

UK-India CETA: Patents and International Intellectual Property Governance

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ABSTRACT

This policy brief locates the United Kingdom-India Comprehensive and Economic Trade Agreement's (CETA) intellectual property rights (IPRs) rules in the midst of trade-offs. It succinctly provides an overview of the IPR Chapter, analyses the specific provisions on patents and contextualises IP in the broader context of international IP governance. The analysis of the IPR Chapter shows the parties' objective to establish meaningful commitments on intellectual property protection and enforcement while preserving regulatory flexibility on development-centric and public health priorities. All in all, the IPR Chapter reflects a compromise between a country with an established, strong IP regime and a country seeking greater policy space and advancing IP norms in areas such as traditional knowledge. As India continues integrating into the global trade architecture through bilateral agreements, the CETA IPR Chapter will serve as a critical test case for whether strategic policy space can be meaningfully preserved within contemporary trade frameworks.

KEYWORDS: United Kingdom-India Comprehensive and Economic Trade Agreement (CETA), India, United Kingdom, Intellectual Property, Intellectual Property Rights, Patents, International Intellectual Property Governance, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Development, Public Health

Ce Rapport sur les politiques examine les règles relatives aux droits de propriété intellectuelle (DPI) de l'Accord commercial global (CETA) entre le Royaume-Uni et l'Inde sous l'angle des compromis. Il présente de manière concise une vue d'ensemble du chapitre consacré aux droits de propriété intellectuelle, analyse les dispositions spécifiques relatives aux brevets et replace la propriété intellectuelle dans le contexte plus large de la gouvernance internationale en la matière. L'analyse du chapitre sur les droits de propriété intellectuelle montre que les parties ont pour objectif d'établir des engagements significatifs en matière de protection et de respect de la propriété intellectuelle, tout en préservant une flexibilité réglementaire sur les priorités axées sur le développement et la santé publique. Dans l'ensemble, le chapitre sur les droits de propriété intellectuelle reflète un compromis entre un pays doté d'un régime de propriété intellectuelle solide et bien établi et un pays cherchant à disposer d'une plus grande marge de manœuvre politique et à faire progresser les normes en matière de propriété intellectuelle dans des domaines tels que les savoirs traditionnels. Alors que l'Inde poursuit son intégration dans l'architecture commerciale mondiale par le biais d'accords bilatéraux, le chapitre sur les droits de propriété intellectuelle du CETA servira de test décisif pour déterminer si une marge de manœuvre politique stratégique peut être préservée de manière significative au sein des cadres commerciaux contemporains.

MOTS-CLÉS: Accord commercial global (CETA) entre le Royaume-Uni et l'Inde, Inde, Royaume-Uni, propriété intellectuelle, droits de propriété intellectuelle, brevets, gouvernance internationale de la propriété intellectuelle, Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce (ADPIC), développement, santé publique

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KEY MESSAGES

- The UK-India CETA's IPR Chapter demonstrates India's evolving negotiating capacity to protect developmental concerns.
- The patent section in the IPR chapter largely adheres to the TRIPS level commitments. Notably, controversial provisions such as patent term extension and data exclusivity, on which both parties have maintained divergent positions, are not included.
- The IPR Chapter focuses on co-operation and administrative efficiency, primarily through the exchange of information and best practices.

Este informe sobre políticas sitúa las disposiciones sobre derechos de propiedad intelectual (DPI) del Acuerdo de Comercio Integral y Económico entre el Reino Unido y la India (CETA) en el contexto de diversas disyuntivas. Ofrece de manera sucinta una visión general del capítulo de DPI, analiza las disposiciones específicas relativas a patentes y contextualiza la propiedad intelectual (PI) en el marco más amplio de la gobernanza internacional de la PI. El análisis del capítulo de DPI muestra el objetivo de las partes de establecer compromisos sustantivos en materia de protección y observancia de la PI, al tiempo que preservan la flexibilidad regulatoria respecto de prioridades centradas en el desarrollo y la salud pública. En definitiva, el capítulo de DPI refleja un compromiso entre un país con un régimen de PI consolidado y robusto y otro que busca un mayor margen de política y promueve normas de PI en ámbitos como el conocimiento tradicional. A medida que la India continúa integrándose en la arquitectura comercial global a través de acuerdos bilaterales, el capítulo de DPI del CETA servirá como un caso de prueba clave para determinar si es posible preservar de manera efectiva un margen de maniobra política estratégica dentro de los marcos comerciales contemporáneos.

