



Report of the 5th round of negotiations for a Free Trade Agreement between the European Union and Australia

14-18 October 2019, Canberra

Officials from the European Commission and Australia met in Canberra from 14-18 October 2019 for the 5th round of Free Trade Agreement (FTA) negotiations between the European Union and Australia. The EU negotiating team was led by Ms Helena König, Chief Negotiator and Deputy Director General for Trade of the European Commission, while the Australian team was led by Ms Alison Burrows, Chief Negotiator and First Assistant Secretary at the Australian Department of Foreign Affairs and Trade.

Discussions were held in a good and constructive atmosphere and showed a shared commitment to negotiate an ambitious and comprehensive agreement. 18 working groups met covering almost all areas of the future FTA. Negotiators discussed the textual proposals that had been submitted for the different chapters, and their respective comments. They clarified the underlying concepts and practices, the linkage with international agreements where relevant, and the involvement of different levels of government. Where already possible at this stage of discussions, negotiators agreed in principle on those text parts that were acceptable to both sides. A number of follow-up actions were decided ahead of the sixth negotiation round which is scheduled for February 2020.

Details per negotiating area

Trade in Goods: The two sides discussed the exchanged initial market access offers for goods. They indicated areas where further improvements on the offer constitute an important objective in future exchanges. The two sides discussed open provisions of the consolidated text as regards national treatment, fees and formalities, customs valuation, remanufactured goods, import and export monopolies, origin marking, and export licensing procedures.

Rules of Origin: The discussions concerned three parts of the chapter on rules of origin: general provisions, origin procedures and product specific rules. Both sides continued discussions on the differences and similarities in rules determining the origin of products and origin procedures. On product specific rules, both sides compared their respective approaches for some industrial products.

Customs and Trade Facilitation: Both sides continued the discussion on the basis of the text as agreed in the previous round and the comments and attributions provided before the round. Constructive discussions took place and all articles of the chapter were discussed. Good progress was made on a number of Articles of the chapter.

Trade Remedies: The text related to the use of the WTO trade instruments, i.e. anti-dumping, anti-subsidy and global safeguard, was provisionally concluded, with the exception of one specific provision which will require further consideration. Progress was also made on discussions related to the procedural aspects of the bilateral safeguard clause. Further discussions on the conditions required to take safeguards will be held in parallel with market access discussions, given their interrelationship.

Technical Barriers to Trade: Both sides discussed all articles of the chapter with particular focus on the scope of the chapter, dispute settlement coverage, technical regulations, transparency, marking and labelling and conformity assessment. They also exchanged views on possible sector annexes and on cooperation on market surveillance and exchange of information on non-compliant or unsafe products.

Vehicle Annex: Both sides discussed all articles of the annex with particular focus on regulatory convergence based on UN ECE Regulations on motor vehicles and on acceptance of UN and EU type-approvals.

Sanitary and Phyto-Sanitary measures (SPS): Constructive work was done on all articles and additional clarifications were provided by both sides. This led to more progress on parts of the joint text, such as trade conditions and approval procedures, regionalisation and antimicrobial resistance.

Services and Investment: A constructive and comprehensive discussion took place in relation to investment and cross-border services liberalisation, capital movements, financial services, professional services, the movement of natural persons, and telecommunications, which facilitated mutual understanding on outstanding issues and allowed substantial text to be agreed. Both sides discussed parameters for a first exchange of offers intended to take place ahead of the next round.

Digital Trade: Both sides discussed all provisions of the Digital Trade text in detail, in particular focusing on the articles on which new text attributions were provided intersessionally. Progress was made on a number of provisions.

Public Procurement: Important progress was achieved regarding the text of the chapter, which is now nearly complete. A first discussion took place concerning the scope of the chapter, based on both sides' respective market access requests. An exchange of market access offers is intended to take place prior to the next round.

Intellectual Property Rights (IPR), incl. Geographical Indications (GIs): Constructive discussions on the consolidated text took place, which allowed for progress in different areas. Discussions covered all sections of the IPR chapter, including general provisions, copyright and related rights, trademarks, designs, plant varieties, patents, protection of undisclosed information, geographical indications and IPR enforcement, including border measures. Follow-up actions in relation to various IPRs were agreed. On Geographical Indications, discussions were text based and covered principles and rules, as well as issues relating to the on-going opposition procedure of the EU GIs list in Australia.

Competition and Subsidies: Both sides continued the discussion on the chapter on the basis of the EU text proposal and attributions from the two sides submitted in June 2019 and between the rounds. Good progress was made on the section of the chapter covering Anticompetitive Conduct and Mergers Control, where the two sides further clarified provisions and removed brackets in the text. The articles on Principles and on the Non-Application of Dispute Settlement were provisionally agreed. On the section of the chapter covering subsidies, both sides exchanged views on the definitions and scope and the relationship of the provisions of this section with the WTO Agreement on Subsidies and Countervailing Measures.

State-owned Enterprises: Both sides discussed the chapter on the basis of the text as provisionally agreed in the previous round and the recent textual proposals from the Australian side. Discussion was constructive and some progress was made.

Small and Medium-sized Enterprises (SME): The SME chapter was the first chapter that was concluded at technical level.

Trade and Sustainable Development (TSD): Both sides continued discussions based on EU textual proposals and Australia's reactions to it. Discussions covered all sections of the TSD chapter, including general provisions and definitions, as well as trade and labour, multilateral environmental agreements, climate change, environmental goods and services, biodiversity, sustainable fisheries and aquaculture, forests, gender and Corporate Social Responsibility (CSR) / Responsible Business Conduct. Both sides discussed also provisions on the right to regulate and levels of protection, scientific and technical information as well on institutional and dispute settlement aspects. Both sides also provided more details on their labour, environmental, climate and CSR legislation and practices and concentrated on identifying similarities and divergences between them. The EU side recalled, inter alia, the importance of ratification and effective implementation of all fundamental International Labour Organisation (ILO) Conventions, as well as the importance of the effective implementation of the Paris Agreement by both sides.

Good Regulatory Practices: Both sides discussed all outstanding articles of the chapter, in particular general principles, definitions (including regulatory measures covered on both sides), early information on planned regulatory measures, public consultations and retrospective evaluations. Good progress was made on most articles.

Transparency: Both sides discussed all articles of the Transparency chapter and good progress was made on definitions, publication, enquiries, administrative proceedings and review and appeal.

Dispute Settlement: Both sides continued detailed discussions on the Dispute Settlement chapter. Large parts of the chapter have been provisionally agreed by now and only few areas remain outstanding.

General Provisions: Both sides held detailed discussions on the Exceptions chapter.