beyond what is set in WTO's TRIPs*

Economic Cooperation/Partnership Agreements (CECAs/CEPAs), and Regional Trade Agreements (RTAs). The next section will explain in what ways they are different from FTAs and name some of the agreements India has signed in the past.

a) Preferential Trade Area (PTA): positive vs. negative list

A Preferential Trading Area/Agreement (PTA) is the loosest form of economic integration. In PTAs, two or more countries agree to reduce tariffs for some products only. These products are defined in a positive list. In contrast to this, FTAs normally cover substantially all trade with only few exceptions. These exceptions can then be found in a negative list that contains all products which are excluded from tariff reductions. PTAs are often the first step countries take on their way towards FTAs. The line between PTAs and FTAs may therefore be blurred, as almost any PTA has a main goal of eventually becoming a FTA. As of 2016, India has signed PTAs with Afghanistan (2003), Chile (2007), and MERCOSUR[12] (2009). For example, there were 8 items where preferential tariff was granted by Afghanistan to Indian products, which included Black tea (fermented), other Black tea, Other Ayurvedic and Homeopathic Medicine, Sugar refined, White Cement etc. On the other hand, India offered preferential tariff to 38 products from Afghanistan which included Raisins, Dried Apricot, Dried fig, Pistachios, Walnuts, Plum, Album, Pine nuts, Melburries, Appel, Melon, Pomegrantans, Asafeotida, Alfalfa seeds, Seseme Seeds, Linseeds, Anise Seeds etc. Similarly, India granted preferential tariff to 176 products from Chile, while Chile granted preferential tariff for 296 products to India.

b) Comprehensive Economic Cooperation Agreement (CECA) and Comprehensive Economic Partnership Agreement (CEPA): Tariff reduction vs. Tariff elimination

These two trade agreements aim at lowering trade barriers, but in contrast to FTAs they do not want to eliminate them completely. Whereas CECAs only cover trade in goods, CEPAs also include trade in services and investments. India has CEPAs with Singapore (2005), South Korea (2010), and Japan (2011). India's only CECA was signed with Malaysia in 2011.

c) Regional Trade Agreement (RTA): Large scope vs. smaller scope

Regional Trade Agreements are by no means a new phenomenon. RTAs and FTAs are more or less the same. What the WTO means by RTAs are infact the FTAs. In the WTO parlance, the term RTAs refers to trade agreements that are not global, normally to either FTAs or custom unions as defined in GATT Article XXIV. As of 2016, some 635 notifications of RTAs (counting goods, services and accessions separately) had been received by the WTO. Of these, 423 were in

[12] *MERCOSUR: is a regional bloc that was founded in 1991 to promote free trade and the movement of goods, people, and currency. Its full members are Argentina, Brazil, Paraguay, Uruguay and Venezuela. Its associate countries are Bolivia,Chile, Peru, Colombia, Ecuador and Suriname.*

force.[13] With that, RTAs today cover more than half of international trade, and almost all states are part of at least one such trade agreement.

RTAs can be described as circles of free trade that expand until they finally converge to form expansive multilateral agreements.[14] Today, many governments across the globe are exceedingly using such agreements to overcome the lack of progress in multilateral negotiations at the WTO. As a consequence – although multilateral trade negotiations have been deadlocked since the Doha Round in 2001 – global integration is not stagnant at all and in the long run RTAs will help to strengthen the multilateral framework. Eventually, they will undermine many long held demands made by developing countries in multilateral negotiations, circumvent the opposition of developing countries at the WTO, and finally complete a process that has been slowed down since 2001.

What is new moreover, is the scope of these regional trade agreements in recent years. Several mega RTAs are being negotiated at the moment, each of them covering large geographical areas and affecting huge parts of the world population. Currently, three mega RTAs are close to being signed or already signed: these are the Trans-Pacific Partnership (TPP) was signed on 4th February 2016, the Trans-Atlantic Trade and Investment Partnership (TTIP) and the Regional Comprehensive Economic Partnership (RCEP). As India is part of the latter one, this specific RTA will be explained in more detail in chapter three.

FTAs	PTAs	CECAs/CEPAs	RTAs
tariff reductions for all products, with few exceptions (found in a negative list)	tariff reductions for some products only (found in a positive list)		
aim at complete elimination of trade barriers		aim at lowering of trade barriers	
small scope (two countries or small group of countries)			large scope (large geo-graphical areas, huge parts of the world population)

[13] *https://www.wto.org/english/tratop_e/region_e/region_e.htm*

[14] *Regionalism in a Multilateral World," Wilfred J. Ethier, University of Pennsylvania Policy Paper*

C) Negative Effects and Problems that come with FTAs

Many of the negatives implications of FTAs and other trade agreements might have become clear by now. Nonetheless, the following section will show why such agreements are problematic in nature and give an extensive overview of their concrete consequences and their direct impacts on people's lives.

(1) Process of negotiations

One of the most questionable things that come with FTAs is certainly the way they are being negotiated. The whole process of negotiation happens under a complete lack of transparency! Usually the leading forces are not democratically elected government or other public representatives, but executives of large multi-national corporations. On the other hand, representatives of important civil society organizations, including NGOs, workers' and farmers' unions, are not being consulted on possible consequences the FTA might have for their respective groups. It is almost impossible to gain an insight into the papers, making leaked versions often the only possibility to get to know what is on the table. This is not only highly undemocratic, but also puts into question why – if FTAs are allegedly supposed to lift people's standard of living – it is necessary for executers to keep such a secret around the negotiations?

(2) Far reaching and pervasive changes, while no provision for safeguard measures

One reason might be the pervasive nature of changes brought by these trade agreements. As seen in the previous section, FTAs often involve severe tariff reductions, frequently up to as less as zero percent. On the other hand, FTAs mostly do not hold any safeguard measures (e.g. the possibility to increase import duties for a specific period of time) even if a country's economy is severely struggling. Once concluded, tariff and duty reductions have to be complied with, no matter how distorted a country's domestic market might be. This is especially dangerous for developing countries which rely on such measures in order to ensure food security and guarantee the livelihood of their population. Simultaneously, FTAs do not give any preferential treatment to developing countries (e.g. in regards of MFN). They affect new areas, such as public procurement and try to extend their scope in fields such as IPRs through demanding TRIPs-plus provisions.

(3) Adverse Effects for agriculture sector, farmers livelihoods and food security

Moreover, existing FTAs have shown to have adverse effects on the agricultural sectors in developing countries, on farmers' livelihoods and on food security. In the last 20 years, the WTO has severely harmed the lives of many people in India and other developing countries. Its policies have caused trade deficits, import dependence and price slumps due to extensive import surges of cheap highly subsidized products from developed countries that followed the

reduction of trade barriers. As a consequence, prices of Indian manufactured and agricultural products today are highly influenced by world market prices and price volatility.

It was clearly visible in the cotton case in India in 1990's and early 20's when agriculture was opened up and tariff was lowered under WTO to "free" global trade. With the opening of the market and trade integration, Indian cotton producers were pitched into competition with highly subsidized cotton producers from the west especially USA, making them completely vulnerable to the price volatility of the international market. Moreover, Indian cotton farmers were made to compete with subsidised imported cotton into the India's domestic market. The huge cotton subsidy in the US of approx. 4 Billion USD caused sharp decline in international price for cotton, which came down from 1.10 US$ per pound in 1994 to US 40 cents per pound in 1997 to 47 cent in 1998-2000 and around 50 cents in 2004-2005.[15] This led to large influx of cheap cotton in the Indian market forcing India cotton producers to sell at loss, forcing them into indebtedness or committing suicide. Import of foreign cotton was 3.0 lakh bales during 1991-92 and it increased to 5.89 lakh bales during 1994-95 and it further increased to an all time high in 1999-2000 to 22.0 lakh bales. This was mainly due to the price factor. In spite of good domestic crop, mills had restored to large-scale imports chiefly because world cotton prices had plunged to historic low level.

FTAs share all these negative developments caused by WTO policies. However, consequences of FTAs are often even worse, as tariffs are commonly not only reduced (as it is the case in WTO) but most often completely eliminated. Stricter IPRs in FTAs have further more exacerbated farmers' access to and their freedom over their seeds.

