



Takeaways from the Fourth Indo-German Track 2 Dialogue on Digital Trade

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List of Abbreviations

AI	Artificial Intelligence
BRICS	Brazil Russia India China South Africa
DPI	Digital Public Infrastructure
DSA	Digital Services Act
EU	European Union
FDI	Foreign Direct Investments
GDPR	General Data Protection Rules
GST	Goods and Services Tax
IP	Intellectual Property
IR	International Relations
IT	Information Technology
QUAD	Quadilateral Security Dialogue
SMEs	Small and Medium Enterprises

Foreword

This brief contains the high-level takeaways from an Indo-German experts dialogue on digital trade held in Berlin and anchored by the Friedrich-Ebert-Stiftung and Koan Advisory Group. This dialogue, held in September 2024, was fourth in a series initiated a year earlier in New Delhi. The series has seen participation of policymakers, industry, and civil society experts from both sides.

The discussions and research outputs in this series encompass various facets of digital trade, including consumer protection, cybersecurity, data protection, and intellectual property. All of these are also made available in a series of publications that are in the public sphere. We hope these latest recommendations continue to inform policy leadership and expert communities on both sides.

Part I.

Strengthening Confidence in the India-Germany Tech Partnership

The technology partnership between India and Germany is already deep, but both countries must now embrace a more confident and forward-looking approach to this collaboration. During discussions, we often heard concerns from European experts who were uncertain about where India stands on the global stage. Some pointed to India's involvement in both the Brazil Russia India China South Africa (BRICS) group and the Quadrilateral Security Dialogue (QUAD) as evidence of a balancing act between competing groups.

However, Indian experts felt that this view oversimplifies India's foreign policy. India's strategic decisions are shaped by a unique set of constraints—its geography, demography, and national priorities linked to socio-economic development. These factors explain India's nuanced posture and multi-alignment, a country seeking to secure outcomes in its national interest while maintaining relationships with diverse partners.

Recognising the symbiotic relationship between India and Germany is a crucial starting point for more digital trade. **The European Union (EU) is consistently India's largest trading partner, top investor, and a key source of technology transfer.** The EU's foreign investment stock in India reached €108.3 billion in 2022, up from €82.3 billion in 2019, reflecting its leading role as a foreign investor. As major EU economies like Germany seek to diversify away from dependence on China, India will inevitably become an important partner.

It's also time to rethink how we view tech markets in the context of global partnerships. India has consistently signalled its alignment with Europe and its allies when it comes to technology. For instance, India has embraced the concept of trusted supply chains in collaboration with QUAD countries, a move that matches Europe's focus on secure and reliable partners. India's new data protection law also incorporates a negative list of countries with which it will not allow free flow of data—another signal of India's commitment to trusted and secure supply chains, extending even to the realm of data.

For Germany, the time is ripe to strengthen its technology partnership with India by deepening cooperation in areas like global capability centres, emerging technologies, and enhancing trade in services. Such efforts will help German industries compete globally, particularly in via digital transformation. **The foundation is already in place; now is the moment for Germany to fully embrace India as a vital partner in the future of technology.**

Part II.

Impact Assessment of the EU's Digital Regulations from a Trade Perspective

The EU with key members like Germany, is in the process of implementing various digital regulations aimed at creating a secure and competitive digital environment. The EU has introduced around 20 new laws that impact digital markets since 2016, and over 200 regulators at various levels in charge of implementing these. Notably, the Digital Services Act (DSA) and a new Product Liability Directive form part of the EU's broader effort to safeguard consumers from illegal and harmful activities in the digital space.

Such regulatory frameworks are also likely to be employed in protecting European businesses from the flood of low-cost goods from China, which has long benefitted from cheaper production capabilities. **We heard from several experts that Germany aims to discourage the influx of inexpensive, potentially lower-quality goods that could undermine its producers, by imposing higher product liabilities and compliance standards that level the playing field.**

But Germany also risks creating unintended barriers to trade with partner countries including India. Indian technology exports to Europe, including software, information technology (IT) services, and high-tech goods, may inadvertently be affected by the stringent regulations intended to protect local businesses and consumers. **Increased compliance costs or complex liability frameworks could disproportionately impact small and medium-sized Indian firms looking to enter or expand in the European market.**

Therefore, it is essential that impact assessments of EU regulations include a trade perspective. This would involve examining how the regulatory landscape affects non-EU businesses, particularly from countries like India, and ensuring that new rules do not become trade barriers. **Dialogue between Indian and EU regulatory bodies could help identify potential issues early on and enable the formulation of mutually beneficial adjustments or exemptions.**

Part III.

Reducing Barriers to E-Commerce Exports

India must make concerted efforts to reduce barriers to e-commerce exports, particularly for its small and medium-sized enterprises (SMEs), to expand its trade footprint with Germany and other partners. One significant challenge lies in the delays faced by exporters in receiving their Goods and Services Tax (GST) refunds. These delays often create liquidity pressures for small businesses, hampering their ability to scale up and meet international demand.

