



## **Report from the 2<sup>nd</sup> round of negotiations for a Free Trade Agreement between the European Union and the Philippines**

13-17 February 2017, Cebu City (Philippines)

Following the official launch of free trade agreement (FTA) negotiations between the EU and the Philippines on 22 December 2015 and a first round of talks held in Brussels on 23-27 May 2016, negotiators from both sides met in Cebu City on 13-17 February 2017 for the second round of FTA negotiations. The EU negotiating team was led by Mr Peter Berz, Head of Unit (DG Trade, European Commission), while the Philippine team was co-led by Ms Anna Maria Robeniol, Assistant Secretary for Trade in the Philippine Department of Trade and Industry, and Ms Celia Anna Feria, Assistant Secretary for International Economic Relations in the Philippine Department of Foreign Affairs.

Discussions were in general open and constructive and took place in a friendly atmosphere. The Philippine side showed a good level of engagement and brought to the negotiation table over 120 negotiators and seven Philippine text proposals that had been tabled ahead of the round (trade in goods, rules of origin, sanitary and phytosanitary measures, services, investment, intellectual property, and trade and sustainable development). These complemented the nine initial text proposals that the EU side had tabled ahead of the round on: rules of origin (Section A), trade remedies, sanitary and phytosanitary measures, customs and trade facilitation, public procurement, intellectual property, competition, state-owned enterprises (SOEs) and small and medium enterprises (SMEs).

While only nine negotiating groups met and a number of areas were not discussed (annexes on non-tariff barriers, trade remedies, technical barriers to trade, investment dispute resolution, competition and SOEs, transparency and SMEs), the round proved fruitful in moving text-based discussions forward in a number of negotiation areas. A number of groups agreed to continue working ahead of the next round, for which no date was fixed.

### **Details per negotiating area**

#### Trade in goods:

The Philippine side provided a thorough presentation of the text proposal it had tabled ahead of the round, while the EU side presented the outline of the trade in goods text it intends to table ahead of the next round. Discussions allowed both sides to identify a number of points where respective approaches are similar and some areas of divergence. Both sides also addressed areas where further clarifications would be needed in view of links to other chapters of the FTA. The EU side will aim to table a text proposal on trade in goods in the coming months with the idea that an initial consolidated text can be produced ahead of the next round. Discussions on market access served to clarify technical questions in relation to respective tariff structures and in view of a future exchange of tariff offers.

#### Rules of origin:

Ahead of the round, both sides had tabled text proposals on Section A (general provisions) of the rules of origin chapter. The text proposals allowed for very detailed technical discussions covering provisions on definitions, general requirements, wholly obtained products and sufficiently worked or processed products. The question of cumulation was not touched upon and was left open to discuss together with the product specific rules at a later stage.

#### Sanitary and phytosanitary (SPS) measures:

Negotiators provided detailed presentations on respective control systems in place as regards animal health, plant health, and public health systems. The text proposals tabled by each side ahead of the round were thoroughly discussed and negotiators were able to consolidate them into a single text. Both sides shared a common understanding on a number of areas discussed and were able to already agree on the language of some of the provisions included in the chapter. A fruitful exchange of views took place on some of the most complicated articles (i.a. import conditions and regionalisation). Both sides agreed to include collaboration on animal welfare in the SPS chapter but did not discuss provisions in detail.

#### Customs and trade facilitation:

Both sides presented their customs clearance procedures to better understand respective customs practices. The EU side went through its proposed text, explained its objectives and provided clarifications upon request. It was agreed that the EU text proposal will be used as the basis for negotiations and the Philippine side would submit its comments to the EU text in the coming months.

#### Services and investment:

Both sides discussed respective approaches on investment and trade in services, including rules in the areas of domestic regulation, mutual recognition of professional qualifications, delivery services, financial services, maritime transport, the temporary movement of natural persons for business purposes, as well as investment protection. The discussion enabled both sides to make progress towards understanding the objectives and rationale of the respective approaches and to identify commonalities and divergences.

#### Government procurement:

Discussions on procurement were held in a constructive spirit. The EU side presented its text proposal, starting with the relevant provisions of the GPA that were thoroughly discussed and followed by suggested additional provisions. The Philippine side provided thorough information on its current legislative framework and gave some indications on possible future reforms. Both sides agreed to follow-up with intersessional contacts on specific topics of interest.

#### Intellectual property:

The intellectual property negotiating group held good initial discussion based on the EU text proposal that had been tabled ahead of the round. Negotiators covered initial provisions, copyright, trademarks, designs and patents, enforcement and all other parts of the EU text. The Philippine side provided indications on which areas of the EU text could be difficult and requested clarifications on a number of these provisions. On border measures, discussions revealed that the Philippines has legislation in place that is largely compatible with the EU practice. On geographical indications, the dedicated negotiation sessions served the EU side to explain the EU's system and the EU text proposal in detail, but did not allow for significant progress to be made.

#### Trade and sustainable development:

Discussions revealed that both sides share a broad understanding on the overall scope of the chapter, and that leveraging trade to achieve sustainable development is a common endeavour. The EU side gave an overview of its general approach and explained the rationale of the thematic articles in its approach, while the Philippine side provided a thorough presentation of the text proposal it had tabled ahead of the round. The Philippine side referred to a number of initiatives being pushed by the current administration to strengthen the agenda on labour rights (limiting workers' contractualisation), environment (closing of mines) and inclusive

growth (Philippine Development Plan). Both sides also discussed future areas of cooperation, ranging from ILO Decent Work Agenda, green goods and services, low-carbon technologies or eco-labelling.

Dispute settlement:

Despite the absence of text proposals from either side, the negotiating group held an open and constructive discussion on respective approaches and key elements of a dispute settlement mechanism for the FTA. Both sides identified commonalities and differences in their current respective bilateral dispute settlement systems. The Philippine side expressed its readiness to further discuss issues that are new to its current practice, such as a pre-established list of panellists (roster), an elaborated mediation mechanism, a code of conduct for the panellists, and rules of procedure. In addition, the Philippine side requested for clarifications in relation to provisions concerning public hearings, amicus curiae submissions and publication of panel's reports and decisions.

Legal and institutional aspects:

The EU side presented the institutional, general and final provisions of the EU-Singapore FTA as an example, indicating that in some areas (i.e. exceptions, taxation) the EU's approach has evolved and may differ. The Philippine side requested for clarifications in relation to the territorial application of the FTA.