PALABRAS CLAVES: Acuerdo de Comercio Integral y Económico entre el Reino Unido y la India (CETA), India, Reino Unido, propiedad intelectual, derechos de propiedad intelectual, patentes, gobernanza internacional de la propiedad intelectual, Acuerdo sobre los Aspectos de los Derechos de Propiedad Intelectual relacionados con el Comercio (ADPIC), desarrollo, salud pública

本政策简报将《英国-印度全面经济贸易协定》(CETA) 中的知识产权 (IPR) 规则置于权衡取舍的背景下进行探讨。简报简明扼要地概述了知识产权章节的内容, 分析了关于专利的具体条款, 并从更广泛的国际知识产权治理视角对知识产权 (IP) 进行了阐释。对知识产权章节的分析表明, 双方旨在就知识产权保护和执法作出实质性承诺, 同时在以发展为中心及公共卫生优先事项方面保留监管灵活性。总而言之, 该知识产权章节体现了一个拥有成熟、强大知识产权制度的国家, 与一个寻求更大政策空间、并在传统知识等领域推动知识产权规范发展的国家之间的妥协。随着印度通过双边协议持续融入全球贸易架构, CETA的知识产权章节将成为检验在当代贸易框架内能否切实保留战略性政策空间的关键案例。

关键词: 《英国-印度全面经济贸易协定》(CETA)、印度、英国、知识产权、知识产权权利、专利、国际知识产权治理、《与贸易有关的知识产权协定》(TRIPS)、发展、公共卫生

1. Introduction

India and the United Kingdom (UK) are two of the world's largest economies, with annual bilateral trade of \$56 billion. India, on average, holds a trade surplus of around \$6.5 billion and aspires to increase bilateral trade to \$100 billion by 2030¹. To achieve this aspiration, in 2025 the countries signed the UK-India Comprehensive and Economic Trade Agreement (CETA)², which aims to strengthen the parties' economic integration by providing a set of rules that will govern future trade between them³.

The UK-India Comprehensive and Economic Trade Agreement contains several firsts for India that reflect India's evolving approach to trade liberalisation. This policy brief does not intend to conduct an in depth analysis of tariff concessions by each party; however, some critics described the overall balance in the CETA as asymmetric.⁴ The point made is that UK gains broad access to the Indian market of 1.4 billion persons with 90 percent of goods benefiting from tariff reduction, while tariff concessions benefit 99 percent of Indian exports to the UK for a relatively smaller market.

Nevertheless, the deal has been able to balance short-term market opening with long term strategic positioning in a key global market.⁵ As a part of the deal, the UK will gain access to Indian sectors in a phased manner. The gradual reduction of tariffs is a strategic choice for India and will help its domestic industries that are in the process of development, such as under the *Make in India and Production Linked Incentive (PLI)* schemes. Additionally, India was able to safeguard its sensitive sectors, including dairy and in-built safeguards against a sudden surge in imports. For India, apart from goods, deeper access to the UK services market (IT, financial, and healthcare) is a significant achievement.

The trade deal distinguishes itself from earlier Indian trade agreements and makes it "more inclusive"⁶ by explicitly addressing social and developmental issues: labour rights, gender equality, environmental sustainability and anti-corruption mechanisms, in line

1 Press Release, Ministry of Commerce & Industry, India and UK CETA (27 July 2025) <https://www.pib.gov.in/PressNoteDetails.aspx?ModuleId=3&No-teld=154945®=3&lang=2> last accessed 8 December 2025.

2 Comprehensive Economic and Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and India, signed on 24 July 2025. (hereafter UK-India CETA), <https://www.gov.uk/government/collections/uk-india-trade-deal> (last accessed 8 December 2025).