(4) Public Health and access to affordable generic medicine

Stringent rules in IPRs do not only pose a threat to the agriculture sector, but also endanger millions of people's access to affordable medicine. Nonetheless, they are a regular feature of FTAs. The WTO's TRIPs set a minimum standard for pharmaceutical patents of 20 years, but the question of what deserves to be patented was left for countries to determine. India, for instance, had used this flexibility to produce cheap generic medicines in the past – a lifesaver for millions of people in developing countries. For decades now, the US and the EU, in alignment with their pharma corporations, have continuously pushed for the enforcement of TRIPS-plus provisions on a global level, in order to circumvent the flexibilities given by TRIPs and the consequent production of cheaper generic medicine. Their new strategy is to include TRIPS-plus in bilateral trade agreements. As of 2016, many countries, among them Brazil, China and some Central American states have had no choice but to agree to these conditions. For example, Brazil

[15] *https://www.ncipm.org.in/NCIPMPDFs/Revolution_in_Indian_Cotton.pdf*

implemented the TRIPS Agreement too soon, and the TRIPS flexibilities, although available to Brazil were not been fully utilised due to pressure from transnational pharmaceutical corporations backed by developed countries, fear of exclusion from major trading blocs, and also due to a gap in the knowledge economy.

(5) Investor-State Dispute Settlements

Another reason for the secretiveness around FTA negotiations might be the so-called Investor-State Dispute Settlements (ISDS) – arbitral courts that enable large corporations to sue governments for alleged trade rule violations. This has tremendous impacts on the capacity of governments to implement reforms and policy programs related to public health, environmental protection and human rights. Canada under North American Free Trade Agreement (NAFTA), for instance, had been sued by the US-concern 'Ethyl Corporation' in 1997 for implementing an environmental law that prohibited mixing the toxic substance MMT into petrol. An Investor-State Dispute Settlement decided that Canada had to pay US$251 million, as it had "robbed the concern of its present and future profits".[16] Interestingly enough, the ISDS only works one way – if a corporation is guilty of violating workers' rights or human rights', inflict environmental destruction, or carryout tax evasion, governments have no possibility to legally proceed against the corporation.

[16] *https://www.globalpolicy.org/component/content/article/212/45381.html*

India's operational Trade Agreements and some examples of their impacts

A) Operational Agreements

Name of Agreement	Country/Countries: India +	Operational since
Asia Pacific Trade Agreement (APTA)	Bangladesh, China, Lao PDR, Mongolia, South Korea, Sri Lanka	1975, July
India-Maldives Trade Agreement	Maldives	1981, April
Global System of Trade Preferences among Developing Countries (GSTP)	Algeria, Argentina, Bangladesh, Benin, Bolivia, Brazil, Cameroon, Chile, Colombia, Cuba, Ecuador, Egypt, Ghana, Guinea, Guyana, Indonesia, Iran, Iraq, North Korea, South Korea, Libya, Malaysia, Libya, Mexico, Morocco, Mozambique, Myanmar, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Singapore, Sri Lanka, Sudan, Thailand, Trinidad and Tobago, Tunisia, Tanzania, Venezuela, Vietnam, Zimbabwe	1989, April
India-Sri Lanka Free Trade Agreement (ISLFTA)	Sri Lanka	2000, March
Indo-Nepal Treaty of Trade	Nepal	2002, March
Afghanistan-India PTA	Afghanistan	2003, May
India-Thailand FTA	Thailand	2004, September
India-Singapore CECA	Singapore	2005, August
South Asian Free Trade Area (SAFTA)	Afghanistan, Bangladesh, Bhutan, Maldives, Nepal, Pakistan, Sri Lanka	2006, January
Bangladesh-India Amended Trade Agreement	Bangladesh	2006, April
Bhutan-India Trade Agreement	Bhutan	2006, July
Chile-India PTA	Chile	2007, September
India-MERCOSUR PTA	MERCOSUR	2009, June
ASEAN-India FTA (AIFTA)	ASEAN	2010, January
India-Korea CEPA	South Korea	2010, January
India-Malaysia CECA	Malaysia	2011, July
India-Japan CEPA	Japan	2011, August

With the beginning of the new millennium, India has obviously decided to follow the route of trade liberalization through the signing of trade agreements. After its first real free trade agreement with neighbouring Sri Lanka had come to pass in 2000, India has negotiated and signed a vast number of trade agreements with different countries including some of the most developed nations such as Japan, Singapore or South Korea. This raises many questions, most significantly, have these agreements been beneficial to people in India? Quite unequivocally the answer must be no; Indian people have not benefited from these agreements. The following section will provide some more information on India's key FTAs and the adverse impacts they have brought with them in the past.

B) Impacts of key FTAs

1) Agreement on South Asian Free Trade Area (SAFTA)

The South Asian Free Trade Area (SAFTA) Agreement is an attempt at liberalizing trade and investment within the South Asian Association for Regional Cooperation (SAARC) and was signed in January 2004. It came into force in 2006 and provides for tariff reductions for a period of 10 years. Until now (2016) SAFTA has not been effectively implemented. SAFTA accounts for only about 4.69% of India's exports and a meagre 0.6% of its imports. Several countries of the region identify non-tariff barriers (such as packaging, testing, and quarantine) as the main obstacle for effective implementation. The uncertain political situation in several member countries makes SAFTA wait in line behind domestic priorities these countries must solve first.

2) India-Sri Lanka Free Trade Agreement (ISLFTA)

The Indo-Sri Lanka Free Trade Agreement (ISLFTA) was signed on 28th December 1998 in New Delhi. It came into force on 1st March 2000 and is a free trade agreement in goods that involves the elimination of tariffs in a phased manner. India agreed to remove tariffs on a wide range of Sri Lankan goods within three years, while Sri Lanka agreed to eliminate tariffs on Indian goods over a period of eight years. As is usual for FTAs, it provides duty-free concessions to all products that are not part of a negative list. Whereas India's negative list covers only 429 product lines, the negative list of Sri Lanka contains 1180 items. This means that Sri Lanka, since 2003, can export more than 4000 products to India on a duty-free basis.[17]

Most adversely impacted by these tariff concessions was the Indian spice sector. After the signing of the agreement, Kerala was severely hit by the increasing imports of cheap black

[17] *http://www.srilankabusiness.com/pdf/indosrilankaedbfinal.pdf*

pepper and cardamom from Sri Lanka, as they were imported on a duty-free basis.[18] In the following years, the imports of black pepper increased from 1385.3 tonnes in April 1999 – March 2000 to 4865.1 tonnes in April 2004 – March 2005. India had asked Sri Lanka to temporarily cap the exports of black pepper in December 2006 in order to evade injury to local farmers, but the enquiry was denied due to the FTA. As of 2015, imports of black pepper from Sri Lanka are still high with the price for the cheaper variation of the plant being $9,500-9750 per ton against the Indian offer of $11,400 per tonne. Besides this, only 1% CST[19] is slapped on imported pepper in India whereas Kerala imposes 4.6% purchase tax on it.[20] Apart from Sri Lankan pepper, total imports of the spice increasedto15,000 tonnes in 2012.[21] With the signing of AIFTA (which will be explained in the next section) most pepper imports are now coming from Vietnam (the world's largest exporter of black pepper) and Indonesia. In 2015, Vietnam exported black pepper for $9,800 a tonne, Indonesia for $9,700 - 9,800, which are both still far below the Indian price.

Besides import surges of spices, the ISLFTA was also responsible, to some extent, for increased imports in coconut oil, oil cake, vanaspati and tea. For coconut oil the imports increased from 3753.72 tonnes in 1999-2000 to 11427.14 tonnes in 2004-05.[22]

3) ASEAN-India Free Trade Area (AIFTA)

The ASEAN-India Free Trade Area (AIFTA) agreement was signed in January 2010 between India and the ten ASEAN member states, namely Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, and Vietnam. Altogether, AIFTA affects 1.7 million people, and makes up for a combined GDP of US$ 2.75 trillion (in 2008).[23] The agreement covers trade in goods, services and investment.

AIFTA's uneven tracks for tariff line reduction

In AIFTA, each ASEAN member state has a separate tariff reduction schedule with India and vice versa. Two things seem surprisingly about AIFTA. First of all – different from WTO – in AIFTA tariff cuts are applied on the product's base rate (which is the product's applied rate as of 2007).

