Free Trade Agreements

Enabling Businesses and Fostering Partnerships

between the EU and the Indo-Pacific

#PartnerForTrade

Singaporean-German Chamber of Industry and Commerce
Deutsch-Singapurische Industrie- und Handelskammer

Singaporean-German Chamber of Industry and Commerce (SGC) Corporate Gold Members

www.sgc.org.sg

Date:
March 2023

Author:
Robin Hoenig

Designer:
Dexel Pte Ltd

SGC Corporate Gold Members

Audi, avodaq, CapitaLand Investment, Daimler Truck, Deutsche Bank, Evonik (Leading Beyond Chemistry), LBBW, Luther., Mercedes-Benz, Metawolf (decentralizing for a better world), SAP, SICK (Sensor Intelligence.), Siemens, TÜV SÜD

Supported by:

Federal Ministry for Economic Affairs and Climate Action

on the basis of a decision by the German Bundestag

Foreword

The global economy continues to face profound challenges-geopolitical tensions, inflationary pressures, supply chain disruptions, anti-globalisation sentiments, rising barriers to trade, and more recently, Russia's invasion of Ukraine.

Amidst these uncertainties, we also see interesting opportunities. The pandemic has been a catalyst for digitalisation, across industries and companies of all sizes. Climate change has heightened the focus on sustainability and the urgent need for action. Companies are enhancing their supply chain resilience by diversifying their operations and tapping into new markets.

As we navigate these challenges and seek to seize these new opportunities, more than ever, trade policy and free trade agreements (FTAs) are becoming important tools to stay ahead of the game. Modern trade agreements enable a secure cross-border movement of data and enable interoperable rules, standards, and policies, so that companies can fully leverage digitalisation and conduct business in the digital economy. FTAs are also an important driver for sustainable growth by safeguarding human rights and environmental protection and facilitating trade and investment in climate-friendly technologies. Most importantly, trade agreements remove barriers to trade and investments and create a more predictable and fair operating environment. In turn, companies gain better access to new markets and can enhance their supply chain resilience.

The European Unions (EU) Indo-Pacific strategy emphasises the importance of trade agreements in strengthening economic relations between the EU and countries in the Indo-Pacific and calls for stronger engagement with regional partners. This paper is a stocktake of the EU's FTAs with partners in the region. It also underscores the importance of expanding the EU's network of trade agreements by concluding business friendly FTAs with Australia, ASEAN as trading bloc, India, Indonesia, Malaysia, Thailand, the Philippines. The EU has built a good foundation with free trade agreements with Japan, South Korea, Vietnam, and Singapore, which can serve as a model for FTAs with other countries.

We hope you find this paper beneficial to the trade policy discourse and look forward to engaging further with policymakers in Germany, the EU, and the Indo-Pacific region.

Mr Jens Rübbert
President, SGC

Dr Tim Philippi
Executive Director, SGC

Contents

01 **The EU Indo-Pacific Strategy** 05

02 **EU Trade Agreements in Force** 07

- A. The EU-Korea Free Trade Agreement (EU-KOR FTA) 09
- B. EU-Japan Economic Partnership Agreement (EPA) 12
- C. The EU-Singapore Free Trade Agreement (EUSFTA) 15
- D. The EU-Vietnam Free Trade Agreement (EVFTA) 18

03 **EU Trade Agreements on the Horizon** 21

- A. The EU-New Zealand Free Trade Agreement (NZ-EU FTA) 23
- B. Ongoing negotiations with Indonesia 25
- C. Ongoing negotiations with Australia 26
- D. Ongoing negotiations with India 27

04 **Paused EU Trade Agreements** 28

- A. Paused negotiations with Thailand 30
- B. Paused negotiations with Malaysia 32
- C. Paused negotiations with the Philippines 33
- D. Paused negotiations for a region-to-region trade agreement 34

05 **Going Forward** 35

- A. Market access concessions as the key consideration in the negotiations with India 36
- B. Expanding the EU trade agreement network in ASEAN 37
- C. Modernising existing trade agreements – A missing puzzle piece? 37
- D. Addressing the elephant in the room 38
- E. Negotiating business-friendly trade agreements 40

06 **Regional Trade Agreements** 41

- A. The Regional Comprehensive Economic Partnership (RCEP) 42
- B. The Comprehensive and Progressive Agreement for Transpacific Partnership (CPTPP) 44

01

The EU Indo-Pacific Strategy

The EU Indo-Pacific Strategy

01

In September 2021, the EU launched an Indo-Pacific strategy with the release of "The EU Strategy for Cooperation in the Indo-Pacific". The EU Commission followed three EU member states (France, Germany, and the Netherlands) whose national initiatives had been driving the creation of an EU-wide strategic framework of cooperation and engagement with the Indo-Pacific.

With Europe and the Indo-Pacific together accounting for over 70 per cent of global trade in goods and services and over 60 per cent of foreign direct investment, and Indo-Pacific region contributing two-thirds of global economic growth, a key pillar of the strategy is in the area of trade and investment. Trade agreements play a crucial role in enhancing trade and investment and are instruments the EU wants to leverage to strengthen economic ties and cooperation between the two regions.

The EU wants to pay particular attention to implementing and enforcing the trade agreements with Japan, Korea, Singapore, and Vietnam, and the Economic Partnership Agreement (EPA) with the Pacific states. The strategy also aims to conclude negotiations with Australia and New Zealand and continue to work towards an agreement with Indonesia.

In May 2021, the EU and India agreed to resume trade negotiations and launch a separate investment protection agreement. The EU's Indo-Pacific strategy acknowledges this as an important cornerstone in enhancing the EU-Indian trade and investment relationship.

The strategy acknowledges ASEAN's centrality in regional architecture and expresses the EU's interest in further engaging with ASEAN and its member states, including through the possible resumption of trade negotiations with Malaysia, the Philippines, and Thailand. Once the conditions are right, the EU also seeks to resume negotiation of a region-to-region trade agreement.

