



# The Ideal **UK-INDIA FTA**

The landing ground for a  
truly monumental agreement

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## Key recommendations

1. There is a clear landing zone for a comprehensive FTA between the UK and India which would be enormously significant as both the EU and US have tried and failed to reach such a deal. This will require, at the very least:
  - The UK making liberalising offers on Mode 4 services and student visas.
  - The UK complying with the evidence-based SPS rules of the WTO.
  - India opening up legal, financial and educational services and lowering taxes/tariffs especially for UK scotch whisky.
  - India agreeing a comprehensive investment protection chapter including IP protection.
2. The combination of the UK-India deal and accession to the CPTPP would be transformative, strongly complementary and should be key UK and Indian goals.
3. The agreement must include a market access component in order to accelerate supply-chain reorientation and also to achieve key geopolitical objectives with respect to China
4. The agreement should take a negative-list approach to liberalizing trade in services.
5. The agreement should accelerate the “Network of Liberty” - a commitment to competition on the merits and property rights protection as key pillars that lead to economic growth and poverty alleviation.
6. ‘Early harvest’ or immediate actions such as customs and trade facilitations should be taken, including the development of digital trade corridors, a support service for small businesses and mutual recognition of Professional Qualifications.
7. To be considered a comprehensive agreement, the FTA must liberalise key areas
  - Tariff free Goods and Services
  - Agriculture (SPS, TBTs)
  - Digital trade
  - Investment

## Executive Summary

A genuinely comprehensive UK-India Free Trade Agreement (FTA) would signal a monumental sea-change in the liberalization of global trade. It promises to be the first such agreement between India and an OECD country which would liberalize key areas such as agricultural trade, intellectual property (IP) as well as legal, financial and educational services.

India’s youthful population and diversified economy would, at last, be set on the path to deeper international integration, higher levels of foreign direct investment (FDI) and reduced internal market distortions and inefficiencies. The impact on poverty alleviation would be enormous. A comprehensive agreement would be a major coup for the UK’s new independent trade strategy, striking a deal where the US and EU could not and boosting trade by at least £28bn a year. An agreement, as our authors demonstrate, has significant potential to achieve key geopolitical objectives, including ‘friend-shoring’ key supply chains from the control of China and reducing related market distortions.

**However**, there remain key roadblocks in the negotiation process which threaten to neuter the liberalizing force of the agreement. For instance, if the UK does not give ground on Mode 4 Services and student visas, it will be difficult for India to give ground on legal and financial services. In this paper, our authors spell out the necessary compromises both sides will need to make to unlock talks and realize the fantastic potential of this agreement.

**Lord Hannan of Kingsclere**  
*President of IFT*

PART 1

# THE IMPORTANCE AND IMPACT OF A UK-INDIA FTA

## I. Introduction

Over the years, especially in the past two decades, India and the UK have formed a strong and multi-dimensional strategic partnership. The UK started re-positioning the stand on bilateral trade relations after Brexit. With the liberalization, privatization, and globalization reforms in India in the early 1990s, the country moved on to a high growth trajectory which positively resulted in the two countries taking initiatives to expand their bilateral ties. In order to advance trade and investment relations, the two countries formally launched negotiations in January 2022 for a free trade agreement between them.

India, one of the fastest growing economies in the world, (now the fifth largest in the world) and the United Kingdom, now the sixth largest in terms of nominal GDP, have a multi-dimensional strategic partnership and are actively engaged in bilateral trade relations with each other. With a perspective of progressing trade and investment relations between the two countries, formal negotiations for the signing of a free trade agreement were announced in January 2022. Rather, the fifth round of talks has been recently concluded in July 2022, on the India-UK Free Trade Agreement. The bilateral negotiations for the proposed Free Trade Agreement are targeted to be concluded by the end of October 2022. The proposed FTA between India and UK is expected to act as a catalyst in boosting bilateral trade through a robust institutional framework for overall trade and investment flow. As a matter of fact, the two countries have been discussing a trade pact since 2003 which was shelved in 2013.

The joint summit in New Delhi in April 2022 had Indian Prime Minister Narendra Modi and his UK counterpart, Boris Johnson deliberating on a comprehensive and balanced free trade agreement that could double bilateral trade and investment levels between the two countries to USD 100 billion by 2030. The trade deal is anticipated to boost UK's total trade and increase wages by GBP 28 billion a year by 2035 and GBP 3 billion respectively. However, it is important to note that attempts to measure the impact of trade agreements which have not yet been negotiated are notoriously weak and have frequently underestimated the actual benefits of the agreement (see the International Trade Commission report on the impact of the Trans Pacific Partnership on the US economy when the US was a party to the agreement highlighting that the tariff reduction benefits could be modelled but the impact of reducing regulatory barriers, and behind the border restrictions was very difficult to measure – see <https://www.usitc.gov/publications/332/pub4607.pdf>).

The focus of the FTA negotiations has been to reduce tariffs, non-tariff trade barriers, and to generally ensure an enabling environment for companies to engage more successfully in trade between the two countries. The Confederation of Indian Industry (CII) and its UK counterpart, the Confederation of British Industry (CBI) have jointly constituted the UK-India Business Commission, an industry task force to focus on increasing cross-industry collaboration. The purpose of the Joint Commission is to be able to keenly contribute to discussions on trade-offs and breakdown barriers to market access. Due to its higher dependence on

international trade, the UK relative to India is a significantly larger player in the global trade in products and services. This makes it all the more important for the UK to have greater market access in countries across the world. While, initially, to grab the low-hanging benefits, there were talks of an early harvest agreement between the two countries. The parties have set out an ambitious goal of reaching an agreement by the end of October.

## II. UK-India trade relations

India's top five trading partners in 2021-22 in terms of exports were countries such as the United States of America, United Arab Emirates, China, Bangladesh, Netherlands while in terms of imports, the country primarily imported from China, United Arab Emirates, United States of America, Saudi Arabia and Iraq. With the UK and Indian Prime Ministers announcing their intent to negotiate a comprehensive Free Trade Agreement, it becomes important to analyse the existing bilateral trade relations between the two countries.

The two-way trade between the two countries stands at \$50 billion, comprising approximately \$35 billion in terms of services and \$15 billion in terms of merchandise trade. The UK in terms of export destination for India is the seventh largest export destination while India is UK's twelfth largest trading partner, accounting for 1.9% of UK total trade ie 1.7% of UK merchandise trade and 2.3% of UK services trade in four quarters to the end of 2022.

The total UK market share in India was 1.7% in 2020 for both merchandise trade and services ie. 1.1% for goods only and 3.3% for services only in 2020. The total trade in goods and services (exports plus imports) between the UK and India witnessed an increase of 35.2% at the end of Q1 2022, from the four quarters to the end of Q1 2021.

India's total exports provided employment support to 58.2 million persons in 2018 (12.2% of total India employment) while, exports to the UK provided employment opportunities to around 2,381,800 jobs in India. On the other hand, overall UK exports provided employment to 6.8 million persons in 2018 (20.9% of total UK employment).

