



Government of India
Ministry of Commerce and Industry
Department of Commerce



PHARMACEUTICALS EXPORT
PROMOTION COUNCIL OF INDIA
(SET UP BY MINISTRY OF COMMERCE & INDUSTRY, GOVERNMENT OF INDIA)



INDIA UAE

COMPREHENSIVE ECONOMIC
PARTNERSHIP AGREEMENT
(CEPA)



INDIA AUSTRALIA

ECONOMIC COOPERATION
AND TRADE AGREEMENT
(ECTA)



India and the United Arab Emirates (UAE) have signed the Comprehensive Economic Partnership Agreement (CEPA) for enhancing trade in Goods and Services between the two countries on 18 February 2022. The Agreement is expected to enter into force on 01 May 2022. Further, India and Australia have also signed the Economic Cooperation and Trade Agreement (IndAus ECTA) on 2 April 2022 to promote bilateral trade between the two countries.

While the India-UAE CEPA is expected to boost the bilateral merchandise trade from US\$ 60 billion to US\$ 100 billion in 5 years, it is anticipated that the Ind-Aus ECTA will enhance the bilateral trade from US\$ 27.5 bn to about \$ 45 to \$ 50 Billion in next 5 years. The above trade Agreements of India with the UAE and Australia are expected to create 20 lakh jobs in the next five years in India and raise living standards and enhance the overall welfare of the people of India.

In order to take advantage of these free trade agreements, it is important that adequate awareness among the exporters is created. In this background, the Department of Commerce, Govt has decided to organize state outreach programs in 8 cities across the country. To create awareness among Industry stakeholders on the details of these trade agreements, Pharmexcil has published FAQs on India-UAE CEPA as well as on India-Australia ECTA.

Links for India-UAE CEPA:

<https://commerce.gov.in/international-trade/trade-agreements/comprehensive-economic-partnership-agreement-between-the-government-of-the-republic-of-india-and-the-government-of-the-united-arab-emirates-uae/>

https://www.moec.gov.ae/en/cepa_india

Link for India Australia ECTA:

<https://www.dfat.gov.au/trade/agreements/negotiations/aifta/australia-india-ecta-official-text>



INDIA UAE

COMPREHENSIVE ECONOMIC
PARTNERSHIP AGREEMENT
(CEPA)



Question 1: Concept of Atmanirbhar Bharat vs. Free Trade Agreements (FTAs)

Answer: The two concepts are not contradictory rather complimentary to each other. Atmanirbhar Bharat does not mean self-containment, isolating away from the world or being protectionist. Rather it's about getting our act together to improve domestic production of finished goods, gain from better integration with the global value chain and ensure fair trade. The agreement would also enhance investment in India which would provide the necessary impetus to improving our manufacturing. Atmanirbhar Bharat Abhiyan, aims at making India a bigger and more important part of the global economy, pursuing policies that are efficient, competitive and resilient, and being self-sustaining and self-generating.

Atmanirbhar Bharat abhiyan together with a calibrated and balanced free trade agreement would build a self-reliant India that would focus not just on boosting domestic manufacturing but also on making the country a part of the global value chain.

Question 2: How is a Comprehensive Economic Partnership Agreement (CEPA) different from FTA?

Answer: As the name suggests, CEPA is more comprehensive and ambitious than an FTA in terms of partnership across a wider coverage of areas and the type of commitments. While a traditional FTA focuses mainly on goods; a CEPA is more ambitious in terms of a holistic coverage of many areas like services, investment, IPR, government procurement, disputes etc. Secondly, CEPA looks deeper at the regulatory aspects of trade than an FTA. It is on account of this that it encompasses mutual recognition agreements (MRAs) that covers the regulatory regimes of the

partners. An MRA recognises different regulatory regimes of partners on the presumption that they achieve the same end objectives.

Question 3: What are benefits of the India-UAE CEPA?

Answer: The UAE is currently India's third- largest trading partner with bilateral trade in 2019-20 valued at US\$ 59 billion. The UAE is also India's second largest export destination of India with exports valued at approximately US\$ 29 billion for the year 2019-20. Not only this, the UAE is also the eight largest investor in India with an estimated investment of US\$ 18 billion whereas Indian investments in the UAE are estimated at around US \$ 85 billion. The CEPA is expected to increase the bilateral trade in goods to USD 100 billion within five years of the signing and increase trade in services to USD 15 billion.