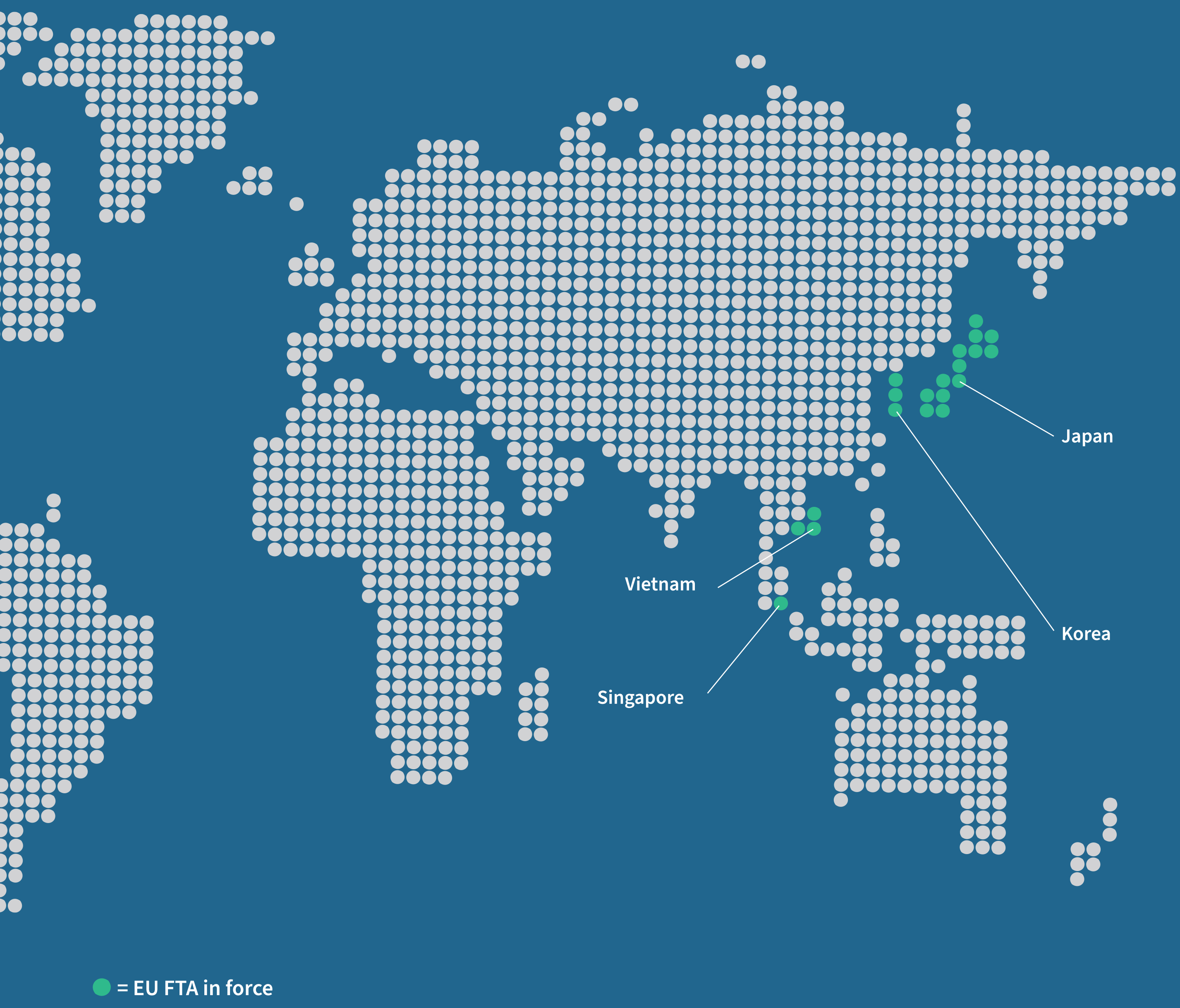
02

EU Trade Agreements in Force

EU Trade Agreements in Force

02

The EU currently enforces four trade agreements with Korea, Japan, Singapore, and Vietnam. These modern agreements grant European companies unprecedented access to these markets and foster trade and investment. The EU's Indo-Pacific strategy acknowledges the importance of these trade agreements and wants to pay attention to implementing and enforcing these FTAs. This following section provides an overview of the four trade agreements and how companies can benefit from them.



The EU-Korea Free Trade Agreement (EU-KOR FTA)

A

The EU-KOR FTA is the first trade agreement between the EU and a country in the Asia-Pacific region. It was also the first agreement to include a chapter on trade and sustainable development, underscoring the EU and Korea's commitment to integrating human rights and environmental protection in their bilateral trade relationship. Negotiations commenced in May 2007 and concluded after eight rounds, with the signing in October 2009. In July 2011, it was provisionally applied and formally ratified in December 2015. Since 2011, the EU-KOR FTA produced impressive figures, with bilateral trade in goods growing more than 70 per cent, reaching €107.3 billion.

The EU-KOR FTA consists of 15 chapters, covering a wide range of topics, including market access for goods and services, investments, government procurement, technical barriers to trade, intellectual property protection, competition policy, and sustainable development. Although the agreement is over a decade old, it still counts as one of the most comprehensive trade deals Korea has enforced.

> "After 11 successful years, the EUR-KOR FTA needs modernisation to raise even better the potential of the Korean-European business relations. Furthermore, this "EU-KOR FTA 2.0" would be a strong signal for the international rule based economic order."
>
> **– Dr. Martin Henkelmann,**
> *Executive Director, Korean-German Chamber of Commerce and Industry*

Market Access for Goods

In 2021, Korea's average applied tariff rate was 13.6 per cent. Many sectors face high customs duties upon importation to Korea, including agricultural commodities (ham: 25 per cent), processed food (vegetable soup: 18 per cent), and footwear (ski boots: 13 per cent). Likewise, some motor vehicles and car parts (fire fighting vehicles: 8 per cent), different chemicals (Chlorosulphuric acid 5.5 per cent), and machines (Manganese batteries: 13 per cent) are subjected to such tariff barriers.

The EU-KOR FTA has made exports from the EU more competitive. This is because the agreement has already eliminated 98.8 per cent of customs duties on goods, including tariffs on all aforementioned products. In the last years, the preference utilisation rate (PUR) of the EU-KOR FTA was 80 per cent which underscores the importance of this trade agreement.

Investment Liberalisation and Trade in Services

The agreement has made it easier for companies to provide services to Korea and has opened opportunities to invest in both services and manufacturing sectors. The EU-KOR FTA also ensures a level playing field between EU service providers and their competitors in Korea.

