



FREE-TRADE AGREEMENT BETWEEN THE EU & INDIA

EURATEX POSITION PAPER

EURATEX, as the voice of textiles and apparel manufacturers in Europe, supports an ambitious EU trade agenda, that puts reciprocity, transparency, fair competition and equal rules at the centre of its action. It is clearly essential that the same level of market access to India – both in terms of tariff and non-tariff barriers – is available to EU producers as vice versa.

The European textiles and clothing sector is a very globalised industry, with annual exports exceeding €60 Billion and imports well over €100 Billion. 38% of the industry's turnover is sold on global markets, whereby SMEs are particularly active (covering more than 50% of those global sales). At the same time, the sector is intensively inter-connected with other segments of the global economy and society.

On that basis, EURATEX maintains its support for open EU and extra-EU markets, based on free and fair competition.

In this context, EURATEX highlights that the sector needs:

- open and “efficient” markets, but combined with effective controls where necessary, thus ensuring level playing field for European companies;
- complementarity between the EU's Trade and Industrial strategy, leading to increased resilience, e.g. through better access to raw materials and stockpiling of strategic goods;
- an ambitious regional agenda, focusing on important partners such as United States, Turkey, Switzerland and the EUROMED region, but also open to new partnerships in Africa;
- We need to invest in multilateral efforts, thus supporting WTO efforts to work on subsidies, public procurement, IPR, etc.;
- a more sustainable and fair trading system, based on rules, global environmental and social standards, which are effectively respected by all.

These principles also apply to a possible free-trade agreement between the European Union and India, whose negotiations will resume soon.

India today profits from reduced customs duties due to GSP. For European companies instead, market access to India is heavily limited. It is also worth noting that the EU-India trade relations on the T&C chapters is characterised by a strong European trade deficit. That is why our strong support for free and open market has to be carefully balanced against this basic fact. An FTA should therefore focus on creating better market access on the Indian market for European companies.

Therefore, for a free trade agreement to truly serve the purpose of creating better opportunities and ensuring access to the Indian market for European T&C companies – while at the same time protecting them from imbalances and unfair practices – these basic framework conditions shall be met:

- 1. Rules of Origin and the double transformation as guiding principle¹:** The double transformation must remain the guiding principle when it comes to agreeing the rules of origin. Rules of origins have to be fair, modern and simple. This means that the rules of origin main function is to ensure that the claimed origin of a product is true, thus preventing distortions of trade by third parties that are not signatories of the FTA. At the same time, the rules of origin should also be easy to understand and to implement by companies who operate in good faith and that are faced to many layers of legal requirement that have to be correctly understood and coherently implemented. When rules of origin are too complex to interpret, then they fail their main intended objective. This is why EURATEX recommends to use the revised product-specific PEM rules as a basis for the discussion with India. These product-specific rules of origin are the result of the consensus of a plurality of industrial stakeholders that are not merely based in the EU, but also in the Balkans, in the Middle-east and in Northern Africa. We believe that these rules of origin strike the right balance between- on the one hand- protecting the trade relation from distortions by non-contractual third parties and clarity on the other hand. We are confident that the Indian textiles value chain has all the necessary means to comply with this principle which

¹ On the issue of rules of origin, EURATEX flags a minority position consisting in the fact that the European Man-Made Fibres Association (CIRFS) and the Turkish Textiles Employers Associations (TTSIS) support the adoption of the GSP rules of origin. Also EUROCOTON prefers the use - for the yarns and fabrics of chapters 52 and 55 - of the GSP list rules for other countries than the least developed ones as product specific rules in the FTA EU-India. This minority position considered that the GSP rules are more suited to promote the upstream production of textile products in the EU and India contributing to a resilient value chain.

is key to ensuring fair competition between EU and Indian companies. To complement on this position, shared by the vast majority of the EURATEX members, we flag – in footnote - that a minority position has been expressed with regards to the rules of origin.

- 2. A fair trade relation: in addition to the double-transformation, sustainability is the other pillar on which trade relations should be based on.** EURATEX calls on the Commission to ensure that all negotiations for new trade agreements, including the upcoming negotiations with India, are based on the principles of the EU Green Deal and the climate and environmental sustainability targets that are defined by the related legislation. A sustainable and circular economy is the transformational challenge that Europe is leading, to ensure safer and more durable products, a safe and liveable environment. EURATEX supports the EU sustainability targets in terms of safe use of chemicals, enhancing circularity by investing in high-quality, durable products and materials, and boost recycling of textiles.

To ensure coherence with the European Green Deal and secure the creation of an international level-playing field on sustainability, EURATEX encourages the Commission to introduce sustainability clauses linked to the objectives of the EU Strategy for sustainable and circular textiles, the Ecodesign requirements for sustainable products and the EU Chemicals Strategy for Sustainability (in particular, the new REACH Regulation) and the Corporate sustainability due-diligence directive. As a matter of fact, we retain that the sustainability targets defined in those documents should become the standard rule for products manufacturing globally.