---

[18] *Although pepper was subjected to concessions, the agreement had set import tariffs for 2,500 Mt of spices at zero duties, making the once very profitable sector uncompetitive (http://www.business-standard.com/article/markets/black-pepper-prices-to-soften-soon-on-sri-lankan-import-115111600558_1html).*

[19] *CST (Central Sales Tax) is a form of indirect tax imposed only on goods sold from one state to another state, which particularly takes into account that the buyer and the seller needs to be in two different states.*

[20] *http://articles.economictimes.indiatimes.com/2003-08-02/news/27521603_1_pepper-imports-pepper-prices-indian-pepper*

[21] *http://www.business-standard.com/article/markets/india-turns-net-importer-of-pepper-113022100810_1.html*

[22] *https://viacampesina.org/en/index.php/actions-and-events-mainmenu-26/stop-free-trade-agreements-mainmenu-61/799-india-mangalores-port-blocked-for-hours-no-to-destructive-imports*

[23] *https://knrajlibrary.files.wordpress.com/2016/07/harilal2010spb.pdf*

In WTO, on the other hand, the reference rate for tariff negotiations has always been the bound rate (which is the maximum rate of a product under MFN). As the base rate is in almost all cases already much lower than the bound rate, this makes a huge difference on tariffs, especially for agricultural products, where the drastic impacts of tariff cuts are being noticeable much faster. What seems even more surprising, however, is the fact that India appears to have played the major urging force in the negotiations by offering deeper and faster tariff cuts than what the ASEAN members had offered in return.

Tariff lines in AIFTA are divided into four categories, namely Normal Track, Sensitive Track, Special Products, Highly Sensitive Products, plus an exclusion list.

Exclusion List : AIFTA allows for each member to include a different amount of tariff lines in the exclusion list. India has put 10.7% of its tariff lines into the exclusion list. In total this comprises 489 items, of which 268 are agricultural products. At the same time, Vietnam, for example, keeps almost 18.3% of its tariff lines in this category. The exclusion list was meant to protect farmers, but since not all sensitive products are listed, the exclusion list does not offer enough protection. Additionally, in recent years it became clear that the exclusion list is not an effective protection in AIFTA, as imports of semi processed and processed derivatives of products from the exclusion list increased and now act as substitutes. (For instance, some species of fish can be found in the exclusion list, processed forms of the same species are often found under the Normal Track. In the case of cashew nuts, raw nuts can be imported on a zero-tariff basis and only imports of cashew kernels have been put under the exclusion list).

Highly Sensitive Products : The AIFTA list for highly sensitive products is sub-divided into three categories:

Category A) Countries commit to reduce applied MFN rates to 50%;
Category B) Tariff lines under this category have to undergo a reduction of applied MFN rates by 50%;
Category C) Tariff lines under this category will see a reduction of applied MFN rates by 25%;

Surprisingly, India does not keep a single tariff line in this track!

Special Products : Instead, it seems as if a separate track was created only for India. In AIFTA's special product list India keeps five products (namely, crude palm oil, refined palm oil, coffee, tea, and pepper). These products altogether make up for only 0.3% of Indian tariff lines in AIFTA. There is hardly any uniformity in the reduction commitments among these five product groups. In general, however, the reduction commitments specified for the Special Products are much steeper as compared to the Highly Sensitive Products List.

Table 2. Tariff Reduction Schedule for Schedule for Special Products

Tariff Line	Base Rate	-not later than 1st January -				31.12.2019
		2010	2013	2016	2019	
Crude Palm Oil	80	76	64	52	40	37.5
Refined Palm Oil	90	86	74	62	50	45
Coffee	100	95	80	65	50	45
Black Tea	100	95	80	65	50	45
Pepper	70	68	62	56	51	50

Note :The original table gives rate for all the years between 2010 and 2019

Source : Agreement on Trade in Goods under the Framework Agreement on Comprehensive Economic Cooperation between the Republic of India and the Association of Southeast Asian Nations.

Sensitive Track : For products listed in the AIFTA's sensitive track, base rates will have to be brought down to 5% by December 2016. However, Cambodia, Lao PDR, Myanmar, and Vietnam will be given five more years to adjust.

Normal Track: There are two different sub-categories in the AIFTA's Normal Track, namely Normal Track 1 and Normal Track 2. For products listed in the Normal Track 1, participating countries had to eliminate tariffs until 2013. 64% of all Indian tariff lines in AIFTA have been affected by this. At the same time, the Philippines, Cambodia, Lao PDR, Myanmar, and Vietnam had been granted more time (until 2018) for eliminating their respective tariffs. Under Normal Track 2,countries are obligated to eliminate all remaining tariffs until 2016. Once again, Cambodia, Lao PDR, Myanmar, and Vietnam are excluded from this with more time for adjusting being given to them until 2021. As 10.3% of all Indian tariff lines fall under the Normal Track 2 category, in total, more than 70% of all Indian tariff lines come under the Normal Track, which is also the most severe and far reaching track with regards to tariff reductions.

Many questions arise from the AIFTA's uneven tracks. First of all, why is India agreeing to such steep tariff cuts through highly unequal tracks? One might argue that India's base rates were much higher than those of most ASEAN members. However, within the period of just four years India's average rates charged against imports from ASEAN countries were already lower than the average rates charged against Indian products by ASEAN member states (except those of Brunei and Singapore).

So, is India then offering too much for getting too little in return? The answer must clearly be

yes. And this is especially true when looking at South India, where the adverse impacts of AIFTA on small farmers are particularly visible. South India and South East Asia share very similar tropical agro-climatic conditions. Thus, most farmers in South India use the same crops and grow the same products as those farmers in the South East Asian countries. These tropical products include the cultivation of natural rubber, coconut, tea, coffee, spices, and cashew nuts. Moreover, even fishery is affected as the same varieties of tropical fish (such as shrimp, mackerel and tuna) can be found in India and South East Asia.

Why are some of the key agricultural products of South India (such as cashew nuts for instance) not part of the exclusion list? And why are the five products in the Special Products Track (crude palm oil, refined palm oil, coffee, tea, and pepper) – clearly among South India's key products – not part of the Highly Sensitive Track, where they could have been protected from the tariff reductions? Prior to signing the AIFTA, the government of Kerala had asked the Central government to put 1400 items under the negative list. However, in the end, only 489 items have been included in India's negative list. This means that many important key agricultural products are now open for tariff reduction and elimination under AIFTA.

What is maybe most alarming about AIFTA is the fact that each ASEAN country could put its own range of tariff lines on a negative list, while India agreed for only one consolidated negative list of 489 items. This means that in the end India gave away much more market access than what it received in return.

India ASEAN FTA is a classical example where it can be argued that India did not negotiate well or hard enough to protect its domestic interests and conceded too much to the ASEAN countries. However government may not buy this argument and would maintain that for an agreement of this nature it is essential to ensure mutuality of gains that is the very essence of successful integrative negotiation. Secondly, as against concessions to ASEAN in agriculture and consumer goods, India has positioned itself well to negotiate its crucial stake in services which is the other half of the proposed Comprehensive Economic Cooperation Agreement (CEPA). India has also expected that ASEAN would offer an enlarged market for Indian exporters. But the trade figures does not show much gain for India. India's exports to ASEAN increased from US$ 10.41 billion in 2005-06 to US$ 25.20 billion in 2015-16 but imports over the same period quadrupled from US$ 10.81 billion in 2005-06 to US$ 39.84 billion, which is close to 14% per annum growth in imports during 2005-06 to 2015-16. Concomitantly, India's trade deficit with the ASEAN surged from US$ 0.5 billion in 2005-06 to US$14.64 billion in 2015-16.[24]

[24] *http://www.assocham.org/upload/docs/ASEAN-STUDY.pdf*

AIFTA: Consequences in Agriculture

The negative consequences of tariff reductions through AIFTA soon became visible. In the six years since AIFTA has been enacted now, more than a million rubber farmers have lost their livelihoods due to cheap rubber imports from Vietnam and Indonesia. India was self-sufficient in rubber production until 2013, now it is becoming more and more dependent on imports. Today, prices of rubber are near their lowest, and it became costlier to produce rubber than to import and sell it. The average cost of production is around Rs.160 per kilo, while the selling price is around only Rs. 110 per kilo.[25] The trade deficit in rubber and rubber products with ASEAN has registered a quantum jump from $98.8 million (2004-05 to 2008-09) to $611.6 million (2009-10 to 2013-14), according to a study titled 'ASEAN-India FTA and India's balance of trade in rubber and rubber products: A preliminary assessment', carried out by the Rubber Research Institute of India (RRII).[26]

Between 2013 to 2015 rubber imports almost doubled, from 2.6 lakh metric tonne in 2013 to 4.4 lakh metric tonne at the end of 2015. Exports of rubber are at a record low. In 2015, India exported 1,002 tonne of rubber, against 30,549 tonne in 2013, even as the price of Indian rubber dropped from Rs 207 per kilo to Rs 132.6 per kilo. India slipped to fifth place in global rubber production in 2013, from fourth place in 2012, according to the Association of Natural Rubber Producing Countries.[27]

The same is true for other sectors, such as tea, cashew nuts, and fishing. Although fish in the unprocessed form is part of India's exclusive list, most processed forms of fish fall under the Normal Track category and are, thus, due to severe tariff reductions.

