Perils of the US-India free trade agreement for Indian farmers

by GRAIN | May 2020

On 24 February 2020, Donald Trump made a two-day presidential visit to India where he was expected to sign a bilateral free trade deal with Narendra Modi. A statement issued from that meeting said that the two leaders agreed to soon conclude a “phase one” trade agreement, if possible before the end of the year.[1] This would be followed later on by a comprehensive trade agreement.

The announcement of the proposed deal was a shock for millions of small-scale Indian food producers and informal traders because they stand to be directly affected. While there is no discussion or consultation on the proposal, nor has a text been made available to the public or discussed on the floor of the Indian Parliament, it is clear that India’s agricultural sector will be targeted. Both countries are important trade partners for each other. Regarding trade in goods, India is the 9th largest partner for the US, while the US is the 2nd largest partner for India. Their bilateral trade in goods is worth US$87.9 billion per year while their bilateral trade in services is worth US$54.8 billion.

Yet the politics of trade relations between the two countries have been marred by deep disagreements over the past years on issues like agricultural subsidies, intellectual property rights, dairy and most recently over tariffs and market access. Much of this has been fought out at the World Trade Organisation (WTO). But US corporate interests, like the dairy companies, continue to pressure Washington, filing petitions to the office of United States Trade Representative (USTR) against India for failure to provide "equitable and reasonable access to its market".[2] Now the Trump administration wants to go direct and made a deal with Modi. Considering the trade agreements Trump has signed over last three years with South Korea, China, Canada and Mexico, it’s clear that a US-India deal will be bad news for India’s farm sector.

Modi and Trump at Hyderabad House in Delhi, 25 February 2020; Credit : PIB

US FTAs under Trump

While on the campaign trail, Donald Trump was very critical of trade deals signed by his predecessors, claiming they were no good for American workers, a trick to get elected. When he assumed office, he started re-negotiating several of those deals, withdrew from one (the Transpacific Partnership) and threatened to quit the WTO. Within just a few years he managed to seal a partial trade deal with Japan, upgrade the US-South Korea FTA, renegotiate the North American Free Trade Agreement (now the US-Mexico-Canada Agreement or USMCA) and start negotiations for new FTAs with China, India, the European Union (EU) and post-Brexit United Kingdom. He even set out to negotiate the first ever comprehensive FTA with a sub-Saharan Africa country, Kenya. All of these processes are meant to further the cause of Trump's "America First" rhetoric. With the exception of the USMCA and the Kenya deal, all of these FTAs are partial in scope, covering only a few sectors or rules.

After Trump's visit to India, a comprehensive FTA is almost certain, with no timeline confirmed. Meanwhile both countries will now try to secure a mini deal or phase one deal, similar to the US-China process.[3] Mini trade deals are something of a trend for Trump. They are quick to finalise and do not need Congressional approval. While they may prove easier to sign, they are raising concerns among some US lawmakers because they leave significant issues unresolved and clash with WTO rules which require members that do bilateral or regional FTAs to ensure they cover "substantially all trade" to prevent countries from unfairly discriminating against one another.[4]

What farmers can expect

Agriculture in the US, which is heavily controlled by large agribusiness corporations, is highly dependent on exports.[5] However, despite numerous attempts, the US has never managed to get India to open it markets to US farm goods.

In 2010, the then USTR Ron Kirk, responding to a question in the US Senate, said, "We are exceptionally frustrated. I will tell you it's generally not our practice to comment publicly as to whether we are going to take legal action, but I would tell you we are exploring every alternative and every enforcement tool available to us to get India to open up their markets on a number of agriculture issues".[6] Ten years later, not much has changed. In fact, in June 2019, India imposed retaliatory tariffs on 28 US products including agricultural items.[7]

When Prime Minister Modi went to the US in September 2019, President Trump announced that he was working to expand US exports to India. Immediately after, India withdrew from the Asia-Pacific wide trade negotiations for the Regional Comprehensive Economic Partnership (RCEP) and the Commerce Minister announced that India had begun exploring trade agreements with the US and the EU.[8] He added that India would never finalise any trade agreement in a hurry, and that the concerns of farmers, the dairy sector, small enterprises and domestic manufacturing would be protected.[9] It was in fact the pressure from peasants and rural communities, especially dairy farmers, which forced India to pull out of RCEP, as they knew it would be a disaster for them.[10]

