



Report of the Fourth Round of Negotiations On a Free Trade Agreement between the European Union and India

13 – 17 March 2023, Brussels

The fourth round of EU-India FTA negotiations took place in Brussels between 13 and 17 March 2023. The round was held in-person, with the participation of additional colleagues joining by videoconference. The sessions on Sustainable Food Systems, and Transparency were held the following week in a virtual format. Negotiations on Government Procurement (GP) will be held in Brussels as of 27 March in hybrid mode.

After the third round, which marked the beginning of real negotiations, the aim of this fourth round was to accelerate work on texts and deepen the mutual understanding of the main areas of convergence and divergence between the EU and India. In addition, another objective was to initiate discussions about the modalities of the exchanges of offers on market access in goods, services and investment, and public procurement.

The fifth round of EU-India FTA negotiations will be held in New Delhi from 19 to 23 June 2023.

Details per negotiating area:

Trade in Goods:

Open and friendly discussions allowed for a deeper understanding of the sensitive issues in this chapter. While divergences remain, both India and the EU agreed to continue internal discussions in an effort to bridge as many differences as possible during the next round. Negotiators agreed to hold intersessional talks.

Rules of Origin:

Constructive discussions took place on Rules of Origin. Negotiators focussed on the general requirements (section A) where some progress was made. Section B was briefly discussed. Draft Product-Specific Rules have not been tabled yet.

Customs and Trade facilitation (CTF):

Discussions on the CTF Chapter allowed to make good progress. Three new provisions were fully agreed, bringing the number of agreed provisions to 10 (out of 20). In addition, three other provisions were partially agreed. On other provisions, exchanges continued and increased the level of mutual understanding.

Sanitary and Phytosanitary Measures (SPS):

Negotiators had substantial discussions and made progress on three important articles of the SPS Chapter (certification, audit and transparency), based on the merged text sent by India ahead of the round, which reflects both the text proposed by the EU and the Indian counterproposal. Negotiators agreed to hold intersessional sessions in order to better understand their divergences.

Technical Barriers to Trade (TBT):

Negotiators discussed all the articles of the TBT Chapter, apart from the conformity assessment article and annexes that were presented during the previous round. Some progress was made in relation to the provisions on standards, transparency, marking and labelling, as well as institutional provisions, and a number of proposals were made to be reflected upon by the next round.

Trade remedies/TDI

Negotiators continued the constructive dialogue on their respective textual proposals. Negotiators explored potential options based on a merged text and made considerable progress on substance. In addition to the areas of concerns, other provisions of the proposed texts were discussed further. Negotiators confirmed that the chapter should reiterate WTO rights and obligations, striving for WTO+ provisions in certain areas.

Services and Investment:

Negotiators held intensive discussions, pursuing text consolidation on the basis of working documents or mark-ups prepared prior to the round, and reaffirmed their positions as indicated in previous rounds for respective areas of offensive interest. Negotiators agreed to hold intersessional talks.

Digital Trade:

Negotiators discussed 15 articles: e-contracts, e-authentication and e-trust services, data flows, privacy, e-invoicing, open government data, consumer protection, customs duties, no-prior authorisation, cybersecurity, principles on access to and use of the internet for digital trade, digital government, regulatory cooperation, right to regulate, and exceptions. Good progress was achieved on several provisions.

Government Procurement

In the fourth round, negotiators continued discussions on the Government Procurement chapter, based on the EU draft text with few additions proposed by India. The two sides held fruitful discussions on all elements of the text that remain to be agreed, including the non-discrimination principle. Only very few provisions remain to be discussed and most of the text is already agreed.

Intellectual Property:

Negotiators continued their detailed discussions on intellectual property rights based on EU and Indian text proposals, focusing on copyright, trademarks and trade secrets. These text-based discussions led the Indian and EU sides to identify some provisions where convergence could be found. Negotiators will consider holding intersessional talks as needed.

Anticompetitive Conduct, Merger Control and Subsidies:

The two sides held positive discussions on this chapter. Negotiators were able to conclude negotiations of Section A (Anticompetitive conduct and merger control), based on the joint text. On Section B (Subsidies), discussions continued based on a text merging the EU's and India's respective proposals. Negotiators will continue discussions on this basis during the next round.

State-Owned Enterprises (SOEs):

Negotiators had a positive exchange on the content of the EU's proposal for a Chapter on SOEs and of India's counterproposal. Several challenging differences between each side's initial position were identified and discussed in detail, with a view to maintaining further exchanges between now and the next round.

Small and Medium-Sized Enterprises (SMEs):

Negotiators came to an agreement on most of the text in the SME Chapter. The outstanding issue relates to the cooperation provisions for SMEs. The EU and Indian sides agreed to reflect on the most appropriate way to tackle the cooperation provisions with a view to finding a mutually agreeable solution.

Energy and Raw Materials (ERM):

The EU and Indian sides presented and discussed their respective sensitivities and positions on the ERM Chapter. Negotiators discussed both the EU's and India's proposals on cooperation, exploring notably potential areas such as energy, raw materials and net zero value chains. The two sides will consider holding intersessional talks as needed.

Transparency:

Negotiations took place in a positive atmosphere. All the provisions of the chapter were discussed, and negotiators reflected in the text of the chapter the

different comments received during the round. Divergences remain but some progress was made as negotiators were able to agree on a few provisions.

Good regulatory Practices (GRP):

Negotiators made some progress on the GRP Chapter although important differences between the two sides persist, in particular with respect to the scope of the chapter where India would like to limit the GRPs to Acts of Indian Parliament, excluding from the scope regulatory measures issued by ministries and departments of the government. All the articles of the chapter were discussed, and a number of provisions were agreed.

Sustainable Food Systems (SFS):

Negotiators made progress in the negotiation of the SPS Chapter, agreeing on the version of the text that is to be used as the joint negotiation text. Article 1 was agreed and progress was made on a few other articles.

Dispute Settlement:

Negotiators continued detailed text-based negotiations, on the basis of a draft merged text prepared by the EU side that reflects the two sides' text proposals. The main issues covered were panel process and functioning, as well as transparency. Discussions were constructive and progress was made on several provisions.

Mutual Administrative Assistance in Customs Matters (MAA):

Negotiators discussed an EU proposal presented at the previous round for a mutually agreeable solution. India and the EU already benefit from the provisions on Customs Cooperation (CC) and MAA of the existing 2004 CCMAA Agreement. Therefore, the discussion continues to focus on the content to be added to the existing MAA provisions.

Anti-Fraud:

Both sides agreed to the inclusion of an anti-fraud clause in the FTA. Negotiators held extensive discussions on their respective positions and agreed to hold intersessional talks.

Trade and Sustainable Development (TSD):

Based on an Indian mark-up of the EU text proposal, negotiators re-discussed all articles of the TSD Chapter and continued to exchange views on the overall scope and enforceability of such chapter. Negotiators agreed to engage in intersessional exchanges of information, in order to continue working towards identifying mutually agreeable wording during the next round.

Capital Movements, Payments and Transfer Chapters:

The two sides continued discussions on the EU's proposal for a Chapter on Capital Movements, Payments and Transfers and Temporary Safeguard Measures. The parties discussed commonalities and differences in their respective approaches.

Exceptions

Negotiators had a first exchange on the text proposed by the EU on horizontal exceptions. The EU side presented its text and replied to the Indian side's questions, article by article.