Similarly, under India ASEAN FTA, tea is kept under the Highly Sensitive List (or Special Products) and as per India's schedule of tariff commitments, the import tariff on tea will be reduced from the base rate of 100% to 70% by 2015 and further to 45% by December 2019.

After the implementation of the India–ASEAN FTA, India's exports of garlic, onions, turmeric, wheat and meslin, cane sugar, groundnuts, oilcake/ oilcake meal of soybean, oilcake/oilcake meal of rape/colza seed and millets (sorghum and bajra) to ASEAN have registered an increase. On the other hand, high growth of imports from Indonesia has been noticed for products such as black pepper, refined palm oil, mace, etc. India also imports crude palm oil and cotton from Malaysia; dog and cat food and other fresh fruit from Thailand; cashew kernel

[25] *http://scroll.in/article/801858/cheap-imports-imperil-a-million-rubber-farmers*

[26] *http://www.thehindubusinessline.com/economy/agri-business/aseanindia-fta-hurts-balance-of-trade-in-rubber-says-rrii-study/article8607866.ece*

[27] *http://scroll.in/article/801858/cheap-imports-imperil-a-million-rubber-farmers*

(whole), black pepper, anise seeds and starches from Vietnam; and chickpeas, red beans and kidney beans from Myanmar.[28]

India was the world's leading exporter of black pepper, but starting early 2010, black pepper sector started facing crisis due to decline in production. Strangely it was the year when the ASEAN India FTA was signed. The area under pepper cultivation shrank to 182,000 hectares in 2010 from 218,670 hectares in 2001, according to data released by the International Pepper Community.

In 2011-12, the price of local black pepper was Rs 240 per kilo; but in January 2016, it was Rs 80. Once a pepper-exporting country, India now imports pepper from Sri Lanka and Malaysia. And in 2012-13, export of Indian pepper declined 40% from the previous year.[29]

Moreover, following India ASEAN FTA, coconut farmers in South India witnessed an unprecedented crisis, with procurement prices of coconut hitting an all-time low of Rs. 3 per piece and the primary reason for drop in coconut prices was attributed to the cheap import of coconut oil cakes from Southeast Asian countries like the Philippines and Indonesia.[30]

The edible oil sector has been the most adversely impacted by the India ASEAN FTA. While the palm oil is part of the Special product list, the coconut oil is kept under the exclusion list. Despite that, State Trading Corporation was importing huge quantity of refined Coconut oil (mainly from Thailand, Malaysia, Philippines). According to Coconut Board of India, India imported 4180.91 tons of Coconut oil in 2010-11, which increased to 6191.61 in 2011-12, 6721.74 in 2012-13, 7035.91 in 2013-14, 12811.92 tons in 2014-15. The issue became so worse that in July 2015, the Kerala Agriculture Minister K P Mohanan wrote to the Prime Minister to stop the import of Coconut oil because this would 'destroy' the coconut sector, which is the backbone of the state's economy.[31]

Import of Coconut oil has also its impact on the domestic wholesale price of coconut which saw sharp decline. In first quarter of 2011, the coconut price was Rs. 9333 per quintal (100 kg), which declined to Rs. 6684 in first quarter of 2012 and further to Rs. 6636 in first quarter of 2013. Another reason for decline in coconut oil prices was increasing import of Coconut Oilcake (Solvent and Expeller variety). Its import jumped from 35508 tons in 2010-11 to

---

[28] *State of Indian Agriculture 2015-16; http://eands.dacnet.nic.in/PDF/State_of_Indian_Agriculture,2015-16.pdf*

[29] *http://scroll.in/article/801858/cheap-imports-imperil-a-million-rubber-farmers*

[30] *http://timesofindia.indiatimes.com/business/india-business/Coconut-prices-crash-on-cheap-Southeast-Asia-imports/articleshow/17095075.cms*

[31] *http://economictimes.indiatimes.com/articleshow/47991859.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst*

88290 tons in 2014-15. With the increasing import of cheap Soyabean Oil, Palm oil and Coconut oil, the edible oil sector in India went from complete self-sufficiency to total import dependency.

4) India-Malaysia CECA

The India-Malaysia CECA was signed on 1st July 2010, which came into force on 1st July 2011, and covers trade in goods, services, and investments. Additionally it includes economic cooperation in areas such as infrastructure development, creative industries, tourism, SMEs, business facilitation, science and technology, and human resource development. Compared to AIFTA the India-Malaysia CECA provides for more liberal tariff concessions, including faster time lines and reduced exclusion lists. This further worsened the situation of the edible oil sector in India. Even before, under AIFTA (where palm oil was part of the exclusive list) the edible oil sector had been adversely affected by cheap imports of coconut oil from South East Asia. Now, with the India-Malaysia CECA, import duties for edible oil (including palm oil) from Malaysia were reduced to zero percent. As a consequence, the edible oil market in India was completely flooded by ever more cheap imports of palm oil from Malaysia leading to severe price slumps. "India is being used as a dumping ground for edible oil. Excessive imports have exerted tremendous pressure on local prices and Indian farmers are losing interest in oilseed. This is alarming for the country's food security," said BV Mehta, executive director of the Solvent Extractors' Association.[32]

According to Solvent Extractors' Association, import of all types of Palm oil[33] was 6499 thousand tonnes in 2009-10 (Nov-Oct) which increased to 7669 thousand tonnes in 2011-12 and it jumped to 9537 thousand tonnes in 2014-15.[34]

This was mainly because the custom duty on import of edible oils (crude and refined) has been drastically reduced by the government of India. In April 2007 the import duty on crude Palm oil was 50% and refined Palm oil was 57.5% but within a year on April 1, 2008, the Government of India announced import of crude form of edible oil at zero duty and refined form of edible oil at a duty of 7.5%. Only in January 2013, in order to protect domestic oilseed producers, government increased the duty on crude oil to 2.5% while on refined oil it remained the same at 7.5%, which was later increased to 10% on January 9, 2014. In December 2014, the duty was further increased from 2.5% to 7.5% on crude oil and 10% to 15% on refine edible oils. In India,

---

[32] *http://www.business-standard.com/article/markets/dependence-on-edible-oil-import-might-rise-to-68-115101500064_1.html*

[33] *[which include edible and non-edible oil like Refined Palm oil (RBD Palmolein) + Crude Palm oil (CPO) + Crude Palmolein + Crude palm kernel oil (CPKO)*

[34] *Solvent Extractors' Association report on import of vegetable oil 2010-11 to 2015-16*

the bound rates for crude and refined edible oils are as high as 300%, except for soyabean oil it is 45%, and for rapeseed oil it is 75%. And India can raise the level of customs duty up to 300% on all edible oil (except soyabean and rapeseed).

As result of its trade policy, India has become the largest importer of palm oil, which mainly come from Malaysia and Indonesia. According to Mr Mehta, the Domestic edible oil industry and farming communities are hit by the current upward trend in edible oil imports. Moreover, globally the prices of edible oil are historically low since 2008 and had affected the domestic industry hard. The price difference between the imported and domestically produced palmolein is about Rs. 3,000 a tonne.[35]

The low international price of edible oil impacted the livelihood of oilseeds producers in India and they had to sell their mustard and soyabean well below the Minimum support price (MSP).

