

8. INDIA AUSTRALIA ECONOMIC COOPERATION AND TRADE AGREEMENT: FAQ...	49
Question: What is the bilateral trade between India and Australia? .....	49
Question: What is the bilateral trade between India and Australia? .....	51
Question: What are the overall expected benefits under this Agreement? .....	52
Question: What are the different chapters in the IndAus ECTA? .....	52
Question: Where can one get the full text of Ind-Aus ECTA? .....	52
Question : What are the tariff concessions offered by India and Australia to each other in Merchandise Trade? .....	53
Question: What are the important categories of products in the exclusion list of IndAus ECTA? .....	53
Question: What are the export opportunities for its merchandise products for India under the agreement? .....	54
Question: What are the potential Gains in Services sector? .....	56
Question: What is the contribution of the Services sector in the economy of India/Australia? .....	58
Question: As regards market access in services, what are the commitments undertaken by Australia and India and what are key gains for each side? .....	58
Question: What are the salient features of Australia's commitments in services? .....	58
Question: What all categories are covered in the Chapter on Movement of Natural Person (MoNP) under India -Australia CECA? .....	59
Question: What is the maximum duration of stay allowed in Australia for the various categories of service suppliers offered to India? .....	59
Question: Are the commitments given by Australia under IT/ ITeS beneficial to the Indian service suppliers? .....	59
Question: What is the sectoral commitment of Australia in 'Financial Services'? .....	60
Question: Is there a provision on mutual recognition of professional qualifications? .....	60
Question: Has Australia provided Work & Holiday visa arrangement for young professionals from India? .....	60

Question: Has Australia provided quota for chefs and yoga instructors from India?	60
Question: Is there a post study work visa of 2-4 years for Indian students?	60
Question: Are there any safeguard mechanisms to protect the Indian domestic industry from surge in imports from Australia?	61
Question: Is there a mechanism to provide immediate protection to the Indian domestic industry?	61
Question: Can Australia take immediate retaliatory action if India imposes a bilateral safeguard measure?	61
Question: What are the Rules of Origin?	62
Question: What purpose do Rules of Origin serve?	62
Question: What is the definition for "originating goods" under the Ind-Aus ECTA?	62
Question: What are the Rules of Origin for a good which is produced using imported/ non-originating materials under the IndAus ECTA?	62
Question: What are the Product Specific Rules (PSRs)?	62
Question: What are the methods for calculation of QVC under the Ind-Aus ECTA?	63
Question: Can goods from a country other than Australia (i.e. a Third Country) entering into Indian market through Australia benefit from tariff concession under the Ind-Aus ECTA?	63
Question. What should the Certificate of Origin contain?	63
Question: What are the provisions in the Rules of Origin under IndAus ECTA to implement the certification procedure effectively and guard against possible mis-use?	63
Question: How can exporters maximize benefits out of Rules of Origin provisions?	64
Question: What are Side Letters?	64
Question: What are the Side Letters being signed under this Agreement?	64
Question: Is there any provision on economic cooperation in the Agreement?	65

Question: Is there any provision on publication of laws and regulations of the Parties?	65
Question: What is the provision for dispute settlement mechanism under the Agreement?	66
Question: When will the Ind-Aus ECTA enter into force?	66
Question: Are there any strategic reasons for a trade agreement with Australia?	66
Question: What are the provisions to safeguard the interest of the domestic industry from circumvention of goods?	67

## FAQ on IndAus ECTA

### **Question 1: What are the salient features of India-Australia Economic Cooperation and Trade Agreement (IndAus ECTA)?**

**Answer:** This is the first trade agreement of India with a developed country after more than a decade.

Salient features of IndAus ECTA are:

#### **Goods**

- Australia has import duty of 4-5% on most of the products of India's interest.
- This is the first trade agreement of India with 100% tariff elimination by its partner country. Under this Agreement, Australia will provide zero duty access to India for 100% of its tariff lines in two categories.
  - (i) Zero duty immediately on 98.3% of Tariff Lines amounting to 96.4% of value of our exports. For those tariff lines, Indian exports will have immediate market access @ Zero duty from day one of the entry into force of the Agreement. Exports in following labour-intensive sectors, currently subjected to import duty of 4-5% by Australia, will gain from immediate duty-free access.
  - (ii) Phasing out to Zero duty on the remaining 113 Tariff Lines constituting 1.7% of Tariff Lines and amounting to 3.6 % of India's exports (in value terms) in 5 years, which will benefit the remaining products.
- For the products of export interest of Australia, India is offering concessions mostly on raw materials and intermediates either in the form of tariff elimination, tariff reduction (TR) with or without a tariff-rate quota (TRQ).
  - (i) Only a few agricultural products such as Oranges, Mandarins, Almonds, pears and cotton among others have been allowed with limited quota.
  - (ii) India will provide zero duty access immediately on 40.3% of its tariff lines and the remaining 30% in phased manner over a period of 3, 5, 7 and 10 years. This also includes 125 tariff lines where there will be duty reduction and not elimination.
  - (iii) India has kept many sensitive products in the exclusion category without offering any concession. Some of these are Milk and other dairy products, chickpeas, walnut, pistachio nut, wheat, rice, bajra, apple, sunflowers seed oil, sugar, oil cake, gold, silver, platinum, jewellery, iron ore and most medical devices. This is a major gain for India in this Agreement.

