

India-Australia Economic Cooperation & Trade Agreement: Understanding Trade In Goods

written by Jidesh Kumar | April 14, 2022



India Australia Trade Deal

The term "trade in goods" refers to all products entering or leaving a country's economic zone, which add to or deplete the country's stock of material resources.

The Economic Cooperation and Trade Agreement ["ECTA"] with Australia is India's first most recent trade deal with a developed country in more than a decade. The agreement covers industries such as trade in goods and arguably enhances economic and commercial relations between the two countries. The ECTA creates an institutional framework for the promotion and improvement of bilateral commerce by-

Elimination or Reduction of Custom Duties

Under the ECTA, India, and Australia have agreed to not raise existing custom duties on trade in goods. They have also agreed to reduce their respective custom duties for export purposes. Finally, custom duty rates are subject to further discussion, all the way up to the consultation stage, and a unilateral decrease/elimination of customs duty is allowed. The agreement states:

1. *"Unless otherwise provided in this Agreement, neither Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good.*
2. *Each Party shall progressively eliminate or reduce its customs duties on originating goods in accordance with its Schedule.*
3. *At the request of a Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules. An agreement by the Parties to accelerate the elimination of a customs duty on a good shall supersede any duty rate or staging category determined in accordance with their Schedules for that good when approved by each Party in accordance with its applicable domestic requirements, including internal legal procedures.*
4. *A Party may at any time unilaterally accelerate the elimination of customs duties set out in its Schedule on originating goods of the other Party. The Party shall inform the other Party as early as practicable before the new rate of customs duty takes effect.*
5. *If the most-favoured-nation rate of customs duty applied by a Party on a particular good is lower than the rate of customs duty provided for in its*

Schedule, that Party shall apply the lower rate to the originating good of the other Party."

Administrative Fees and Formalities

Under ECTA, there should be a fair reflection of cost implied due to fees and formalities, and these shall not be used as a means of protection, especially for domestic products of the country. Furthermore, to maintain transparency- all the fees shall be published on the internet. This is stipulated in the agreement as:

1. *"Each Party shall ensure that (under Article VIII:1 of GATT 1994) all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with importation or exportation are limited in amount to the approximate cost of services rendered and do not represent indirect protection to domestic goods or taxation of imports or exports for fiscal purposes.*
2. *Neither Party shall require consular transactions, including any related fees and charges, in connection with the importation of any goods of the other Party.*
3. *Each Party shall make publicly available on the internet a current list of the fees and charges it imposes in connection with importation or exportation."*

Customs Valuation

The customs value of the traded goods shall be calculated in line with GATT 1994 Article VII and the Customs Valuation Agreement. ECTA states this as follows:

"Each Party shall determine the customs value of goods traded between the Parties under Article VII of GATT 1994 and the Customs Valuation Agreement."

Restrictions on Import-Export

Aside from the Agreement, neither country may place any restrictions on goods trade in the territory of the other, except in conformity with Article XI of the GATT 1994. Furthermore, GATT Article XI is understood to be a part of this agreement. The ECTA conforms the same as:

1. *"Unless otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994, and to this end Article XI of GATT 1994, is incorporated into and made part of this Agreement, mutatis mutandis."*

Non-Tariff Measures

Except as stipulated in this agreement and the World Trade Organization Agreement, neither party is permitted to take any measures that may have an economic impact on the bilateral trade of goods. Furthermore, if implemented, such non-Tariff measures must be transparent and permissible, and they must not impede trade. The ECTA states that:

1. *"A Party shall not adopt or maintain any non-tariff measure on the importation of any good of the other Party or the exportation of any good destined for the territory of the other Party, except in accordance with the WTO Agreement or this Agreement.*
2. *Each Party shall ensure the transparency of its non-tariff measures permitted in Paragraph 1 and shall ensure that any such measures are not prepared,*

adopted or applied with the view to, or with the effect of, creating unnecessary obstacles to trade between the Parties."

Administration and Publication of Trade Regulations

The administration and publication of trade regulations shall be free and fair, and shall be carried out in conformity with GATT 1994 Article X.

Furthermore, GATT Article XI is understood to be a part of this agreement.

The agreement conforms to the same in the following manner:

1. *"Each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings respecting any matter covered by this Chapter. To this end, Article X of GATT 1994 is incorporated into and made part of this Agreement, mutatis mutandis."*
2. *To the extent possible, each Party shall make its laws, regulations, decisions and rulings of the kind referred to in Paragraph 1 publicly available on the internet."*

Formation of Sub-Committee

India and Australia have agreed to form a Subcommittee on trade in goods, which will examine and oversee the implementation of all regulations put in place to encourage trade in all key sectors, as well as handle administrative and operational difficulties. They can also form technical groups to discuss specific topics. The Joint Committee will be informed of any such activities by the Subcommittee. The Subcommittee will convene one year after the adoption of this agreement by any mutually agreed-upon means. This is stated in the ECTA as:

1. *"The Parties hereby establish a Subcommittee on Trade in Goods ("the Subcommittee on Goods") composed of government representatives of each Party."*
2. *The Subcommittee on Goods' functions shall include:*
 - a) *reviewing and monitoring the implementation and operation of this Chapter;*
 - b) *promoting trade in both agricultural and non-agricultural goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement, and addressing non-tariff barriers to trade in goods between the Parties;*
 - c) *addressing issues relating to the administration and operation of tariff-rate quotas; and*
 - d) *Reporting on its activities and work programme to the Joint Committee.*
3. *The Subcommittee on Goods shall meet within one year of the date of entry into force of this Agreement and thereafter at such times as the Parties may agree. Meetings may occur in person, or by any other means as mutually determined by the Parties."*
4. *The Subcommittee on Goods may establish technical working groups to consider any matter relating to this Chapter that may disrupt or affect trade in goods between the Parties. Any technical working group established shall report to the Subcommittee on Goods on the progress of its work."*

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