3 Press Release, Ministry of Commerce & Industry, Abhishek Dayal and Abhijith Narayanan, India and UK Sign Comprehensive Economic and Trade Agreement (CETA) (24 July 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2147805> last accessed 8 December 2025.

4 GTRI Report, India's UK Trade Deal: Gains, Gaps, and a Glimpse of the Future, Report ID 108 (GTRI) <https://www.gtri.co.in/gtriFlagshipReports>; Press Release: The UK-India CETA: for illusory gains in exports, India loses massive policy space to protect its health, data, and livelihoods (bilaterals.org, July 2025) <https://www.bilaterals.org/?press-release-the-uk-india-ceta>; Suryo, The India-UK trade deal – Economic Milestone or Diplomatic Theatrics? (Liberation, 2025) <https://liberation.org.in/detail/the-india-uk-trade-deal-economic-milestone-or-diplomatic-theatrics>; see also Business and Trade Committee, UK-India Comprehensive Economic and Trade Agreement (CETA) (January, 2026) <https://publications.parliament.uk/pa/cm5901/cmselect/cmbeis/996/report.html>.

5 Press Release, Ministry of Commerce & Industry, Abhishek Dayal and Abhijith Narayanan, India and UK Sign Comprehensive Economic and Trade Agreement (CETA) (24 July 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2147805>, last accessed 8 December 2025.

6 Ibid.

with modern trade priorities.⁷ Thus, CETA represents more than a conventional bilateral trade agreement and reflects evolving geopolitical and economic dynamics. For India, it demonstrates a sophisticated negotiation strategy of accepting market-opening concessions in non-sensitive sectors while protecting strategic industries and securing recognition of its emerging technological capabilities. For the UK, CETA provides leverage in India's market while advancing one of the post-Brexit objectives, Britain's capacity for bilateral deal-making independent of the EU frameworks.

Against this background, this policy brief locates CETA intellectual property rights (IPR) rules in the midst of trade-offs. It succinctly provides an overview of the IPR Chapter, analyses the specific provision on patents, and contextualises IP in the broader context of international IP governance. The analysis of the IPR Chapter reflects the parties' objective to establish meaningful commitments on intellectual property (IP) protection and enforcement while preserving regulatory flexibility on development-centric and public health priorities.

2. IPR Chapter: an overview

The IPR Chapter in the UK-India CETA is probably the lengthiest chapter on IP negotiated by any country so far, consisting of 9 Sections and 111 articles that address a variety of subject matters, including patents, geographical indications, traditional knowledge and enforcement rules.⁸ Though it does not alter substantive standards for granting or registering IPRs for either party, it strengthens the rules to maintain and enforce them- an important outcome for the UK given its IP-intensive exports.⁹ The parties sought to agree on a balanced chapter that fosters innovation and creativity while preserving policy space to address each party's domestic interests.

The General Provisions of the Chapter establish interpretative frameworks that fundamentally shape how subsequent obligations are understood. A clear policy choice for India¹⁰ has been to reaffirm the rights and obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and other international IP treaties in its Free Trade Agreements (FTAs).¹¹ The UK-India CETA however illustrates that such reaffirmation does not, by itself, lead to an automatic incorporation of those treaty obligations into the new agreement.¹² In some instances, the Chapter incorporates language directly from the TRIPS Agreement, thereby making it directly applicable under the FTA. For example, similar to the parties' other FTAs,¹³ it incorporates Articles 7 and 8 of the TRIPS Agreement,¹⁴ thereby closely aligning the aims of the Chapter with those of the TRIPS Agreement. Innovatively, the Chapter includes the first paragraph of the TRIPS Agreement's preamble as a second objective, i. e., to reduce distortions and impediments to trade while adding a reference to investment (not included in the TRIPS Agreement).¹⁵ This textual expansion suggests that the CETA frames IP protection as a strategic tool for facilitating trade and investment flows. However, the second part of the first paragraph of the preamble of the Agreement "*..to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade*" is excluded.