## III. UK's willingness to lead a new era of trade liberalization post-Brexit

As the UK has moved outside the EU, it is inevitable that supply chains will reorient. Many of those supply chains depended on the EU's high protective tariff wall, especially in agriculture. This presents an opportunity for other producers and supply chains to benefit from a more open UK.

The FTA between the UK and India is a reflection of the UK's new strategy on trade policy post Brexit. This will involve placing the UK at the forefront of global liberalization efforts.

The FTA should be looked at in that context and not in isolation. This will be the first new FTA the UK has done with a non-OECD member – the other concluded new FTAs are with Australia, New Zealand, and Japan (technically a roll-over deal but with extensive additional provisions in the area of data and provision of data services). Developing countries have consistently criticized developed countries for their approach to agriculture in trade negotiations so this FTA is an opportunity for the UK to be more open on agricultural trade. There are some encouraging signs that the UK may be willing to be at least more open than the EU (admittedly a low base). The first Trade and Agriculture Commission (TAC1) advised the UK government to embrace a tariff and quota free agricultural policy, albeit with a recommendation that anti-competitive market distortions should be dealt with using a tariffication mechanism, and some long transition periods. A potentially damaging dual tariff proposal (a higher tariff for goods that supposedly do not satisfy UK standards, and a lower tariff for the goods that supposedly do) was firmly rejected. (See [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/969045/Trade-and-Agriculture-Commission-final-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/969045/Trade-and-Agriculture-Commission-final-report.pdf)).

- **UK's moves for FTA with Japan, New Zealand, Australia**

#### Key features that incorporate new economic thinking based on removal of ACMDs

One of the most difficult areas of trade policy now is the network of behind the border barriers that impact global trade and domestic economies. These market distortions are problematic when they distort competition. Singham, Rangan and Abbott have christened these Anti-Competitive Market Distortions (ACMDs).<sup>1</sup> They are pernicious because they lower productive and allocative efficiency, leading to wealth destroyed out of the economy. All economies have some level of ACMDs, and modern FTAs attempt to deal with these. ACMDs operate in two principle ways – first, they can be used by governments to lower costs of their companies for trade advantage or to deliberately avoid internationally agreed commitments in order to secure trade advantage. Second, they can be used to block the import of foreign goods and services. In the former case, the way to deal with the problem is to enable a tariffication of proven ACMDs that cause damage to an affected firm. In the latter case, disciplines on reducing distortions should be introduced. These should be included in areas like state owned enterprises, other public bodies and in particular on government distortions that damage the overall competitive marketplace. Increasingly the US and UK are turning to

1 For an extensive treatment of ACMDs, see the following references from early work in 1999 through 2020. See, for example, Shanker A. Singham, *Market Access and Market Contestability: Is the Difference purely semantics?* 25 Brook. J. Int'l L. 337 (1999); Shanker A. Singham, *Advancing the Competition and Trade Policy Agenda: Public Sector Restraints on Trade in the Free Trade Area of the Americas*, Int'l Antitrust Bulletin (2001); Shanker A. Singham and D. Daniel Sokol, *Public Sector Restraints: Behind the Border Trade Barriers*, 39 Tex. Int'l L. J. 625 (2004).ff; Singham and Sokol, *Public Sector Restraints: Behind the Border Trade Barriers*, Texas International Law Journal, Vol. 39, 625 (2004); Alden F. Abbott and Shanker A. Singham, *Enhancing Welfare by Attacking Anticompetitive Market Distortions*, Revue 4 Concurrences (2011); Shanker A. Singham, Robert Bradley, and U. Srinivasa Rangan, *The Effect of Anticompetitive Market Distortions (ACMDs) on Global Markets*, Concurrences (2014)ff; Shanker A. Singham, U. Srinivasa Rangan, Robert Bradley, and A. Molly Kiniry, *Anti-Competitive Market Distortions and their Impact: A Case Study of India*, Legatum Institute (2016); See, also, Shanker A. Singham and A. Molly Kiniry, *An Introduction to Anti-Competitive Market Distortions*, Legatum Institute,(2016); *An Agent Based model of Trade; Market Distortions and Output*, Cebr (2019), <https://img1.wsimg.com/blobby/go/bf4d316c-4c0b-4e87-8edb-350f819ee031/downloads/Cebr%20Market%20Distortions%20Trade%20Report.pdf?ver=1603533215968>

these mechanisms to deal with the real pressure on these issues emanating from countries like China, Russia and elsewhere. Singham and Rangan have also looked at the impact of ACMDs specifically in the Indian market with an inventory of Indian restrictions for the Legatum Institute (2016).<sup>2</sup>

- **UK's move for FTA with India to bolster its position vis-à-vis China reducing UK's dependence on China**

As geopolitics and great power rivalry returns, many countries are looking to either reshore, or 'friendshore' their supply chains from China. A decoupling with Russia has already occurred as a result of Putin's war in the Ukraine. The Trump administration talked about decoupling with China, but in reality the costs of decoupling at this difficult time in the global economy would be too severe. Instead, a robust approach to Chinese distortions, while maintaining some sort of trade relationship will be important. In that context, many of the components of global supply chains currently sourced in China could instead be sourced in India if India increased its manufacturing which would help it achieve its overall export target.

## IV. India's Need and Opportunity to be part of a new era of trade liberalization

There is an opportunity for India to lower its overall level of market distortions in order to improve its economy, inject dynamism and lift people out of poverty. There has been relatively little progress on domestic distortions in India, other than as set out in Eastern Promise (Singham, IEA, 2021).<sup>3</sup> In Eastern Promise, Singham also sets out the scope for a potential free trade agreement with India.

The Indian Competition Commission could engage more meaningfully in competition advocacy to deliver reform.

Like many countries, India's efforts at reform which could help it negotiate trade deals with other countries have been hampered by vested interest elites and protectionist interests. We have seen this most recently in the attempt to deliver much needed agricultural reform which was opposed strenuously by India's farmers.

Furthermore, China's ACMDs have a profound effect on both the economies of the UK and India. China can displace some of the products that India could sell into the UK because its network of ACMDs can artificially reduce the cost of Chinese products. In the UK, this creates problems for UK producers who face the unfair competition of products whose costs have