The India-UAE CEPA is likely to benefit about US\$ 26 billion worth of Indian products that are subjected to 5% import duty by UAE. Overall UAE is offering elimination of duties on 97 % of its tariff lines corresponding to 99% of imports from India. 90% of our total exports to the UAE in value terms would become duty free immediately upon entry into force of the CEPA. The UAE's immediate zero-duty market access offer to India covers all labour-intensive sectors such as Gems and Jewellery, Textiles, leather, footwear, sports goods, plastics, furniture, agricultural and wood products, engineering products, pharmaceuticals, medical devices, and Automobiles. UAE can also become a hub for sourcing of India's capital goods and intermediates for further value added exports to other destinations in Africa and Europe.

Also for the first time in any Trade Agreement, **a separate Annex on Pharmaceuticals** has been incorporated to facilitate access of Indian pharmaceuticals products, especially automatic registration and marketing authorisation in 90 days for products approved by

developed country regulators namely the United States (USFDA), the United Kingdom (UKMHRA), the European Union (EMA), and Japan (PMDA).

Question 4: What are the tariff concessions offered by India and the UAE to each other in Merchandise Trade?

Answer: Trade in Goods includes the exchange of tariff concessions at the 8-digit Harmonised System (HS) Code, and has been categorized into four lists, Immediate Elimination, Phased Elimination, Phased Reduction, including Phased Reduction with Quota and the Exclusion list.

Under the Agreement the UAE will eliminate tariffs on 97% of the tariff lines (total tariff lines -7581) accounting for 99% of the Indian exports to the UAE in value terms, which includes immediate elimination of tariff on 80.3% lines. Further, 1089 products (14.4% of tariff lines) and 180 products (2.4% of tariff lines) are in Phased Elimination, where the basic customs duty would be brought to zero in a phased manner of 5 years and 10 years respectively by the UAE from the date of entry into force of CEPA. Also, 35 products (0.5 %) are in Phased reduction list where the UAE is offering India up to 50% tariff reduction. The UAE have kept only 187 products constituting 2.4% of the total lines in the exclusion list.

There are 11908 tariff lines of India comprising equivalent number of products. 7694 products (64.61%) have been identified in the Immediate Elimination list; imports from the UAE on these would become duty free immediately upon entry into force of the CEPA. 2176 products (18.27%) and 225 products (1.89%) are in Phased Elimination, where the basic customs duty would be brought to zero in a phased manner of 5/7 years and 10 years respectively from the date of entry into force of CEPA. 656 products (5.51%) are in Phased reduction list where the UAE has been given up to 50% tariff reduction with or without a tariff-rate quota (TRQ).

Considering domestic sensitivities, remaining 1157 products (9.72%) have been kept in exclusion list.

Question 5: What are the important categories of products in the exclusion list of the India-UAE CEPA?

Answer: Considering domestic sensitivities, 1157 products (9.72%) have been kept in exclusion list. A large quantum of products in the following categories have been kept in the exclusion category-

- i. Jewellery (except for 2.5 tons Quota for gold jewellery)
- ii. Dairy products
- iii. Fruits, vegetables, and nuts
- iv. Cereals
- v. Tea, Coffee, spices
- vi. Sugar
- vii. Food preparations (instant coffee/ tea, sharbat, betel nut, pan masala, sugar syrup etc)
- viii. Tobacco products
- ix. Petroleum waxes and coke
- x. Dyes and pigments
- xi. Soaps and some cosmetics
- xii. Natural rubber, tyres and other rubber products
- xiii. Footwear
- xiv. Processed marble
- xv. Toys
- xvi. Plastics
- xvii. Scrap of Aluminium and Copper
- xviii. Most Automobiles and automotive components
- xix. Medical devices
- xx. TVs & picture tubes

Question 6: What are the export opportunities for India under the Agreement?

Answer: The UAE is a gateway to all of Africa, many other gulf countries and Europe. It also has a large number of Indian diaspora and a huge market for products like textiles, gems and jewellery, leather, footwear, and food products, which are labour oriented and provide economic opportunities. The UAE has undertaken immediate tariff liberalisation on a number of products of India's export interest. 90% of India's exports in value terms would become duty free immediately upon entry into force of the CEPA. The labour-intensive sectors such as Gems and Jewellery, Textiles, leather, footwear, sports goods, plastics, furniture, agricultural products, engineering products, pharmaceuticals, medical devices, and Automobiles are going to get duty free market access in the UAE market. Overall, the UAE is eliminating duty on over 97% of its tariff lines which account for 99% of Indian exports to the UAE in value terms. These are potential areas of benefit for India.