If Europe wants to achieve a sustainable and circular economy, preserving the value of resources and materials in the economic loop for as long as possible, it must be ensured that it becomes the norm worldwide. Europe alone, along with its own domestic industry, cannot preserve the natural environment for the generations to come. Only by building successful trade alliances, that put sustainability among its key objectives, Europe will succeed in achieving sustainability and circularity. It will be therefore important to ask our trade partners to operate by our same standards and rules, adopt the same methods to measure the environmental footprint of products and verify the environmental sustainability claims. Sustainability is a comprehensive concept that entails a social element. As a matter of

fact, the respect of basic labour rights as set out in the ILO Conventions should be ratified and respected on the ground and the FTA should be provided with a clear link to these international agreements.

- 3. Market surveillance:** EURATEX has always been a strong advocate of market surveillance, which is the only way to ensure that policy and regulatory objectives are implemented. In the context of FTAs, market surveillance becomes even more important to ensure legal conformity of the products that are made available on the Internal Market. In view of the new regulatory framework on sustainability for textiles, it is important that a free trade agreement foresees a powerful market surveillance mechanism.

We would also welcome enforcement actions and promote the use of FTAs and customs controls to ensure that products as well as production processes inside and outside the EU respect the highest health, environmental and social standards. In this regard, the REACH regulation should ensure that EU companies are not competing in a disadvantaged position on a global scale compared to non-EU countries. The current EU chemicals policy lays a major strain on the competitiveness of the European textile and clothing industry and therefore alignments of chemicals requirements on a global scale is of utmost importance.

- 4. Public procurement:** if public procurement will be part of the FTA with India, state aid should be addressed. The EU-Singapore FTA provides a good example (Art. 9.14 of the agreement) on how addressing state aid, when it comes to public procurement. Also, the European textiles sectors expects the principle of reciprocity to be basis on which public procurement rules and provisions will be designed.
- 5. Transparency and level-playing field in the Indian market:** efforts need to be made to ensure that EU companies have full access to the Indian market and will not be discriminated through unfair trade practices on the Indian market. Public authorities should act following the highest standards of good administrative conduct. Authorities should also ensure that all economic operators have equal opportunities when accessing the market,

when importing good as well as when sourcing raw materials and semi-transformed materials.

- 6. Tariff dismantling:** tariff dismantling should be comprehensive and reciprocal. No T&C products should be excluded by the dismantling of trade tariffs. On the other hand, tariff dismantling should be balanced and gradual, taking into account the specificities and sensitivity of some products categories. The EU should therefore agree with India on a reciprocal, gradual and transparent roadmap to phase out tariffs and duties.
- 7. Non tariff barriers:** besides tariff trade barriers the EU-India FTA should also address non-tariff trade barriers:
 - a. All parties should drop the request of Certificate of origin (non-preferential origin), which are currently requested and that have to be approved by the Chambers of Commerce.
 - b. Since mid-2015, an extended documentation requirement applies to the export of goods. The Indian importer therefore requires a residence certificate and the self-disclosure “Form 10F” as well as the “No Permanent Establishment Declaration” from the exporter. The European textiles sector expects that an FTA with India would introduce an exemption from such obligation for European companies.
 - c. Since 2021, India’s central government has issued new quality control orders (QCOs) for certain polyester yarn products, such as Polyester industrial yarn (IDY) or Polyester staple fibres (PSF). In order to export to India, the products must be certified by the Bureau of Indian Standards (BIS), which does in-person auditing of manufacturing facilities in the exporting country. The certification process is costly, burdensome and includes requirements to submit sensitive business information (legal basis: Polyester Yarn Products (Quality Control) Order, 2021” for Polyester Yarn Products article through a gazette notification dated 15th April 2021). The EU textiles sector expects such barrier to be removed.

- d. Trade related data in India is barely available for EU exporters. Indian statistics should have the same levels in terms of transparency, comparability and consistency as in the EU (e.g. Eurostat).
- e. The use of different customs tariff classification numbers of the same MMF products generates legal uncertainty and an unnecessary administrative burden for EU companies.
- f. In the past years, India has adopted subsidy schemes in the form of export aid to provide an unfair competitive advantage to Indian exporters. Some examples are the Remission of Duties and Taxes on Exported Products (RoDTEP), the Merchandise Exports from India Scheme (MEIS), the Rebate of State and Central Taxes and Levies (RoSCTL) Scheme, the Focus Market Scheme (FMS), the Focus Product Scheme (FPS), the Incremental Export Incentive Scheme, the Status Holder Incentive Scrip, the Duty Drawback Scheme (DDS), the Duty Entitlement Passbook Scheme (DEPBS), the Export Promotion Capital Goods Scheme (EPCGS), the Advance Authorisation Scheme (AAS) as well as the Export Oriented Units (EOUs), the Special Economic Zones (SEZ), the Income Tax Exemption Scheme (ITES) and the Export Credit Scheme (ECS).
- g. In 2021, the Indian government launched a scheme of Mega Investment Textiles Parks (MITRA) in addition to the Production Linked Incentive Scheme (PLI), two major production subsidies schemes that aim to build an integrated large scale infrastructure facility for the entire textile value-chain (“Farm to Fibre to Factory to Fashion to Foreign”). These are complemented by the National Technical Textiles Mission. All these measures combined will intensify the competitive distortion between India and the EU.
- h. Other regional or state schemes which continue to provide unfair incentives to Indian industrial enterprises are in particular the Capital Investment Incentive Scheme (CIIS) of the Government of Gujarat, the Gujarat Sales Tax Incentive Scheme (STIS) and Electricity Duty Exemption Scheme (EDES), the West Bengal Subsidy Schemes