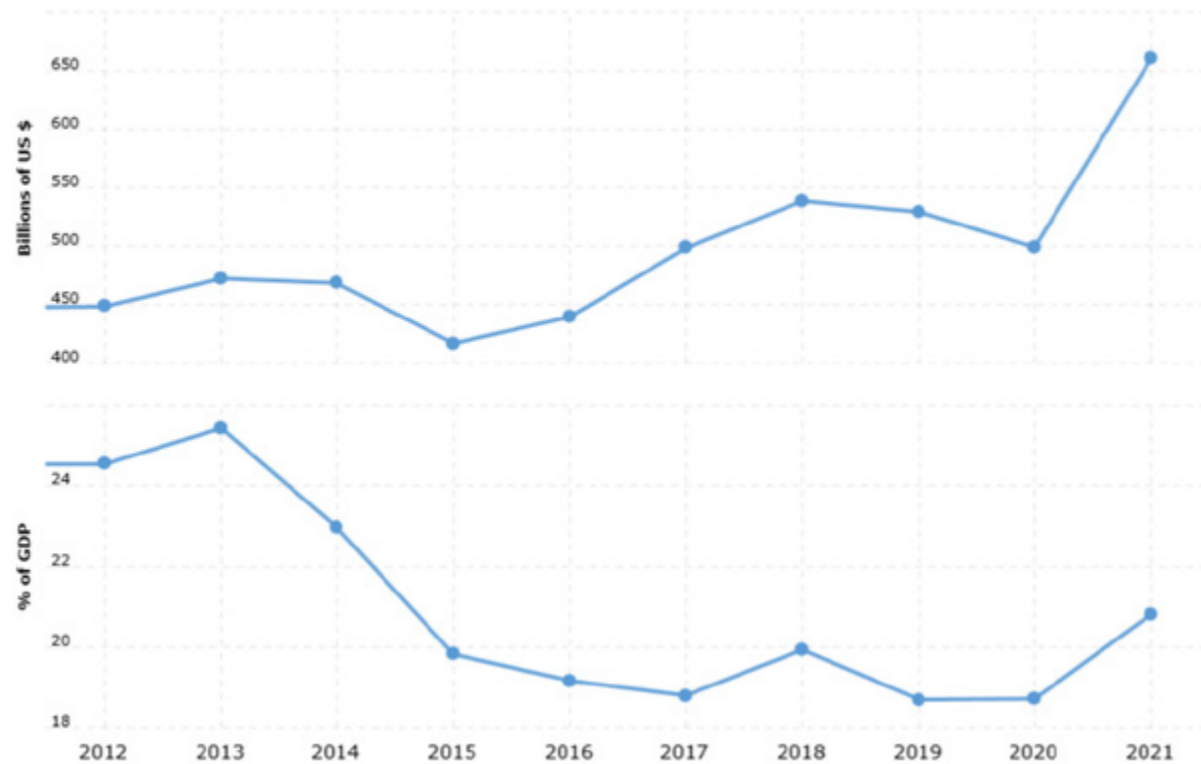
2 Shanker A. Singham, U. Srinivasa Rangan, Robert Bradley, and A. Molly Kiniry, *Anti-Competitive Market Distortions and their Impact: A Case Study of India*, Legatum Institute (2016); See, also, Shanker A. Singham and A. Molly Kiniry, *An Introduction to Anti-Competitive Market Distortions*, Legatum Institute,(2016).

3 <https://iea.org.uk/publications/eastern-promise-assessing-the-future-of-uk-india-trade/>

been reduced by government distortion. It is therefore in the interests of both the UK and India to work together to develop a mechanism to deal with these distortions. This will help India's global reputation in international trade policy circles as seeking to defend as opposed to having a liberalizing offensive agenda.

India's export growth has not been as strong as it might have been, partly because of internal distortions as discussed extensively elsewhere in this paper but also because of competition from China in basic products such as toys.

### India Exports Macrotrends 2012-2022



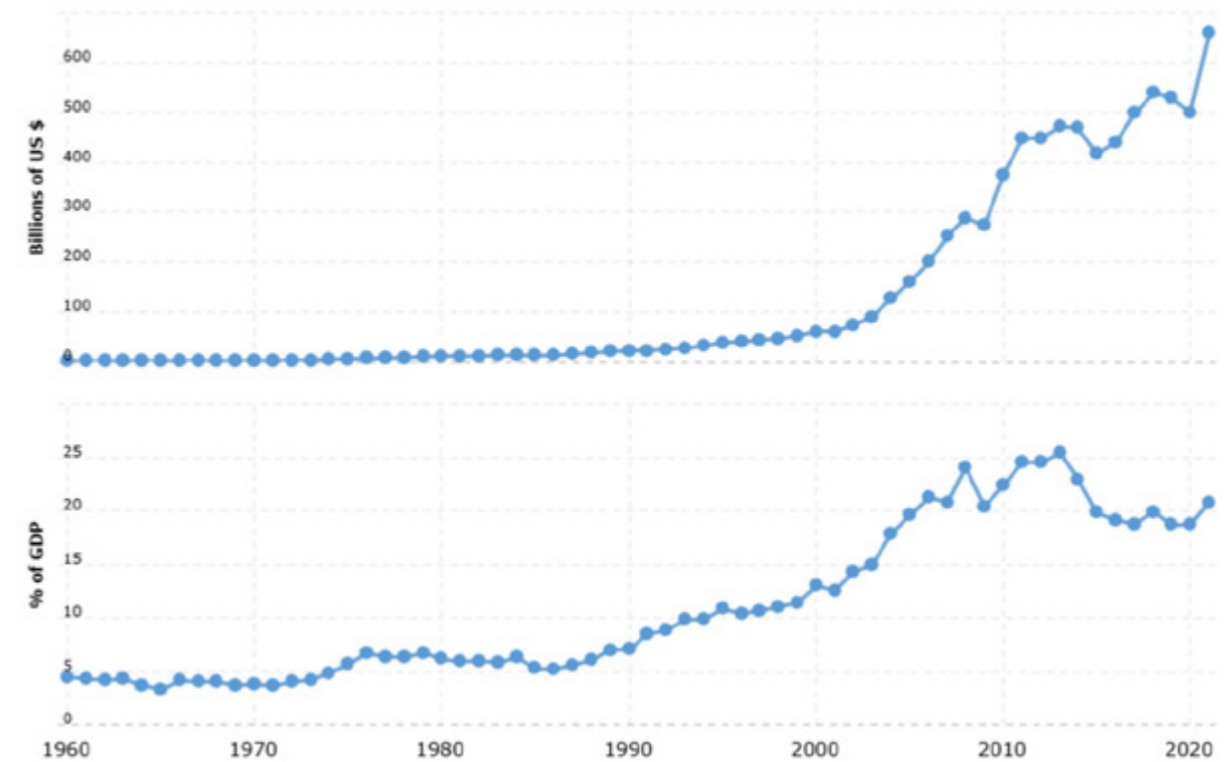
Source: <https://www.macrotrends.net/countries/IND/india/exports>

Although India's exports have been rising, its exports as a percentage of GDP have not been rising.<sup>4</sup> When a longer view is taken, it can be seen that India's relative level of integration with the world economy has been stagnating for the last decade.

This comparative isolationism puts India on a different trajectory to Asian peers such as China and Indonesia, and far apart from the export-led Asian success story typified across the same time period by South Korea.

<sup>4</sup> Exports growth as a percentage of GDP is a good measure for a developing country like India which had been a closed, highly protectionist economy for a long time and which has been trying to integrate into the world economy by opening up through efforts such as the free trade agreement currently under negotiation.