5) Japan-India CEPA (JICEPA), India-Korea CEPA (IKCEPA) and India-Singapore CECA (ISCECA)

Besides the agricultural sector, manufacturing was also highly affected by trade agreements India has signed with other countries. Through the import of cheap manufactured goods from Japan and South Korea (as well as from Southeast Asia under AIFTA), the Indian domestic manufacturing sector was put under pressure. Cheap electronic goods were furthermore brought into India under the ISCECA with Singapore, making it difficult for local producers to compete. At the same time, India's exports have stagnated, and the Indian manufacturing sector has failed to take advantage from the FTAs.[36]

That may be the reason, Indian largest and oldest apex business organisation FICCI (Federation of Indian Chambers Commerce and Industry) had demanded for a moratorium on new FTAs. In August 2013, FICCI issued a 12 Point Manufacturing Mandate which says "India today is second in Asia in terms of its engagement in FTAs after Singapore. India currently has a total of 34 FTAs with 13 in effect. While these FTAs are supposed to provide mutually beneficial results, but experience so far has not been very healthy particularly with regard to manufacturing sector. Hence, it calls for review of existing FTAs and till the time assessment is done Government should have a moratorium on further FTAs".[37]

Infact India's Industry groups have time and again cautioned the government on the impact of FTAs on the manufacturing sector. The Secretary General of FICCI Didar Singh in his article in

---

[35] *http://www.thehindubusinessline.com/economy/agri-business/vegoil-imports-up-13-in-nov-as-prices-fall-on-excess-supply/article7987845.ece*

[36] *http://www.business-standard.com/article/economy-policy/too-many-ftas-too-few-benefits-113062200623_1.html*

[37] *http://ficci.in/SEDocument/20256/FINAL-AGENDA-26-AUG.pdf*

Financial Express on 28th August 2014 says that, "FICCI study and perception surveys suggest that considerable negative effects mark India's experience with FTAs. India's imports from major FTA partners surged by a higher margin and, as a result, India's trade deficit with them widened. In relative terms, our FTA partners (such as South Korea and ASEAN) have been able to take more advantage from the trade deals and secure greater access to Indian market. For example, India's exports to South Korea moved up from $3.4 billion to $4.1 billion between pre-CEPA (2007-08 to 2009-10) and post-CEPA (2010-11 to 2012-13) periods. In the same period, Indias imports increased from $7.8 billion to $12.1 billion. Thus, Indias trade deficit widened from $4.4 billion (pre-CEPA) to $8 billion (post-CEPA)". He further cite just product-specific instances, which says "worried over growing imports from Japan and Korea, a number of leading domestic steel makers have suggested import of steel and steel products from these countries be brought under negative list to safeguard the interest of local firms. Similarly, domestic paper industry has pointed out how the huge potential for the sector is being thwarted by the India-Asean FTA. This trade deal has provided the window to the paper industry of select South-East Asian countries to offload their substantial surplus produce in the Indian market".[38]

In a Pre-Budget (2015-16) Memorandum to the Government of India in early 2016, FICCI again raised its concerns against FTAs. It said "Industry feels Free Trade Agreements (FTAs) are having a negative impact on business. FTAs create an 'inverted duty structure' making it cheaper to import a finished product rather than manufacturing or assembling it in India".[39]

More recently, on 6th January 2016, the Indian Industry Chambers once again expressed their concerns against FTAs that India has signed with countries including Japan, Singapore, and South Korea among others. In a meeting with the Commerce and Industry Minister Nirmala Sitharaman on 6th January 2016, they said that these agreements benefited the partner nations more. In this meeting, FICCI suggested a review of existing FTAs before signing of new ones. It said that in many cases, domestic input cost increase is impacting cost of manufacturing but selling price linked to cost of imports leading to erosion of industry's pricing power and squeeze in margins to uneconomic levels.[40]

---

[38] *http://www.financialexpress.com/archive/can-india-afford-to-stay-out-of-ftas/1283090/*

[39] *http://ficci.in/SEdocument/20316/FICCI-PRE-BUDGET-MEMORANDUM-2015-16.pdf*

[40] *http://indianexpress.com/article/business/business-others/india-inc-raises-concerns-over-ftas-imports-with-commin/*

New Trade Agreements under negotiation

Despite all adverse effects of free trade observed in the past, the current Indian government seems extremely eager to push forward trade liberalization by signing new trade agreements. Various FTAs, for instance with the European Union, Canada, Australia, and New Zealand, are being negotiated at the moment. Besides this, a new mega regional trade agreement, the Regional Comprehensive Economic Partnership (RCEP), is under way. Although the EU-India FTA and RCEP are with no doubt the most alarming ones, all these agreements will have significant impacts on farmers' and people's lives not only in India, but also in the entire developing world. The following section gives an overview of these new agreements and the most severe impacts they will have in the future.

A) Regional Comprehensive Economic Partnership (RCEP)

Negotiations of this new mega regional trade agreement have been launched in November 2012 and is expected to be concluded by the end of 2017. Once signed, RCEP will be the world's largest trading bloc, regulating free trade between the ten ASEAN[41] member states (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam) and the six countries with which ASEAN has existing trade agreements (Australia, China, India, Japan, New Zealand, and South Korea). Altogether, these sixteen countries account for almost half of the world's population (45%), almost 30% of global GDP and over a quarter of world exports.[42] RCEP would also be India's biggest FTA and the country may have to offer deeper commitments than already made under its existing FTAs with ASEAN, Malaysia, Singapore, South Korea and Japan.

Tariff Liberalization in RCEP

Newspaper reports indicate that India together with China and South Korea proposed a three-tiered approach on tariff elimination over a period of 10 years. The three tiers are based on whether a country already has an existing FTA with the other RCEP member-country or not. For India, this system would mean:

- In tier 1, to eliminate tariffs on a total of 80% of goods for the ASEAN countries. 65% of it would directly come into force at entry and the remaining 15% would have to be eliminated over a period of 10 years.

[41] *ASEAN (Association of Southeast Asian Nations) is a regional organisation of ten Southeast Asian states: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. It was founded in 1967 between Indonesia, Malaysia, the Philippines, Singapore, and Thailand. The other five members gradually joined, with Cambodia being the last member to join in 1999. ASEAN promotes intergovernmental cooperation and facilitates economic integration amongst its members.*

[42] *Asian Trade Centre: https://static1.squarespace.com/static/5393d501e4b0643446abd228/t/5752a5c53c44d894bc2755cd/1465034186592/Policy+Brief+16-08+What+is+RCEP+2016+ATC.pdf (retrieved 3rd August 2016)*

- In tier 2, a tariff elimination of 65% of traded goods to South Korea and Japan while these two countries would reciprocate with a reduction of 80% of tariff lines over a decade.
- In tier 3, 42.5% reduction in tariff lines for China, New Zealand, and Australia, while these countries would offer India an elimination of 42.5%, 65%, and 80% of tariff lines, respectively.

Throughout the negotiations, ASEAN countries, Japan and Australia have been found to oppose the three-tier structure of tariff liberalization and proposed a single-tier system instead – where all RCEP member countries would receive the same reduction in tariff lines.[43] This would pose a much higher competition threat to Indian products. However, as of September 2016, the potentially more dangerous one-tier system now seems much more likely.

Lack of Transparency, an old story in FTA negotiations

Just as seen in any other FTA negotiation, RCEP negotiations completely lack any amount of transparency. Although RCEP will cover an extensive range of topics, including trade in goods, trade in services, investments, economic and technical co-operation, intellectual property rights, competition and dispute settlements, so far, all 13 rounds of negotiations have been conducted without any public disclosure. Absolutely no consultations with stakeholders, such as farmers' organisations, trade unions, patient groups, and civil society organisations, have been held to assess the impacts RCEP will have on these groups. Leaked documents, however, show how severe the consequences of RCEP will be, ranging from access to medicine, tax policy, investor rights and farmers' access to seeds.

Investor rights: how ISDS will challenge tax justice, environment, health, and safety regulations

RCEP raises major concerns for its Investor-State Dispute Settlement court. A recent research by the "Transnational Institute and Global Justice Now"[44] shows that corporations are regularly using such courts to avoid paying their legitimate taxes. The report highlights that corporations have used the 'investor protection' provisions in different trade deals to sue at least 24 countries in over 40 tax-related disputes. In some instances, they have successfully challenged and lowered their tax bills.[45] Additionally, investors cannot only use these dispute settlements to lower their legitimate taxes, but also to avoid environment protection or workers' health and safety regulations. This means that once signed, RCEP will allow investors to sue the Indian government if they feel deprived of their profits due to such protective laws.