(WBSS), and the Maharashtra Electricity Duty Exemption Scheme (MEDES).

The European textiles sector calls on the EU Commission to ensure that the Indian federal government – as well as its state and provincial governments – take the necessary steps to remove this non-tariff barriers and that similar barriers are not issued in the future, once the FTA has entered into force. This objective should be pursued by providing the FTA with dispositions preventing the contracting parties to create new non-tariff barriers to trade.

- 8. Involvement of all level of governance:** a future EU-India FTA should not only address customs duties at national but also at regional level. It is important to take into account that India, as a federal state, has many levels of governance. Trade barriers (tariff and non-tariff) may be issued by local authorities. Therefore, it is important that all the relevant levels of governance are involved in the negotiations, in order to avoid any gap and inconsistency in the implementation of the deal, once it will enter into force.
- 9. Geographical Regionalisation of the FTA and EU-EFTA alignment:** European textile companies build together cross-border clusters. In fact, EU and Swiss supply chains are closely integrated. In order to avoid any disruption of this supply chain, a possible EU-India FTA should take into account the direct and indirect effect it will have on the EU-EFTA trade relations and the EFTA-India trade relations. Such a cross-agreement link would be well justified by the European trade deficit in the textile and clothing sector.
- 10. EU-Turkey trade relations:** when it comes to the EU's FTA network, Turkish textiles companies are in a difficult position. Turkey and the EU are in customs union, meaning that goods can freely cross borders. The problems arise if the EU conclude free trade with a third country and Turkey has no FTA with that country. In that case, products from that third country have also duty free access to Turkey, whereas Turkey cannot benefit from better market access on that third country market. In the recent years, we observe that Turkey is increasingly establishing trade barriers that are also harming EU-companies. We asses these trade barriers as reaction to the problem described. In order to avoid such

scenario, the EU should take into account the effect that the FTA may have on the EU-Turkey relations and take all the possible measures to ensure smooth trade relations among all parties.

- 11. Exporter-based verification system:** EURATEX reminds the European Commission, Council and Parliament of the fundamental importance that the origin verification process is based on the exporter based verification system and not on the importer based verification system. For the majority of free trade agreements of the EU, the origin verification is conducted by the exporting customs authority and the conclusion of whether origin criteria are satisfied is, then communicated to the importing authority. This is called the exporter-based verification system. In its recent FTAs the EU introduced the so-called importing verification system. The provisions on origin verification that were for example agreed in the EU-Japan FTA (Art 3.21 of the Chapter on Rules of Origin) require the importing party to check the preferential origin (collection of proofs by importer and right to deny origin status by importing authorities) instead of examination by the authorities of the exporting country. This system has huge disadvantages for European exporting companies. For example, the exporting company has to reveal sensitive data to the foreign customs authorities and to the importer, with no guarantees on the confidentiality of the information that is provided.
- 12. Proofs of origin:** We suggest that as proof of origin the origin declaration on the invoice and EUR1 will qualify as proofs of origin. We suggest not to mix up REX-system with the declaration of origin. The EU has done this in its recent FTAs.
- 13. Safeguard mechanism:** the trade agreement should foresee a safeguard clause provided with sensible threshold and regulated by a transparent mechanism to prevent any possible distortive imbalance in the trade relation with India.
- 14. Intellectual Property rights:** all parties in the FTA should respect the provisions of the "TRIPS" WTO-Agreement.

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About EURATEX

As the voice of the European textile and clothing industry, EURATEX works to achieve a favourable environment within the European Union for design, development, manufacture and marketing of textile and clothing products.

The EU-27 textile and clothing industry, with around 160,000 companies employing 1.5 million workers, is an essential pillar of the local economy across many EU regions. With over € 62 billion of exports, the industry is a global player successfully commercializing high added value products on growing markets around the world.

Working together with EU institutions and other European and international stakeholders, EURATEX focuses on clear priorities: an ambitious industrial policy, effective research, innovation and skills development, free and fair trade, and sustainable supply chains.

