

India's Over 130 Civil Society Organizations and Activists Express Deep Concern at Lack of Transparency in Trade Agreement with EU and Others

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Global Research, June 21, 2023

Region: [Asia](#), [Europe](#)

Theme: [Global Economy](#), [Poverty & Social Inequality](#)

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Trade and investment agreements with various important countries or groups of countries can have far-reaching impacts on the country's farmers, workers and entrepreneurs (including women farmers, workers and entrepreneurs), on the economy and environment. Hence it is important that these agreements should be negotiated, concluded or dropped in conditions of transparency and inclusiveness so that the voices of various impacted parties can at least be heard adequately before any final decisions are taken or agreements are reached.

This is particularly true when developing countries, or countries of the Global South, are involved in negotiations with some of the richest and developed countries of the Global North, as it is widely recognized that trade and investment rules have been frequently rigged in favor of the Global North and against the Global South, emphasizing the need for caution.

India has been recently passing through such an important phase of trade and investment negotiations with some of its most important trading partners like the European Union and the USA. Unfortunately this phase has not been marked with the expected and anticipated levels of transparency and openness which are not just desirable but even essential for ensuring that any adverse impacts in the context of crucial concerns and vulnerable sections of population can be avoided.

This has recently led over 130 civil society organizations and activists to write an open letter to the government regarding the urgent need for transparency and inclusiveness relating to trade and investment negotiations. The signatories to this open letter include Annie Raja of

the National Federation of Indian Women, Prafulla Samantara and Meera Sanghmitra of the National Alliance for People's Movements, Medha Patkar of Save the Narmada Movement, Madhu Bhaduri (former ambassador to Portugal), Shailesh Gandhi (former Central Information Commissioner) Nikhil Dey (MKSS or Organization of Empowerment of Workers and Peasants), Devaki Jain (feminist economist) and Jawhar Sircar (Member of Parliament).

This letter starts by expressing deep concern and anguish at the “lack of transparency and non-inclusive consultation processes adopted by the Union Government in the negotiations with several countries such as the United Kingdom, United States of America, Canada, Israel and the European Union for entering into free trade, comprehensive economic partnership or investment related agreements.”

This letter notes that at a time when the European Commission (EC) is holding consultations and dialogues with civil society stakeholders in the EU member-states on the social impact assessment (SIA) of the proposed free trade agreement (FTA) with India “we in India, are expected to be satisfied with an [occasional tweet](#) on the progress of the negotiations and [brief press notes](#) from the Commerce Ministry about the visit of high-level delegations. The rare statements made by the Commerce Minister or the Foreign Minister are aimed at captains of business and industry and the foreign media. The millions of farmers, workers, artisans, fisherfolk, small businesses, gig workers, home-based workers and others who will be affected by these FTAs are completely invisible in these communications.”

This open letter adds that in addition to its failure to proactively engage and share information with different stakeholders, the Union Government is also rejecting formal requests for even basic details about such matters. Providing an example, this statement informs that an application submitted under the *Right to Information Act, 2005* (RTI Act) seeking information about the agenda and the minutes of ministerial meetings with visiting EU delegations, representations received from business and trade representatives seeking to influence India's position in the trade talks has been rejected by the Commerce Ministry on grounds of national security and trade secrets.

Pointing out the contrasting positions with respect to transparency, this letter says, “The Union Government's rejection of even formal requests for information flies in the face of the mandate of the RTI Act for meaningful transparency in governance and stands in sharp contrast to the EC's openness vis-a-vis its own stakeholders. [Substantive reports of the four rounds of negotiations](#) completed and the textual proposals submitted to the Government of India are all available on the website of the European Commission, for any person anywhere on the planet to access free of charge. What the EU is proposing for inclusion in the FTA on [more than 20 topics](#) such as trade in goods, services and investment, government procurement, intellectual property, sustainable food systems, small and medium-sized enterprises, digital trade, capital movements and state-owned enterprises are all publicly available on this website. The EU has even presented a textual proposal for both voluntary publication of information and responding to formal enquiries from persons about matters covered by the FTA. Unfortunately, there is no official intimation on this side of the Mediterranean about India's response to the EU's proposals or its own textual proposals about these matters. Maintaining opacity about India's position on matters of immense public interest and importance can unfortunately give rise to serious suspicion as to whether the Government is being nose-led in the course of these talks.”

Drawing attention to an even more serious issue, this letter says,

“Of particular concern to us is also the absence of an obligation on the Union Government to consult with Parliament on FTA-related matters. The Constitutional scheme of division of powers grants the Union Government a monopoly over matters relating to bilateral and multi-lateral treaties, including FTAs. Parliamentary approval *post facto* is also not mandated by the Constitution because the power of ratification also vests with the Executive i.e., the Union Government. However, the FTAs could result in the amendment or even scrapping of several Central legislations that are firmly in the domain of Parliament. Parliament must therefore deliberate on the implications of the proposed legislative changes for the lives, livelihoods and well-being of all citizens, particularly the most vulnerable groups.”

Further this statement draws attention to yet another very significant shortcoming in the existing processes relating to these negotiations, “The Commerce Ministry’s reply to one of the RTI queries states that it is holding consultations only with Industry Associations and relevant Ministries and Departments. This does not inspire much confidence. It is a matter of grave concern that State governments have not been consulted, despite the fact that FTAs cover subjects under the State List and the Concurrent List. The Union Government has also not opened up the consultation process to farmers’ associations, labour unions, environmental rights and human rights groups, consumer associations and many others who are legitimate and critically important stakeholders.

“This non-consultative and exclusionary process signals a disregard for the questions of human rights, social justice and environmental impacts that wider stakeholder involvement would put on the table. We are concerned that ignoring these concerns at this stage will also undermine or short-circuit mandatory processes of environmental and social impact assessment.”

This open letter has demanded that the Government of India immediately take the following steps.

- “1. Give wide publicity and provide open access to proposals submitted to the EU by Government of India, as well as the responses to the textual proposals tabled by the EU which are publicly available.
2. Give wide publicity and public access to the textual proposals received and responses submitted to other trading partners with whom FTA talks are going
3. Create forums and platforms for public stakeholders and experts including civil society, academia and media representatives to submit their views on ongoing FTA negotiations with the EU and other
4. Ensure effective public participation in the negotiations by providing timely and comprehensive information on the status and details of the negotiations and holding dialogues and consultations with public stakeholders in India at each stage so that the negotiations are informed by the views and aspirations of all.”

Here it may be noted that this statement has come on top of other reported recent serious shortcoming in the implementation of RTI. India was at one time considered a leader in

terms of the effectiveness of its RTI law but this has suffered badly in recent times.

One hopes that the government does respond to this as well as several previous pleas for ensuring proper implementation of RTI law as well as for ensuring wider transparency in governance systems and public interest matters in keeping with the spirit of the RTI law.

The writer is a former Convener of the National Campaign for People's Right to Information and has written several books and pamphlets on Right to Information.

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