RULES OF ORIGIN

Question 7: What is the definition for "originating products" under the agreement?

Answer: The goods which are wholly obtained or produced entirely in the party country or if the product is not wholly or partly produced in the country then it has to satisfy stringent conditions which are as follows:

- i. The good has a qualifying value content of not less than 40 per cent and
- ii. All the non-originating materials used for production have to undergo a change in tariff classification at the four or six-digit level.

The value addition is lower only for the gems and jewellery sector since the process is such that the value addition ranges from 3-7%. This would encourage our jewellery exports to UAE.

Question 8: What are the Rules of Origin for non-originating products under the India- UAE CEPA?

Answer: The Agreement has stringent product specific rules of origin that reflect the requirement for substantial processing. Any goods would qualify for preferential tariff under the India-UAE CEPA if value content addition is not less than 40 percent, taking the Free on Board (FOB) value of exports as the base and all the non-originating materials used in the production of the good have undergone in the Party a change in tariff classification at the four or six-digit level (i.e. a change in tariff heading or tariff subheading) of the Harmonized System. Further, the certificate of origin will be issued by the Ministry of Economy of the UAE to prevent circumvention of the rules of origin criteria.

Question 9: Can products from a country other than the UAE (Third Country) enter Indian market through the UAE benefit from tariff concession under the India-UAE CEPA?

Answer: No. The India-UAE CEPA Trade in Goods does not allow such products through a stringent rules of origin that reflect the requirement for substantial processing. Based on India's insistence, a number of agricultural products have the wholly obtained criteria. Moreover, wherever other rules have been used, these have largely included both change in tariff classification and a minimum of 40% value addition taking the Free on Board (FOB) value of exports as the base. For the first time, based on the request of the Indian Steel industry, India has made the UAE agree to the condition of "melt and pour" as Product Specific Rules for Steel products. This means that raw steel would need to be melted into the

liquid state and then poured into the first solid state in UAE. Further, considering India's CAROTAR rules that place an onus of documentation on the Indian importer and the certificate of origin issuing authority in UAE being their Ministry of Economy, there is little chance of any circumvention of the stringent rules which would ensure substantial processing and no transshipment under these rules. Moreover, the verification mechanism is robust and there is exporter would need to maintain minimum required information and proper documentation.

The Agreement has built-in protections to ensure that no third country product enters Indian market and benefit from concessional tariffs without being substantially transformed.

Question 10: Is there any provision for Special Safeguard Mechanism (SSMs)?

Answer: A breakthrough feature of the CEPA is a permanent safeguard mechanism which has been agreed upon and can be resorted to in a situation of sudden surge in imports.

Question 11: Are there any safeguard mechanisms to protect domestic producers form surge in imports from the UAE?

Answer: Yes, there is a permanent safeguard mechanism to protect the domestic producers against any sudden surge in imports due to tariff concessions that would substantially cause or threaten to cause serious injury to the domestic industry. As a safeguard measure, a Party can suspend the further reduction of any tariff rate or increase the tariff rate on the good concerned to MFN applied rate of duty on the good in effect at the time the action is taken or the MFN applied rate of duty on the good in effect on the day immediately preceding the date this Agreement enters into Force, whichever is lower.

Moreover, India has offered tariff concessions in the form of tariff reduction up to 50% or tariff elimination in phased manner with Tariff Rate Quota (TRQ) on many items of exports interest to UAE such as Polyethylene, Polypropylene and Copper. These TRQs would also protect our domestic industry from any sudden surge of imports.

Question 12: Whether any tariff rate quotas applicable for the products covered under the India-UAE CEPA?

Answer: The UAE has not offered Tariff Rate Quota (TRQ) for any of its lines whereas for the products of export interest to the UAE, India is offering concessions mostly in the form of tariff reduction (TR) with or without a tariff-rate quota (TRQ). These tariff lines on which TRQ has been offered cover over 63% of the major non-oil export value products from the UAE.

Whereas India is offering the UAE, TRQ on Gold (with 1% duty reduction with a TRQ of 200 tonnes in 5 years), Gold Jewellery (with 5% duty reduction and a TRQ of 2.5 tonnes in 5 years), Copper (TRQ of 150% of the average imports for the period 2017-19 with tariff elimination in 5 years), Polyethylene and Polypropylene (TR of 50% over 7 years with an agreed upon absolute level of TRQ).