Concessions were negotiated based on positive lists and Korea has liberalised several commercially meaningful sectors, such as telecommunications, environmental services, financial services, maritime transport, chemicals, electrical machinery, telecommunication equipment, pharmaceuticals, and automotive manufacturing.

Government Procurement

Korea's procurement market is worth approximately €107 billion a year. As a party to the World Trade Organisation's Government Procurement Agreement (WTO GPA), Korea already applies a high standard of transparency and procedural fairness to its public procurement regime and allows foreign companies to compete in tenders. The EU-KOR FTA builds on an existing commitment and creates new opportunities for EU companies, including public work concessions and 'Build-Operate-Transfer' contracts. EU Construction and services suppliers can compete for big infrastructure projects in South Korea, such as building and operating highways.

Regulatory Aspects, Fair, Transparent, and Sustainable Trade

To reduce and prevent obstacles to trade in key sectors, the EU-KOR FTA has incorporated sectoral rules for electronics, chemicals, motor vehicles and car parts, pharmaceuticals, and medical devices.

For motor vehicles, the agreement promotes the adoption of international standards and regulatory convergence. It also removes conformity assessment procedures for EU-type approved vehicles.

For electronics, the agreement promotes the adoption of international standards by a defined standard-setting body and encourages the use of declarations of conformity. The electronic annex also eliminated third-party certification for a selected number of products, including electric refrigerators, electric blankets, and dishwashers.

For pharmaceuticals and medical devices, the agreement ensures that the criteria, rules, procedures, and guidelines with respect to the listing pricing and reimbursement of products are objective, fair, reasonable, and non-discriminatory.

For chemicals, the agreement enhances regulatory transparency and cooperation in the area of Good Laboratory Practice and Test Guides, where the aim is to seek a harmonised approach to chemical assessment and management.

To encourage research and development, innovation, and creativity, the agreement sets a high standard for intellectual property protection and enforcement. The agreement covers provisions on copyright and related rights, trademarks, industrial designs, geographical indications (GIs), plant varieties, and protection of undisclosed information, as well as solid provisions on IP enforcement, including border measures. For instance, 160 traditional EU food products and beverages are granted the same level of GI protection as in the EU.

To safeguard environmental protection, human and labour rights and tackle climate change, the agreement entails a chapter on trade and sustainable development (TSD). The EU and Korea agree to respect and uphold international human rights, labour, and environmental standards and refrain from weakening or failing to enforce their laws to encourage trade and investment.

EU-Japan Economic Partnership Agreement (EPA)

B

Negotiations for a trade agreement with Japan were officially launched in March 2013. A political agreement 'in principle' was struck in July 2017 and the negotiation concluded in December 2017. The trade agreement was signed in July 2018 and was approved by the EU parliament in December 2018. The EPA entered into force in February 2019.

The EPA consists of 23 chapters, covering a wide range of topics, including market access for goods and services, investments, government procurement, digital trade, technical barriers to trade intellectual property protection, competition policy, and sustainable development.

> **"The EPA has proven to be the bedrock of EU-Japan economic relations and in 2021, trade in goods recovered to pre-pandemic levels. The agreement will continue to remove barriers to trade, notably customs duties, and we expect German products to become increasingly competitive in the Japanese market."**
>
> **–Mr Marcus Schürmann,**
> *Chief Executive Officer, German Chamber of Commerce and Industry in Japan*

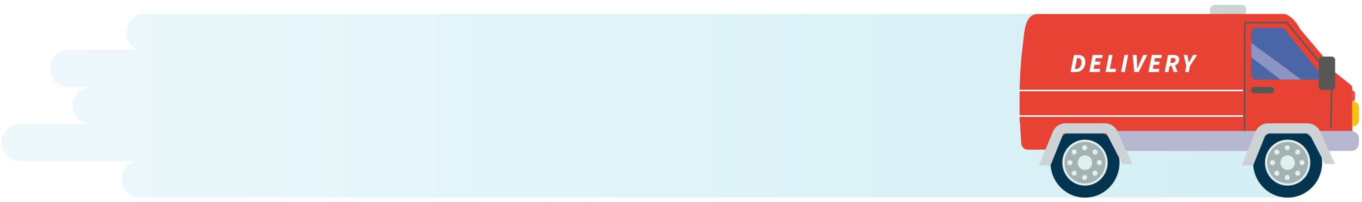
Market Access for Goods

In 2021, Japan's average Most Favoured Nation (MFN) tariff rate was 4.2 per cent. Customs duties are high for agricultural commodities and processed food, such as dairy products (gouda: 29.8per cent), honey (natural honey: 25.5per cent), sugars and confectioners (chewing gum: 24 per cent). Imported industrial and consumer goods generally face low customs duties or enter duty-free into Japan. Examples include fertilisers (Superphosphates: 0 per cent), machinery (vacuum pumps: 0 per cent), and toiletries and cosmetics (aftershave 4.8 per cent). With the entry into force of the trade agreement, 90 per cent of duties were eliminated immediately. Most of the remaining duties underwent a reduction and will be gradually removed by 2039. In 2021, the preferential duties for gouda, chewing gum, honey, and aftershave were 22.4 per cent, 13.1 per cent, 9.6 per cent, and zero per cent respectively. The duties for gouda, chewing gum and honey will gradually reduce to 0 per cent by 2033. Upon full implementation of the EPA, 97 per cent of goods moved freely between the EU and Japan. The utilisation rate of EU companies was 71 per cent which underscores the importance of the trade agreement.

Investment Liberalisation and Trade in Services

The agreement has made it easier for companies to provide services to Japan and has opened opportunities to invest in both services and manufacturing sectors. The EPA also ensures a level playing field between EU service providers and their competitors in Japan.

Concessions were negotiated based on negative lists which provide for greater clarity and transparency of commitments. Japan liberalised several commercially meaningful sectors, including financial services, particularly insurance services, telecommunication, transport, distribution, postal, and courier services. Audiovisual services remain excluded. The protection of public services and cultural diversity remains guaranteed.