A US-India FTA could be worse than RCEP. India's farmers, having an average land holding of one hectare, will be forced to compete with US farmers whose average landholding is 176 hectares. There are 2.1 million farms across the US employing less than 2% of the population, with average annual on-farm income per farm household of $18,637.[11] Whereas more than half of India's 1.3 billion that depend on agriculture do so for their livelihoods, with the average annual income of per farm household (from all sources) at less than US$1000.[12]

The initial phase of the trade deal between India and the US is expected to be agriculture-focused. Here we try to look at how several commodities covered by the India-US FTA would be affected.

Dairy

The US has tried very hard to enter India's dairy market but has always met resistance. Since 2003, India imposed sanitary and phytosanitary standards on dairy imports which have blocked the entry of US goods. It was only in December 2018 that India allowed dairy imports to enter from the US with strict mandatory certification specifying that the products are not derived from livestock reared with feed containing "blood meal, internal organs, or ruminant tissues" as this would be unacceptable for the majority of Indians due to their cultural and religious sensitivities.[13] The feeding of blood meal to milk-producing herbivores to reduce costs and maximise yield is standard practice in large industrial dairy farms of the West, particularly the US. The US has so far been reluctant to comply and describes these requirements as "scientifically unwarranted". News reports indicate that the Indian government is considering offering restricted access to US dairy with a 5% tariff and limited quotas under the FTA. This would be a big change from the current tariff of 30% to 60%.[14]

Another big concern about US dairy products is the use of the genetically modified growth hormone called recombinant bovine somatotropin (rBST) to increase cows' milk production by 10-15%. Milk from rBST-treated cows is used to make ice cream, butter, cheese and yogurt. The US Food and Drug Administration has approved the use of this hormone back in 1993 and it is still widely used in the US dairy industry, but its use is banned in the EU, Canada, and many other countries due to concerns about human and animal health. Despite that Canada is now forced to import rBST milk products from the US under the USMCA.[15]

Cow milking processs at a small dairy farm in the outskirts of Yawatmal District in Maharashtra, November 2018; Credit: GRAIN

There are 150 million dairy farmers in India, producing more milk than any other country. The vast majority of these farmers are small landholders, with two or three cows or buffaloes. Dairy is therefore the backbone of rural India and whatever milk is produced is either consumed by producers or sold to non-producers in rural areas or to urban households through an extensive network of cooperatives and small-scale vendors. More than 70% of what consumers pay for milk goes to the producers.[16] By contrast, the dairy industry in the US is concentrated in mega-sized operations, with a declining number of dairy farms and rising number of cows per farm. Around 35% of milk produced in the US comes from farms with more than 2,500 cows, and 45% comes from farms with less than 1,000 cows. Some of the mega dairy farms have as many as 30,000 cows. The increasing concentration of the sector requires government subsidies to offset prices which are lower than the cost of production. In 2015, the US government doled out $22.2 billion in direct and indirect subsidies to its dairy sector.[17] Despite huge subsidies, US dairy farmers operate at a loss, and have a cost of production that is higher than what they earn from the marketplace.[18] The processors and manufacturers, however – especially Kraft Foods, Dean Foods and Land O'Lakes, which is owned by the mega-cooperative, Dairy Farmers of America -- rely on the purchase of milk at prices below the costs of production, which offers a significant competitive advantage.

The US dairy industry is expecting to boost revenues by $23 billion in the next decade due to the removal of tariff and non-tariff barriers under the US-China FTA.[19] Similarly, the USMCA has created new market opportunities in Canada's highly protected dairy sector.[20] These include provisions on geographical indications that will help prevent future losses of US market access for cheeses with common names such as "blue" or "Swiss".[21] According to the International Trade Commission, US dairy exports are expected to increase by more than $314 million a year under USMCA.[22] The story with the US-Japan FTA is not very different. Japan agreed to eliminate its 40% cheese tariffs within 15 years and its whey duties in 5 to 20 years, depending on the type.[23] In fact, Japanese tariffs on hard cheeses dropped from 29.8% to 26% on 1 January 2020 and to 24.2% on 1 April 2020.[24] The priority given to dairy under these recent deals indicates that US corporations will want a substantial share of India's market, too.