The Chapter clarifies that the nature of its provisions is to complement and further specify the rights and obligations under IP treaties to which the parties are signatories, including the TRIPS Agreement.¹⁶ This ensures that nothing in the Chapter may be interpreted in a way that contravenes those rights and obligations. By adopting the TRIPS framework, the Chapter establishes a regulatory floor, while allowing the parties to establish a FTA-plus IP regime so long as it is consistent with the TRIPS and Chapter's provisions, including the objectives.¹⁷ A reference to the TRIPS Agreement provisions has become increasingly common in recent FTAs, with many explicitly incorporating its principles and objectives alongside broader multilateral commitments to IP treaties.¹⁸

While the Chapter addresses nearly all IP subject matters, this Policy Brief focuses exclusively on the provisions related to patents. With respect to traditional knowledge (TK) and genetic resources (GR), the Chapter embodies a calculated compromise where India successfully secures defensive safeguards to protect its knowledge sovereignty by integrating traditional knowledge into the patent examination process, while the UK avoids new obligations in this field, such as a mandatory disclosure requirement in patent applications that use GR or TK associated to GR. Given developing countries' interests in biodiversity and related technology

7 UK-India CETA, (n 2), Chapter 20 covers Labour, Chapter 23 addresses Trade and Gender Equality and Chapter 26 deals with Anti-Corruption.

8 For a detailed account on IPR Chapter of UK India CETA, see Pratyush Nath Upreti and Virender Chandel, "Promise, Progress, or Posturing? India and the Intellectual Property Chapter in the United Kingdom-India Comprehensive Economic and Trade Agreement" (forthcoming in Fordham International Law Journal (2026) 60 pp.

9 Department for Business & Trade, UK-India Trade Deal: Conclusion Agreement Summary (July 24, 2025) <https://www.gov.uk/government/publications/uk-in-dia-trade-deal-conclusion-summary/uk-india-trade-deal-conclusion-summary> (last accessed on Nov 10, 2025)

10 See Ministry of Commerce and Industry, Department of Industrial Policy & Promotion, Government of India, *National Intellectual Property Rights Policy*, (2016), https://www.ipindia.gov.in/writereaddata/Portal/Images/pdf/2016- National_IPR_Policy- 2016_ English_and_Hindi.pdf (hereinafter National IPR Policy).

11 UK-India CETA (n 2) Art 13.5(1) and 13.7.

12 UK-India CETA (n 2) Art 1.2(1).

13 See, UK-New Zealand Free Trade Agreement, Article 17.2 and 17.3; UK-Australia Free Trade Agreement, Article 15.2 and 15.3; India-United Arab Emirates Comprehensive Economic Partnership Agreement, Article 11.2 and 11.3

14 UK-India CETA (n 2) Art 13.2 and 13.3.

15 For a general account of TRIPS Agreement, see, Daniel Gervais, *The TRIPS Agreement: Drafting History and Analysis* (5th edn, Sweet & Maxwell, 2021) 166. See also Carlos Maria Correa, *Trade Related Aspects of Intellectual Property Rights: A Commentary on the TRIPS Agreement* (2nd edn, Oxford University Press, 2020).

16 UK-India CETA (n 2) Art 13.5(1).

17 See TRIPS, Art 1.

18 Pratyush Nath Upreti, *Intellectual Property Objectives in International Investment Agreements* (Edward Elgar Publishing, 2022) Chapter 7.

transfer and commercialisation concerns, more specific obligations promoting access and benefit sharing schemes could have been considered. The provisions on geographical indications (GIs) are the most ambitious provisions of the Chapter. However, they reflect the tension between the Indian approach for a strong protection of GIs and the UK approach to protect only selected goods, primarily wines and spirits. By requiring the protection against goods not conforming to GI specifications, the Chapter promotes quality control mechanisms for GIs protected goods. The provisions on trade secrets are balanced and anchored in the concept of practices that are “contrary to honest commercial practices” like in the TRIPS Agreement, providing policy space for government use, whistleblower disclosure, and emergencies. However, given that India does not have a codified law on this matter, the CETA may require legal adjustments and will guide future legislative actions in this area. The trademarks and copyright provisions do not significantly deviate from the TRIPS Agreement and relevant World Intellectual Property Organization (WIPO) treaties. However, India is obligated to conduct a domestic review of the term of protection for copyright and related rights. A similar obligation is also imposed on the UK with respect to GIs for “other” categories of goods. Lastly, the enforcement provisions in general codify what Indian courts and other bodies already do and will not fundamentally change enforcement outcomes.