#### **Rules of Origin**

- Strict Rules of Origin have been included to prevent the third-party goods routed through the Partner country to get preferential benefit under this Agreement.

- Moreover, for goods to avail the benefit of this Agreement, they would require substantial processing in the territory of the Parties.
- General Rule of CESH+35% or 45% based on the method applied, PSRs for 807 products and Wholly obtained for a number of products primarily for Agricultural products.

### **Trade Remedies**

- The Agreement provides a mechanism to apply provisional measures quickly in order to arrest the surge in imports and protect the domestic industry.
- The safeguard mechanism will be available for 14 years from the date of completion of elimination or reduction in tariff.

### **Services**

- On market access in Services, broader and deeper commitments from Australia have been taken across all the sectors and modes of supply.
- Australia has offered 135 sub-sectors to India and India has offered 103 sub-sectors to Australia.
- Key areas of India's interest like IT, ITES, Business, Professional Services, Health, Education, Audio-visual are being committed by Australia under this Agreement.
- Australia will be providing post study work visa up to 4 years for Indian students; quota of 1800 per year for Indian chefs and yoga instructors; Work & Holiday visa arrangement for young professionals; and temporary entry and temporary stay commitments for up to 4 years for Intra Corporate Transferees, Contractual Service Suppliers and Independent Executives.

### **Dispute Settlement**

- Any dispute under the Agreement shall be resolved through consultations and negotiations, failing which they may resort to an arbitral panel, which shall consist of three members. Each party to the dispute shall appoint a member and the third member who would be the Chair of the panel, shall be appointed by mutual agreement.

### **Review Provision**

- Apart from General review clause, for the first time, a new clause introduced for a special review mechanism for compulsory review after 15 years for certain aspects of the Agreement in a time-bound manner. The Review, if requested is compulsory and has to be completed in 6 months.

## **Question 2: What is the bilateral trade between India and Australia?**

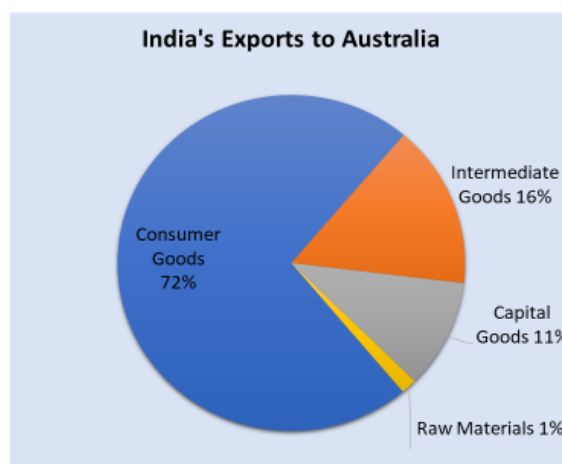
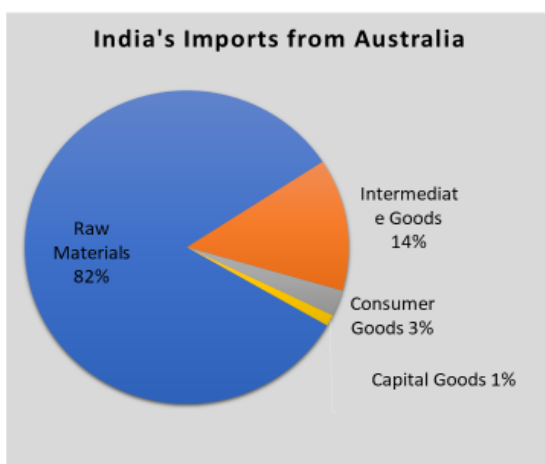
**Answer:** Australia is the 17<sup>th</sup> largest trading partner of India and India is Australia's 9<sup>th</sup> largest trading partner. India-Australia bilateral trade for both merchandise and services trade is valued at US\$ 27.5 billion in 2021. It is shown in the table below:

Bilateral Trade			
Trade ( US \$ Billion)	Goods*	Services**	Total
India's Exports to Australia	6.9	3.6	10.5
India's Imports from Australia	15.1	1.9	17.0
Total	22.0	5.5	27.5
Deficit(-)/Surplus(+)	-8.2	+1.7	-6.5
<i>*DGCI&amp;S, **RBI Data estimated for services for CY 2021</i>			

- India's merchandise exports to Australia grew 135% between 2019 and 2021. India's exports consist primarily of a broad-based basket largely of finished products such as petroleum products, textiles and apparels, Engineering products, leather products, chemicals, Gems & Jewellery etc.
- India's merchandise imports from Australia consist largely of raw materials, minerals and intermediate goods. 3/4<sup>th</sup> of India's imports from Australia consist of coal, with 70% of coal being coking coal.
- Given the size of the two economies, there is scope for significant enhancement of India-Australia trade.