Poultry

For the last two decades, the US has been trying to enter India's poultry market to dump its frozen chicken legs, but failed. India imposes an effective 100% tariff on poultry. It is also in a longstanding dispute with the US at the WTO regarding a ban on imports of US poultry meat and eggs that India imposed as a precautionary measure to prevent the spread of avian influenza.[25]

Farmers protests against proposed FTA between India and USA, 18 February 2020; Credit: Rashtriya Kisan Mahasangh

This scenario is expected to change soon with the signing of phase one of the US-India trade deal. India has offered to partially open up and allow imports of US chicken legs at an import duty of 25%. However, US negotiators want that tariff cut to 10%.[26] Indian poultry industries are strongly opposed to the proposed FTA with the US because they fear that cheap poultry imports will lead to the closure of hundreds of thousands of domestic chicken farms and processing units, and render about four million people jobless. “The price of chicken in the US is ridiculously low,” says K.G. Anand, general manager of Venkateshwara Hatcheries, India’s leading producer of raw and processed chicken meat. “The government cannot kill millions of farmers just to satisfy the needs of one country.”[27]

The import of frozen chicken from the US will not only impact chicken farmers and processors but also India’s small and marginal farmers who grow maize and soybean, two key crops used for poultry feed and for which India is self-sufficient. The maize and soybean used for chicken feed in US are mainly GM.[28] And, as with the feed for US dairy cattle, US chicken feed contains meat meal from recycled animal by-products (mainly beef and pork). A further complication for Indians is that the US allows chicken carcasses to be washed with chlorine to combat the presence of salmonella.

Beef and pork residues, GM feed and chlorine washes are very strong grounds to restrict imports of US chickens. However, this may not be possible under a US-India FTA. If we look at the US-China deal, signed in January 2020, a significant part of the agreement was China committing to lowering certain health and safety standards. For example, China agreed to shift from a “zero tolerance” policy on growth hormones in beef to an acceptance of US residue limits, in order to permit US beef exports to China.[29] Beijing is also relaxing licensing, inspection and registration rules that the US has viewed as barriers to trade.[30] Dumping of US chicken has already had major impacts in parts of Asia and Africa. In Vietnam, the Animal Husbandry Associations filed a complaint in 2015 when subsidised chicken from the US was sold at below the local market price.[31] In South Africa, imports of frozen chicken from the US at below cost price led to a third of the workers losing their jobs because poultry firms were pushed out of business.[32]

The US poultry sector is dominated by five big corporations: Tyson Foods, Pilgrim’s Pride, Sanderson Farms, Perdue Farms and Koch Foods. In 2016, they controlled more than 50% of chicken, beef and pork markets. They exert a stranglehold over the farmer-contractors who raise chickens for them. The US is the second leading exporter of frozen chicken after Brazil and together they export more than 50% of the total frozen poultry meat in the world.[33] Therefore, the threat of serious impact from US subsidised poultry import is quite real.

Soybean

Soybeans and their products are the most traded agricultural commodity in the world, accounting for more than 10% of the total value of all global agriculture trade. The US is the world’s largest soybean producer, which it exports in three forms: whole beans, meal and oil. Soybean exports from the US have increased dramatically since 2000 as the demand for meat and poultry has increased in Europe and Asia. Until 2017, China was the largest importer, but trade tensions between Beijing and Washington led to a sharp decline in US soybean prices while China bought from Brazil and Russia instead. When the US and China signed their phase one bilateral trade deal in January 2020, soybean and soybean oil were included. China is expected to import an additional $32 billion worth of US farm goods in the 2020-2021 period, although the coronavirus pandemic has already dampened US soy exports significantly.[34]

Farmers protest against GMOs in Delhi, 5 February 2016; Credit : ASHA

India was never a significant importer of US soybean, but occasionally imported US soybean oil or soybean in split form. The reason is because almost all of the US soybean crop is GM and India does not allow the import of GM soybean. However, it is expected that the FTA will swell India's market for US soybean oil, and potentially weaken India's biosafety regulations to allow the import of whole soybean and soybean meal as well.