Question 13: Whether any customs clearance procedures provided in the agreement?

Answer: All the rules regarding the customs procedures would be predictable, consistent, transparent and fair manner. According to the agreement all the measures with regard to customs clearance will be simplified. The help of information and communications technology will be used for simplifying the customs procedures. The countries will be using international standards and recommended practices to harmonise the customs procedures.

Question 14: What are the standards followed with regard to Technical Barrier to Trade (TBT)?

Answer: All the technical regulations, standards and conformity assessment procedures will be defined according to Annex 1A of the WTO Agreement on Technical Barriers to Trade.

Question 15: What are the standards followed with regard to Sanitary and Phytosanitary Measures (SPS)?

Answer: The sanitary and phytosanitary measures mentioned in Annex 1A in the Agreement on Sanitary and Phytosanitary Measures of WTO will be applicable for food products.

Question 16: What are the provisions for review and implementation of the Agreement?

Answer: The concept of review of the Agreement has been put in place to take stock of the operation of the Agreement and based on this suggest the future course of action. The Agreement is operationalized and implemented through a Joint Committee. The Joint Committee would meet biennially to review the Agreement with a purpose of considering additional measures to further enhance the Agreement.

Question 17: What is the provision for dispute settlement mechanism under the Agreement?

Answer: The parties shall resolve dispute 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.

Question 18: Is there any provision in India-UAE CEPA on pharmaceutical products?

Answer: Yes, For the first time in a Trade Agreement, a separate Annex on Pharmaceuticals has been incorporated to facilitate access of Indian pharmaceuticals products, especially automatic registration and marketing authorisation in 90 days for products approved by developed country regulators namely the United States (USFDA), the United Kingdom (UKMHRA), the European Union (EMA), and Japan (PMDA).

Question 19: What are the significant provisions in the India-UAE CEPA?

Answer : There are many significant provisions incorporated in the India-UAE CEPA. Few of them are enumerated below-

- i. For the first time in a Trade Agreement, a separate Annex on Pharmaceuticals has been incorporated to facilitate access of Indian pharmaceuticals products, especially automatic registration and marketing authorisation in 90 days for products approved by developed country regulators namely the United States (USFDA), the United Kingdom (UKMHRA), the European Union (EMA), and Japan (PMDA).
- ii. 'MELT & POUR' criteria has been incorporated as Product Specific Rule for Steel products.
- iii. 'Permanent Safeguard Mechanisms' have been incorporated for the first time.
- iv. Chapter on 'Digital Trade & Government Procurement' have also been incorporated in the agreement

SERVICES

Question 1: How many sectors and sub-sectors are covered in the Services agreement?

Answer: Both the countries have undertaken commitments in 11 broad categories of Services. These include: 'Business Services', 'Communication 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'.

While India has committed around 100 sub-sectors in services, the UAE has committed around 111 sub-sectors from the 11 broad services sectors.

Question 2: What is the contribution of the Services sector in the economy of UAE/India?

Answer: As per the World Development Indicators of World Bank (2020), Services sector accounts for 48.9% of GDP in India and 58.2% of GDP in UAE.

Question 3: What are the salient features of UAE's commitments in services?

Answer: UAE has undertaken GATS/best FTA plus commitment in services.

- Commercially meaningful market access commitments undertaken by UAE in all important sub sectors in services.
- Services sectors of India's interest have been committed by the UAE, like 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.), Computer relates services, Audio visual services, Other Business Services, R&D Services, Education services, Health Services, Environmental services, Financial services, Tourism & Travel related services, Transport Services etc.

- Commercially meaningful market access commitments have been undertaken by the UAE for cross border supply of services and for services delivered through commercial presence.

Question 4: What has the UAE offered to Indian service suppliers under Mode 1 and Mode 2?

Answer: UAE has committed substantial commitments under Mode 1 and 2 for sub-sectors under Professional services; Other Business services; Computer related services; Research and Development Services; Rental/ Leasing Services; Educational services; Environmental services; Financial Services; Health and related social services; Tourism and travel related services; Recreational, Cultural and Sporting Services; and Transport services.

Question 5: What has the UAE offered to Indian service suppliers under Mode 3?