### **Bilateral Merchandise Trade Profile**

**96% of imports from Australia are Raw Materials and Intermediate Goods**



**Question 3: What are the overall expected benefits under this Agreement?**

**Answer:** The overall benefits expected under this Agreement are:

- bilateral trade in goods and services for both the countries is expected to rise from the existing US\$ 27.5 billion to US\$ 45 billion in 5 years;
- consolidation and growth of market shares of Indian products and services, and India's exports in goods and services is expected to increase from US\$ 10.5 billion in 2021 to US\$ 20 billion by 2026-27 and to cross US\$ 35 billion by 2035;
- expected significant increase in exports from the labour-intensive sectors, such as engineering, textiles and apparels, gems and jewellery, leather and footwear, etc., which otherwise suffer from 4-5% tariff in Australia vis-à-vis competitors with which Australia has Free Trade Agreements (such as China, Thailand, Vietnam, South Korea, Indonesia, Malaysia and Japan). Moreover, ease in Australian regulatory processes will promote India's pharmaceutical exports;
- contribution towards large employment generation, estimated at around 10,00,000 (ten lakhs) over the next 5 to 7 years, as the labour-intensive sectors are likely to gain the most;
- to enhance employment opportunities for Indians in Australia and thereby contributing to growth in remittances back to India;
- promote vertical movement in the value chain with increasing presence of higher value products of advanced technology (Engineering, Electronics, Pharmaceuticals & Medical Devices); and
- access to cheaper raw materials will make industries like steel, aluminium, fabric and garments, etc. competitive.

**Question 4: What are the different chapters in the IndAus ECTA?**

**Answer:** ECTA has 14 chapters related to Initial Provisions and General Definitions, Trade in Goods, Trade Remedies, Rules of Origin, Customs Procedures and Trade Facilitation, Sanitary & Phytosanitary Measures, Technical Barriers to Trade, Trade in Services, Movement of Natural Persons, Transparency, General Provisions and Exceptions, Administrative and Institutional Provisions, Dispute Settlement, and Final Provisions. Additionally, there are eight "Side Letters" covering different aspects of the agreement wherein India and Australia have made further commitments.

**Question 5: Where can one get the full text of Ind-Aus ECTA?**

**Answer:** The entire text of Ind-Aus ECTA is available at following weblink:  
<https://commerce.gov.in/international-trade/trade-agreements/ind-aus-ecta/>

**Question 6 : What are the tariff concessions offered by India and Australia to each other in Merchandise Trade?**

**Answer:** Indian exports to Australia primarily consist of consumer and manufactured goods. Major gains for goods will be in terms of tariff liberalisation by the Australian side, aided by gains from fast track approval for Pharma products in Australia.

- Australia is offering **zero duty access to 100% tariff lines** from India:
  - (a) Zero duty on 96.4% value of our exports immediately (98.3% of Tariff Lines) i.e., for these tariff lines, Indian exports will have immediate market access @ ZERO duty from day one of the entry into force of the Agreement. Exports in following labour-intensive sectors, currently subjected to import duty of 4-5% by Australia, will gain from immediate duty-free access:
    - (i) Most Textiles and Apparel
    - (ii) A few Agricultural and Fish products,
    - (iii) Leather, Footwear, Furniture and Sport goods
    - (iv) Jewellery;
    - (v) Machinery, Electrical Goods, Railway wagons etc.
    - (vi) Selected Pharmaceutical products and Medical devices
    - (vii) Furniture, etc
  - (b) Phasing out to Zero duty on the remaining 113 Tariff Lines constituting 1.7% of Tariff Lines and amounting to 3.6 % of India's exports (in value terms) in 5 years, which will benefit the remaining products.
- Moreover, since Australian exports are more concentrated in raw materials and intermediates, many industries in India will get cheaper raw materials and make them competitive, in particular for sectors like steel, aluminium, fabric/ garments etc.

**Question 7 : What are the important categories of products in the exclusion list of IndAus ECTA?**

**Answer:** India has kept 29.8% of its tariff lines under exclusion list which primarily consists of:

- Milk and other dairy products,
- chickpeas,
- walnut,
- pistachio nut,
- wheat,
- rice,



- bajra,
- apple,
- sunflowers seed oil,
- sugar,
- oil cake,
- gold, silver, platinum, jewellery,
- iron ore,
- most medical devices

Apart from this, on the following agricultural products, Tariff rate quota has been provided.