### India Exports Macrotrends 2012-2022



Source: <https://www.macrotrends.net/countries/IND/india/exports>

India's future trade policy should focus on three critical areas

- Exploit India's comparative advantage and add to new competitive advantages
- Reduce (ideally remove) ACMDs in domestic market that lower India's ability to benefit from trade liberalization
- Augment India's security needs by reducing its dependence on China

## V. Geopolitical Impact of UK-India FTA

International trade policy is a part of a country's foreign policy, and particularly at this time, there is a geopolitical significance to the UK-India FTA for both parties. Both the UK and US have announced important pivots to the Indo Pacific. While the focus of both has been the Asia Pacific, the inclusion of India is a significant step. India is also a member of the "Quad" which includes the US, Japan and Australia for security cooperation in the Indo Pacific. While not expressly saying so, many of these initiatives (including the recently agreed AUKUS agreement between Australia, the UK and US) are focused on containing the negative commercial, trade and security impact of China on the global market. In this context, a comprehensive FTA between the UK and India would be a major achievement of much greater significance

than to the two countries themselves. Both the US and EU have been trying (in the latter case for two decades) to negotiate a trade deal with India. Only Australia, of the major OECD countries has so far succeeded in negotiating an FTA with India, but this FTA does not include a chapter on agriculture which is a significant gap in any FTA and is arguably a violation of GATT Article XXIV's requirement that FTAs are permissible only if they cover substantially all trade and are more trade creating than trade diverting. It is crucial therefore that any UK-India FTA includes agriculture and has substantial coverage.

## **VI. Cooperation between the UK and India in the Regional and Multilateral Trade Policy Arena**

It is of great importance to the UK that the FTA facilitates greater cooperation between the UK and India in regional and global fora. For example securing greater opportunities to cooperate to ensure greater global liberalization will be very important to the UK. India has developed a global reputation in the WTO of being a vigorous blocker of some WTO reform and liberalization, while at the same time being vocal about the application of SPS rules that damage its economic interests (India has recently joined a statement by some 31 countries concerned about EU SPS measures). This has been particularly true in the area of intellectual property, and the discussions in the WTO about a waiver of the TRIPS obligations which is strongly resisted by the UK government.

India has an opportunity to be a leader among developing countries in the WTO in a more positive and liberalizing manner, and will need to do so in order to demonstrate that it is in fact part of the developing network of liberty countries – countries committed to market competition principles as opposed to state led capitalism such as China, Russia and others.





**PART 2**

**THE LANDING  
GROUND FOR A  
LIBERALIZING  
COMPROMISE**

## VII. Status of the UK-India FTA negotiation

The negotiators are working towards the lowering of non-tariff barriers, particularly technical barriers to trade (TBT) revolving around rules of origin (ROO), investor protection, intellectual property rights and streamlining of governance and standards. The target is to have zero rates on 90% of tariff lines.

Two MOUs between the two countries addressing joint recognition of educational qualifications with the inclusion of maritime education, however excluding professional degrees such as engineering, medical, etc, and an outline agreement on the healthcare workforce have already been signed. Also, both UK and India have set up committees to deliberate on a totalisation agreement being advocated by New Delhi and the allowing of Indian legal services for the UK.

Much of the progress thus far has been in the less contested areas of the negotiation, leaving substantive issues such as visas, IP protection, market access and agricultural regulation without ostensible progress. Agreement on these issues will be reached (if ever) at the end of the negotiation since they are the most challenging demands and will naturally be used to secure concessions from the other party.

## VIII. Focal points for concluding the UK-India FTA

Our Analysis of trade structures of the two countries in Part 3 of this paper exhibits the complementarity in the composition of trade between the two countries. The comparative advantage for India lies in sectors such as:

- Agriculture;
- Textile; and
- Clothing, i.e. labour-intensive sectors.

The UK's comparative advantage is bent primarily towards:

- Non-agricultural technology and capital-intensive sectors.

On the flip side, in sectors such as [i] Precious stones; [ii] Metals; [iii] Pharmaceutical products etc. in which both countries have competing interests, the FTA will need to find a mutually agreeable solution for both parties.

- It is also important to bear in mind that, as Indian exports are more diversified in nature, i.e. ranging from labour-intensive to high-value optical and medical products, negotiations may also consider high-value manufacturing and services sectors which are emerging as export sectors in India.

- With exports from the UK facing high tariff barriers, Indian exports are also being confronted with non-tariff measures in the UK.
- On the services front, India has considerable interest in services such as 'telecom, computer and information services and 'other business services.

The UK interest areas are:

- Cultural and recreational services;
- Financial services; other business services;
- Insurance and pension services; and
- Use of intellectual property.

Thus the two countries could aim for gaining a foothold and maximising the scope for bilateral cooperation in these sectors. Also, the UK could potentially be a major services market for India, especially in the IT-IteS services sector.

In terms of FDI flow, the UK is the sixth largest FDI investor in total FDI inflow into India. Of the highest five Indian sectors which received FDI, four are manufacturing sectors including food processing. Thus, challenges faced by global investors while entering India should be addressed.

## IX. Analysis of Key Trade Irritants

### • India

The key trade barriers on the Indian side, about which its trading partners have complained include the following:

1. Customs and Trade Facilitation. India could improve its customs processes and allow more use of trade simplifications to expedite international trade flows. India has imposed a 10% surcharge on imports as well as 1% levy. Both of these negatively impact exports into India. The "Make in India" campaign has meant an increase in tariffs for certain products (such as labour-intensive products, as well as electronics and communications devices). Historically India has very high tariff rates compared to OECD countries. A long term historic problem has been the difference between India's bound rate and its actual applied tariff. India's applied tariff is considerably lower than its bound rate still, and this creates uncertainty since India can increase its tariffs (as it has done as noted above) while remaining under its bindings. India's trading partners have generally sought to lower its bindings in the WTO. Trading partners have also complained about India's customs valuation criteria.