Government Procurement

Japan's procurement market is worth between €550 billion and €565 billion annually. As a party to the WTO Government Procurement Agreement (WTO GPA), in general, Japan applies a high standard of transparency and procedural fairness to its public procurement regime and allows foreign companies to compete in tenders. It must be mentioned, however, that invitations to tenders for the Japanese market are still commonly written in Japanese, only. Also, deadlines are usually at short notice, which makes it difficult for foreign companies in Japan – even with Japanese language proficiency – to work out an offer as time is required to align specifications and details with headquarters first.

The EPA builds on existing commitments and creates new opportunities for EU companies. Japan has abolished a far-reaching exemption from transparent procurement in the railway sector (the "operational safety clause"). Furthermore, Japan has granted market access to procurement procedures relating to universities, hospitals, and "core cities". The latter refers to 60 cities with populations of around 300,000, amounting to around 15 per cent of the Japanese population.

Regulatory Aspects, Fair, Transparent, and Sustainable Trade

To reduce and prevent obstacles to trade in key sectors, the EPA has incorporated sectoral rules for motor vehicles and car parts, wines, and food additives.

For motor vehicles, the agreement promotes the adoption of international standards and regulatory convergence. It also removed conformity assessment procedures for EU-type approved vehicles. The agreement contains a safeguard clause, allowing the EU to reintroduce tariffs in case Japan does not comply with the automotive rules and derogates from UNECE regulations.

For wines, Japan agrees to approve 28 different oenological practices from the EU (as of 15 January 2021, 19 oenological practices are already approved; the remaining nine oenological practices will be accepted in Japan as of 1 February 2024).

For food additives, the agreement ensures that approval procedures are conducted according to standard processing periods. Relevant guidelines should be accessible online, free of charge, and in English.

To foster digital trade, the agreement ensures predictability and legal certainty for companies and a secure online environment for consumers. It also removes barriers and prevents discrimination between online and offline activities. The agreement also kept a placeholder for rules on the cross-border movement of data (to be negotiated three years after entry into force of the agreement). In October 2022, the EU and Japan started negotiations on this provision.

To encourage research and development, innovation, and creativity, the agreement sets a high standard for intellectual property protection and enforcement. The agreement covers provisions on copyright and related rights, trademarks, industrial designs, geographical indications (GIs), plant varieties, and protection of undisclosed information, as well as solid provisions on IP enforcement, including border measures.

To safeguard environmental protection, and human and labour rights, and tackle climate change, the agreement entails a chapter on trade and sustainable development (TSD). The EU and Japan agreed to respect and uphold international human rights, labour, and environmental standards and refrain from weakening or failing to enforce their laws to encourage trade and investment.

The EU-Singapore Free Trade Agreement (EUSFTA)

C

Negotiations between the EU and Singapore were launched in March 2010 and completed in October 2014. After some delays, the agreement was signed in October 2018. The EUSFTA was approved by the EU Parliament in February 2019 and entered into force in November 2019.

The agreement consists of 16 chapters, covering a wide range of topics, including market access for goods and services, investments, government procurement, technical barriers to trade, intellectual property protection, competition policy, and sustainable development. The EUSFTA is one of the most comprehensive trade agreements Singapore currently enforces with its trading partners.

> "The EUSFTA has alleviated trade relations between the EU and Singapore and provided a framework for cooperation on digital trade and sustainability. It also serves as a blueprint for further regional engagement."
>
> **– Dr. Tim Philippi,**
> *Executive Director, Singapore-German Chamber of Industry and Commerce (SGC)*

Market Access for Goods

Already prior to the entry into force of the EUSFTA, almost all goods (more than 99 per cent) could enter duty-free into the Singaporean market. Upon entry into force, Singapore has eliminated all remaining customs duties, while the EU will eliminate almost all its duties by November 2024.

Investment Liberalisation and Trade in Services

The agreement has made it easier for companies to provide services to Singapore and has opened opportunities to invest in both services and manufacturing sectors. The EUSFTA ensures a level playing field between EU service providers and their competitors in Singapore.

Concessions were negotiated based on positive lists and Singapore made concessions that go beyond its commitments made at the WTO. Singapore liberalised many commercially meaningful services, including maritime transport, telecommunication, and financial and environmental services.
In non-service sectors, Singapore has made far-reaching concessions to maintain an open investment regime for the manufacturing of chemicals, pharmaceuticals, medical devices, electrical machinery, motor vehicles, and transport equipment. Notable restrictions only remain in the publishing, printing, and reproduction of recorded media.

Government Procurement

As a party to the WTO Government Procurement Agreement (WTO GPA), Singapore already applies a high standard of transparency and procedural fairness to its public procurement regime and allows foreign companies to compete in tenders. The EUSFTA builds on an existing commitment and creates new opportunities for EU companies. This includes access to public work concessions, notably the National Environmental Agency (NEA) and Energy Market Authority (EMA).

Regulatory Aspects, Fair, Transparent, and Sustainable Trade

To reduce and prevent obstacles to trade in key sectors, the EPA has incorporated sectoral rules for motor vehicles and car parts, wines, and food additives.

For electronics, the agreement promotes the adoption of international standards by a defined standard-setting body and encourages the use of declarations of conformity. The agreement also removed mandatory third-party certification for certain electronics and household appliances, such as water heaters and air conditioners.

For motor vehicles, the agreement promotes the adoption of international standards and regulatory convergence. It also removed conformity assessment procedures for EU-type approved vehicles.

For pharmaceuticals and medical devices, the agreement ensures that the criteria, rules, procedures, and guidelines with respect to the listing pricing and reimbursement of products are objective, fair, reasonable, and non-discriminatory.

To encourage research and development, innovation, and creativity, the agreement sets a high standard for intellectual property protection and enforcement. The agreement covers provisions on copyright and related rights, trademarks, industrial designs, geographical indications (GIs), plant varieties, and protection of undisclosed information, as well as solid provisions on IP enforcement, including border measures.

To safeguard environmental protection, human and labour rights, and tackle climate change, the agreement entails a chapter on trade and sustainable development (TSD). The EU and Singapore agree to respect and uphold international human rights, labour, and environmental standards and refrain from weakening or failing to enforce their laws to encourage trade and investment. The trade agreement also entails a chapter on non-tariff barriers to trade and investment in renewable energy generation. This prescribes non-discrimination, prohibits local content and joint venture requirements, and the use of international standards to facilitate trade and investment in green technologies.