- Oranges and Mandarin --- a combined TRQ of around 13,700 MTs @ 50% applicable duty
- Cotton --- For 28 mm and above, ELS varieties, a TRQ of 3 lakh bales (equivalent to 51,000 metric tons) have been offered at zero duty.
- Lentils --- An annual TRQ of 1.5 Lakh tons @ 50% applicable duty
- Pears --- Annual TRQ of 3,700 metric tons @ 50% of MFN duty
- Almonds shelled and in shell --- a combined annual TRQ of 34,000 tons @ 50% MFN duty on the day of import

**Question 8: What are the export opportunities for its merchandise products for India under the agreement?**

**Answer:** At present, a large number of export products from India, particularly from labour-intensive sectors have a duty disadvantage of 4-5% when exported to Australia, in comparison to other FTA partners of Australia.

SHARE OF DUTIABLE EXPORTS				
S. N.	Sectors	India's Global Exports (US\$ Million)	India's exports to Australia (US\$ Million)	Share of Dutiable exports in Total (%)
1	Minerals and Metals	97,249	890	62.6%
2	Chemicals	63,694	682	21.7%
3	Textiles	23,835	333	70.2%
4	Clothing	15,205	273	97.1%
5	Transport Equipment	24,712	261	88.4%
6	Non-electrical machinery	24,307	239	81.2%
7	Electrical machinery	18,426	191	47.3%
8	Leather, footwear, etc.	9,373	179	94.1%
9	Cereals and preparations	14,397	124	32.4%

**Sector specific gains:** Likely gains for some of the sectors are indicated below:

## **1. Pharma Sector**

- Market size of Australia Pharma products currently estimated at \$12 Bn.
- Current Indian exports are ~ 345 Mn USD; Scope for significant growth
- Australia has agreed to Annex on Pharmaceutical products. Following are the significant gains: -
  - a. Fast track approval for patented, generic and biosimilar medicines using the Comparable Overseas Regulator pathway.
  - b. Fast track quality assessment/inspections of manufacturing facilities similarly.
- This will benefit all Indian Units/ medicines which have EU/ Canada FDA approvals. This is a Major breakthrough for India. Can be used in future FTAs.

## **2. Textiles**

- The Australian market presents good potential for Indian exports of
  - (a) Home textiles like bed & bath linen, toilet & kitchen linen, curtains, pillow covers, quilts & comforters, cotton bags
  - (b) Readymade Garments
  - (c) Carpets & Floorings
- At present India's textile and Apparel exports is to the tune of US\$392 million in 2020-21, which is likely to touch US\$ 508 million in 2021-22, showing a growth of 29%.
- India's 70% of textile products and 90% of apparel products face duty on export to Australia. Our exports face a tariff disadvantage of 5% in these sectors vis-à-vis competitors with Free Trade Agreements (FTAs) with Australia such as China, Vietnam and Bangladesh.
- With the elimination of duty, India's exports textiles and apparels are expected to gain from US\$ 392 million to US\$ 1100 million in the next 3 years.
- Additional capacity creation due to exports and re-investment, is likely to create additional employment of 40,000 persons per annum.
- Moreover, many of the new Made-up manufacturing units are likely to be set up in Tier 2 & Tier 3 cities & rural areas creating an industrial eco system in these areas and generating employment

## **3. Engineering Products**

- India's Engineering exports to Australia was US\$ 801 million in 2020-21 which is likely to be US\$ 1215 million 2021-22, thereby showing a growth of 51%.

- At present, most of our engineering goods export to Australia suffer from 5% customs tariff disadvantage. These products include flat and value-added iron and steel products, Scientific and medical instruments, parts, Transport equipment, Non-electrical and electrical Machinery etc.
- With the elimination of tariffs, it is expected that Engineering products exports may grow by around 15% per year, increasing by around 1.5 billion in 5 years to reach at 2.7 billion by 2026-27.

#### **4. Gems and Jewellery**

- India's Gems and Jewellery export to Australia was US\$ 275 million in 2020-21 which is likely to be US\$ 347 million 2021-22, thereby showing a growth of 26%.
- With elimination of duty on Jewellery items, there is likelihood of increase in our exports of jewellery which suffers from 5% duty impact in Australia.

#### **5. Leather & Footwear**

- India's Leather and Footwear exports to Australia was US\$ 62.2 million in 2020-21 which is likely to be US\$ 71.6 million 2021-22, thereby showing a growth of 15%.
- Around 94% of India's exports of leather products to Australia suffer from the duty disadvantage of 5%.
- With the elimination of duty, Indian exports will show further growth and likely to reach US\$ 100 million in next 2 years.

### **SERVICES**

#### **Question 9: What are the potential Gains in Services sector?**

**Answer:** Potential gain in Services Trade:

Australia has acknowledged the important contribution made by Science, Technology, Engineering or Mathematics (STEM) specialists, including Indian Information and Communications Technology (ICT) professionals. To enhance mobility in these fields, Australia shall extend possible stays from two to three years for Indian students graduating in Australia with bachelor degrees in the STEM fields with First Class Honours, including ICT fields.

#### **1. Mutual Recognition Agreement (MRAs):**

- Detailed provisions to pursue mutual recognition of Professional Services and Other licensed/regulated Occupations have been agreed to. These are in the form of Annex on Professional Services annexed to Trade in Services Chapter.