2. Intellectual property rights – UK IP rights based firms such as the pharmaceutical industry have long complained about India’s weak IP protection. While the patent situation in India has improved, there are other areas where improvements need to be made – in particular its protection of the confidentiality of data and the potential for patent term extension in the event that the patent grant is delayed.
3. Tax – The UK has long complained about the scotch whisky high applied tax rate which includes both duty and tax. The UK should acknowledge the progress that India has made on taxation, particularly with regard to the introduction of the GST. This considerably simplified India’s tax system. However, exemptions do remain and these should be eliminated (especially in dairy, and certain agricultural products).
4. Non-Tariff barriers for goods. There are still a number of non tariff barriers which affect the import of goods. India still requires some products to be imported by state trading firms (such as pharmaceuticals and products which are subject to TRQs). A large number of products still require import licenses (livestock and chemicals for example). Import requirements for boric acid for example make it difficult to trade unless you know exactly who the ultimate purchaser will be.
5. Use of price caps. Certain medical devices are deemed to be essential medicines under the National List of Essential Medicines which makes them subject to price cap provisions. These medical devices must also be regulated as medicines, providing an additional layer of bureaucracy to their sale.
6. The import of ethanol for fuel use is currently banned in India (check?).
7. There are complex registration requirements for cosmetic products. Cosmetics companies who do not test their products on animals have complained that proving this in India is difficult and the processes are not transparent.
8. SPS controls in India do not rely sufficiently on a risk based approach and represent significant barriers to trade.
9. There are significant labelling requirements on food (for children regarding fat content etc for sweeteners). The UK also has similar rules on foods, but this is part of an anti-obesity campaign which the new administration in the UK is more wary about. Agreeing a set of labelling requirements which satisfy the minimum requirements in terms of anti-obesity, but are not so restrictive that they damage international trade flows could be an early win for the two countries.
10. India has limitations on livestock genetic imports.
11. Significant restrictions to dairy imports across the board (religious reasons), and also in the case of poultry and plants.
12. Restrictions on GM products/licensing system.
13. Testing regime for high tech/communications equipment is unduly burdensome.
14. ‘Buy India’ programme requires high local content in certain designated areas such as communications and clean energy, creating a trade barrier for UK firms.
15. Requirement for Indian local offices or designated local agent for foreign satellite programmers
16. TRA’s regulations on content aggregation and distribution don’t allow bundling of channels (which is the normal way that foreign content tends to be sold).
17. Foreign ownership limitations in AV/media sectors.
18. Limitations remain on the provision of higher education services, despite a commitment in the National Education Policy (NEP) in 2020.
19. Limitations on banking services in particular in respect of distortions created by the state-owned banking system, and also limitations on foreign investment in Indian banks (five per cent limitation beyond which RBI approval is needed).
20. Direction of travel on insurance has improved but there remain some restrictions in reinsurance particularly the requirement that Indian reinsurers have a mandatory first order of preference (right of first refusal) for reinsurance business, limiting the business operations of reinsurers.
21. Electronic payments services are still heavily skewed towards Indian SOE, National Payments Corporation of India (NPCI), and a 30% market share limit.
22. Continued restrictions in legal services, accounting services, and architectural services.
23. There are significant barriers to digital trade and electronic commerce – specifically data localization rules. The requirement for the use of Indian servers is another barrier. It is worth pointing out that all the UK’s FTAs in the post Brexit period have included restrictions on this type of localization.
24. As part of its Make In India campaign, India has a series of export subsidies to raise its share of world exports from 2 to 3.5%. The Indian textiles sector in particular is a major beneficiary of export subsidy programmes.

**25.** India also maintains a range of agricultural subsidies, which include debt waivers, credit subsidies, crop insurance, input subsidies at central and local government levels. It also includes market support prices in a number of sectors. All of these are distortive and impact competition as well as the ability of foreign suppliers to reach the Indian market.

#### • UK Trade Irritants

- 1.** India will want to see movement from the UK on Mode 4 services, to increase the ability of business people to manage UK subsidiaries of Indian firms through temporary business visas.
- 2.** India will want to see more student visas – there are approximately 1/6<sup>th</sup> of the number of Indian students studying at UK universities, compared with Chinese students.
- 3.** India will want to see UK barriers in the SPS area removed. Part of this will be a requirement that the UK at least comply with the WTO SPS agreement, but the Indian exporters are also concerned about the way in which SPS controls and physical checks are applied to Indian products. In particular they will wish to see a move by the UK from a hazard based to a risk-based system for regulatory checks. India is particularly adversely affected in the treatment of tropical fruits and basmati rice.

## X. Key Chapters in the UK-India FTA

We have listed above some of the most prominent trade irritants between India and the UK. We believe there is the possibility of a significant deal to be done between the UK and India if both are able to move in key ways. For the UK, it will need to move on the granting of mode 4 services temporary business visas to allow Indian business people to more easily work in the UK. It will also have to move on increasing the number of Indian student visas. At the moment there are approximately 20,000 Indian students in UK universities, but 120,000 Chinese students. There is concern in the UK about the rise of Confucius Institutes and rebalancing these student numbers is a priority. India will also need the UK to comply with WTO rules in the SPS area so its tropical fruits and rice do not face bans in the UK (or overly burdensome controls and checks). India will need to give on its restrictions on legal services and some financial services market access, the scotch whisky tax and tariff and convince the UK government that it is serious about the protection of intellectual property rights especially in the pharmaceutical sector.

If the parties are able to overcome domestic objections to do this, then there is a reasonable chance of a successful and rapid conclusion to the negotiations.

The following will be the key chapters in the FTA.

#### • Market Access

The key barriers where India will seek reductions from the UK include agriculture, textiles and clothing. It will be important that the UK's commitment to ultimate tariff and quota free trade enshrined in the Australia and New Zealand FTAs is replicated. As we have noted, the first Trade and Agriculture Commission report referred to in this document recommended this as overall UK trade policy which is an important recommendation as the TAC was set up to advise the Secretary of State for International Trade, and included many farmers and key members of all the NFU's devolved nation representatives. The group unanimously agreed a commitment to tariff free, quota free agricultural trade provided that there was a mechanism to deal with ACMDs as noted elsewhere in this document. There was some discussion in the past of a dual tariff in agriculture where products that satisfied a particular standard would attract one tariff and products that did not would attract a higher tariff. We would strenuously argue against this approach as it will create an incentive for hidden protectionism. If products do not satisfy UK requirements, provided those are based on sound science as per the WTO SPS Agreement, then they would be banned, and products that do satisfy these should have no tariff or quota (although a short transition period while tariffs are reduced is acceptable though not desirable).

The UK will seek tariff reductions in a number of sectors (and will want to ensure that the current difference between applied and bound rates and the business uncertainty that comes with it is eliminated by locking lower tariffs into the FTA). Tariffs are especially high in agriculture and the UK will seek significant reductions, probably paid for by UK SPS commitments.

#### • SPS Chapter

It is important that the SPS chapter builds on the WTO agreement. India will certainly require the UK to comply with WTO SPS requirements as a minimum. Any additional WTO+ SPS provisions will be welcome. In particular, any product bans should be based on sound science, and equivalence should be agreed where possible. Both countries' SPS controls should also be risk and not hazard based. Unlike the Australia and NZ FTAs, we would recommend that the chapter be backed by full dispute resolution which is normally the case in FTAs.

#### • TBT Chapter

It is also important that the TBT chapter is also WTO+. There are a number of technical barriers to trade which are listed above, removal of which would contribute significantly to trade flows.

#### • Services

We recommend a negative list approach in services where all services are on the table for liberalization unless a party specifically wants a sector to be exempted from discipline. In particular sectors where the UK will want to see further and deeper liberalization include legal services, financial services and educational services. These cover liberalization across

all modes of services but especially mode 3 where the ability to establish local offices of law firms in particular is a priority. Mode 4 services (free movement of natural persons) will also be a priority. As noted elsewhere, India will want to see liberalization in this area, and an increase in the availability of temporary business visas. In exchange, the UK will want to see India comply with its commitments regarding the return of illegal immigrants into the UK, something where compliance has been very weak. A strong “Returns Agreement” will be needed if UK Home Office concerns about any mode 4 services commitments can be resolved.

### • Government Procurement

Government procurement in both countries represents a significant amount of business. Giving each other access to government procurement markets will boost trade and investment. At present only the UK is a signatory to the WTO’s plurilateral agreement on government procurement. It will therefore be important to the UK that India at least makes commitments consistent with those in the GPA.

### • Investment

There have been recent concerns about the protection of investment in India (see Singham, Eastern Promise, IEA (2021)). The UK will certainly want a robust investment protection chapter backed by full dispute settlement, especially since an investor state dispute settlement mechanism, while desirable, is unlikely.