The EU-Vietnam Free Trade Agreement (EVFTA)

D

Negotiations between the EU and Vietnam were launched in 2012 and completed in December 2015. The EVFTA was signed in June 2019. The EU Parliament ratified the agreement in February 2020, while Vietnam's national assembly approved the trade pact in June 2020. The EVFTA entered into force in August 2020.

The EVFTA is the most comprehensive trade agreement the EU has concluded with an emerging economy and consists of 17 chapters, covering market access for goods and services, investment, government procurement, intellectual property protection, competition, state-owned enterprises, and sustainable development.

"The EVFTA has brought additional benefits regarding lower to zero tariffs and creates a better investment environment. Furthermore, it is likely to accelerate Vietnam's institutional reforms and support the country to comply with international standards, especially in areas such as investment protection, labor standards and intellectual property. The main advantages for German companies are better market access and legal certainty in Vietnam's growing market. In addition, the EVFTA showed Vietnam's strong commitments to protect people's basic rights at work and the environment. It is the great foundation for Vietnam to comply with the German Supply Chain Due Diligence Law and would make Vietnamese companies more attractive as a business partner."

–Mr. Marko Walde,
Chief Representative, Delegate of German Industry and Commerce in Vietnam

Market Access for Goods

In 2021, Vietnam's average MFN applied tariff rate was 9.6 per cent. Duties are high in various sectors, including processed food (gherkins 40 per cent), beverages (sparkling wine: 50 per cent), and motor vehicles and transport equipment (wagons: 27 per cent). Upon entry into force, Vietnam removed 65 per cent of its duties. The remaining duties underwent a reduction and will gradually be removed by 2030. The preferential tariff rates for gherkins, sparking wine, and wagon have already been substantially lowered to 25 per cent, 31 per cent, and 20 per cent respectively. Upon full implementation, the EVFTA will eliminate 99 per cent of all duties.

Investment Liberalisation and Trade in Services

The agreement has made it easier for companies to provide services to Vietnam and has opened opportunities to invest in both services and manufacturing sectors. The EVFTA ensures a level playing field between EU service providers and their competitors in Vietnam.

Concessions were negotiated based on positive lists and Vietnam made concessions that go beyond its degree of liberalisation made at the WTO. Vietnam liberalised many commercially meaningful services, including telecommunications, financial, computer, environmental, postal, and distribution services. In non-service sectors, Vietnam has fully liberalised manufacturing of electrical and non-electrical machinery, chemicals and petrochemicals, textiles, and medical devices. Some restrictions prevail in the railway and aerospace sector in the form of limits on foreign equity participation. Automobile assembly and manufacturing continue to be subjected to Government planning.

Government Procurement

Vietnam is currently not a party to the WTO GPA and access to the public procurement market can be challenging for foreign competitors. Vietnam allows EU companies to tender, on an equal footing with local companies for contracts with public authorities listed in the EVFTA. This comprises all central government ministries, entities in Hanoi and Ho Chi Minh City, and several state-owned enterprises, including Vietnam Railways, Vietnam News Agency, and 39 public hospitals, such as the Bach Mai Hospital and the Chợ Rẫy Hospital. To date, the access European companies enjoy is unmatched in other trade agreements.

Regulatory Aspects, Fair, Transparent, and Sustainable Trade

To reduce and prevent obstacles to trade in key sectors, the EVFTA has incorporated sectoral rules for pharmaceuticals and medical devices as well as motor vehicles and equipment.

For motor vehicles, the agreement promotes the adoption of international standards and regulatory convergence. It also removes conformity assessment procedures for EU-type approved vehicles. These rules will take effect from August 2023 onwards and exclude motorbikes.

For pharmaceuticals and medical devices, the agreement ensures that the criteria, rules, procedures, and guidelines with respect to the listing pricing and reimbursement of products are objective, fair, reasonable, and non-discriminatory.

To encourage research and development, innovation, and creativity, the agreement sets a high standard for intellectual property protection and enforcement. The agreement covers provisions on copyright and related rights, trademarks, industrial designs, geographical indications (GIs), plant varieties, and protection of undisclosed information, as well as solid provisions on IP enforcement, including border measures.

To ensure a level playing field, the agreement sets out binding rules on the behaviour of state-owned enterprises (SOEs). The rules ensure a level playing field by requiring the SOEs to act according to commercial considerations and non-discrimination when buying and selling goods and services.

To safeguard environmental protection, human and labour rights, and tackle climate change, the agreement entails a chapter on trade and sustainable development (TSD). The EU and Vietnam agree to respect and uphold international human rights, labour, and environmental standards and refrain from weakening or failing to enforce their laws to encourage trade and investment.

The trade agreement also entails a chapter on non-tariff barriers to trade and investment in renewable energy generation. This prescribes non-discrimination, prohibits local content and joint venture requirements, and the use of international standards to facilitate trade and investment in green technologies.