3. Patents and Public Health

For a long period, India’s patent law and policy has faced international scrutiny for implementing (or critically “exploiting”) TRIPS flexibilities excessively in the domestic patent regime. For example, India is consistently featured in the Priority Watch List of the US Trade Representative’s Section 301 reports. It would not be unreasonable to expect some dilution of some TRIPS flexibilities under this FTA. An analysis of the IPR Chapter demonstrates that it largely upholds patent owners’ rights and reaffirms TRIPS-level obligations on patentable subject matter,¹⁹ with the notable exception of plant varieties.²⁰ It also incorporates exceptions and limitations to patent rights in line with Article 30 (Exceptions)²¹ and Article 31 (Other Use Without Authorization of the Right Holder)²² of the TRIPS Agreement. The “Exceptions” provision is reproduced verbatim from the TRIPS Agreement, while Article 13.50 titled “Other Use Without Authorization of Right Holder” -mirroring the title of Article 31 of the Agreement- states that nothing in the Chapter limits the parties’ right to *authorise the use of a patent without the authorisation of the right holder*. Although the text of the provision does not explicitly mention “other use”, it can be understood that the parties intend it to have the same meaning as in the TRIPS Agreement. Accordingly, the scope of Article 13.50 is the same as in Article 31 of the Agreement.

Interestingly, the IPR Chapter features a mandatory regulatory review exception for pharmaceutical product inventions (allowing any act done for purposes of obtaining regulatory approval²³),²⁴ which builds verbatim from the UK-Australia FTA²⁵ and, to some extent, draws from the Comprehensive and Progressive Agreement for Trans-Pacific Partnership.²⁶ The provision is subject to Article 13.48, which ensures that patent exceptions do not unreasonably conflict with the normal exploitation of a patent nor prejudice the legitimate interests of the patent owner.²⁷ The regulatory review exception is mandated regardless of the country where regulatory approval is sought. In contrast, for non-pharmaceutical inventions, it is left to the parties’ discretion whether to provide regulatory exceptions. The mandatory nature of the regulatory review exception is a significant departure from the TRIPS Agreement’s optional language for such an exception.²⁸ It reflects the parties’ common understanding of the importance to speed up access to generic versions of pharmaceutical products after the expiry of patents protecting them.

In terms of procedural aspects, the IPR Chapter provisions are aimed at streamlining and improving the efficiency of patent procedures by addressing amendments to and publication of patent applications, the availability of information on pending and granted patents, disclosure requirements, and the timely disposal of pre-grant opposition applications. Regarding the submission of statements on the working of patents—as required under the Indian law—the parties are prohibited from requiring annual patent working statements.²⁹ However, they may require periodic disclosure, provided the interval is no less than three years. The parties are also obliged not to disclose any confidential information submitted by a right holder to comply with such requirements. Some have argued that a reduced periodicity, such as one year may impact compulsory licensing and the decision of courts to grant injunction, therefore, increased periodicity, as adopted in the CETA, would not be in the public interest.³⁰ However, some suggest that the Indian law provides the competent authority with the power to request any such information at any time during the continuance of a patent.³¹ In addition, although India has an established generic pharmaceutical industry and a significant market, the number

19 UK-India CETA (n 2)Art 13.46.

20 UK-India CETA (n 2)Art 13.47.

21 UK-India CETA (n 2)Art 13.48.

22 UK-India CETA (n 2)Art 13.50.

23 For a detailed discussion see World Trade Organization, Canada-Patent Protection of Pharmaceutical Products (WT/DS114/R) at page 146.

