



EUROPEAN FREE TRADE ASSOCIATION

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EFTA-KOSOVO FREE TRADE AGREEMENT

CONCLUSION OF NEGOTIATIONS

Note by the EFTA Secretariat

On 26 September 2024, Member States of the European Free Trade Association (Iceland, Liechtenstein, Norway, and Switzerland) and the Republic of Kosovo concluded negotiations on a Free Trade Agreement (FTA).

Summary

The EFTA-Kosovo Agreement covers trade in goods, technical barriers to trade (TBT) and sanitary and phytosanitary measures (SPS), trade in services, intellectual property rights, trade facilitation, trade remedies, competition, trade and sustainable development, as well as legal and horizontal provisions.

Bilateral EFTA-Kosovo merchandise trade has increased rapidly since 2002 and reached more than EUR 176 million in 2023. EFTA's main exports to Kosovo in 2023 were vehicles, pharmaceutical products, machinery, and tobacco. In the same year, merchandise imports from Kosovo consisted mainly of furniture, plastics, articles of iron and steel, and wood and wood products.

Negotiations towards the conclusion of a free trade agreement were launched in 2022 in Borgarnes, Iceland. Subsequently, four rounds of negotiations took place. The final round was held in Pristina, Kosovo in September 2024.

Content of the Free Trade Agreement

The FTA integrates EFTA's newest trade and sustainable development chapter, while also advancing EFTA's traditional trade interests. The Agreement covers the following areas:

- Preamble
- Trade in Goods
- Rules of Origin, Trade Facilitation and Customs Cooperation
- Sanitary and Phytosanitary (SPS) measures and Technical Barriers to Trade (TBT)
- Trade Remedies
- Trade in Services
- Intellectual Property Rights
- Competition
- Trade and Sustainable Development
- Horizontal, Legal and Institutional Provisions (including Dispute Settlement)

Preamble

The Preamble of the EFTA-Kosovo FTA sets out the framework for the trade relations between the EFTA States and Kosovo by reflecting common principles, such as their commitment to democracy, rule of law, human rights and fundamental freedoms, environmental protection, fight against corruption, good corporate governance and corporate social responsibility, and their rights and obligations under multilateral environmental agreements.

Trade in Goods

i. Industrial Products

Upon the entry into force of the Agreement, the EFTA States abolish all customs duties on imports of industrial products, including fish and other marine products, originating in Kosovo. Reciprocally, Kosovo will eliminate all customs duties on all industrial products, including fisheries and marine products, originating in an EFTA State, although certain goods will only become duty-free after a dismantling period of 3 or 5 years.

ii. Agricultural Products

Upon the entry into force of the Agreement, Kosovo will abolish all customs duties on imports of agricultural products, originating in the EFTA States. The individual EFTA Member States (CH and FL together due to their Customs Union) have provided market access based on Kosovo's specific trade interests, such as torrefied coffee, honey, vegetable cans and pepper, while taking into account sensitivities related to domestic production.

Rules of Origin

The EFTA States and Kosovo are Parties to the pan-Euro-Mediterranean (PEM) Convention. This Agreement incorporates the PEM rules and its future amendments, in addition to going further than the PEM rules with the possibility of full cumulation also of textiles and the acceptance of electronic certificates.

Trade Facilitation

The Parties aim to facilitate trade between Kosovo and the EFTA States by providing for facilitated customs procedures and ensuring transparent rules for trade in goods and cooperation between authorities. The Agreement incorporates the WTO Agreement on Trade Facilitation, and includes provisions that are in line with relevant international standards and agreements, such as the Revised International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention).

Trade Remedies

The Parties reaffirm their rights and obligations under the WTO Agreement on Subsidies and Countervailing duties and establish additional notification and consultation requirements. They agreed to an obligation to exclude the application of anti-dumping measures, unless it is proven that antidumping is taking place, and to respect certain requirements such as notification and consultations when applying anti-dumping measures. The Parties further agreed to exclude imports of an originating product from one or several parties from the application of global safeguard measures if such imports do not in and of themselves cause or threaten to cause serious injury. Finally, the Agreement provides for a bilateral mechanism to remedy economic injury caused by increases in preferential imports of agricultural or industrial goods as a consequence of liberalising trade under the Agreement.

Technical Barriers to Trade and Sanitary and Phytosanitary Measures

EFTA States and Kosovo have agreed to reduce technical and sanitary hurdles for goods traded between the Parties, building on the WTO agreements on SPS and TBT. The provisions incorporate and reaffirm the WTO obligations and contain provisions about import checks, certificates, the approval of products and establishments and ensures low threshold consultation mechanisms. The provisions establish stronger consultation mechanisms, reinforce transparency requirements and information exchange, and streamline procedures for audits and the inspections of establishments. The Agreement also contains provisions allowing for possible harmonisation with future agreements between the EU and Kosovo in these fields.