- In comparison to India's previous FTA's especially Singapore, Japan and Korea, these obligations are more comprehensive and comprise of elements such as coverage of all licenses and regulated occupations, allow for temporary/project specific license where feasible and establish a mechanism of Working Group to pursue on obligations related to this.
- This will pave the way for initiating dialogues on MRAs in Nursing, Architecture and other professional services between the professional bodies of India and Australia which in turn will facilitate the movement of professionals in each other's territory.

## **2. Double Taxation Avoidance Agreement (DTAA):**

- The Government of Australia has agreed to amend Australian domestic taxation law to stop the taxation of offshore income of Indian firms providing technical services to Australia. This would resolve the issue that the Indian Government has raised about the Double Taxation Avoidance Agreement between the Government of the Republic of India and the Government of Australia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.
- This was a long pending request of Indian IT industry. Once the amendment is made, the Indian Tech Companies would no longer be required to pay taxes on offshore revenues in Australia thereby enhancing their competitiveness in the international market.

## **3. Sectoral gains:**

- Commercially meaningful Market Access, National Treatment, Local Presence, Most Favoured Nation commitments by Australia in almost all important sub sectors such as Computer Related Services, Professional services viz. Legal Services, Accounting, Taxation, Architectural Services, Engineering, Integrated Engineering, Urban Planning and landscape architectural services, Medical, dental and veterinary services, Services provided by midwives, nurses etc.), Computer Related Services , Audio Visual Services, Research & Development services, Other Business Services, Telecommunication, Construction, Distribution, Education, Environmental, Financial, Tourism & Travel related, Recreational, Transport Services etc. with few non-conforming measures
- Besides creating conducive business environment, the commitments in services will provide an element of certainty, predictability and transparency for our service suppliers.

## **4. Mobility gains**

- High quality temporary entry and temporary stay commitments (up to 4 years) for Intra Corporate Transferees, Contractual Service Suppliers and Independent Executives. Besides commitments on Business Visitors and Installers and Servicers have also been undertaken.
- Commitments on entry, stay and work rights for spouses and dependants. For a natural person of India who has been granted temporary entry and temporary stay

or an extension of temporary stay under the categories of Intra Corporate Transferees, Contractual Service Suppliers and Independent Executives for a period of 12 months or longer and who has a spouse or dependant, Australia shall, upon application, grant the accompanying spouse or dependant the right of entry and temporary stay, movement and work for an equal period to that of the natural person.

**Question 10: What is the contribution of the Services sector in the economy of India/Australia?**

**Answer:** Services sector Gross Value Added (GVA) in the economy accounts for 54% in India and 73% of GVA in Australia.

**Question 11: As regards market access in services, what are the commitments undertaken by Australia and India and what are key gains for each side?**

**Answer:** Both the countries have undertaken commitments in 11 broad categories of Services. These include: 'IT and Communication Services', 'Business Services', 'Construction and related engineering services', 'Distribution Services', 'Educational Services', 'Environmental Services', 'Financial Services', 'Health related and Social Services', 'Tourism and travel related Services', 'Recreational Cultural and Sporting Services' and 'Transport Services'.

**Key gains for India and Australia in Services:**

Sl. No.	Key Gains for India	Key Gains for Australia
1.	Australia has made commitments in around <b>135 sub-sectors</b> (GATS-104) with MFN in <b>most sub-sectors</b>	India is making commitments in around <b>103 sub-sectors</b> (GATS-36) with MFN in <b>31 sub sectors</b>
2.	Key areas of India's interest like IT, ITES, Business, Professional Services, Health, Education, Audio visual being committed by Australia	Key areas of Australia's interest like Business Services, Financial Services, Education being committed by India. Avenues for investment in many areas.
3.	Australia has taken commitments not to impose local presence requirements for cross border delivery of services in most of the sectors	India will transition to negative schedule approach in 6 years.
4.	Commitment to pursue Mutual Recognition Agreement (MRAs)	GATS-plus commitments in domestic regulations to provide certainty on ease of doing business measures related to services sectors

**Question 12: What are the salient features of Australia's commitments in services?**

**Answer:** Australia has undertaken GATS/ FTA plus commitment in services.

Services sectors of India's interest have been committed by Australia like Computer relates services, Audio visual services, Other Business Services, R&D Services, Education services, Health Services, Professional services (Legal Services, Accounting, Taxation, Architectural Services, Engineering, Integrated Engineering, Urban Planning and landscape architectural

services, Medical, dental and veterinary services, nursing services etc.), Environmental services, Financial services, Tourism & Travel related services, Transport Services etc.