24 UK-India CETA (n 2) Art 13.49.

25 UK-Australia FTA(n 2) Art 15.40

26 Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), Art 18.49, <https://apfcpptppportal.ca/agreement/20> (last accessed on August 14, 2025).

27 UK-India CETA (n 2)Art 13.48.

28 For discussion on mandatory nature of exceptions see Prashant Reddy, “Will RCEP Redefine Norms Related to Pre-grant Opposition and Experimental Use Exceptions in International Patent Law?”, Kung Chung Liu & Julien Chaisse (eds.), *Asian Trade Deals and IP*, (Hart Publishing; 2019).

29 UK-India CETA (n 2)Art 13.56.

30 Swaraj P Barooah, A Patent System’s Job is to Incentivize More Innovation, Not Merely More Patents: Looking at the New Patent (Amendment) Rules (SpicyIP) <https://spicyip.com/2024/03/a-patent-systems-job-is-to-incentivize-more-innovation-not-merely-more-patents.html>

31 Yogesh Pai and Virender Chandel, Comments on the Draft Patents (Amendment) Rules, 2023 (Centre for Innovation, Intellectual Property and Competition, 2023).

of requested compulsory licenses remains negligible. The situation may be different in countries with a smaller market size and capability of the domestic industry.

Overall, the patent section in the IPR chapter seems to largely adhere to the TRIPS level commitments and was therefore unlikely to become a sticking point for either party. Notably, controversial provisions such as patent term extension and data exclusivity, on which both parties have maintained divergent positions, are not included, although the IPR chapter leaked in 2022 included both patent term extension and data exclusivity as follows:

Article E.12: Extension of the Duration of Rights Conferred by a Patent

1. The Parties recognise that pharmaceutical products and plant protection products protected by a patent in their respective territories may be subject to a marketing approval procedure before being put on their respective markets.
2. Each Party shall provide an adequate and effective mechanism to compensate the patent owner for the reduction in the effective patent term resulting from that marketing approval procedure, through either:
 - (a) a period of additional *sui generis* protection conferring the rights conferred by the patent; or
 - (b) an extension of the patent term

Article F.1: Protection of Undisclosed Test or Other Data for Agricultural Chemical Products

1. If a Party requires, as a condition for granting marketing approval for a new agricultural chemical product, the submission of undisclosed test or other data, that Party shall ensure that, in accordance with its law, either:
 - (a) third parties are not permitted, without the consent of the person that previously submitted such information, to market the same or a similar product on the basis of that information for at least 10 years from the date of marketing approval of the previously approved agricultural chemical product; or
 - (b) applicants for marketing approval are generally required to submit a full set of test data, even in cases where there was a prior application for the same product, for a period of at least 10 years, counted from the date of approval of a prior application.

Article F.2: Protection of Undisclosed Test or Other Data for Pharmaceutical Products

1. If a Party requires, as a condition for granting marketing approval for a new pharmaceutical product, the submission of undisclosed test or other data, that Party shall not permit third parties, without the consent of the person that previously submitted that information, to place on the market the same or a similar product on the basis of:
 - (a) that information; or
 - (b) the marketing approval granted to the person that submitted that information for at least six years from the date of marketing approval of the previously approved pharmaceutical product; such date to be determined in accordance with each Party's law.

In the final agreed text, the above provisions were not incorporated. This reaffirms India's position and aligns with the recommendations of the Committee constituted under the order of the High Court of Delhi in *Nitto Denko Corporation vs. Union of India*³² which concluded that patent term extensions to compensate for patent application processing delays is not viable in India. In a nutshell, the patent provisions oblige the parties to maintain a stable and transparent patent system that ensures adequate protection for right holders without mandating any substantial change in domestic laws. For India, this represents a sophisticated model of middle-ground IP governance, one that prioritises its developmental trajectory while fulfilling baseline multilateral commitments. For the UK, procedural certainty and predictability represent gains even without substantive TRIPS-plus provisions. It also reaffirms the parties' support for the Doha Declaration on the TRIPS Agreement and Public Health, underscoring their commitment to the global supply of affordable medicines.