Answer: UAE has committed majority foreign equity stake in most of the sub-sectors in services. The UAE has committed 100% foreign equity in Computer related services (CPC 841 -845); Research and development services; Management Consultancy services, Technical testing and analysis services, Hospital services, Air transport services (Computer Reservation Systems and Maintenance and repair of aircraft and parts thereof); and Rail transport services.

Question 6: What all categories are covered in the Annex on MoNP (Movement of Natural Person) under India -UAE CEPA?

Answer: Market access has been offered for Business Visitors, Intra Corporate Transferees, and Contractual Services Suppliers in a range of services sectors.

Question 7: What is the maximum duration of stay allowed in UAE for the various categories of Indian service suppliers?

Answer: Business visitors (BV)- 90 days in any 12-month period; Intra corporate transferees (ICTs)- 3 years (subject to renewal for additional years); Contractual service suppliers- 90 days (renewable for further equal period subject to approval).

Question 8: Are the commitments given by the UAE under IT/ITeS beneficial to the Indian service suppliers?

Answer: Yes, the UAE has undertaken full commitments in Computer-Related Services. These commitments will benefit the Indian IT/ITeS in UAE.

Question 9: What is the sectoral commitment of the UAE in 'Financial Services'?

Answer: UAE 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 10: Is there a provision on mutual recognition of professional qualifications?

Answer: Yes, obligations on mutual recognition of professional and skills qualifications in the Agreement will facilitate professionals and skilled workers to deliver services.

GOVERNMENT PROCUREMENT

Question 1: What are the commitments taken by both the parties in the Government Procurement Chapter?

Answer:

- a) The Government Procurement (GP) chapter has certain binding commitments related to **process, procedure and transparency elements** of GP for only a limited number of Central Government Ministries & Departments¹.
- b) It completely safeguards the provisions of General Financial Rules and the Orders issued thereunder including **Preference for Make in India Order** as well as **MSME Preference policies**.
- c) There is **no commitment on any additional market access** as both the parties reserved their rights based on their existing and future domestic laws and regulations as well as programmes on domestic preferences.
- d) Moreover, Dispute settlement mechanism will not be applicable for first three years of the entry into force of this agreement and its applicability to part or the full Agreement later is subject to review by both parties during the fourth year.

Question 2: What are the safeguards available for retaining the existing policy space for domestic procurement?

Answer:

- a) **Scope** is limited to only certain Central Government Ministries and Departments. Moreover, State and Local level procurements are not covered.
- b) **Thresholds** for goods, services and Constructions services retained at a very high level i.e., **more than Rs 200 crores** (UAE retained it at much lower level of around Rs 1.6 crores for goods and services and Rs 60 crores for construction services).

¹Specified in each Party's Schedule in Annex 10A (for India) or Annex 10B (for the UAE)

- c) **Preferential policies** for the domestic industries retained (PMI Order as well as MSME preferences)
- d) Rules of Origin (as applicable in goods chapter) will be applicable for GP as well.

Question 3: Whether the GP provisions apply to all categories of Indian entities?

Answer:

- a) GP provisions would apply to only certain Central Govt Ministries and Departments.
- b) Moreover, procurements beyond the stated thresholds will be covered (For Goods, Services and Construction Services, the threshold value is **more than Rs 200 crores**).
- c) State and Local level entities are not covered.

Question 4: What are the provisions retaining the existing preference policies for domestic manufacturers under the GP chapter?

Answer:

i) India:

Amongst others, the following provisions ensures retention of India's domestic preference policies:

- a) Coverage:
 - Only a limited Central Govt. Ministries/Governments covered, that too with high thresholds for procurement of Goods, Services and Construction services;

(Apart from a large number of Central Ministries such as Defence, excluded are subordinate entities of Central Government Ministries including departments and

attached bodies, autonomous bodies, government owned companies, public sector enterprises, regulators or any other entities, wholly or partially, under the Central Government);

- Sub-Federal and local level procurements excluded.
- b) Procurements under the Public Procurement (Preference to Make in India) Order, 2017 or any other order, as amended from time to time
- c) In addition, procurements excluded from scope:
 - Construction projects or any Infrastructure projects.
 - Health care sector including medical devices, pharmaceutical products, therapeutics, diagnostics.
 - Agricultural products made in furtherance of agricultural support programmes and human feeding programmes (e.g. food aid including urgent relief aid).
 - Goods and services for the establishment and operation of embassies buildings outside the territory of the India etc.