- Commercially meaningful market access commitments have been undertaken by Australia for cross border supply of services and for services delivered through commercial presence.
- Post study work visa up to 4 years for Indian students.
- Generous temporary entry and temporary stay commitments (up to 4 years) for Intra Corporate Transferees, Contractual Service Suppliers and Independent Executives.
- Quota of 1800 per year for qualified, professional Indian traditional chefs and yoga instructors entering as Contractual Service Suppliers
- Work & Holiday visa arrangement for young professionals

**Question 13: What all categories are covered in the Chapter on Movement of Natural Person (MoNP) under India -Australia CECA?**

**Answer:** India has offered market access to Business Visitors (BV), Intra Corporate Transferee (ICT), Contractual Services Suppliers (CSS), Independent Professionals and Installer and Servicers from Australia for a range of services sectors. Australia has offered market access to Business Visitors (BV), Intra Corporate Transferees, Contractual Services Suppliers, Independent Executives and Installers and Servicers for various services sectors. Besides, commitments on entry, stay and work rights for spouses and dependents have also been undertaken by both the Parties.

**Question 14: What is the maximum duration of stay allowed in Australia for the various categories of service suppliers offered to India?**

**Answer:**

- Business visitors (BV)- ranging from 3 months to 12 months;
- Installers and Servicers- 3 months;
- Intra- Corporate Transferees (ICT)- 4 years, with the possibility of further stay;
- Independent Executives- 4 years;
- Contractual Service Suppliers (CSS)- 4 years, with the possibility of further stay.

**Question 15: Are the commitments given by Australia under IT/ ITeS beneficial to the Indian service suppliers?**

**Answer:** Yes, there are no limitations placed by Australia in its commitments on Computer-Related Services. These commitments will benefit the Indian IT/ITeS in Australia.

**Question 16: What is the sectoral commitment of Australia in ‘Financial Services’?**

**Answer:** Australia has committed in most of the sub-sectors under Financial Services, including commitments in Insurance and insurance related services; and Banking and other Financial Services.

**Question 17: Is there a provision on mutual recognition of professional qualifications?**

**Answer:** Yes, both Parties have agreed for an Annex on Professional Services wherein, detailed provisions to pursue mutual recognition of Professional Services and other licensed/regulated Occupations have been agreed to. This will pave the way for initiating dialogues on MRAs in Nursing, Architecture and other professional services between the professional bodies of India and Australia which in turn will facilitate the movement of professionals in each other's territory.

**Question 18: Has Australia provided Work & Holiday visa arrangement for young professionals from India?**

**Answer:** Work & Holiday visa with multiple entry has been offered by Australia to 1000 young Indians, in the age group of 18-30 years, for a period of one year wherein they can undertake study or training for up to four months (17 weeks) or undertake paid or unpaid employment for the entire duration of their stay in Australia, generally for up to six (6) months with any one employer.

**Question 19: Has Australia provided quota for chefs and yoga instructors from India?**

**Answer:** Australia has offered an annual quota of 1800 for qualified, professional Indian traditional chefs and yoga instructors entering as Contractual Service Suppliers. Under this, temporary entry and stay is permissible for a period up to 4 years with a possibility of further stay. Quota for chefs and Yoga instructors will facilitate movement of these professionals in Australia subject to meeting relevant eligibility conditions.

**Question 20: Is there a post study work visa of 2-4 years for Indian students?**

**Answer:** Yes, Australia has agreed to maintain the following opportunities for former students to live, study and work in Australia temporarily after finishing their studies:

- a) upon completion of diploma or trade qualifications, stays of up to 18 months
- b) upon completion of bachelor degree (including honours), stays of up to 2 years
- c) upon completion of masters by research and masters by coursework, stays of up to 3 years

d) upon completion of doctoral degrees, stays of up to 4 years

Post study work visa will provide extended options for working in Australia to eligible Indian graduates, post graduates and STEM specialists.

### **TRADE REMEDIES**

**Question 21: Are there any safeguard mechanisms to protect the Indian domestic industry from surge in imports from Australia?**

**Answer:** Yes.

- There is a bilateral safeguard mechanism built into this agreement. India can enhance the rate of duty to MFN level on goods in respect of which there has been surge in imports from Australia due to reduction or elimination of duty. This mechanism would be available for use for the transition period i.e. a period of fourteen years from the date of tariff elimination or completion of tariff reduction. For example, if tariff elimination period for a particular product is 10 years, then bilateral safeguard for that product can be imposed up to 24 years from the date of entry into force of the agreement.
- Australia has not granted transition period of more than 8 years in any of its FTAs signed so far. This is the first time Australia has agreed for transition period of 14 years for application of bilateral safeguard mechanism.

**Question 22: Is there a mechanism to provide immediate protection to the Indian domestic industry?**

**Answer:** Yes.

- In critical circumstances where delay would cause irreparable damage to the domestic industry on account of surge in imports, India will have the right to impose provisional bilateral safeguard measure for immediate relief to the domestic industry, pending conduct of detailed investigation.

**Question 23: Can Australia take immediate retaliatory action if India imposes a bilateral safeguard measure?**

**Answer:** No.

- Australia cannot immediately impose retaliatory tariff against India's imposition of a bilateral safeguard measure and will have to necessarily wait for at least 2 years.