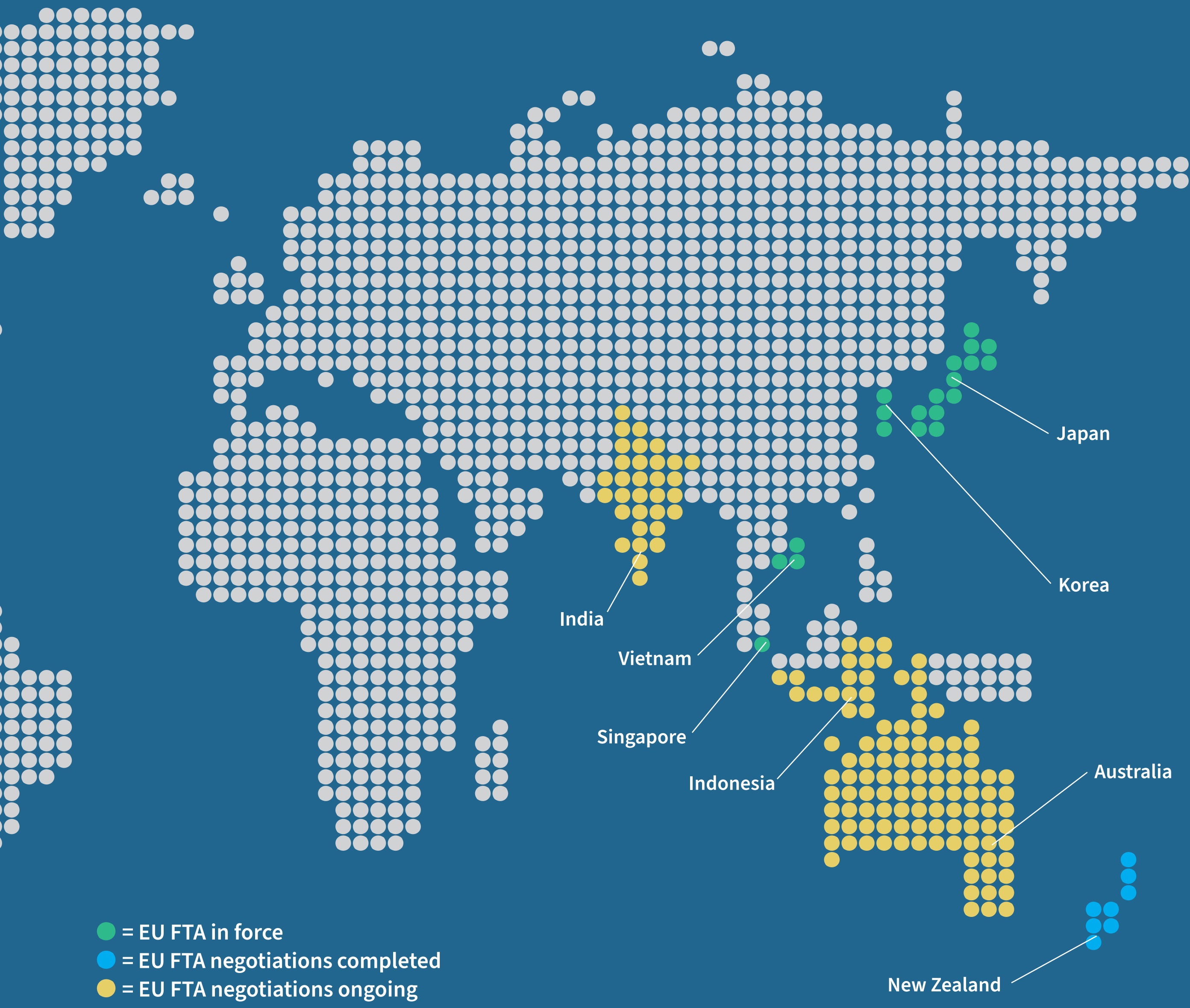
03

EU Trade Agreements on the Horizon

EU Trade Agreements on the Horizon

03

The EU's Indo-Pacific strategy stipulated that the EU seeks to conclude negotiations with Australia and New Zealand and work towards an agreement with Indonesia and India. Since its publication, the Indo-Pacific strategy is materialising. The EU successfully concluded negotiations with New Zealand in June 2022 and resumed talks with India in the same month. Negotiations with Australia and Indonesia are ongoing. The following section assesses the EU-New Zealand Trade Agreement (EU-NZ FTA) and showcases the importance of concluding negotiations with Indonesia, Australia and India.



The EU-New Zealand Free Trade Agreement (NZ-EU FTA)

A

Negotiations for a trade agreement with New Zealand (EU-NZ FTA) were launched in June 2018. Negotiations lasted for 12 rounds and were successfully concluded in June 2022 – making this one of the swiftest FTA deals the EU has ever negotiated. It includes unprecedented sustainability commitments for both the EU and NZ and there are a number of other firsts: the first indigenous trade and cooperation partner (EU), the first sustainable food system chapter (EU and NZ), a dedicated trade and gender equality article (EU) and a dedicated provision on trade and fossil fuel subsidies reform (EU).

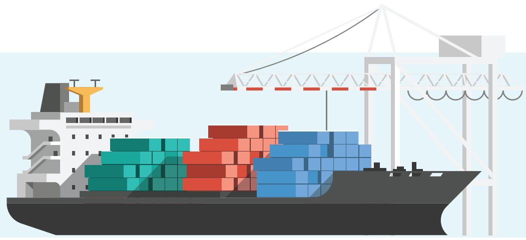
The EU-NZ FTA consists of 15 chapters, covering a wide range of topics, including market access for goods and services, investments, government procurement, intellectual property protection, competition policy, digital trade, and sustainable development. Once it takes effect, companies can leverage the agreement to import, export, and invest.

Market Access for Goods

In 2021, New Zealand's MFN average applied duty rate was 1.9 per cent. Most products face low or no customs duties upon importation into New Zealand. Examples include dairy products (yogurt: 5 per cent), pharmaceuticals (insulin: 0 per cent), and motor vehicles and car parts (motorhomes: 10 per cent). Upon entry into force, the agreement removes duties on all EU goods exports to New Zealand.

Investment Liberalisation and Trade in Services

The agreement will make it easier for companies to provide services to New Zealand and open opportunities to invest in both services and manufacturing sectors. The EU-NZ FTA will ensure a level playing field between EU service providers and their competitors in New Zealand. Concessions were negotiated based on negative lists which provide for greater clarity and transparency of commitments. New Zealand will liberalise several commercially meaningful sectors, including maritime transport, telecommunications, and financial and environmental services.



Government Procurement

New Zealand's procurement market is worth approximately €60 billion a year. As a party to the WTO Government Procurement Agreement (WTO GPA), New Zealand already applies a high standard of transparency and procedural fairness to its public procurement regime and allows foreign companies to compete in tenders. The EU-NZ FTA builds on an existing commitment and creates new opportunities for EU companies. This includes access to transport projects funded in whole or part by the New Zealand Transport Agency.

Regulatory Aspects, Fair, Transparent, and Sustainable Trade

To reduce and prevent obstacles to trade, the agreement prescribed sectoral rules for motor vehicles and wines.

For motor vehicles, the agreement promotes the adoption of international standards and regulatory convergence. It also removes conformity assessment procedures for EU-type approved vehicles.

For wines, the agreement promotes standards in wine production and labelling and considerably increases the convergence of those standards.

The agreement sets out binding rules on the behaviour of state-owned enterprises (SOEs). The rules ensure a level playing field by requiring the SOEs to act according to commercial considerations and non-discrimination when buying and selling goods and services.