II. UAE: Following are excluded from the scope:

- a) Partnership contracts with the private sector that are classified as a “partnership project,” pursuant to UAE Cabinet Resolution
- b) Procurement conducted pursuant to the Unified In-Country Value program, as described in UAE Cabinet Resolution.
- c) Procurement of goods, services, or construction services related to the oil, gas, or mineral sectors.

- d) Procurement of military character carried out by the Ministry of the Interior or any entity with a security or military character.
- e) Procurement of medicines or drugs.
- f) Procurement related to construction projects and contracts.
- g) Procurement of transportation services that form a part of, or are incidental to, a procurement contract.
- h) Procurement of agricultural products made in furtherance of agricultural support programmes and human feeding programmes (e.g. food aid including urgent relief aid).

Question 5: What are the major deviations from the general GP chapters of FTA partners?

Answer:

- a) National standards as an option to International standards incorporated;
- b) Stricter timelines for procurement process changed as per domestic laws and Regulations (such as GFR)
- c) There is no specific Rules of Origin (RoO) applicable under GP chapter in FTAs or under WTO GPA. For the first time, Rules of Origin under GP aligned with RoO of Goods chapter to prevent any mis-use.
- d) Domestic Preferences have been built-in retaining domestic policies.

Question 6: Is India planning to join WTO GPA? Whether India plans to have GP chapters in other FTAs under negotiation?

Answer:

- a) India is an observer under WTO GPA since 2010 and as of now, there is no plan to join the same. (At present, GPA has 21 parties comprising 48 WTO Members).
- b) So far, India has not entered into any market access arrangement under its GP Chapters. In India-Japan CEPA, the binding is limited to transparency and information sharing and the scope of Japan requesting for adequate opportunity to enter into negotiation with India in case India allows GP market access to any of its FTA partners. Similarly, no market access commitment has been made under GP chapter in India-UAE CEPA.
- c) Most of the modern FTAs are comprehensive agreements, encompassing a number of chapters including GP. We have to be mindful of the same. Since it is the first time we are having a full text on GP, it has been carefully examined and accordingly developed after wide inter-ministerial/stakeholder consultations. In future agreements, the present GP Chapter text may become template and the scope and coverage of GP chapter may vary depending on ambition.

Question 7: What is the present market size of GP in UAE?

Answer: At Federal level, the average GP size in UAE is around 6.8 billion US\$.

DIGITAL TRADE**Question 1: What are the aims and objectives of the Digital Trade chapter in the India – UAE CEPA?**

Answer: The Digital Trade chapter in the India – UAE CEPA is a futuristic, high ambition chapter that aims to harness the economic growth and opportunity that digital trade provides. It aims to foster an environment conducive to further advancement of digital trade in the two countries by, inter alia, strengthening bilateral cooperation. It further seeks to enhance cooperation between India and the UAE towards the development of digital trade bilaterally as well as globally.

Question 2: What are the areas in which India and UAE have undertaken commitments in the chapter?

Answer: The commitments in the Digital Trade chapter are only of best endeavour in nature and the dispute settlement mechanism is also not applicable on the chapter. It contains commitments of best endeavour in areas like paperless trading, domestic electronic transactions frameworks, authentication, online consumer protection, unsolicited commercial electronic messages, personal data protection, cross-border flow of information, open data, digital government, cooperation on digital products, customs duties on electronic transmissions, digital and electronic invoicing, digital and electronic payments, access to and use of internet for digital trade, cybersecurity and cooperation.

Question 3: How has the chapter dealt with some of the key sensitivities in digital trade?

Answer: India and UAE have adopted a cooperation model to resolve some of the key sensitivities, such as those relating to digital products. On cross-border flow of information, both Parties

have agreed to endeavour to promote electronic information flows, subject to their laws and regulatory frameworks. On the issue of customs duties on electronic transmission, India and UAE have agreed to maintain their current practice of not imposing customs duties on electronic transmissions between the Parties, with a right to adjust this practice in light of any future WTO outcome on the issue. Further considering the sensitivities intertwined with the digital trade, the chapter on digital trade is best endeavour in nature and dispute settlement mechanism is also not applicable on it.

Question 4: What are the areas of future cooperation between India and the UAE in digital trade?