## **RULES OF ORIGIN**

### **Question 24: What are the Rules of Origin?**

**Answer:** Rules of Origin determine the nationality of the product exported from a country or imported into a country.

### **Question 25: What purpose do Rules of Origin serve?**

**Answer:** Rules of Origin serve a very important purpose of ensuring that only goods of the FTA partner country are given preferential tariff treatment.

### **Question 26: What is the definition for "originating goods" under the IndAus ECTA?**

**Answer:** A good shall be regarded as originating in a party if it is wholly obtained in the territory of FTA partner country. Moreover, if the good is not wholly produced then it has to satisfy following conditions:

- (i) The good has a qualifying value content (QVC) of not less than 35 per cent of the FOB value of export as per the Build-up Formula or 45% of the FOB value as per the Build-down Formula, and
- (ii) All the non-originating materials used for production have undergone a change in tariff classification at the six-digit level i.e. CTSH.

For the gems and jewellery sector the qualifying value content criteria has been kept lower i.e. 1.5% which would encourage our jewellery exports to Australia.

### **Question 27: What are the Rules of Origin for a good which is produced using imported/non-originating materials under the IndAus ECTA?**

**Answer:** A good, which is produced using imported materials from a third party shall qualify for preferential tariff under IndAus ECTA only when it satisfies the Product Specific Rules. If the good does not have a PSR, then it should satisfy the twin conditions as mentioned in the previous Answer i.e. CTSH+35% QVC if Build-up formula is used or CTSH +45% QVC if Build-down Formula is used.

### **Question 28: What are the Product Specific Rules (PSRs)?**

**Answer:** The product specific rules are the rules which apply to a particular sub heading at the 6-digit level. HS codes not listed which do not have PSR, are subject to the general rule outlined in paragraph 1 of Article 4.3 (Goods not Wholly Produced or Obtained – Rules of Origin).

**Question 29: What are the methods for calculation of QVC under the IndAus ECTA?**

**Answer:** There are two methods for calculation of QVC i.e. Build-up (Direct Method) or Build-Down (Indirect Method).

**Question 30: Can goods from a country other than Australia (i.e. a Third Country) entering into Indian market through Australia benefit from tariff concession under the IndAus ECTA?**

**Answer:** No.

- The India-Australia ECTA does not allow such goods through stringent rules of origin that reflect the requirement for substantial processing. Based on India's insistence, a number of agricultural goods have the wholly obtained criteria. Moreover, wherever other rules have been used, they largely include both change in tariff classification at the level of Sub-heading and a minimum of 35% using Build-up Formula (or 45 % using Build-down Formula) value addition taking the Free on Board (FOB) value of exports as the base.
- Further, in order to protect the Indian Steel industry, the condition of "melt and pour" has been incorporated as Product Specific Rule for Steel goods (esp. ITC(HS) 7206 to 7229). This means that raw steel would need to be melted into the liquid state and then poured into the first solid state in Australia in order to be eligible for import into India at preferential tariff.
- Moreover, considering India's CAROTAR (Customs Administration under Trade Agreements Rules 2020) that places onus of documentation on the Indian importers and the certificate of origin issued by the issuing authority in Australia, there is little chance of any circumvention of the stringent rules. It would ensure substantial processing under these rules. Moreover, the verification mechanism is robust and the exporter would need to maintain minimum required information and proper documentation.
- In conclusion, the IndAus ECTA has built-in protections to ensure that no third country product enters Indian market and benefit from concessional tariffs.

**Question 31. What should the Certificate of Origin contain?**

**Answer:** The text of the Certificate of Origin should be in the English language. Its format has been prescribed in the Rules of Origin Chapter. The exporters need to indicate the origin criteria used in their Certificate of origin along with other details like Description of good(s); HS Code (six-digit level), etc. Further, the certificate of origin will be issued by Export Inspection Council for Indian exporters.

**Question 32: What are the provisions in the Rules of Origin under IndAus ECTA to implement the certification procedure effectively and guard against possible mis-use?**

**Answer:** The IndAus ECTA has following measures to guard against possible mis-use:

- (i) Grounds for Denial of preferential tariff benefit have been agreed and prescribed in the Agreement.
- (ii) Temporary suspension of preferential treatment is included in the Agreement.
- (iii) Time bound Verification mechanism in case of doubt on claim for preferential treatment has also been laid down.
- (iv) Information such as cost break up and profit/related elements to be made available at the time of application of certificate of origin as well as enabling provisions to seek the same at the time of verification.

**Question 33: How can exporters maximize benefits out of Rules of Origin provisions?**

**Answer:** A typical exporter can get maximum benefits by following the methods enumerated below:

- (i) Identifying the raw material, components, inputs, etc. used for manufacturing of an export product;
- (ii) Computing Qualifying value content using either the Build-up or Build-down method, as per his convenience;
- (iii) Determining whether the significant transformation requirements, as prescribed by RoO, are satisfied;
- (iv) Tracking the supply chain and costing/pricing information of inputs and raw material sourced/ used;

**SIDE LETTERS**

**Question 34: What are Side Letters?**

**Answer:**

- A Side Letter is a document that is ancillary to another agreement. Primarily, a Side Letter is an agreement that is not part of the underlying or primary agreement, and which some or all parties to the instrument use to reach agreement on issues that the primary agreement does not cover or for which they require clarification.
- Side Letters under the Agreement are legally binding documents only when the side letter states that “*constitutes an integral part of the Agreement*”.