Intellectual Property Rights and access to affordable medicine

Another point that seems alarming is the agreement's Intellectual Property Rights (IPR) section.

---

[43] *http://articles.economictimes.indiatimes.com/2016-06-22/news/73946520_1_asean-countries-regional-comprehensive-economic-partnership-rcep*

[44] *http://www.world-psi.org/en/rcep-threatens-tax-policies-india-and-other-15-countries*

[45] *ibid*

According to a report by Medecins sans Frontieres (MSF) based on leaked documents[46], Japan and South Korea have been pushing for stricter IPRs (TRIPs-plus) throughout the negotiations. If implemented, this would severely restrict access to affordable medicines for millions of people around the world.

RCEP's proposed IPR section includes demands for:

1. Patent Term Extensions (in Article 5.13); and
2. Data Exclusivity (in Article 5.16)

Under WTO's TRIPs, a 20 years protection is granted to pharmaceutical companies if they patent a new medicine. The pharmaceutical company which holds the patent will then have a monopoly for this new drug and can charge high prices. It is argued by drug companies that this is vital to encourage innovation and that it is the only way to ensure further research on new medicines. After 20 years the patent expires, making it possible for other companies to produce cheap generic versions of the original brand drug. India has produced such cheaper generics for decades now, ensuring access to medicines for millions of people in the developing world. South Korea and Japan have proposed that the term of a patent under RCEP should be extended beyond the 20-year period provided by the TRIPS Agreement in order to compensate for delays in obtaining marketing approval for a patented drug. South Korea has further proposed that the patent term be extended if there was a delay in processing a patent application.[47] This will not only maintain pharmaceutical companies' monopolies and enable them to charge artificially high prices for such a long time, but also unnecessarily delay the entry of generics.

Data exclusivity, on the other hand, controls who holds exclusive rights on clinical trial data. According to the leaked text, exclusivity over this data will last for five years. Within this period, producers of generics will be prohibited from registering their drug. Data exclusivity, thus, works as an effective barrier to competition and provides a backdoor to multinational pharmaceutical companies to ensure they continue to have a monopoly even if patents have expired or the drug has been found to be not patent able. It also means that producers of generic medicines in India will additionally have to repeat clinical tests to generate a new set of data, a highly cost and time intensive process that these companies usually cannot afford.

It is important to note that there is absolutely no obligation, from an international or legal perspective, to extend patent terms or grant exclusivity to pharmaceutical test data. Data exclusivity and patent term extensions go far beyond what countries are already obliged to follow under the WTO. The "Doha Declaration on the TRIPS Agreement and Public Health", which was adopted by the WTO Ministerial Conference in Doha on 14th November 2001,

---

[46] *https://www.msfaccess.org/sites/default/files/IP_RCEP_MSF_briefing%20document_June2016-ENG-2016.pdf*

[47] *http://www.twn.my/title2/resurgence/2016/314-315/cover01.htm*

indicated that TRIPs should not prevent states from dealing with public health crises. It therefore granted some flexibility to developing countries (such as compulsory licensing, parallel importation, limits on data protection, use of broad research and other exceptions to patent ability) to enable better access to essential medicines. After Doha, developed nations, in alignment with their large pharma businesses, began to minimize the effect of the declaration by signing trade agreements that involved more stringent IPRs (known as TRIPs-plus).

Agriculture: IPRs and access to seeds, import surges and threat to food security

RCEP will clearly also have adverse effects on the Indian diary and agriculture sector, as tariff cuts for diary and agricultural products will certainly lead to new import surges. For instance, from FTAs that Australia and New Zealand have signed with China, it is evident that the two countries want to gain more market access for their diary and agricultural products. New Zealand's and Australia's agricultural sectors are quite unique for developed countries as they are not heavily subsidised by their governments. However, exports of agricultural products from both countries are nonetheless among the most compatible ones and it will become extremely difficult for Indian farmers to compete once RCEP is signed. This is due to the fact that conditions for Indian farmers compared to those of farmers from New Zealand and Australia are still very unequal. New Zealand, for example, now is the largest diary and sheep meat exporter in the world, and a major exporter of fruits and seafood. Today, New Zealand exports 7,500 animal products and 3,800 dairy products to 100 countries each month. A total of 95% of the country's agricultural production is made for export. Although New Zealand does not give direct subsidies to farmers, investments in agriculture-research and innovation (such as improvement of farm equipment and technology, seed production, education, animal health, and plant genetics) have long been a feature of the sector. In total, the government of New Zealand invests around US$30 million annually into research and development of its agriculture sector, which has led to very high agricultural productivity and profitability with cheap products made for export.[48]

Right now (under WTO rules), as a safeguard measure India can temporarily raise duties on a number of key food items, if import surges are found to be damaging the domestic market. RCEP will erode these protective measures. Future projections predict that this will intensify the agriculture crisis in India, leading to an increase in India's agricultural trade deficit and a fall in agricultural employment in the long run.[49]

Additionally, RCEP will most likely also bring an end of export bans on food (mainly wheat and rice), which India has used strategically in the past to ensure food security.

Besides this, RCEP's IPR section does not only pose a threat to the access to affordable generic

---

[48] *https://www.nzte.govt.nz/en/buy/our-sectors/agribusiness/*

[49] *http://www.ecofair-trade.org/content/ambitious-trade-liberalisation-and-indian-agriculture)*

medicine, but also has the potential to irreparably damage the Indian agriculture sector as farmers' access to and their freedom over their seeds is at risk. In order to protect the interests of agribusiness corporations engaged in crop research & development, another 'TRIPS-plus' provision being proposed in the RCEP negotiations is in respect to the intellectual property protection for plant varieties which demands accession by all RCEP members to the 1991 version of the International Convention for the Protection of New Varieties of Plants (UPOV 1991)[50]. RCEP IP text says "countries must join UPOV 91 and must allow patents on inventions "derived from plants". UPOV-91 provides Dual Protection – First, it grants seed companies exclusive rights to control the production, reproduction, sale, export and import of "their" varieties. Second, it doesn't allow farmers to save patented seeds and instead of protecting rights of farmers, it upholds plant breeder's rights of seed companies. The TRIPS Agreement, in contrast, does not require WTO member states to follow UPOV 1991; they can develop their own sui generis system for protecting plant varieties. India has used this flexibility to enact a sui generis system in the form of Protection of Plant Varieties and Farmers' Rights Act, 2001 that allows farmers to save, exchange, reuse saved seeds, except that it imposes a restriction on sale of packaged seed of protected plant varieties.

'Biopiracy' – the exploitative commercialization of traditional or indigenous forms of knowledge by large businesses and corporations –is another problem, as RCEP, like most FTAs, endorses this practice. Whilst TRIPs-plus provisions extend the monopoly rights of large corporations, they offer no such protection for the vast amounts of knowledge held by farmers and local communities in developing countries. Large businesses in the US and EU have been found to patent resources they have discovered in and taken from developing countries without the prior informed consent of the local communities. To date, patents have been granted on ayahuasca, barbasco, quinoa, and turmeric, all of which were developed through selective breeding by farmers from developing countries. Under these unjust rules, farmers and local communities are made to stand by as their own knowledge and genetic resources are accessed freely, while ownership is conferred on foreign companies through patents.

Manufacturing Sector, not compatible – leading to huge trade deficits

Lastly, RCEP will also pose a threat to the Indian manufacturing sector. Participating countries like China, South Korea and Japan are export powerhouses in terms of manufactured goods. This is especially true for very cheap products from China. In 2015, India's trade deficit with China widened to $51.8 billion. India's exports to China were at $9.6 billion while imports were $61.5 billion. This is despite the fact that India frequently used anti-dumping duties on goods

---

[50] UPOV: The "International Union for the Protection of New Varieties of Plants" is an intergovernmental organization established by the International Convention for the Protection of New Varieties of Plants. The Convention was adopted in Paris in 1961 and revised in 1972, 1978 and 1991. The objective of the Convention is the protection of new varieties of plants by an intellectual property right, in order to encourage the development of new varieties of plants. India has stronger rights for farmers and has not signed the Convention.

from China to protect the domestic industry from low-priced Chinese imports. Once RCEP is operational, India will not be able anymore to use such safeguard measures, leading to import surges and making it impossible for small and medium sized Indian businesses to compete.