Import of GM soybean from the US would be a disaster for the millions of Indian soybean growers but also to consumers since soybean products are consumed by millions of vegetarians. India is the world fifth largest producer of soybean. More than 90% of the soybeans it produces is used for oil extraction and for manufacturing oilcake and oilmeal, which in turn are exported in great quantities. Soybean production has uplifted farmers' economic status in many pockets of the country, as some of its by-products fetch high prices.[35]

Import of huge quantities of highly subsidised US soybean at below the cost of production will depress prices in India causing great hardship and loss of livelihood to Indian soybean growers. Research from the Institute of Agriculture and Trade Policy shows that commodity support given to US soybean goes to US agribusiness corporations, not to farmers. In fact, the prices US farmers get for their crops, on average, are often less than their average cost of production.[36] The dumping of soybean in India due to a US-India trade deal would be devastating for millions of growers in India.[37]

Maize

Maize is another commodity crop which the US overproduces for export. In 2018-2019, the US produced almost 400 million metric tonnes, 14% of which was exported to more than 73 different countries.[38] Given that India has the world's largest dairy herd, is the third largest broiler producer and the fourth largest egg producer, India could be a huge market for US maize. But due to restrictions on GM maize, the US is not able to export to India. US companies are also eyeing India's increasing biofuel needs, which would offer another big opportunity for US maize. The US Grains Council is continuing its efforts to open this large potential market to US exports and the US-India FTA will probably help to materialise this.[39]

Indians For Safe Food, protest against GMOs outside the office of FSSAI in Delhi, 7 August 2018; Credit: Down to Earth

After rice and wheat, maize is India's third most important cereal crop, accounting for around 10% of total food grain production. Maize is not only used for human food and animal feed but serves as a raw material for thousands of industrial products as well.[40] Due to the increasing demand for poultry feed and starch, India's import of maize reached one million tonnes in 2019.[41] This is causing the local price of maize to decline. As in the case of soybean, US maize is dumped in international markets at 12% below the cost of production.[42] If India allows the import of US maize at this rate under the proposed FTA, the domestic price of Indian maize will see a drastic slump leading to sharp decline in its planting areas and production. As a result, Indian maize growers might face a situation similar to what Mexico growers faced after the signing of NAFTA. More than two million Mexicans lost their livelihoods as the trade deal flooded Mexico with subsidised maize from the US.[43]

Regulatory changes under US FTAs

Trump trade deals, mini or not, are not just about tariffs. They also impose major changes in partner countries' regulatory frameworks if these are seen to restrict US business activity.

In the USMCA, there are provisions to move toward greater harmonisation of health, safety and marketing standards in order to expand trade in agriculture and food products.[44] Harmonisation under US FTAs means bringing other countries closer into line with the US' lack of health and safety precautions: restrictions should be minimalised so that trade can grow. The USMCA contains a new chapter on regulatory good practices and another on sanitary measures that go further in advancing "equivalence" between the three countries' health and safety standards.[45] The goal is to ensure that if one country says a product is safe under its regulations, the other two will accept the product as safe under theirs – and to speed up these determinations as much as possible. Wiggle room is left for countries to have their own standards based on "public policy objectives" but how this will play out remains to be seen. The US seed industry is very excited about how the USMCA "recognizes the importance of plant breeding innovation, including newer methods like gene editing, and contains provisions enhancing information exchange and cooperation related to the trade of agricultural biotechnology."[46]

Similarly, the US-China trade deal imposes speedier food safety checks for imports into China and speedier approvals in China for GMOs.[47] As a result of the deal, China allowed the import of GM papaya and soybean from the US in December 2019, and the following month approved five GM crops for animal feed.[48]

CITU against Pepsico for suing potato growers, 26 April 2019; Credit : Centre of Indian Trade Unions (CITU)

In the current trade talks between the US and UK, the US agribusiness lobby is pushing for the slashing of regulatory standards in UK on pesticides, GM crops, and the production of chicken and meat products. Cargill has demanded that the US seek "complete agricultural market access" for its company and "eliminate intended or unintended non-tariff barriers in the agriculture sector."[49] These could have far reaching implications for food safety in the UK as it would force the country to open its border to hormone-fed beef, chlorine washed chicken and GM foods that until now are banned in the UK. Besides that, the UK will have to permit the sale of fruit and vegetables grown with pesticides that are currently banned domestically and in the EU on environmental and safety grounds. The American Sugar Alliance is also questioning pro-consumer food labelling in the UK, construed by negotiators as 'non-tariff trade barriers'.[50] These demands poisoned the previous trade negotiations between the US and the EU, which came to a complete halt after Trump was elected but are now starting up again, in mini mode.

