



EUROPEAN FREE TRADE ASSOCIATION

10 March 2024

EFTA – INDIA TRADE AND ECONOMIC PARTNERSHIP AGREEMENT CHAPTER BY CHAPTER FACTSHEET

Note by the Secretariat

On 10 March 2024, Member States of the European Free Trade Association – Iceland, Liechtenstein, Norway, and Switzerland – and India signed a comprehensive Trade and Economic Partnership Agreement (TEPA).

The Agreement covers the following areas:

- Preamble
- General Provisions
- Trade in Goods (incl. Rules of Origin and Trade Facilitation)
- Trade Remedies
- SPS
- TBT
- Trade in Services
- Investment Promotion and Cooperation
- Intellectual Property
- Government Procurement
- Competition
- Trade and Sustainable Development
- Dispute Settlement
- Institutional Provisions
- Final Provisions

Preamble

The Preamble of the EFTA-India FTA sets out the framework for the trade relations between the EFTA States and India by reflecting common principles, such as their commitment to sustainable development, good corporate governance and corporate social responsibility.

Trade in Goods

Industrial Products and Fish

With the entry into force of the Agreement, the EFTA States will commit to maintaining the elimination of all customs duties on imports of industrial products, as well as fish and other marine products, originating in India. Reciprocally, India will reduce and eliminate customs duties on a significant share of industrial products originating in and currently exported from an EFTA State. The Agreement will lead to elimination of duties on most industrial goods currently exported to India by EFTA companies, such as for example pharmaceutical products, machinery, watches, fertilizers, medicines, chemical products, minerals, as well as fish.

Agricultural Products

For agricultural products, the individual EFTA States (Switzerland and Liechtenstein together due to customs union) and India have provided improved market access based on specific trade interests and respective sensitivities related to domestic production. The Agreement provides for meaningful tariff concessions on both basic and processed agricultural products. The Agreement will improve market access of existing agricultural imports into India from the EFTA States, as well as of Indian imports into the EFTA States, while respecting the agricultural policies and sensitivities on both sides.

Rules of Origin

The rules of origin are largely based on EFTAs model. The provisions allow for bilateral cumulation between the Parties and the use of EUR.1 certificates as well as for self-declaration of origin under certain conditions for EFTA exporters. The agreement preserves the traditional list of insufficient operations which do not confer origin, accounting segregation may apply to fungible materials, and the direct transport provisions stipulates activities that may be undertaken for originating products in third countries. The product-specific rules are relatively detailed, often with a value-added criterion as an optional rule provided for in parts of many

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industrial chapters, and the main alternative chemical reaction rule is provided for chapters 28 to 40.

Trade Facilitation

The EFTA States and India aim to further facilitate trade between them by providing for expedited procedures and transparent rules for trade in goods and related services. The Agreement incorporates and builds on the WTO Agreement on Trade Facilitation and includes provisions that are in line with relevant international standards and agreements.

Trade Remedies

The Parties agree to the applicability of the WTO Agreement on Subsidies and Countervailing duties and establish additional notification and consultation requirements. The Parties address the application of anti-dumping measures and provide that a Party may exclude originating products from global safeguard measures if such products do not cause or threaten to cause serious injury, in accordance with WTO rules and practice. Finally, the Agreement provides for the possibility of taking bilateral safeguard measures when a Party faces possible economic injury caused by increases in preferential imports of goods as a consequence of liberalising trade under the Agreement.

Technical Barriers to Trade and Sanitary and Phytosanitary Measures

The EFTA States and India agreed to reduce technical and sanitary hurdles for goods traded between them, building on the WTO Agreements on SPS and TBT. The SPS and TBT chapters in the Agreement affirm the EFTA States' and India's WTO obligations. The provisions establish stronger consultation mechanisms including the exchange of contact points, reinforce transparency requirements and information exchange. The Agreement also contains provisions allowing for possible harmonisation between EFTA and India with future agreements between a third party and India in these fields, if EFTA has agreed to similar treatment with that third party.