B) EU-India FTA: Bilateral Trade and Investment Agreement (BTIA)

Negotiations of the EU-India FTA, also known as the "Bilateral Trade and Investment Agreement" (BTIA) were launched in 2007. Seven rounds of negotiations have been completed (as of September 2016). The FTA aims at deepening trade and investments between India and the members of the EU. Existing FTAs which the European Union has signed in the past have shown that the EU is extremely eager to cover agriculture in its FTAs, to include TRIPS-plus provisions, and to add a strong protection of foreign investment and investors' rights. It is obvious that if India signs this FTA, the consequences for the Indian people, for farmers' livelihoods and for food security will be tremendous.

In trades in goods the EU seeks a reduction in duties especially for automobiles, wines and spirits and an easier access into the Indian diary market. Simultaneously, the EU is in high support of stronger IPRs (under TRIPs-plus) in alignment with its large agribusinesses and its pharmaceutical industry. In trade in services it is expected that the FTA will go far beyond WTO-GATS commitments as the EU wants further liberalization in key services such as the insurance and legal sectors. And since the Indian Parliament in 2015 passed the Insurance Bill, 49% foreign direct investment (FDI) in the insurance sector are allowed. India, on its part, seems to hope for benefits from the FTA with regards to a better access into the European service industry, especially the information technology (IT) sector.

Stricter IPRs (TRIPs-plus) pose threat to agriculture and access to medicine

Similar to the dangers of RCEP, the EU's demands to include TRIPs-plus provisions into the FTA will severely affect not only the livelihoods of farmers, but also pose a threat to biodiversity, traditional knowledge and access to medicine. Just as RCEP, the EU-India FTA demands even longer patent terms (more than 20 years) and wants to include data exclusivity for clinical trial data. If implemented, the production of generic medicines will be complicated, leading to increased prices for medicine {after signing the US-Jordan FTA, medicine prices in Jordan increased by 800%, in Guatemala the differences were 846% under the Central American FTA, (CAFTA)}.

Additionally, to increase the market power and profit margins of its agribusinesses, the EU is furthermore known for requiring in its FTAs the adoption of the so-called UPOV 1991, which favours plant breeders' rights over farmers' rights to seeds by removing the right of farmers to share and exchange seeds. Indian farmers, however, highly rely on these practices for selecting the strongest varieties and continuously improving on production and yields. UPOV 1991 stands in sharp contrast with the Indian "Protection of Plant Varieties and Farmers' Rights Act",

which was implemented in 2001 and ensures that farmers will be treated like commercial breeders and receive the same kind of protection. It combines both, measures to protect new plant varieties developed through research, as well as farmers' freedom and their rights to save, use, share or sell their seeds. India would then have to change its PVP Act to adjust to the demands made by the EU.

The Dangers of Increased Imports vs. Remaining Export Barriers

The EU clearly wants to ease its access into the Indian market for its diary and other agricultural products. For India this will mean an extensive reduction of import barriers (90% of import duties in agriculture will be slashed to 0% within just seven years), leading to an extreme increase in imports of agricultural products from the EU. Agriculture is highly subsidized in the EU [it spends Euro 81.819 billion a year (2011 figure) on farm subsidies][51] and existing FTA's between the EU and developing countries (especially in Africa) have shown how this has adversely affected the livelihoods of domestic farmers in the developing countries, as it becomes very difficult for them to compete with the cheaper EU imports. At the same time, it will remain almost impossible for Indian farmers to export their products into the EU, due to high non-tariff barriers like stringent sanitary and phytosanitary standards (SPS) and strict Rules of Origin (RoO)[52]. Impact assessment studies of the EU-India FTA (such as an EU Parliament-funded study carried out by France-based research organizations CEPII and CIREM in 2007)[53], concluded that India's gain in agricultural exports will hardly increase, given the fact that 29.9% of India's agricultural exports to the EU are already duty free while the rest face low EU tariffs of 2%. The EU, on the other hand, will gain substantially, given the 90% reduction in India's import duties to virtually zero, while leaving the large subsidies that the EU gives to its farmers untouched. In total, the EU's overall exports to India are projected to go up by $17-18 billion while that of India will go up by only $5 billion. The EU-India FTA will, thus, not bring gains in agricultural trade to India in the long run. Additionally, the services and investment chapter of the FTA will make the entry of European agro-processing and retail firms easy thereby impacting how food is produced and sold. In the end, small farmers in India will be pitched against the power of EU agro- and retail firms.

Public/Government Procurement

The EU is also insisting that public procurement, which accounts for about US$156 billion, or around 12-14% of the Indian GDP, is opened up for EU companies. The EU has long been an advocate of the liberalization of government procurement in the WTO; however, developing countries have consistently rejected this. Public procurement is crucial for India's development as it supports under-developed economic regions, and boosts domestic production and

---

[51] *Sharma, Sachin Kumar, The WTO and Food Security: Implications for Developing Countries, Springer Singapore, 2016*

[52] *http://www.ecofair-trade.org/content/ambitious-trade-liberalisation-and-indian-agriculture*

[53] *http://trade.ec.europa.eu/doclib/docs/2007/may/tradoc_134682.pdf*

economic growth. Government procurement is also used to address economic and social inequalities by supporting small and medium sized enterprises, as well as marginalized and disadvantaged groups, such as women. Sectors as diverse as railways, energy, telecommunication, construction and health will be affected. Additionally, while India is being asked to give market access to the EU, the latter's own public procurement – though technically open – is in effect inaccessible to most other countries. Only very small proportions of the EU government procurement market can effectively be accessed by non-EU suppliers. According to one study, even if the EU markets were open to India, India's estimated gain would only be around US$10-12 million.[54]

India's main objective not reachable

Since 2007, the Indian government has consistently argued that India will gain access into the EU's information technology sector through the FTA. From the beginning, it has been exactly this sector that was brought forward as India's main objective in the FTA negotiations. However, as of 2016, the EU identifies India as a so-called "data-non-secure" country (the EU identifies countries as data non-secure when they lack legislation that recognizes privacy as a comprehensive and fundamental right), thus denying any access of Indian IT firms into the EU market. And as long as India does not have privacy protection laws, no access will be granted by the EU to its information technology market. This means that in the end, India will not even make any profits from the FTA in the one sector it has pinned all its hope on.

C) Canada-India CEPA

Negotiations of the Canada-India-CEPA began in November 2010 and involve trade in goods, trade in services, and investments. In trade in goods complete duty eliminations on a large number of products traded between the two countries are being negotiated. This includes forest products, minerals, manufactured goods, fish and agricultural products.

Projections show that once signed, the Canada-India CEPA will severely impact the Indian agricultural sector. Where as the Canadian agricultural market is dominated by large agribusinesses (as of 2008 only 1.6% of the Canadian population works in agriculture) which are in possession of modern technology that enables larger yields and cheaper production, huge parts of the Indian population are small farmers and peasants. Agreements such as the Canada-India CEPA, thus, pose a huge threat on their livelihoods as it will become more difficult to compete with cheap imports from Canada. And once again it will be the pulses and edible oil sectors that will be most adversely affected. Canada produces huge amounts of subsidized (and genetically engineered) canola oil. Since its introduction in Indian market in 2007, its imports reached 56,000 tonnes in 2012[55] and it is aiming to capture a significant

---

[54] *http://www.twn.my/title2/FTAs/info.service/2012/fta.info.233.htm*

[55] *http://www.thehindubusinessline.com/economy/agri-business/canola-oil-imports-on-the-rise/article3981313.ece*

portion of India's huge edible oil import, valued at around $10 billion (approx. Rs. 65,000 crore). Concerning the Indian pulses sector, there are 30% duty tariffs on lentil imports from Canada at the moment. However, estimates project that with the signing and subsequent elimination of import duties, the imports of Canadian lentils to India will increase by 147% within five years.[56] Already in 2015, Canada sourced 40% of India's pulse imports, mainly in red lentils and yellow peas. From $900 million in 2014, Canadian pulse exports to India jumped to $1.5 billion in 2015, marking a 60% increase.[57] Canada is also likely to start the import of fertilizer to India. Together with the imported GMO canola oil seeds, this will lead to a contamination of the Indian agriculture (through GMOs and a general weakening of GM regulations). Additionally, the Canada-India CEPA opens up the mining sector for Canadian firms, a sensitive issue for India due to tribal population in resource rich areas.