Trade in Services

The Parties aim to expand trade in services through enhanced provisions building upon the WTO General Agreement on Trade in Services (GATS) provisions. The Chapter closely follows the approach of the GATS and covers trade in all services sectors under all four modes of supply. The Parties have listed the sectors in which they undertake specific market access commitments, such as for professional services, telecommunications, environmental and financial services as well as transportation and logistics. Those lists will be reviewed periodically with the aim to further liberalise trade in services between both sides. Further sectoral disciplines are enshrined in dedicated annexes for financial services, telecommunications, and the movement of natural persons, thereby creating predictable rules and legal certainty for the supply of these services.

Intellectual Property

The Agreement includes a Chapter and annex on IPR, which comprehensively extend beyond existing WTO rules. In the Chapter on IPR, Parties include the principles of national treatment and MFN. The provisions on IPR contained in the Annex cover copyrights, trademarks, patents, undisclosed information, industrial designs, geographical indications, indications of source, cooperation, and enforcement of IPR, including border measures. Substantive obligations in key international IPR instruments are referenced, notably the WTO Agreement on Trade

Related Aspects of Intellectual Property Rights (TRIPS). In the area of patents, the standards correspond to the European Patent Convention. The annex on IPR further includes an appendix on the mutual recognition and protection of indications of source and geographical indications of Liechtenstein, Switzerland and Kosovo.

Competition

In the Competition Chapter, the Parties recognise that anti-competitive business practices, i.e. agreements and concerted practices between undertakings as well as abuses of a dominant market position, in so far as they may affect trade between the Parties, have the potential to undermine the benefits of liberalisation arising from the Agreement. The Chapter contains rules to ensure that trade liberalisation will not be impaired by anti-competitive practices of private or public undertakings that may prevent, restrict, or distort competition. The Competition chapter provides for a cooperation provision as well as for a consultation mechanism in the framework of the Joint Committee.

Trade and Sustainable Development

In the Chapter on trade and sustainable development, the Parties agree to promote the development of international trade and investment as well as their preferential economic relationship in a manner that is beneficial to all and that contributes to sustainable development. The chapter is based on the latest version of EFTA's model provisions on Trade and Sustainable Development.

In the chapter, the Parties recognise that economic development, social development, and environmental protection are independent and mutual supportive. The Parties commit to uphold levels of protection and to effectively enforce their environmental and labour laws, regulations and standards, while recognising the right of each Party to establish its own level of environmental and labour protection.

More specifically the Parties commit to the sustainable management of natural resources in forestry, biological diversity, fisheries and aquaculture, agriculture and food systems, and associated trade. They commit to effectively implement the multilateral environmental

agreements to which they are a party, including the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement. The Parties commit to respect, promote, and realise the International Labour Organisations (ILO) fundamental principles and rights at work and to effectively implement the ILO conventions which they have ratified. Furthermore, the Parties acknowledge the importance of an inclusive economic development and equal opportunities for all and affirm their commitment to implement the international agreements pertaining to gender equality and non-discrimination which they have ratified. Recognising that Kosovo is currently not a member of the ILO and not party to the international conventions referred to in the chapter, the Parties agreed on a Record of Understanding reflecting Kosovo's commitment to nevertheless align its relevant legislation with those international standards.

The chapter foresees the possibility to establish a panel of experts competent to issue recommendations to the Parties in order to settle any disputes arising over the implementation of the chapter.

Horizontal Provisions, Institutional Provisions and Dispute Settlement

The chapter on institutional provisions establishes a Joint Committee, comprising representatives of each Party, to supervise and administer the Agreement and to oversee its further development. The Joint Committee shall normally meet every two years. It may decide to amend the Annexes and Appendices of the Agreement or consider and propose amendments to the Agreement. The chapter on dispute settlement sets out the rules and procedures applying with respect to the avoidance or settlement of any disputes that may arise between the Parties concerning the interpretation or application of the Agreement. If a dispute may not be resolved under the consultation mechanism, the complaining party may request the establishment of an arbitration panel composed of three arbitrators. A party, which is not a party to the dispute, may participate in the consultations and/or arbitration procedure. Hearings are open to the public and the panel report shall be published unless the parties to the dispute decide otherwise. At any stage of the consultation or arbitration procedure, the parties to the dispute may have recourse to conciliation, good offices, or mediation to find an amicable solution of the dispute.