India will have a fierce battle on this front, if the FTA talks move ahead. In 2018, the US-India Business Council already came out with a recommendation that food products marketed in India with 5% or more GM ingredients be labelled accordingly. This was seen as a backhanded attempt to introduce GM food in India, where it is currently not allowed.[51] US companies have equally been trying for the last several years to get India to import GM animal feed. Recently, India's GM regulatory body has sought more inputs to possibly allow this. So, US corporate pressure to loosen restrictions in India is already happening.

Both the USMCA and US-China FTA contain provisions on the “low level presence” of GMOs in imported food or agricultural products. The USMCA text requires importing countries like Mexico to ensure that the “inadvertent” presence of GM material in food or farm products be dealt with very quickly and taking into account the safety approval for the product on the exporters’ side.[52] In other words, the low level presence of GM ingredients should be permitted, regardless of different national laws. The US-China phase one FTA provides for the same. China will have to take into account US or other countries’ safety assessments of GMOs “inadvertently” exported to China.[53]

So far, no biotechnology derived food crop has been approved for consumption in India. The “low level presence” provisions would legalise contamination of India’s food system with GM materials not approved by India’s food safety authority for human consumption.

The USMCA and US-China agreement both have sections on agricultural biotechnology which contain obligations for speeding up the approval process for GMOs. In fact, the USMCA definition extends to new methods of gene editing.[54] It outlines procedures regarding transparency, timely review of products that require regulatory approval and cooperation between them. The US-China deal also contains obligations to speed up the approval procedures for products of agricultural biotechnology, accept applications on an ongoing, year-round basis, and to limit such procedures to not more than 24 months. Once approved, the authorization period shall be at least 5 years.[55] These kinds of measures would have a tremendous impact in India, where caution for environmental safety and health reasons is still paramount.

Local varieties of seeds on display; Credit : GRAIN

Monopolies over seeds through UPOV

Another important concern about Trump's trade deals are their requirement to ratify the 1991 convention of the Union for the Protection of New Plant Varieties (UPOV) providing patent-like rights to seed companies. This is not specific to the Trump administration; it has been a core element of US FTAs since the 1990s. The USMCA obliges Mexico, which is a member of UPOV under the 1978 convention, to upgrade to the much harsher UPOV 1991 version. The US seed industry is very excited about this, calling it "a win" for them.[56]

There are no provisions about UPOV 1991 in the phase one US-China deal. There may be two reasons for that. The US is going to take up broader intellectual property issues in the phase two of the deal. And China, which like Mexico, is already a member of UPOV 1978, is gradually moving towards amending its seed laws to align with UPOV 1991 anyway.[57]

India has a policy not to join the UPOV convention in order to protect the interests of its millions of small farmers and non-corporate breeders. The proposed US-India FTA will have serious implications for farmers' rights in India if the government is put under pressure to join UPOV. Given the recent scandal over Indian farmers allegedly infringing a PepsiCo potato variety in 2019, it is quite possible that the US seed industry will push for stronger seed monopoly rights under the US-India FTA and eliminate possibilities for farmers to save seeds.

Conclusion

India's Minister of Commerce and Industry said the government withdrew from the RCEP trade talks because they did not address the sensitivities of India's dairy producer, farmers and others industry sectors.[58] It would be inconsistent, and a slap in the face, to now start US-India trade talks that will pose much bigger challenges for India's rural communities and agriculture sector. Such a deal would greatly compromise India's huge diversity of local seeds and plants which are conserved and reused by millions of Indian farmers year after year. It will also destroy India's hope for food sovereignty. It is time that Indian farmers rise again, and resist any possibility of formalising the US-India trade deal, today or in future.

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