### • Intellectual Property

As noted elsewhere, protection of intellectual property rights is a key UK ask, on behalf of its considerable IP based industry, especially in the case of pharmaceuticals. The UK industry will be anxious to see not only strong patent protection requirements but also rules to ensure the protection of confidential information disclosed in the patent process. The UK is also concerned as noted above about India’s stance on intellectual property issues in the WTO, including related to waivers of the TRIPS agreement.

### • Competition, SOEs and Market Distortions

The UK and India could adopt a common position with respect to dealing with the challenging problem of China market distortions, but could do so in a way that does not lead to the “decoupling” from China that certain US policymakers such as former USTR Ambassador Robert Lighthizer have talked about. Singham has drafted such a chapter (see <https://img1.wsimg.com/blobby/go/bf4d316c-4c0b-4e87-8edb-350f819ee031/downloads/A%20Sample%20Competition%20and%20Distortions%20FTA%20Chapt.pdf?ver=1663351354423>). It has also been included in a sample UK-US FTA produced by a group of think tanks in the US and UK (see [https://ifretrade.org/publication/an\\_ideal\\_us\\_uk\\_fta](https://ifretrade.org/publication/an_ideal_us_uk_fta)).

## XI. Policy suggestions and early harvest

There are some ‘early harvest’ activities that could substantially increase the flow of trade between India and the UK. These could be put in place before the agreement is finalized and ratified. We suggest the following:

### • Digital Trade Corridor

India already has the beginnings of a Single Trade Window, and the UK is committed to developing one. A digital trade corridor between India and the UK could be tested for particular products of significance to both sides. The UK is piloting similar projects with its Ecosystem of Trust initiative. These corridors could also test a range of customs and trade facilitations. This digital trade corridor could include mutual recognition of trusted trader schemes to accelerate trade.

### • Mutual Recognition of Professional Qualifications

The UK and India could agree to mutual recognition of professional qualifications especially for service providers.

Professional bodies in law, accounting, education, architecture and other business services should be encouraged to agree to mutual recognition of professional qualifications where possible. These agreements can be powerful spurs to international trade, and demonstrate momentum for an agreement.

### • Mutual Recognition for Goods

A significant amount of trade is facilitated by mutual recognition agreements for goods. The UK and India could accelerate attempts to mutually recognize each other’s regulatory systems, starting with recognition of testing, market surveillance but including the ambitious goal where possible for the mutual recognition of underlying regulatory systems.

### • Trader Support Service

Businessmen involved in trade often confront hassles in fulfilling trade commitments mainly at the institutional level. Broadly, these issues are related to:

- Clearance at various departments of the government;
- Tariff and non-tariff barriers: Often in terms of interpretation at the level of individual officials;

- Loading and unloading of goods especially, at ports resulting in heavy demurrage charges;
- Infrastructural support;
- Delay in clearance of tax incentives, refund of duties such as GST, and access to easy resource support.

To resolve all issues related to bilateral trade especially, the ones faced by the businessmen, it is suggested to set up a **Trader Support Service** to provide assistance for smaller traders.

### • **Import Payment through domestic Currency**

Both countries could explore the possibility of facilitating import payments by the respective countries in terms of domestic. This will help in boosting bilateral trade. Besides, it may also enable trade balance to the advantage of both the trade partners.

### • **UK-India Knowledge Parks**

UK universities are well-known in India for their quality and have been attracting Indian students from time immemorial. If few of the well-established UK universities are encouraged to set up campuses in India even students from poorer backgrounds may get access to quality education. During the FTA negotiation issue of setting up the Knowledge Parks in India exclusively for the UK-origin universities may be taken up. This idea would build on increasing liberalisation in Mode 3 for educational services.

Similarly, Indian educational establishments may be encouraged to set up campuses in the UK to propagate disciplines such as Philosophy, Ayurveda, and Yoga.

### • **The UK-India Financial Services Hub**

Many UK-origin commercial banks operate in India servicing their clientele either in the UK or some other parts of the world. The manpower used for the purpose is mostly Indian software engineers or financial experts. The same is the practice of consultancy or merchant bankers. Such collaborative services can be strengthened by promoting exclusive hubs along the lines of the London Financial hub.

### • **Zero-tolerance of Financial Frauds**

As per the international convention broadly agreed by the comity of nations “a crime would be dealt with in a country where the same is committed irrespective of the origin of the person”. This norm should be upheld in the right spirit especially, in the case of financial fraud relating to international trade. The UK and India should cooperate with each other.

## XII. Institutional Mechanism

The FTA should have the following institutional mechanism –

- A series of joint committees associated with each of the FTA chapters
- A dispute settlement mechanism consisting of a three person panel of arbitrators where each country picks one arbitrator and there is a separate slate of Chairmen of the panel in keeping with best practice for FTAs.



**PART 3**

# MACROECONOMIC ANALYSIS OF TRADE PATTERNS

### XIII. Bilateral merchandise trade

Data for the last seven years i.e. 2015 onwards exhibits that merchandise exports to the UK from India constitute approximately 2.5% - 3.5% of total Indian exports and is the seventh largest export destination for India. Merchandise imports from the UK to India are in the range of 1.0 -1.5% of total Indian imports into the country. UK exports to India and total UK imports from India saw an increase of 21.3% and 43.9% respectively at the end of Q12021 as against Q12020. The trade balance maintained by India with the UK has largely been a surplus and has witnessed an increasing trend over the years.

Merchandise exports to the UK from the Indian subcontinent primarily comprise:

- Readymade garments ie cotton including accessories;
- Telecom instruments;
- Electric machinery, iron, and steel;
- Drug formulations and medicinal and pharmaceutical products;
- Textile fabrics and handmade fiber;
- Gold;
- Leather footwear;
- Petroleum products.

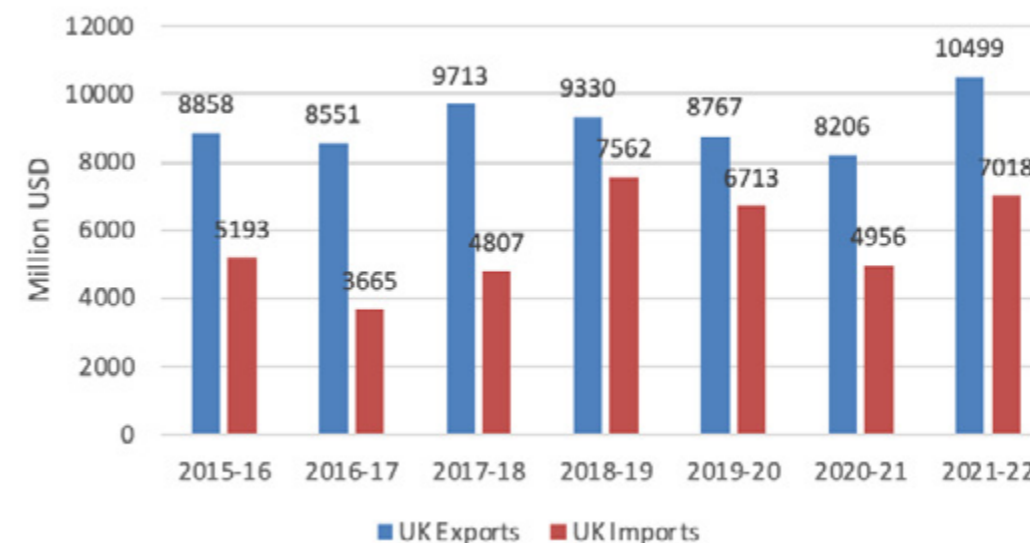
Merchandise imported into India from the UK constitutes:

- Silver and other precious base metals;
- Aluminium products;
- Copper & copper products;
- Paper & paper board;
- Electric machinery;
- Alcoholic beverages;
- Iron and steel.