Answer: India and UAE have agreed to endeavour to maintain a dialogue on regulatory matters relating to digital trade. This will be with a view to exchanging information and experiences in areas such as online consumer protection, personal data protection, anti-money laundering and sanctions compliance for digital trade, unsolicited commercial electronic messages, authentication, intellectual property concerns with respect to digital trade, challenges for small and medium-sized enterprises in digital trade, digital government, digital identities, etc.

Question 5: How will the Digital Trade chapter help the economic operators/consumers in this sphere in India and the UAE?

Answer: The chapter aims to promote an enabling ecosystem for promoting and facilitating digital trade. It aims to address some of the key hurdles that economic operators and consumers face in the digital economy. By providing a framework for issues such as paperless trading, digital payments, online consumer protection, personal data protection etc., it recognises the importance of avoiding barriers to the use and development of digital trade.

Question 6: What are specific commitments on Investment and Trade in the CEPA?

Answer: The Chapter on Investment and trade is of best endeavour in nature wherein both the parties affirm their desire to promote an attractive investment climate and expand trade in products and services. Both the sides have agreed to establish a UAE-India Technical Council on Investment and Trade Promotion and Facilitation (the Council) to monitor investment and trade relations, to identify opportunities for expanding investment and trade and to work toward the promotion of investment and trade flows. The chapter on Investment is not subject to dispute settlement.

Question 7: What are the significant features of the Chapter on SMEs?

Answer: A separate chapter on SMEs have been incorporated in the India-UAE CEPA recognising the fundamental role of SMEs in maintaining the dynamism and enhancing the competitiveness of their respective economies and reaffirming the importance of incorporating a SME perspective into economic and trade issues. The chapter on SMEs envisages establishing a Committee on SME Issues (SME Committee) comprising representatives of each Party to undertake joint activities aimed at improving the capacity and conditions for SMEs to access and fully benefit from the opportunities created by trade and investment. The chapter on Investment is not subject to dispute settlement.

INTELLECTUAL PROPERTY RIGHTS

Question 8: Will the Agreement ensure strong protection of India's intellectual property in the UAE?

Answer: The IPR chapter compliments the overall FTA objective of the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of right holders, with a balance of rights and obligations.

The IPR chapter ensures that all the IPRs are duly protected and enforced adequately. The Intellectual Property consists of a total 34 articles, the main topics covered by the chapter are General provisions, Copyright and related rights, Trademarks, Geographical indications, Patents and Genetic Resources and Traditional Knowledge along with provisions on cooperation and Enforcement.

Question 9: What are benefits for India arising out of the IP chapter?

Answer: India has an aggressive interest in protecting its traditional knowledge including geographical indication. So, to secure its interests in this field, India was successful in including two specific sections on Traditional Knowledge and Genetic resources.

UAE has been one of the markets of keen interest in the media and entertainment industry. Hence, looking at the need for extensive measures required to protect the interest of Indian copyright holders, provisions related to protection of Technological Measures in view of rights of copyright holders were included.

Question 10: How does the agreement address the language barrier between the countries?

Answer: To facilitate the communication between various stakeholders on both sides, India ensured that the UAE side would provide the information as well as look into the possibility of communicating with the IP right holders in English language. This would facilitate the IP filing process in UAE along with reduction in cost associated with translations to Arabic language.

Question 11: Has India gone beyond its TRIPs mandate in terms of its commitment and obligation in context of this FTA?

Answer: India has taken a progressive approach towards its IPR regime. India has not committed to any of the provisions beyond current IP obligations, it has ensured that the interests of the public at large are safeguarded.

Question 12: Will India have to change any of its Intellectual Property laws for CEPA?

Answer: No. The Intellectual property chapter in the CEPA is consistent with India's existing Intellectual property regime and India's commitment to various global treaties. As already mentioned, most of the provisions on IPR, are already in force in India at the time the CEPA comes into force.

Question 13: What are the provisions relating Copyright and related rights in the IP chapter?

Answer: Considering India's keen interest in the media and entertainment industry, the IP chapter provides extensive measures to protect rights of reproduction, distribution and communication. Further, it goes to extent to provide obligations in context of

protection of technological measures and rights management information to prohibit unauthorised access and use of right holder's works.

Question 14: How does the IP chapter extend protection to Indian Geographical Indications?

Answer: Even though, UAE does not have a specific GI Act and GIs are protected through trademarks, the protection has been extended to all classes of Geographical indications including agricultural goods, natural goods, and manufactured goods including goods of industry, handicrafts, and foodstuffs.

Question 15: What are the provisions related to Trademarks in the IP chapter?