4. UK-India CETA IPR Chapter and International IP

India has long resisted TRIPS-plus obligations in FTAs, seeing them as a threat to TRIPS flexibilities and India's policy space for regulating IP and protecting public interests such as public health.³³ It is therefore not surprising that the IPR Chapter does not include TRIPS-plus rules, except a few provisions on enforcement and geographical indications (GIs). Instead, the Chapter focuses on co-operation and administrative efficiency, primarily through the exchange of information and best practices. Article 13.14 states:

³² Report of the Committee Constituted in *Nitto Denko Corporation vs Union of India & Ors* W.P. (C) No. 3742/2013 <https://spicyip.com/wp-content/uploads/2015/03/U-207-Nitto-Denko-vs-UOI-report-of-the-committee-in-compliance.pdf>.

³³ Jayashree Watal, "From Punta Del Este to Doha and Beyond: Lessons from the TRIPS negotiating processes" (2011) 3 (1) WIPO Journal 24-35.

The Parties recognise the growing importance of the protection of intellectual property and shall endeavour to cooperate on the subject matter covered by this Chapter, including through appropriate coordination and exchange of information between agencies or institutions of the Parties.

In line with the spirit of this article, three forms of cooperation can be identified in the IPR Chapter.³⁴ *First*, there is a commitment to international IP treaties and to fostering harmonisation and collaboration on IP issues at the multilateral level. In this regard, both parties reaffirm the rights and obligations under the TRIPS Agreement and other international IP treaties to which they are signatories.³⁵ In the same spirit, India and the UK have also affirmed their commitment to collaborate and exchange information in ongoing discussions within WIPO.³⁶

Second, the Chapter emphasises cooperation on the enforcement and administration of IP, as well as collaboration between parties at the World Trade Organization (WTO) and WIPO on IP-related matters. Article 13.14(2) states:

The Parties shall endeavour to cooperate in relation to activities for improving the international intellectual property regulatory framework, including by:

- (a) fostering intellectual property harmonisation, administration and enforcement of intellectual property rights; and
- (b) working together at the WTO and WIPO on relevant activities including in relation to relevant multilateral intellectual property agreements

Third, India has consistently advocated for protecting public interest and preserving policy space in the implementation of the TRIPS Agreement. The literature widely discusses the divergencies and unequal bargaining power between developed and less developed countries during the negotiation of the TRIPS Agreement, as well as their divergent positions – India being a key example – on various IP-related issues.³⁷ For instance, the UK and India held different positions on the proposed TRIPS waiver on COVID-19 Vaccines and Treaties.³⁸ India was one of the main proponents of the TRIPS waiver, whereas the UK did not support the proposal. Despite these differences, the Chapter's language promoting cooperation on relevant activities at the WTO and WIPO is a welcome development. This is particularly important in the current geopolitical climate, where trust in multilateralism is under strain, and collaborative approaches to address global challenges are increasingly fragile.

On the UK-India collaboration in the harmonisation, administration and enforcement of IPRs, the Chapter includes cooperation between patent offices to enhance the efficiency of patent examination, including the effective sharing and use of the search and examination work. This provision aligns with the 2016 Memorandum of Understanding (MOU) between the UK Intellectual Property Office (UKIPO) and the Indian Department of Industrial Policy and Promotion, under which both countries agreed to exchange best practices in the field of IP, particularly in the processing of registration for patents, trademarks, and designs.³⁹ The MOU also emphasises technical exchange on IP enforcement and mechanisms for the judicial resolution of IP disputes, among other areas.⁴⁰ This indeed captures the important role of IP and patent offices in shaping innovation policy and governance structures.⁴¹

5. Final remarks

The UK-India CETA IPR Chapter has reached a sophisticated equilibrium between the parties' divergent policy priorities in an increasingly complex global IP landscape. It demonstrates India's evolving negotiating capacity to protect developmental concerns while acknowledging the legitimacy of IP protection for trade and investment purposes. The incorporation of TRIPS provisions, particularly Articles 7 and 8, reflects both parties' commitment to balanced innovation frameworks. For India, this reflects a mature understanding that modern trade governance cannot ignore IP concerns, while simultaneously demonstrating that their integration into FTAs need not compromise public health and development objectives.