The top five merchandise goods exported from India to the UK during the quarter April-June 2022 were: Refined oil (9.7%), clothing (9.6%), medicinal & pharmaceutical products (5.6%), miscellaneous metal manufactures (5.1%) and textile fabrics (5.0%)

The top five merchandise goods imported into India from the UK during the quarter April-June 2022 were: Non-ferrous metals (22%), metal ores and scrap (11.3%), mechanical power generators (9.3%), crude oil (4.5%), and general industrial machinery (4.2%).

#### Merchandise trade India-UK (in million USD)



Source: <https://commerce.gov.in/trade-statistics/latest-trade-figures/>

#### Overall merchandise trade India (in million USD)

	Exports	Imports	Indian Exports to UK	Imports from UK to India	Indian exports to UK as % of total exports from India	Imports from UK as % of total imports into India
2015-16	262291	381008	8858	5193	3.38	1.36
2016-17	275852	384357	8551	3665	3.10	0.95
2017-18	303526	465581	9713	4807	3.20	1.03
2018-19	330078	514078	9330	7562	2.83	1.47
2019-20	313361	474709	8767	6713	2.80	1.41
2020-21	291808	394436	8206	4956	2.81	1.26
2021-22	422004	613052	10499	7018	2.49	1.14

Source: <https://commerce.gov.in/trade-statistics/latest-trade-figures/>

### XIV. Bilateral trade in services

The top three services exported from India to UK comprised of:

- Technical, trade-related and other business services
- Professional and management consulting services; and
- Travel.



In terms of top five UK services imported from India during the four quarters ending June 2022:

- Business services (74.7%);
- Telecommunications, computer and information services (11.7%);
- Transportation (4.5%);
- Travel (4.2%); and
- Financial (1.4%).

In terms of the top five services exported by the UK to India during the four quarters ending June 2022 were:

- Business services (39.5%);
- Travel (23.3%);
- Transportation (13.0%);
- Telecommunications, Computer and information services (5.9%); and
- Intellectual property (4.8%).

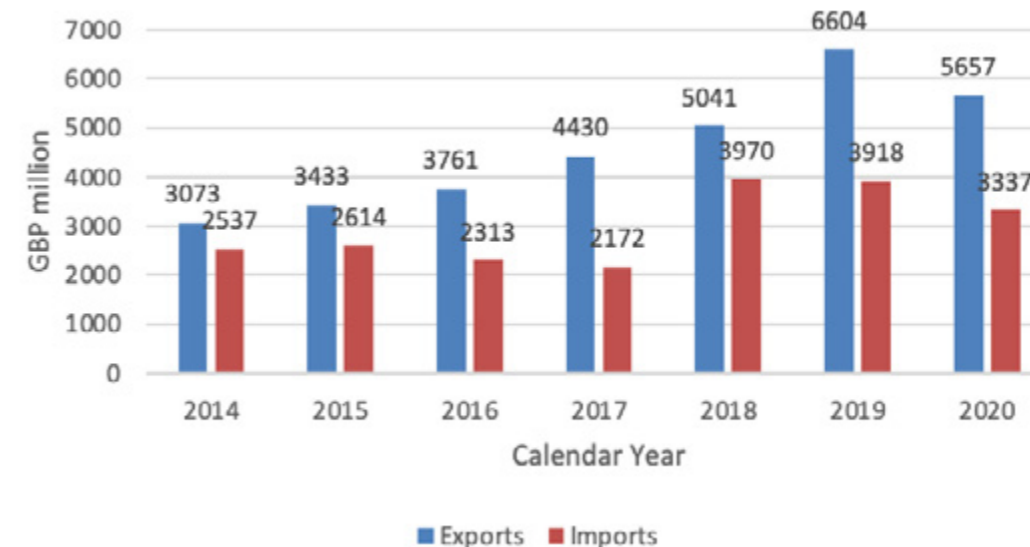
The UK is the largest European source of remittances into India and the sixth largest FDI source. In 2020, FDI flow from the UK into India accounted for 0.9% of the total UK outward FDI stock, while FDI inflow from India into the UK accounted for 0.6% of the total UK inward FDI stock.

### Trade in services between nations (India and UK)

Exports	Exports	Imports
2014	3073	2537
2015	3433	2614
2016	3761	2313
2017	4430	2172
2018	5041	3970
2019	6604	3918
2020	5657	3337

Source: <https://commerce.gov.in/trade-statistics/latest-trade-figures/>

### Trade in services between nations (India and UK)



Source: <https://commerce.gov.in/trade-statistics/latest-trade-figures/>

## XV. Analysis of UK-China and India-China relationships

### • Major products traded between UK and China

China, being the second largest economy in 2021 in terms of GDP, is the UK's third largest trading partner and accounts for 6.9% of the total UK trade as of four quarters ending June 2022. Bilateral trade between the two countries grew from \$300 million to approx.. \$100 billion and two-way investment stock is around \$50 billion. The FDI flow from UK to China accounted for 0.8% of total UK outward FDI whilst, FDI inflow from China to UK accounted for 0.2% of total inward FDI.

Of the total UK exports to China, 69.3% was in terms of merchandise trade and 30.7% comprised of services (as of four quarters ending June 2021), while, of total UK imports from China, 96.2% were merchandise trade and 3.8% were serviced.

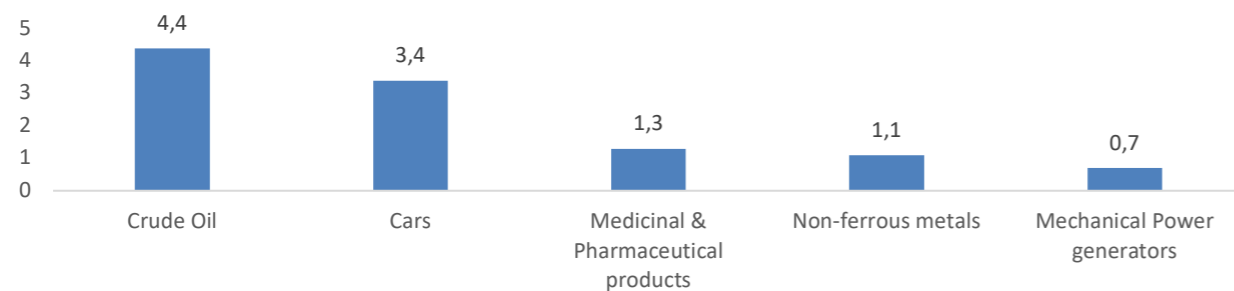
The top five goods exported from the UK to China as of four quarters ending June 2022 are:

- Crude oil (23.5% of all UK goods exported to China);
- Cars (18.2%);
- Medicinal and pharmaceutical products (7%);
- Non-ferrous metals (5.9%); and
- Mechanical power generators (3.9%).

