



Report of the 4th round of negotiations for a Free Trade Agreement between the European Union and Australia

1-5 July 2019, Brussels

Officials from the European Commission and Australia met in Brussels from 1-5 July for the 4th 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 started to agree in principle on text parts that were agreeable to both sides. A number of follow-up actions were decided ahead of the fifth negotiation round which is scheduled for October 2019.

Details per negotiating area

Trade in Goods: Both sides discussed open provisions of the consolidated text as regards national treatment on internal taxation, elimination of customs duties, fees and formalities, customs valuation, repaired goods, remanufactured goods, import and export monopolies, import and export restrictions, origin marking, and export licensing procedures. Final text provisions in the article on elimination of customs duties were provisionally agreed. The two sides discussed expectations for the future exchange of initial offers on market access for goods, notably degrees of ambition and conditions for an exchange to take place.

Rules of Origin: The group discussed three parts of the Chapter on rules of origin: general provisions, origin procedures and product specific rules. Both sides continued detailed discussions identifying the differences and similarities in different origin concepts. On product specific rules, both sides compared their respective approaches for agricultural products.

Customs and Trade Facilitation: The two sides resumed the discussion on the chapter on the basis of the consolidated text from the previous round. All outstanding articles were discussed and good progress was made. Brackets were removed in a number of Articles. Two Articles, namely Article X.6 (Transit and Transshipment) and X.8 (Post clearance audit) were provisionally agreed. Partial agreement was achieved on several other articles.

Mutual Administrative Assistance in Customs Matter and Anti-Fraud: Both sides discussed in detail the draft Mutual Administrative Assistance (MAA) protocol and the Anti-Fraud clause. They agreed provisionally on some additional articles of the MAA protocol. The Australian side will conduct additional legal analysis with regard to some other articles, e.g. the definition of customs legislation, and with regard to Anti-Fraud measures.

Trade Remedies: Both sides are close to a provisional agreement on the text related to the use of the WTO trade instruments, i.e. anti-dumping, anti-subsidy and global safeguard. In particular during this round a provisional agreement was reached as regards transparency, lesser duty rule and public interest. Both sides also started detailed discussions on the text tabled by the EU regarding the bilateral safeguard clause.

Technical Barriers to Trade (TBT): Both sides discussed all articles of the TBT text and made satisfactory progress. Many provisions were agreed, in particular in articles on objectives, technical regulations,

standards, general principles of conformity assessment and transparency. Issues that will require further discussion include scope, marking and labelling, acceptance of conformity assessment results, incorporation of the TBT Agreement and dispute settlement. Both sides also discussed new EU rules on organic equivalence.

Annex on motor vehicles: Both sides discussed all articles of the annex and agreed provisionally on some provisions on definitions, relevant international standards and cooperation articles. The discussion was positive with regard to reaffirming commitments of the UN Agreements 1958 and 1998 (enhanced use of UN Regulations and acceptance of UN type-approvals). EU-type approvals will require further in-depth discussions.

Sanitary and Phyto-Sanitary measures (SPS): Good progress was noted in several articles on a joint text (adaptation to regional conditions, equivalence, audits and verification, export certification) and there are a number of partly or fully agreed articles provisionally. Both sides continued providing clarification on each other's text proposals, which will pave the way to agreeing on further text in the future.

Services and Investment: Both sides discussed in detail all the proposed chapters of this title, including the general provisions, investment liberalisation, cross-border trade in services, domestic regulation, mutual recognition, professional services, financial services, delivery services, maritime services, and the temporary movement of natural persons.

Digital Trade: Both sides went through the merged version of the Digital Trade / E-Commerce text in detail, in particular focusing on the articles on which new text attributions were sent prior to the round by both sides. Progress was made on a number of provisions.

Public Procurement: Considerable progress was achieved regarding the text of the chapter. On market access, following the submission of an EU request, the Australian side is preparing a market access request to be submitted prior to the next negotiation round.

Intellectual Property Rights (IPR), incl. geographical indications (GIs): Both sides continued discussions based on a consolidated text. 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. Both sides provided further details on their respective IPR legislation and practice. Constructive discussions on geographical indications (GIs) took place. Follow up actions in relation to various IPRs were agreed.

Competition (including subsidies and State-owned enterprises): The two sides resumed the discussion on the basis of the EU text proposal and the attributions by Australia submitted prior to the round. All articles of both sections of the chapter were discussed. Good progress was made on clarifying individual provisions. A number of brackets were removed on the section of the chapter covering anticompetitive conduct and mergers control.

State-owned Enterprises: Both sides continued the discussion on the basis of the EU text proposal and Australia's attributions. Good progress was made on clarifying individual provisions and a number of brackets were removed. The parties agreed to further discuss the policy differences in the next round.

Small and Medium-sized Enterprises (SME): Good progress was achieved on the text. The remaining outstanding issues include the content of information to be provided, in particular the searchable database by tariff code, and the task of the SME contact points in the future implementation of the FTA SME chapter.

Trade and sustainable development (TSD): Both sides continued discussions based on EU and Australian text proposals. Discussions covered all sections of the TSD Chapter, including general provisions and definitions, as well as provisions *on trade and*: labour, multilateral environmental agreements, climate change, biodiversity, sustainable fisheries and aquaculture, forests, gender and Corporate Social Responsibility / Responsible Business Conduct. Both sides discussed the respective provisions, comments and attributions. Both sides provided more details on their labour, environmental, climate and CSR legislation and practices and concentrated on identifying similarities and divergences between them. A number of follow up actions in relation to various TSD provisions were agreed. The EU side recalled its TSD 15 point's action plan and the importance of ratification of all fundamental International Labour Organisation (ILO) Conventions and of the effective implementation of the Paris Agreement.

Energy and raw materials: Both sides went, in detail, over all of the main articles in the EU text proposal. The EU side restated its view that FTA provisions in this area would further promote sustainable trade and investment in these sectors.

Transparency: Both sides provided further clarifications on their respective positions with regard to several issues that are still open in the Transparency Chapter, in particular inclusion of judicial decisions into the Chapter.

Good Regulatory Practice: The EU side presented the practical application of good regulatory practices in the EU decision-making. Both sides continued discussing the text and provided further clarifications on general principles, the scope of the chapter for Australia, annual planning of regulatory measures, public consultations and retrospective evaluations.

Dispute Settlement: Both sides continued detailed discussions on the Dispute Settlement Chapter, and its two Annexes (Rules of Procedure and Code of Conduct). The discussion continued on the basis of a draft text consolidated after the first round. Both sides reached agreement on the objectives for the Chapter, which include transparent, efficient and effective dispute settlement procedures. Both sides also agreed in principle on many areas relating to the concrete operation of the dispute settlement mechanism but certain areas remain outstanding.