Currently, India's e-commerce exports are estimated at \$4–5 billion, a mere 0.9–1.0 percent of the country's total exports; and e-commerce exports only account for around five percent of domestic e-commerce sales in India. In contrast, in China, e-commerce exports represent approximately 6.5 percent of total merchandise exports. This stark difference highlights the missed potential for India's digital trade.

While India has been successful in attracting foreign direct investment (FDI) in its e-commerce sector—around \$33 billion to date—the challenge lies not in the creation of digital platforms but in improving the regulatory and operational environment for exporters. Streamlining GST refunds and reducing administrative hurdles would enable SMEs to thrive and export at a higher scale. Moreover, aligning India's regulatory framework with the ethos of ease of doing business is essential to unlocking this potential.

Additionally, India could benefit from supporting the EU's stance on a global customs duty moratorium for e-commerce transactions at the World Trade Organisation. The country has so far been reticent to agree to a permanent moratorium on grounds that this may impact customs collections, particularly when the scope of e-commerce is left too wide.

Both jurisdictions could, therefore, focus on narrowing the scope to keep activities such as 3D printing out of the scope of the customs duty moratorium. Experts proposed that a negative list approach could offer a possible path forward. In any case, a convergence of positions between the two jurisdictions would help foster an open and conducive environment for cross-border e-commerce, benefitting India's underdeveloped ecommerce export potential.

Part IV.

Reimagining Immigration Policy to Accommodate Trade in Services

International trade is often associated with the movement of goods across borders, but when it comes to services, the movement of people is a critical factor. Immigration and trade in services are correlated, particularly for sectors like information technology, consulting, and other professional services.

As a net exporter of services, India stands to benefit significantly from greater access to the European Union's services market. In fact, trade in services between India and the EU reached €50.8 billion in 2023, up from €30.4 billion in 2020, highlighting the increasing importance of this trade relationship.

A key Indian objective in its trade negotiations with the EU is the reform of work permits and visa systems to allow skilled Indian professionals to temporarily reside and work in EU member states. But work permits and visas remain under the jurisdiction of individual EU member states, making uniform reform challenging. Therefore, there is an opportunity for this to be explored at a bilateral level.

More liberal German rules on the movement of professionals would provide Indian businesses with a valuable opportunity to expand their services within the EU, offering mutual benefits for both sides. This would enable Indian talent to support European companies, especially in areas where there are digital skill shortages.

Indeed, several experts pointed to the political resistance linked to growing anti-immigration sentiment, particularly from the "far-right" in countries like Germany, which complicates efforts to liberalise the movement of professionals. These political barriers necessitate a reframing of domestic discourse around immigration, particularly when it relates to trade in services.

Decoupling immigration from trade in services in the public discourse is critical. It must be emphasised that allowing skilled Indian professionals to work temporarily in Europe is not about taking away local jobs but about enhancing the competitiveness of European industries. Germany, in particular, stands to benefit from such liberalisation, as it seeks to accelerate digital transformation of legacy industries.

Part V.

Enhancing Cooperation on Technical Regulation

India and Germany have an opportunity to work more closely on technical regulation, particularly in areas that focus on enhancing public trust. Unlike domains such as digital competition, where country-specific contexts and market structures diverge significantly, both countries share a common interest in reducing risks and harms to internet users.

Data protection is one such area where India and the EU must explore building mutual trust to facilitate smoother cross-border data flows. India's new Digital Personal Data Protection Act introduces significant reforms to the country's data protection framework, but concerns have been raised about whether India can achieve adequacy status under the EU's General Data Protection Rules (GDPR). This is partly due to structural differences, such as the role of India's data protection authority, which lacks the independence typically required by European standards.

Moreover, European legislators have previously expressed reservations about digital surveillance without parliamentary oversight in India. While India's Information Technology Act has built-in requisite safeguards, the country appears to lack safeguards or is yet to notify these for central intelligence agencies. Even so, experts noted that all institutions are subject to parliamentary oversight under the Indian Constitution, and that the GDPR also features national security exemptions.

In any case, **even if India struggles to receive GDPR adequacy status, there are alternative pathways to enable data flows.** One promising solution would be for India and the EU to work together to empower small businesses to enter into standard contractual clauses that comply with both jurisdictions' legal frameworks. Data protection must be seen through the lens of trade facilitation and institutional capacities be built to boot.

Intellectual property (IP) is another key area for technical cooperation. While some European experts have expressed concerns that India's IP regime does not match the standards set by the EU, Indian stakeholders argue that this is an outdated view.