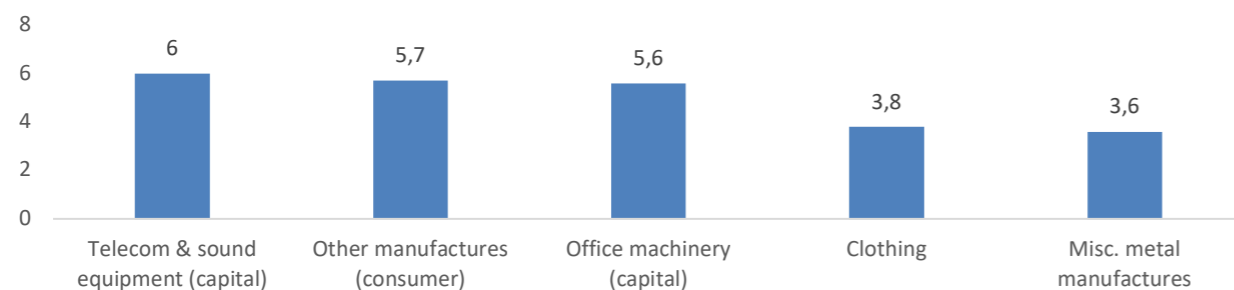
On the other hand, the top five goods imported from China to the UK as of the four quarters ending June 2022 are:

- Telecom and sound equipment (9.4% of all goods imported from China);
- Other manufactures (consumer) (8.8%);
- Office machinery (8.7%);
- Clothing (5.9%); and
- Miscellaneous metal manufactures (5.5%).

### Top 5 UK goods exports to China (pound billion)



### Top 5 UK goods imports from China (pound billion)



Source: ONS, May 2022

In terms of services as of the four quarters ending June 2022, services exported from UK to China are:

- Travel (36.1% of all UK services exported to China);
- Transportation (17.5%);
- Other business services (15.7%);
- Financial (11.1%); and
- Intellectual property (10%).

On the other hand, top five services imported to UK from China are:

- Other Business Services (44.2% of all UK services imported from China);
- Financial (16.3%);
- Insurance and Pension (13.1%);
- Transportation (7.7%); and
- Travel (6.3%).

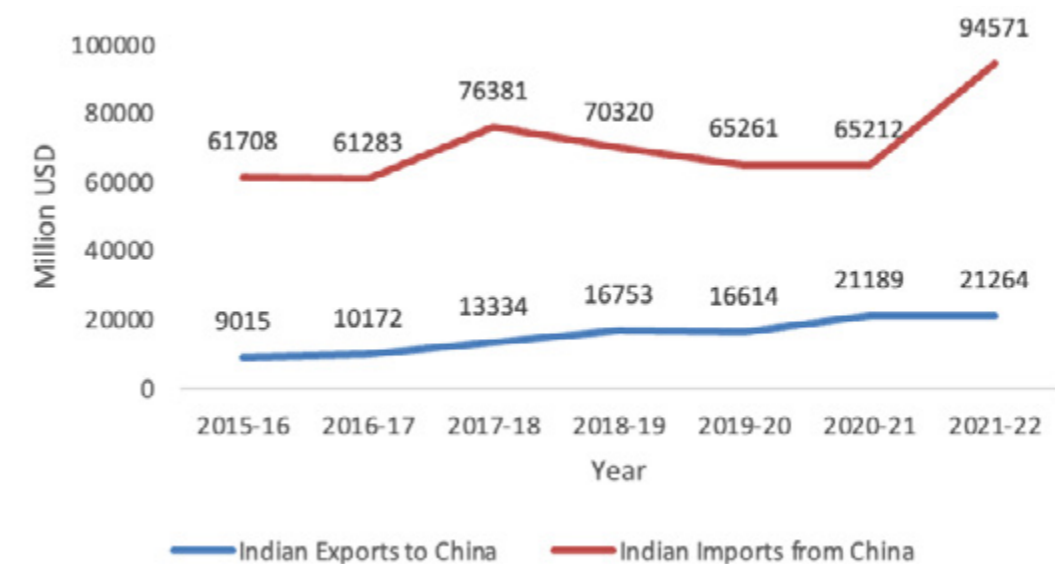
### Major products traded between India and China

With China being the third largest trading partner of India in terms of exports and the first largest trading partner in terms of imports in 2021-22, India had a trade deficit of USD 73.3 billion with the trading country. However, the latest reports from the Ministry of Commerce and Industry show that the US has become India's largest trading partner, exceeding China with bilateral trade between US and India reaching USD 119.42 billion.

Year	Indian Exports to China	Indian Imports from China	Indian exports to China as % of total exports from India	Indian imports from China as % of total imports into India
2015-16	9015	61708	3.44	16.20
2016-17	10172	61283	3.69	15.94
2017-18	13334	76381	4.39	16.41
2018-19	16753	70320	5.08	13.68
2019-20	16614	65261	5.30	13.75
2020-21	21189	65212	7.26	16.53
2021-22	21264	94571	5.04	15.43

Source: <https://dashboard.commerce.gov.in/commercedashboard.aspx>

### India-China trade



Source: <https://dashboard.commerce.gov.in/commercedashboard.aspx>

Merchandise exports to China from India primarily comprises:

- Iron ore;
- Petroleum products;
- Organic chemicals;
- Iron and steel;
- Aluminium and products made of aluminium;
- Copper and products made of copper;
- Marine products;
- Spices;
- Cotton yarn; and
- Castor oil.

On the other hand, goods imported from China constitute of:

- Electronic components;
- Computer hardware;
- Telecom instruments;
- Organic chemicals;
- Industrial machinery for dairy;
- Residual chemical and allied products;
- Electronic instruments;
- Bulk drugs and drug intermediates;
- Consumer electronic, electric machinery and equipment.

There are certainly opportunities for using the FTA to decrease both the UK and India's reliance on Chinese production and thus provide supply chain resilience in the event of geopolitical headwinds in the relationship between China and the Indo-Pacific region

## PART 4

**CONCLUDING  
REMARKS**

We believe there is ample scope for a comprehensive and deeply liberalizing trade agreement between the UK and India. This will require both parties to display flexibility on critical issues. Such an FTA, provided it is sufficiently liberalizing and comprehensive would be a marque global event in the trade policy world, as it will represent the first such agreement between a major OECD member and India (the Australia-India FTA does not include agriculture and while it is welcome, it does not represent the type of liberalizing agreement that the UK and India could negotiate).

Such an agreement would also have a powerful geo-political impact beyond its narrow commercial significance, and would align India more specifically within the developing group of what the incoming UK Prime Minister has called a “Network of Liberty.”







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