Answer: The Trademark section covers the entire scope of Trademarks including the sound mark as well as well-known trademarks. It also provides provisions related to the possibility of filing a single application in multiple classes along with compliance to Nice classification to goods and services.

TRADE REMEDIES**Question 1: Are there any safeguard mechanisms to protect domestic producers from surge in imports from UAE?**

Answer: Yes, there is. It is for the first time in any bilateral agreement signed by India that the safeguard mechanism has been made permanent in nature.

This is of significance since it will protect the Indian industries especially the MSME's against such sudden surge in imports from UAE at any given point of time till this agreement is in existence.

Under the bilateral safeguard mechanism, the applicable duty is restored to MFN level of duty on the date of the application or immediately before the day of entry into force of this agreement.

Question 2: Whether the concerns of Indian industries regarding dumping of goods by other countries by routing it through UAE, a trading hub, have been addressed in this agreement?

Answer: Yes, the concerns of UAE being a major trading hub and the other countries routing their dumped goods through UAE have been addressed. A consultative mechanism between the two countries has purposely been built into in the anti-dumping provisions of this agreement. This will ensure that the third countries producing such dumped goods do not escape the application of anti-dumping measures by India.



INDIA AUSTRALIA

ECONOMIC COOPERATION AND TRADE AGREEMENT (ECTA)



Question 1: What is the bilateral trade between India and Australia?

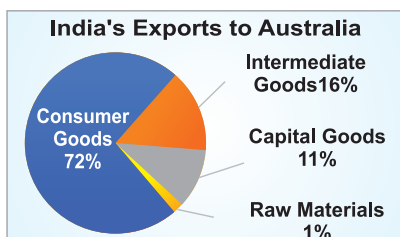
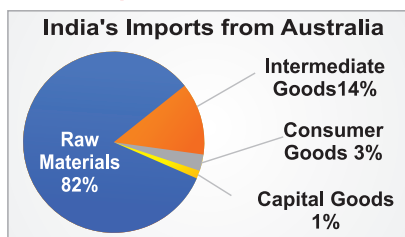
Answer: Australia is the 17th largest trading partner of India and India is Australia's 9th largest trading partner. India-Australia bilateral trade for both merchandise and services trade is valued at US\$ 27.5 billion in 2021. It is shown in the table below:

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&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. 3/4th 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 2: 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% 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 2% 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% 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 CTS+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, anew clause introduced fora 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 compulsoryand has to be completed in 6 months.

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\$ 45-50 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.

Question4: 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 a number of “Side Letters” covering different aspects of the agreement wherein India and Australia have made further commitments.

Question5: 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 its 100% tariff lines** for exports from India:
- (a) Zero duty on 96.4% value of our exports immediately (98% 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 of Australia** 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 6: What are the important categories of products in the exclusion list of India in the 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;
- Groundnut;
- Wheat, rice, bajra;
- Apple;
- sunflowers seed oil;
- sugar;
- oil cake;
- gold, silver, platinum, jewellery;
- iron ore;
- most medical devices etc.

Apart from this, on the following agricultural products, Tariff rate quota (TRQ) 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.

Question7: 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

Question8: 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 9: 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 10: 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 135 sub-sectors (GATS-104) with MFN in most sub-sectors	India is making commitments in around 103 sub-sectors (GATS-36) with MFN in 31 sub sectors
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 11: 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 12: 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 13: 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 furtherstay;
- Independent Executives- 4 years;
- Contractual Service Suppliers (CSS)- 4 years, with the possibility of furtherstay.

Question 14: 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 15: 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 16: 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 17: 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 18: 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 19: 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

Question20: 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 21: 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 22: 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 23: 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 24: 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 25: 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 26: 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 27: What are the Product Specific Rules (PSRs)?

Answer: The product specific rules are the rules which apply to a particular subheading 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 28: 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 29: 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 30. 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 alongwith 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 31: 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 32: 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 33: 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 34: What are the Side Letters 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 Indian students studying there. At present, more than 100,000 Indian students are studying there. 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 35: 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 36: 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 37: What is the provision for dispute settlement mechanism under the Agreement?

Answer :

- 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 38: 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 39: 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 40: What are the provisions to safeguard the interest of the domestic industry from circumvention of goods exports from Australia under the Agreement?

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” suggested by India agreed; and
- (g) considering India’s CAROTAR Rules, 2020 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.