Indian courts have actively enforced commercial rights, and the country has kept pace with Europe by issuing guidelines on the patenting of software. Regardless of these perception gaps, there remains considerable room for exchange of information and cooperation between regulatory bodies, which can help align IP frameworks and foster innovation.

Cybersecurity is yet another field ripe for deeper collaboration. **Both India and the EU face increasingly sophisticated cyber threats, and there is mutual benefit in sharing expertise and strengthening regulatory cooperation.** Our last issue brief on cybersecurity and digital trade pathways highlights the need for joint initiatives to tackle cyber risks and promote secure digital trade. Areas of potential cooperation include creating shared frameworks for managing critical infrastructure risks, establishing channels for cyber threat intelligence sharing, and working on common standards for digital product security and incident response protocols.

Artificial Intelligence (AI) regulation is another area where both jurisdictions can coordinate closely. **Cooperation between standard-setting bodies and regulators will be crucial in ensuring AI safety.** While the EU has already issued a horizontal law to regulate AI, in the form of its AI Act, India may take a more targeted sectoral approach. In any case, both jurisdictions can begin to understand these risks in depth, and set common guidelines for AI systems that ensure transparency, accountability, and user safety.

Finally, both sides could also work together to explore the potential of Digital Public Infrastructure (DPIs). While some experts have expressed apprehensions about the imposition of DPIs through state-driven mandates, **there is broad agreement that a market-based DPI approach could significantly contribute to furthering digitalisation, public service delivery, and even the development of AI.** This would allow India and the EU to leverage DPIs for a variety of use cases, creating a robust foundation for future digital cooperation.

Part VI.

Fostering Multistakeholder Discussions on Trade and Technology

India and Germany would benefit greatly from exploring more avenues to foster multistakeholder discussions involving civil society, industry experts, and academia in the realm of trade and technology.

A key takeaway from our recent discussions was that most bilateral engagements continue to operate in silos, and the true spirit of multistakeholderism is often lacking. Government-to-government talks rarely incorporate civil society or industry experts, even though their involvement is essential in areas that affect citizens and businesses directly.

Finding innovative ways to incorporate multistakeholder perspectives into formal government discussions is crucial, especially in emerging areas like AI, where state capacity is limited on both sides. Facilitating broader input will lead to more grounded and effective policies, particularly in areas where technology is rapidly evolving, and regulatory frameworks are still developing.

Furthermore, interdisciplinary discussions are necessary. **Too often, bilateral conversations—particularly those outside government channels—are framed through the lens of international relations (IR).** While IR think tanks and academic institutions provide valuable insights, geopolitical dynamics should not be viewed in isolation from trends in technology and trade. Experts in technology, digital trade, and governance need to collaborate more closely with those in IR to avoid high-level, abstract discussions that fail to address the real-world challenges and opportunities.

Both governments would do well to build on the existing processes and discussions that have already taken place. Four rounds of rich dialogues in India and Germany have led to the production of substantial knowledge, as documented in several key publications.

The Friedrich Ebert Stiftung –Koan knowledge series explores various facets of the India-EU tech relationship, emphasising the need for more inclusive platforms where government, industry, and civil society can engage constructively on digital trade issues.

Both countries can ensure that multistakeholder input is encouraged and becomes an integral part of shaping future policies by supporting and expanding such dialogues. This approach will make bilateral cooperation more dynamic, inclusive, and better equipped to handle the complexities of today's digital economy.

List of Discussants*

1. Alien Mulyk, Lead -- Public Affairs, Europe and International, BEVH (Industry Association of German E-commerce)
2. Anil Bhardwaj, Secretary General, Federation of Indian Small and Medium Enterprises
3. Benjamin Brake, Director General, Digital and Data Policy Division, Federal Ministry for Digital and Transport
4. Christoph P. Mohr, Country Director and Resident Representative India, Friedrich Ebert Stiftung
5. Dr. Ajai Garg, Former Head of International Cooperation, Ministry of Electronics and Information Technology, India and Director, Koan Advisory
6. Dr. Annegret Bendiek, Head, Research Cluster Cybersecurity and Digital Policy, German Institute for International and Security Affairs
7. Dr. Jens Zimmermann, Member of the German Bundestag
8. Dr. Kirstin Pukall, Head of Department, Retail and Advertising, Federal Ministry for Economic Affairs and Climate Action
9. Marc Reinhardt, President, D21 Initiative
10. Martin Mader, Desk Officer South Asia and Asia and Pacific Department, Friedrich Ebert Stiftung
11. Meghna Bal, Director, Esya Centre
12. Nithya Kochuparampil, Program Adviser -- International Cooperation, Friedrich Ebert Stiftung
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14. Vivan Sharan, Partner, Koan Advisory

*Includes stakeholders consulted in bilateral consultations during the visit of the Indian delegation to Berlin; the delegates also visited the 'GovTech Campus Deutschland' as part of the effort to understand Germany's innovation ecosystem.

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