To foster digital trade, the agreement will ensure predictability and legal certainty for companies and a secure online environment for consumers. It will also remove barriers and prevent discrimination between online and offline activities and facilitate the Cross-Border movement of data by prohibiting unjustified data localisation. The agreement prescribes a high level of personal data and privacy protection.

To encourage research and development, innovation, and creativity, the agreement will set a high standard for intellectual property protection and enforcement. The agreement covers provisions on copyright and related rights, trademarks, industrial designs, geographical indications (GIs), plant varieties, and protection of undisclosed information, as well as solid provisions on IP enforcement, including border measures.

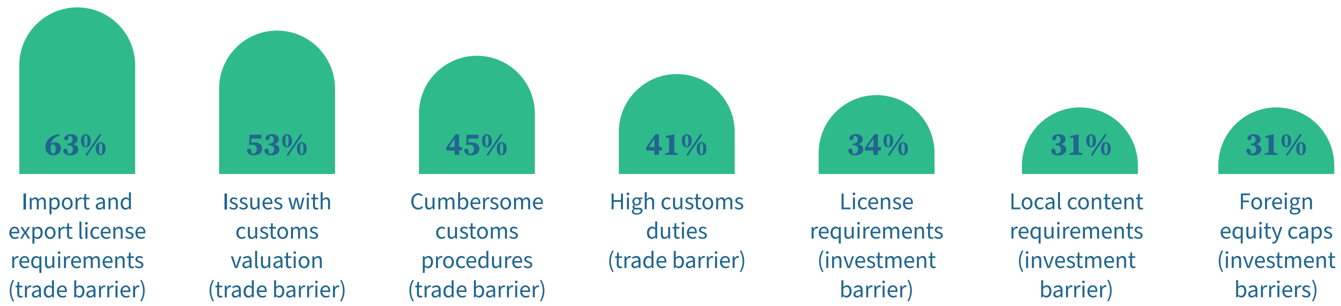
To safeguard environmental protection, human and labour rights, and tackle climate change, the agreement entails a chapter on trade and sustainable development (TSD). The EU and New Zealand agree to respect and uphold international human rights, labour, and environmental standards and refrain from weakening or failing to enforce their laws to encourage trade and investment. For specific low-carbon goods, services, and technologies (as detailed in the TSD chapter) the trade agreement will make trade and investment easier. The TSD chapter is complemented by a chapter on sustainable food systems, where both parties commit to cooperate on strengthening policies that contribute to a sustainable and resilient food system.

> **"This FTA strengthens the EU position in the Indo-Pacific region as well as consolidating the relationship between like-minded partners New Zealand and the European Union."**
>
> **– Ms. Monique Surges,**
> *Chief Executive Officer, the German-New Zealand Chamber of Commerce*

Ongoing Negotiations with Indonesia

B

With a Gross Domestic Product (GDP) of €1.05 trillion (US$1.19 trillion) in 2021, a population of 276 million, and a growing middle-income class, Indonesia is becoming an increasingly attractive market for German companies. To date, around 300 German companies have a commercial presence in Indonesia and many more export goods and services to Indonesian partners. Companies that conduct business in Indonesia can face different trade and investment barriers. In May 2022, the German Chamber Network[1] conducted a survey on the EU-Indonesia trade agreement and found that 92 per cent of companies currently encounter trade barriers, and 80 per cent face investment barriers. The most frequently cited barriers were:



This underscores the importance of a bilateral trade agreement between the EU and Indonesia. The EU has been pursuing a trade deal with Indonesia since July 2016, and 11 rounds of negotiations have taken place. No further negotiations have been held since November 2021. While both sides appear committed to concluding a trade deal, many aspects of the trade agreement remain to be agreed upon, including tariff reduction, concessions for services and investments, rules on marking and labelling, and the principle of non-discrimination in public procurement, to name a few.

> **It is of mutual interest to conclude the trade agreement between the EU and Indonesia. Both sides should aim at establishing a modern, comprehensive and high-quality trade agreement that facilitates trade and investment, while taking the parties' needs and levels of development into account.**
>
> **– Mr. Jan Roennfeld,**
> *Executive Director of the German-Indonesian Chamber of Industry and Commerce*

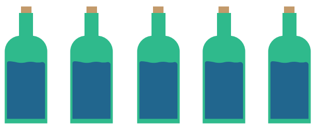
[1] The German-Indonesian Chamber of Industry and Commerce (EKONID) and the Singaporean-German Chamber of Commerce distributed the survey. 138 companies participated in the survey.

Ongoing Negotiations with Australia

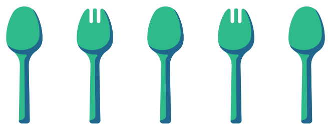
C

With a GDP of US$ 1.63 trillion in 2021, a population of 25.4 million, a frontrunner in green hydrogen, and a supplier of critical minerals used in renewable power generation, Australia is an important market for German companies. Currently, over 500 German companies have a commercial presence in Australia and many more provide goods and services to Australian partners. While the country is generally open for trade and investment, some companies face barriers. These include:

5% Duty on Sparkling Wine



5% Duty on Wooden Kitchenware



5% Duty on Passenger Cars

- Custom duties for several products, such as sparkling wine (5 per cent) and wooden kitchenware (5 per cent), and passenger cars (5 per cent).
- Sanitary and phytosanitary measures, including an import ban of uncooked poultry meat from all countries except New Zealand.
- taxes, such as the luxury car tax (this 33 per cent tax is applied above the value of AU$67,525 (approximately €40,000) for regular cars and AU$75,526 (approximately €46,000) for fuel-efficient vehicles).

This underscores the importance of a bilateral trade agreement between the EU and Australia. The EU and Australia have been pursuing a bilateral trade agreement since June 2018 and 12 rounds have successfully concluded.
In September 2021, the negotiations reached a standstill after Australia shelved a submarine deal with France in favour of the AUKUS alliance with the United States and Great Britain. While both have since agreed to resume negotiations, further talks only resumed in February 2022. Several aspects of the trade agreement remain to be agreed upon, including tariff reduction, market access for government procurement, protection of geographical indicators and anti-competitive conduct and merger control. The trade agreement could be finalised in 2023.

