



Report of the 12th round of negotiations for a trade agreement between the European Union and Australia

7 - 18 February 2022 (per video-conference)

Officials from the European Commission and Australia held the 12th round of negotiations for a trade agreement between the European Union and Australia from 7 to 18 February 2022 through a series of video-conferences. The EU negotiating team was led by Mr Peter Berz, Chief Negotiator and Head of Unit at the Directorate 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 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. 26 working groups and sub-groups met covering all areas of the future trade agreement. Negotiators continued discussing the textual proposals that had been submitted for the different chapters, and the respective comments received. They clarified the underlying concepts and practices, the linkage with international agreements where relevant, and the involvement of different levels of government.

Where possible, negotiators agreed in principle on text parts that were acceptable to both sides. The chapters on transparency and on domestic regulation were provisionally concluded during the round. Revised government procurement offers had been exchanged ahead of the round. A number of follow-up actions were decided.

Details per negotiating area:

Trade in Goods: The two sides discussed provisions of the consolidated text as regards national treatment issues, origin marking, export monopolies, non-tariff measures and customs fees and charges. Negotiators continued discussion on the parameters of future market access offers for goods based on the exchange that had taken place in previous rounds.

Rules of Origin: Negotiators discussed the procedural provisions to claim preferential tariff treatment for originating products, as well as to verify the originating status of the originating products. Some provisions were agreed but a small number of key principles remain outstanding. Moreover, negotiators conducted technical discussions on value calculations following an agreement in

principle last round. Products specific rules for agricultural and processed agricultural products were discussed along with discussions on miscellaneous manufactured products. A number of product specific rules were provisionally agreed.

Customs Anti-Fraud and Mutual Administrative Assistance: Negotiators continued discussions of the anti-fraud provisions. As regards the Protocol on Mutual Administrative Assistance in customs matters (MAA), negotiators progressed in their discussion of the few remaining articles such as information exchange and confidentiality.

Trade Remedies: Negotiators discussed the outstanding points focusing on the bilateral safeguard clause. Some of these issues remain open and can only be solved at a final stage, as they are linked to the final market access offer. The sections related to the use of the existing WTO instrument (anti-dumping, anti-subsidy, and global safeguard) have been almost completed in previous rounds.

Technical Barriers to Trade: Both sides discussed articles on definitions, scope, relationship with the WTO TBT Agreement, standards, conformity assessment, cooperation on market surveillance and consumer product safety and technical discussions and consultations. Both sides also discussed the annex on motor vehicles and the recent Australian proposal for an annex on cosmetics.

Sanitary and Phytosanitary Measures and Animal Welfare: Negotiators discussed the remaining issues of sustainable food systems, certification, import checks and fees and the dispute settlement provisions. Agreement was reached on the issue of robustness and transparency in risk assessments for approvals.

Services and Investment: Negotiators achieved substantial progress in further consolidating the text of the Services and Investment Title across all remaining chapters. This Title is now very close to conclusion and the focus of the negotiations is shifting to finalising market access commitments. The chapter on domestic regulation was provisionally concluded during the round.

Digital Trade: Fruitful discussions took place on key outstanding issues in the chapter including data flows.

Government Procurement: Negotiators had a detailed discussion on their revised market access offers, which were exchanged ahead of the round. Both sides explained the benefits of their offers, fielded questions, and took note of respective requests on specific areas for further consideration. The chapter text is substantively agreed, pending some final outcomes in other relevant chapters.

Intellectual Property Rights: Discussions during the round covered all sections of the IPR Chapter, such as general provisions and cooperation, copyright and related rights, trademarks, patents, designs and IPR enforcement, including border measures. Constructive discussions allowed for further progress in a number of sections, including enforcement, designs and cooperation.

Clarifications provided in several areas will allow to take work forward at next rounds.

Geographical Indications (GIs): Discussions advanced on enforcement of EU GIs to be protected via the FTA. Further discussions took place on solutions for prior use conflicts with several EU GI names and respective disciplines. While a number of important issues remain, discussions have continued to evolve positively.

Competition, Subsidies and State-owned Enterprises: Both sides discussed the section on Anticompetitive Conduct and Merger Control of the Competition chapter (section A) and continued to clarify and exchange views on the provisions and the most recent text attributions. On subsidies, progress was made, although questions of the actual scope remain outstanding, impacting also on other parts of the chapter. The review of the State-Owned Enterprises chapter focused on the most recent text attributions. Possible solutions to the main remaining differences were identified, to a large extent linked to overall agreement as to the scope of the chapter.

Trade and Sustainable Development: The exchanges covered all the outstanding provisions of the chapter, and notably the articles on the Right to Regulate and Levels of Protection, Multilateral Labour Standards and Agreements, Multilateral Environmental Agreements, Trade and Climate Change, and Scientific and technical information. Further progress in text consolidation in these areas was made. Negotiators discussed in detail Australian textual proposals to the EU's TSD institutional and dispute settlement provisions. Also, constructive text-based discussions continued on Trade and gender equality provisions.

Energy and Raw Materials: Negotiators discussed provisions on Objectives and Cooperation, Offshore Risk and Safety, Authorisation procedures, Third Party Access and Access to Infrastructure for Renewables. They also had a detailed discussion about the importance of security and reliability of supply of energy and resources, while discussing opportunities to further strengthen cooperation on raw materials.

Dispute Settlement and Mediation: Both sides continued detailed and constructive discussions on the chapter and its two Annexes (Rules of Procedure and Code of Conduct). Agreement was reached on the objectives which include transparent, efficient and effective dispute settlement procedures. Both sides also agreed in principle on most issues relating to the concrete operation of the dispute settlement mechanism.

Final, Exceptions and Institutional Provisions: Both sides had detailed and constructive discussions on all three areas, based on textual proposals made by the EU side. Many provisions in these chapters are in principle agreed, but some important issues remain outstanding.