Besides liberalization in trade in goods, the agreement further wants to open the service sector and facilitate investment proposals. Canada also wants to get access into India's financial and telecommunication services market.

D) Australia-India CECA (AICECA)

Negotiations of the Australia-India CECA (AICECA) have been launched in July 2007 and are expected to be finished by the end of 2017. This new trade agreement will affect the Indian agriculture, energy, manufacturing, mining and the services sectors. In agriculture, Australia is pushing for tariff reductions in diary, fresh fruit, wheat, meats and wines. Furthermore, Australia is likely to access the public procurement sector, which will pose similar threats to those of the EU's entry into the Indian public procurement sector. On the other hand, India hopes for greater access into the Australian service sector. However, as it is the case with many FTAs between developed and developing countries, due to non-tariff barriers it might still be difficult for India to gain access into this sector. Major concerns around the AICECA furthermore include Australia's demand to include an ISDS based on the model of the ISDS found in TPP.

E) India-Israel PTA

Negotiations of the India-Israel PTA have been launched in 2006. Israel hopes that with the signing of the PTA it will gain easier access into the Indian water technology and biotechnology sectors. India on the other hand seems to be looking forward to Israel's assistance in internal security, including the fight against terrorism.[58]

---

[56] *http://cafta.org/trade-agreements/canada-india-cepa/*

[57] *http://www.southasianpost.com/article/6703-taste-canada-growing-india.html*

[58] *http://www.thehindu.com/business/Industry/indiaisrael-fta-talks-likely-to-be-completed-next-year/article6005957.ece*

Conclusion and Recommendations

Who gains from trade agreements?

The examples given in this booklet show how in recent years trade agreements have become the most common way in pushing forward the free trade regime. With their commitments often going far beyond what is agreed on within the WTO, they have adversely impacted farmers' livelihoods, food security, and access to affordable medicine. This booklet has provided an insight into these threats and has shown how people in India have not made any gains from FTAs. The question arises why the Indian government then seeks to sign such agreements? And more significantly, who – if anyone at all – gains from these agreements?

India has seen an economic boom in recent years and today is among the fastest growing economies in the world. It has the second largest pharmaceutical industry (after China) and a huge small-car market. Additionally, it has the world's second largest group of software developers. Although these large businesses still constitute a minority in India, it seems as if the Indian government, throughout the entire process of negotiations, had only represented their interests, while compromising the livelihoods of the majority of Indian people (such as farmers, workers, fisher folk, tribes, dalits, and women).

Given this fact, one might think that these large businesses made huge gains from the FTAs signed in the past. Quite the contrary is true; despite the liberalization of the Indian economy, there has not been much improvement in the country's growth of exports. The Economic Survey (2010-11) remarked that "while India is becoming an active player in world trade negotiations and shaper of world trade policy, it is still a small player in world trade. While it is trying to gain markets and increase competitiveness in new areas, it is losing markets and competitiveness in some of the traditional areas". It further stated that *"the policy challenge related to FTAs/CECAs should take note of specific concerns of the domestic sector and ensure FTAs do not mushroom. Instead, they should lead to higher trade, particularly higher-net exports from India"*.[59] That FTAs might have adverse effects for developing countries was also found in a study by the United Nations Conference on Trade and Development (UNCTAD). In their Report from 2007 they point out that "the gains for developing countries from improved market access through FTAs are not guaranteed, and may be short-lived, but the loss of policy space is certain" (p 59). Finally, in 2016, the Indian government decided to take a relook at FTAs after the industry had voiced concerns over their benefits for domestic companies.[60] Although this seems to be good

[59] *Indian Ministry of Finance, Economic Survey 2010-11, p.186, Box 7.6*

[60] *http://economictimes.indiatimes.com/news/economy/policy/government-taking-a-relook-at-free-trade-agreements-nirmala-sitharaman/articleshow/54049153.cms*

news, it remains uncertain and doubtful that the Indian government will genuinely re-assess and change its stance towards FTAs in the near future.

What is the alternative?

Governments around the world must refrain from negotiating new FTA's until they throughly review gains and losses from past agreements. Instead of signing away the future of millions of people to multi-national corporations and large businesses, the alternative to free trade and trade agreements must be to:

- **Guarantee food sovereignty** – the right of people to healthy and culturally appropriate food produced by LOCAL FARMERS in ecologically sustainable methods. This stands in total contradiction to the WTO and FTA rules that put the demands of markets and corporations at the heart of food systems and policies. In order to achieve this goal, agricultural tariff lines must be excluded from trade liberalization.
- **Allow flexible IPR legislation** in order to ensure access to medicine and agricultural livelihoods over patent rights. At the same time, the patenting of life forms has to be restricted and traditional knowledge and biodiversity must be protected.
- **Exclude essential public services** such as education, health, water and sanitation as well as government procurement from trade liberalization.
- **End the excessive investor protection** and corporations' right to sue governments for necessary laws that protect their population, health and the environment.
- **Stop the secret negotiations** and overcome the lack of transparency through the participation of all stakeholders in the negotiating process and full disclosure of information to the public.
- **Recognize the special and differential treatment** that developing countries require in order to develop.

For a just future, trade must serve the needs of the people and not the other way around!

How can we reach this?

In the past, developing countries – to some extent – managed to stand together at the WTO for fairer trade rules. Since the enforcement of free trade has shifted from the multilateral WTO to the bilateral signing of trade agreements, this has clearly become even more difficult. So far, developing countries have mostly failed to connect in order to fight together against unfair FTAs. This is in spite of the fact that regional blocs have turned out to enhance the bargaining

power of developing countries in FTA negotiations. MERCOSUR, for instance, has successfully resisted TRIPS-plus demands brought forward by the US in the proposed Free Trade Area of the Americas (FTAA). In the future, new ways to form coalitions against the impositions of unfair bilateral trade agreements have, thus, to be found.

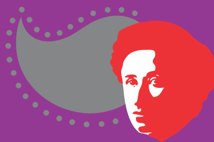
Besides these South-coalitions, people from both developed and developing nations must stand together. In recent years, the protest against FTAs has also started to grow in developed countries. In the EU more than 2000 towns and municipalities have recently declared themselves as FTA-free zones, among them large cities such as Amsterdam, Cologne, Edinburg and Vienna. In addition, today, groups and networks fighting against FTAs can be found in almost all countries. Among them are – just to name a few – the "Indian Forum against FTAs", "La Via Campesina", "Peoples' Global Action", "Social Movement for Alternative Asia" (SMAA), "EU ASEAN FTA Campaign" and "Our World Is Not For Sale" (OWINFS). Additionally, some NGOs that traditionally engaged with other topics, such as "Medicines sans frontiers", have taken up the issue of FTAs and began to address their dangers. Often these movements are still quite isolated. Civil society organizations (such as NGOs, workers' unions, and farmers' associations) from both developed and developing countries must therefore connect in their fight against FTAs. Their campaigns and protests must make it clear to their respective governments that the people in their countries do not agree to the current free trade agenda.

FOCUS ON THE GLOBAL SOUTH

Focus on the Global South

Focus on the Global South is a policy research organisation based in Asia (Thailand, Philippines and India). Focus provides support to social movements and communities in India and the Global South by providing research and analysis on the political economy of globalisation and on the key institutions underlying this process. Focus' goals are the dismantling of oppressive economic and political structures and institutions, the creation of liberating structures and institutions, demilitarization, and the promotion of peace.

ROSA LUXEMBURG STIFTUNG SOUTH ASIA



Rosa Luxemburg Stiftung (RLS)

The Rosa Luxemburg Stiftung (RLS) is a Germany-based foundation working in South Asia as in other parts of the world on the subjects of critical social analysis and civic education. It promotes a sovereign, socialist, secular and democratic social order, and aims to present alternative approaches to society and decision-makers. Research organisations, groups for self-emancipation and social activists are supported in their initiatives to develop models which have the potential to deliver greater social and economic justice.