Trade in Services

India and the EFTA States have negotiated a comprehensive Chapter on Trade in Services, supplemented by Annexes on Financial Services, Telecommunication Services, Maritime Personnel, Recognition of Professional Qualifications, and Movement of Natural Persons.

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Besides incorporating and affirming GATS practices, the Chapter includes disciplines aiming to ensure the sustained competitiveness of EFTAs' services suppliers in India, and to extend the FTA's benefits to permanent residents. Provisions in the different Annexes seek to guarantee a level playing field regarding regulatory and information transparency, licensing, and other application procedures in the relevant sectors or domains. Following the GATS approach, schedules of commitments covering all four modes of supply include improved market access for several services (business, telecommunications, environmental, insurance and banking, maritime transport) and a horizontal commitment for different categories under Mode 4.

Investment Promotion and Cooperation

EFTA and India included an innovative investment promotion and cooperation chapter in the agreement. This chapter, rooted in a spirit of cooperation, sets ambitious objectives in terms of investment and job creation in India. It draws upon historical trends and prospective economic forecasts, as well as the expected spillovers of the Agreement. To realise these shared objectives, the Parties pledge to promote investment and cultivate a favourable climate investment in India, while identifying various avenues of collaboration to facilitate the attainment of these shared objectives.

The chapter foresees a regular review by a specially appointed sub-committee. and provides for a three-stage consultation procedure which can be invoked by India if the defined target has not been reached after 15 years. If, after the consultation period, India is still of the opinion that the EFTA states have not fulfilled their obligations, India may, after a further grace period of three years, suspend concessions. The suspension of concessions needs to be proportionate and temporary.

Intellectual Property

The Agreement includes comprehensive provisions on the protection, acquisition and maintenance as well as on the enforcement of IPR, including border measures. It namely covers copyrights, trademarks, patents, plant varieties, undisclosed information, industrial designs, geographical indications, as well as indications of source, country names, and state emblems. Substantive obligations in key international IPR instruments are referenced, notably the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), and the Parties undertake to give due consideration to ratify or accede to further key IPR

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agreements. The Agreement also includes the principles of national treatment and MFN. These provisions are complemented with dedicated articles on the TRIPS Agreement and Public Health, genetic resources and co-operation.

Government Procurement

The Chapter establishes contact points between the Parties to enhance the mutual understanding of their government procurement regimes and agreements as well as a commitment to review the chapter within 3 years from entry into force of the Agreement to examine the possibility of developing and deepening their cooperation under the Agreement.

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, are incompatible with the proper functioning of the Agreement. The Agreement provides for the Parties' cooperation in dealing with the anti-competitive practices outlined, as well as 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 international trade in a manner that contributes to sustainable development and to integrate this objective in their trade relationship. The parties are committed to not derogate from or fail to effectively enforce their respective environmental and labour laws. They agree to incorporate a gender perspective in international trade and reaffirm their commitment to implement any international agreements pertaining to gender equality and non-discrimination which they have ratified. In the area of labour, the parties undertake a commitment to respect, promote and realise the fundamental principles and rights at work embodied in the fundamental ILO Conventions. Furthermore, they reaffirm their commitment to effectively implement in their laws and practices the ratified ILO Conventions and to make efforts towards ratifying fundamental ILO Conventions they have not yet ratified. Regarding the environment, the Parties reaffirm their commitment to implement the multilateral environmental agreements to which they are a party, while the same commitment regarding

the UNFCCC and the Paris Agreement is foreseen in a specific article on trade and climate change. These commitments are complemented with provisions on cooperation on various topics relevant to this chapter. The Parties establish a sub-committee on sustainability to monitor and review the implementation of the commitments in the chapter. An article on consultations gives the parties the right to request consultations to address any matter under the chapter. The commitments of this chapter are not subject to dispute settlement provisions in the dispute settlement 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 modify identified annexes, appendices and articles of the Agreement.

The chapter on dispute settlement sets out the rules and procedures applying with respect to the avoidance or settlement of 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.