³⁴ For a detailed discussion on the different forms of cooperation in the IP chapter of the UK-India CEPA and their relevance to the public interest, Upreti and Chandel (No. 8).

³⁵ UK-India CETA (n 2)Art 13.5.

³⁶ UK-India CETA (n 2)Art 13.20.

³⁷ Peter K. Yu, "TRIPS and Its Discontents" 10(2) (2006) *Marquette Intellectual Property Law Review* 371-379; Jayashree Watal, *Intellectual Property; Rights in the WTO and Developing Countries* (Kluwer Law International, 2001)21. Susan K Sell, *Private Powers, Public Law: The Globalization of Intellectual Property Rights* (Cambridge University Press, 2003).

³⁸ WTO, Council for Trade-Related Aspects of & Intellectual Property Rights, *Waiver from Certain Provisions of the TRIPS Agreement for the Prevention, Containment and Treatment of COVID-19*, Doc IP/C/W/669 (2020), <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W/669.pdf&Open=True>. ["Waiver Proposal"]. See also the revised version of the proposal: WTO, *Waiver from Certain Provisions of the TRIPS Agreement for the Prevention, Containment and Treatment of COVID-19*, Communication from the African Group, Bolivia, Egypt, Eswatini, Fiji, India, Indonesia, Kenya, LDC Group, Maldives, Mozambique, Mongolia, Namibia, Pakistan, South Africa, Vanuatu, Venezuela and Zimbabwe, WTO Doc. IP/C/W/669/Rev.1 (21 May 2021) ["Revised Waiver Proposal"]; WTO, "Draft Ministerial Decision on the TRIPS Agreement", *Ministerial Conference*, 12th Session, WT/MIN(22)/W/15/ Rev.2 (17 June 2022). For a general discussion on TRIPS waiver debate, see Bryan Mercurio and Pratyush Nath Upreti, "From Necessity to Flexibility: A Reflection on the Negotiations for a TRIPS Waiver for COVID-19 Vaccines and Treatments" (2022) 21 *World Trade Review* 633-649.

³⁹ Press Release, Intellectual Property Office, "UK and India agree to increase IP cooperation" (8 November 2016), <https://www.gov.uk/government/news/uk-and-india-agree-to-increase-ip-cooperation>

⁴⁰ Ibid.

⁴¹ See Peter Drahos, *The Global Governance of Knowledge: Patent Offices and Their Clients* (Cambridge University Press, 2010).

However, there are certain areas relevant to development that have been left out. Although the Chapter refers to technology transfer in provisions related to its objectives and principles, as well as in the public health-related provisions, it does not adequately address the long-standing challenges of technology transfer. Also, it does not contain specific provisions addressing IP issues related to climate change or ecological sustainability, except general commitments to cooperation. The omission of language protecting against enforcement measures becoming trade barriers is notably given that in the past India faced situations in which generic medicines in transit were seized.⁴²

Overall, the Chapter reflects a compromise between countries with established strong IP regimes and those seeking greater policy space and advancing IP norms in areas such as traditional knowledge. As India continues integrating into the global trade architecture through bilateral agreements, the CETA IPR Chapter will serve as a critical test case for whether strategic policy space can be meaningfully preserved within contemporary trade frameworks. The coming years will reveal whether this chapter establishes replicable precedents for development-conscious IP governance or requires further refinement to adequately balance competing interests.

⁴² For details on this issue see UNCTAD Intellectual Property Unit, European Union and a Member State-Seizure of Generic Drugs in Transit: Request for Consultations by India (DS408/1) and Brazil (DS409/1), 19 May 2010 <https://unctad.org/ipcaselaw/european-union-and-member-state-seizure-generic-drugs-transit-request-consultations-india-ds4081>; See also, Brook K. Baker, Settlement of India/EU WTO Dispute re Seizures of In-Transit Medicines: Why the Proposed EU Border Regulation Isn't Good Enough Joint PIJIP/TLS Research Paper Series (2012) <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1026&context=research>.

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