

EBCA POSITION ~ EU-INDIA FREE TRADE AGREEMENT

February 2023

The [European Branded Clothing Alliance](#) (EBCA) welcomes the reopening of free trade negotiations between the European Union and India. EBCA believes that trade and investment relations between the EU and India can improve significantly.

Given its economic growth, India constitutes a fundamental trade and investment partner for the EU. In the Textiles and Clothing (T&C) sector, India represents a source of untapped potential for growth, market diversification and more resilient supply chains. Apparel imports from India to the EU in 2021 corresponded to €3 billion, which was 4% of total apparel imports. There is considerable room for sustainable growth in this sector in the country.

However, India has a high average import duty rate, especially after the graduation of certain products, including textiles, which from 2014 were no longer eligible for GSP preferences. The EU has announced that exports from India will become ineligible for benefits under the GSP scheme from 1 January 2023. This will translate into around €7.6 billion worth of Indian exports to the EU losing preferential import duties, according to estimates by the Federation of Indian Export Organisations (FIEO).

Moreover, EBCA believes that the two parties should continue collaborating towards the resolution of market access barriers (e.g., Quality Control Orders) at the same time as FTA negotiations are ongoing to guarantee reciprocity and fair competition.

EBCA would like to make the following recommendations to EU negotiators on this FTA.

EBCA Policy Asks

1. Guarantee **immediate elimination of duties** on apparel **without phase-out**
2. Introduce **full cumulation, diagonal cumulation** and **single transformation**
3. Include preferential tariff treatment based on ‘**importer’s knowledge**’
4. **Resolve major market access barriers** as condition to finalise an FTA
5. Deter counterfeiting and ensure **respect of IPRs**
6. Safeguard social and environmental protection standards through a **strong and tailored TSD chapter**

1. Guarantee full elimination of duties and full cumulation

During 2022, the duties levied on various categories of imports are: apparel 21%, footwear 36%, and perfumery 26%. This is also levied on goods that are “Made in India” and are re-entering India without value added production. Tariff dismantling should be comprehensive and reciprocal. No T&C products should be excluded from dismantling trade tariffs.

EBCA supports **full and immediate elimination of duties** on apparel **without phase-out**.

In addition, we encourage EU negotiators to include **shorter staging periods** for the apparel and footwear sectors than the ones included in the EU-Vietnam FTA (up to seven years) to accelerate tariff reduction periods.

2. Introduce full cumulation and single transformation

We also call for **full cumulation** and **diagonal cumulation** with countries in the region, as well as the inclusion of the **single transformation** rule. While there is increasing cotton production in India, it is not realistic to solely rely on local fabric production and a double transformation requirement under the FTA would potentially put us worse off than GSP.

Specifically, we recommend the use of single transformation when **potential new HS codes are created covering recycled materials** from pre-and post-consumer waste, which could be introduced by the World Customs Organisation in the foreseeable future. Moreover, if bilateral cumulation, in the product-specific Rules of Origin, the amount of raw materials used in the process should be based on **value** and not in weight.

3. Include preferential tariff treatment based on ‘importer’s knowledge’

Following the lead of the trade agreements between EU-UK and EU-Japan, it is important to make sure that the option to claim for **preferential tariff treatment based on the “importer’s knowledge”** is included in the EU-India FTA.

“Importer’s knowledge” allows the importer to claim preferential tariff treatment based on their own knowledge about the originating status of imported products. It can be used as an alternative to a statement on origin provided by the exporter.

This option requires the importer to have **knowledge that the products meet the relevant rules of origin**. The exporter or producer may have to provide information to the importer about **the production process**: a description of the originating and non-originating materials used, a description of the production process, the identification of the manufacturers, etc. as well as **information relating to the compliance with the provision on non-alteration in a country of transit** (if applicable).

If the importer cannot get the information, including when the exporter or producer does not provide the information because it is deemed commercially sensitive, preferential tariff treatment may still be claimed if the exporter issues a **statement on origin**.

For audit purposes, while the importer is making a claim using their own knowledge, the exporter or producer does not need to do anything to officially state the originating status of

the goods. An importer making a claim for preferential tariff treatment must **keep all records** that show that the product is eligible for preference for a defined number years from the date of importation. These records must be allowed to be stored in an electronic format. This may be in addition to other information (such as supporting documents or records) which the importer may already have.

4. Resolve major market access barriers

Although tariffs remain significant in the T&C sector, the main market access barriers now **increasingly concern non-tariff barriers** (NTB). The T&C industry is particularly affected by trade facilitation measures due to the large quantity of physical goods exported in containers. The establishment under the FTA of a future **Customs and Trade Procedures Group** would provide a valuable platform for discussing implementation issues and collaborating on solutions to solve customs clearance concerns.

We highlight in the Annex the major barriers that EBCA members are encountering in India. EBCA members strongly call for negotiators on both sides to **ramp up efforts to solve said barriers** in parallel to FTA negotiations. We also support a **conditionality link** between the FTA track and the parallel barriers track, meaning that there should be no trade deal if those market access barriers have not been solved.

5. Deter counterfeiting and ensure respect of IPRs

India is home to **counterfeit** production. EU trade negotiators should press Indian authorities to further deter counterfeiting in the country in the context of FTA negotiations.

The **quality of the *ex officio* examination** in India can be unpredictable and of varying quality, which is noted especially in cases when irrelevant earlier trademarks are cited as bars. Moreover, **bad faith filings** are found to be common in the country.