**Question 35: What are the Side Letters being signed under this Agreement?**

**Answer:**

1. **Side letter on visas** which will provide for:

- (a) A **“Post Study” work visa** of 18 months – 4 years which will benefit more than 100,000 Indian students. It will also allow a post study work visa for 3 years for STEM graduates;
  - (b) A **“Work and Holiday Visa”** for youth which will provide working opportunities for 6 months in a 12 months period for youth in the age group 18-30 years.
- 2. **Side letter on “Wine”**, to facilitate trade in wine through cooperation on matters related to regulations, sharing of best practices, technical assistance and capacity building.
- 3. **Side letter on “Organic”**, to facilitate Mutual Recognition Agreement (MRA) in organic products.
- 4. **Side letter on resolution of taxation matter under DTAA** which affects our IT Services exports.
- 5. **Side letter on Whisky** to consider the issues relating to market access for whiskies and other alcoholic beverages.
- 6. **Side letter for MFN on Wine** to extend similar additional benefit to Australia, in case India extends such benefits on importation of wine to any other country.

### **GENERAL**

#### **Question 36: Is there any provision on economic cooperation in the Agreement?**

**Answer:** Yes.

- There is an Article 11.7 (Economic Cooperation) in the General Provision and Exceptions Chapter wherein the parties have acknowledged the importance of cooperation in implementing the agreement and enhancing its benefits. Further, Article 11.2 (Objectives) provides for exploring new areas for economic cooperation.

#### **Question 37: Is there any provision on publication of laws and regulations of the Parties?**

**Answer:** Under Article 10.2 (Publication) of Transparency Chapter, each Party shall ensure that its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Agreement are promptly published, and made available in the public domain including on an official website in such a manner as to enable interested persons of the other Party to become acquainted with them.

**Question 38: What is the provision for dispute settlement mechanism under the Agreement?**

- The Agreement provides for State-to-State resolution of the disputes arising out of the provisions of this Agreement. The mechanism provides that the Parties will consult to resolve their differences, and if the consultations fail, the Parties can resolve the dispute through establishment of a panel. At any time, the Parties can reach a mutually agreed solution or opt for alternate resolution methods such as good offices, mediation or conciliation to resolve the dispute.
- The Panel shall consist of three members. Each party to the dispute shall appoint a member and the third member who would be the Chair of the panel, shall be appointed by mutual agreement. The Panel hearings will be conducted in closed session and will be confidential.

**Question 39: When will the IndAus ECTA enter into force?**

**Answer:** The Agreement shall enter into force 30 days after the Parties have notified each other that their domestic ratification process has been completed.

**Question 40: Are there any strategic reasons for a trade agreement with Australia?**

**Answer:** Conclusion of the Agreement with Australia assumes significance from an economic perspective as well as for strategic reasons, such as:

- (a) India has entered into the trilateral Supply Chain Resilience Initiative (SCRI) arrangement with Australia and Japan, which seeks to enhance the resilience of supply chains in the Indo-Pacific Region and develop dependable sources of supply and attract investment including diversification of supply sources, promotion of domestic manufacturing, etc.;
- (b) it also aims to attract FDI in the region and strengthen mutually complementary relationship among the participants. India has also recently formed the Quad comprising US, Australia, India and Japan, to further enhance cooperation and develop partnership across several issues of common concerns.

**Question 41: What are the provisions to safeguard the interest of the domestic industry from circumvention of goods?**

**Answer:**

- The stricter Rules of Origin provided under this Agreement, will ensure safeguarding from any circumvention, leakage or diversion of goods from any other country not part of this Agreement. Some of them are:
  - (a) requirement of substantial processing in the territory of the Parties;
  - (b) Product Specific Rules of Origin (PSRs) for 807 lines;

- (c) moreover, for a limited number of agricultural products being offered by India, the product should be grown in Australia or prepared from local inputs;
  - (d) further, provision of grounds for denial of preferential tariff benefit, enabling temporary suspension of preferential treatment, time bound verification mechanism, specifying supporting information such as cost break up and profit/related elements to be made available at the time of verification;
  - (e) Tighter Value Addition norms of 35 % (under Build up formula) and 45% (under build down formula) to ensure good is originating from the FTA partner;
  - (f) for steel products, condition of “melt and pour” is agreed; and
  - (g) considering India’s CAROTAR Rules place documentation requirement on the importer and the Certificate of Origin issuing authority of the country of export.
- The Agreement also provides for the application of bilateral safeguard measures to protect against the sudden surge in import of goods from Australia. The provision is available for 14 years from the last date of reduction/elimination of tariff.

\*\*\*\*\*