In addition, though the regime is effective in identifying and cracking down on counterfeit production, the **legal system is often overworked** to the point where sentencing of counterfeiters takes years. In addition, the legal system does not usually give big sentences, which does not deter counterfeiting activity on the ground.

6. Safeguard social and environmental protection standards

EBCA members support the EU in attaching conditionality to the EU-India FTA through a **strong sustainable development chapter** in light of the Commission's [Communication](#) on "The power of trade partnerships: together for green and just economic growth."

However, we **do not believe in the use of sanctions** or the lifting of trade preferences as tools to enforce compliance. These tools adversely impact the most vulnerable groups in society (often female workers). Instead, we recommend intensifying **bilateral dialogues and local initiatives** to create ownership and implement more sustainable change.

Lastly, we recommend implementing a **workable TSD chapter** in the final agreement that avoids posing a hindrance to cross-border trade. It is also important to make sure that the TSD chapter is **tailored to India's specificities** and particular sustainability priorities.

Annex

Trade barrier	Description
Drugs and Cosmetic Act	Legislation for cosmetics requires imported cosmetic products to be registered at the Indian authority. The registration process is complex and when approved, a registration number is given. This number needs to be included on the product label. There are also requirements for documents to support the registration process that are not clearly stated in the legislation.
Legal Metrology (Packaged Commodities) Rules 2011, Legal Metrology (Packaged Commodities) Amendment Rules 2017	The Indian legislation requires the following parameters to be provided for all products: (i) Name and address of actual manufacturer, (ii) Name and address of importer, (iii) Name, address, phone number and e-mail address for consumer complaints, (iv) Name of product, (v) Date of manufacture, (vi) Date of import, (vii) Net quantity. The last amendment also added the requirement to include Unit Sale price for packaged commodities. (vi) Lack of provisions allowing additional stickering for existing stock as and when amendments are introduced.
Absence of standard compliance requirements and on ground processes for running store operations	<p>Compliance requirements for opening and running store operations are too many and unique to each state. Additionally, most of the licenses/registrations are required to be renewed annually which is a long process and needs to be undertaken every year. The process is not online, hence considerable time and cost is spent in submitting yearly applications and following up with the authorities.</p> <p>There is also a lack of consistency in laws across all states in India which facilitate optimal business functioning. There are separate restrictions on working hours for females.</p>
Mandatory Compliance for BIS Standard for shoes. Gazette Notification dated 27 October 2020	<p>Clarifications of IS nomenclature and content are missing.</p> <p>Restrictions on design and manufacturing need to be addressed.</p> <p>Internationally accredited labs are not able to conduct tests required in the new IS standards. New IS standards are not aligned with other globally accredited standardization bodies that are frequently used by industry, including SATRA and ISO.</p> <p>Indian BIS is a member of ISO. An agreement may mean that fewer Indian national standards deviate from international standards. This could be done, for example, by creating a working group under the committee structure of FTAs (TBT one here) and a comprehensive annex maybe of</p>

	standards to the TBT chapter. Some agreements have annexes to the TBT chapter referring to international standards that should be mutually recognised and be the basis for national regulation in the parties. This is certainly something we hope to see in this agreement.
INDIAsize (national standard for sizes for garments & clothing)	The Ministry of Textiles has sanctioned the INDIAsize project to develop standard body sizes for the Indian apparel sector to address the prevailing disparities and inconsistencies in provided fits. Manufacturers will need to produce goods best suited for Indian body types. INDIAsize needs to follow international standards to avoid the creation of new trade barriers.
Customs Clearance of Imported goods	Despite having AEO T-3 status, EBCA members face many checks of our imported shipments. We also face a lot of challenges in taking NOC from Import Associated Agencies e.g. P&Q, A&Q etc. which leads to delays in customs clearance.
Subsidies schemes	In the past years, India has adopted subsidy schemes in the form of export aid to provide an unfair competitive advantage to Indian exporters (e.g., Remission of Duties and Taxes on Exported Products (RoDTEP), the Merchandise Exports from India Scheme (MEIS), Mega Investment Textiles Parks (MITRA) in addition to the Production Linked Incentive Scheme (PLI).
Azo dyes	As per Notification No19 /2015-2020, 04 September 2015, any textile importer must handover to Customs Authorities azo dyes test reports for 25% of the cargo imported to the country, except for those models that are manufactured in countries that are exempted in the Appendix-2X of that norm. Many countries that are still affected by the regulation have passed normative that controls the use of azo dyes in the garment industry in the last years, but the Notification have not included them in the exception appendix.
Labelling	Cargo being imported to India must be labelled with the INR price before importing the cargo. This forces retailers to label the cargo in origin, thereby causing delays in shipping and additional costs. This is a hindrance to companies following a just-in-time business model. It is a common practice in many countries to proceed with the relabelling after the cargo is unpacked in store and before merchandise is displayed on the store floor.

About EBCA

EBCA is a coalition of nine European and multinational retail apparel companies that represent over 70 brands and directly employ upwards of 200,000 Europeans (members include Inditex, H&M, Mango, Tendam, Levi's, Ralph Lauren, VF Corp, PVH and C&A). Since its inception in 2007, [EBCA](#) has sought to promote trade and sustainable development, market access, rules-based trade and investment security at the heart of the EU's trade policy.

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