> **“Australia and the EU are value partners and can both benefit from even closer economic ties. The Free Trade Agreement will be of particular importance for SME companies, including the German Mittelstand. We support the conclusion of a comprehensive FTA as soon as practically possible.”**
>
> **– Dr. Gabriele Rose,**
> *Executive Director, German-Australian Chamber of Industry and Commerce.*

Ongoing Negotiations with India

D

With a GDP of €2.79 trillion (US$3.17 trillion), projected economic growth of at least 5 per cent in the years to come, and a population of almost 1.4 billion, India is a huge market. Currently, around 1700 German companies have a commercial presence in India and many more export goods and services to Indian partners. Conducting business in India can be cumbersome because companies have to navigate across a complex business environment and face trade and investment barriers. According to a survey conducted by the German chamber network in October 2022[2], all companies (100 per cent) face trade barriers, and 84 per cent face investment barriers. The following barriers were most frequently cited by survey respondents.

40%	36%	33%	47%	25%	22%
Cumbersome customs procedures (trade barrier)	Issues with customs valuation (trade barrier)	High customs duties (trade barrier)	Red tape (trade barrier)	Local content requirements (investment barrier)	License requirements (investment barrier)

This underscores the importance of a bilateral trade agreement between the EU and India. The EU has been pursuing a trade deal with its south Asian counterpart for many years. The EU and India first launched trade negotiations in 2007. These talks lasted for six years but were suspended in 2013 due to a gap in ambition. In May 2021, both parties agreed to resume negotiations and two rounds were already successfully concluded in June and October 2022. The partners agreed to fast-track the negotiations to conclude a bilateral trade agreement by the end of 2023 – a very ambitious timeline.

> **"In the first 6 months of 2022 India has surpassed the UK and is now the 5th largest economy in the world. Current forecasts say that it will continue to be the fastest growing major economy in the coming years. A trade and investment agreement between the EU and India is key to German companies' continuous success in India, as agreements with Japan, Korea and ASEAN countries are already in place, and the negotiations with the UK are progressing."**
>
> **– Mr. Stefan Halusa,**
> *Director General, Indo-German Chamber of Commerce*

[2] Indo-German Chamber of Commerce and the Singaporean-German Chamber of Commerce distributed the survey.

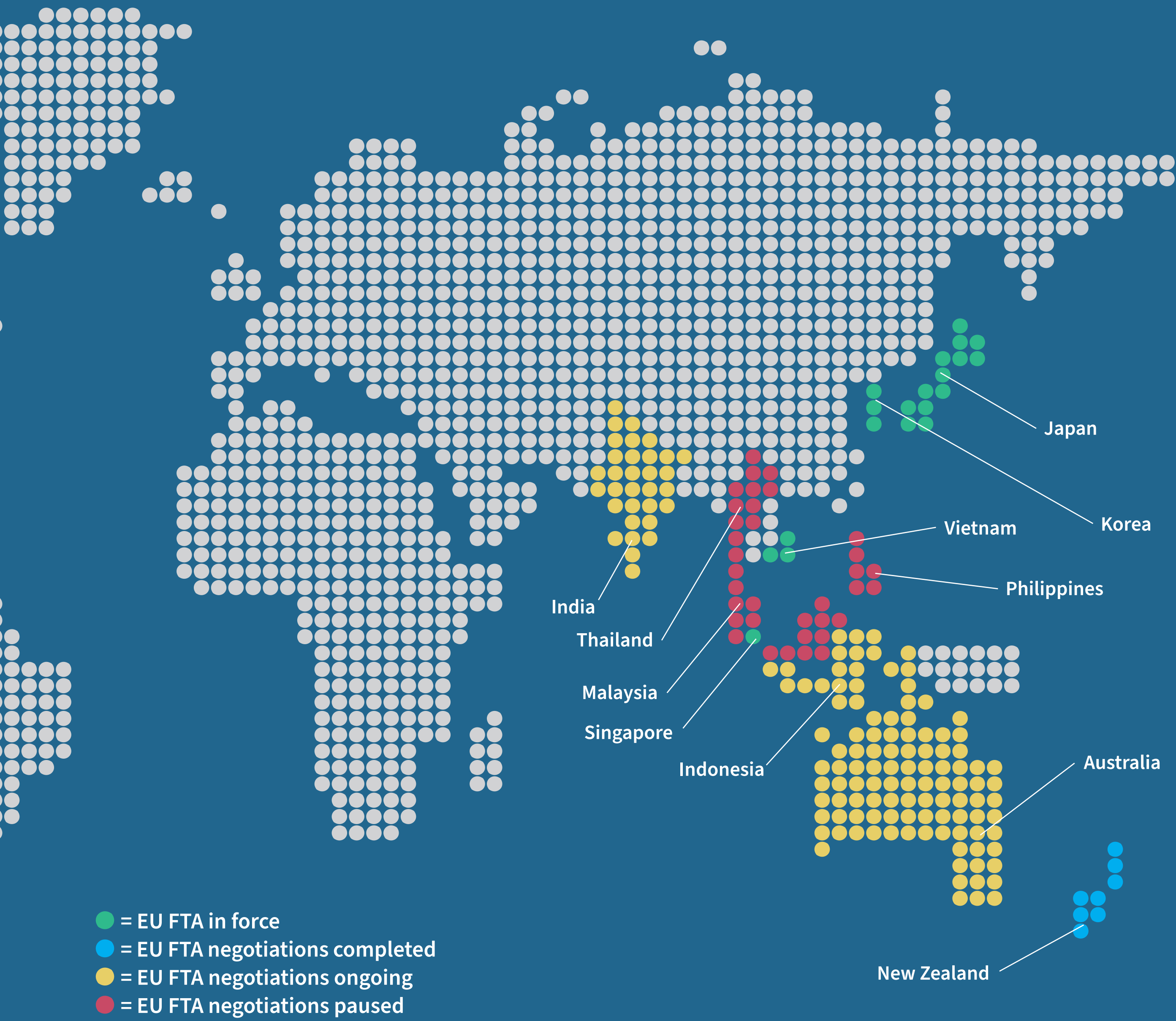
04

Paused EU Trade Agreements

Paused EU Trade Agreements

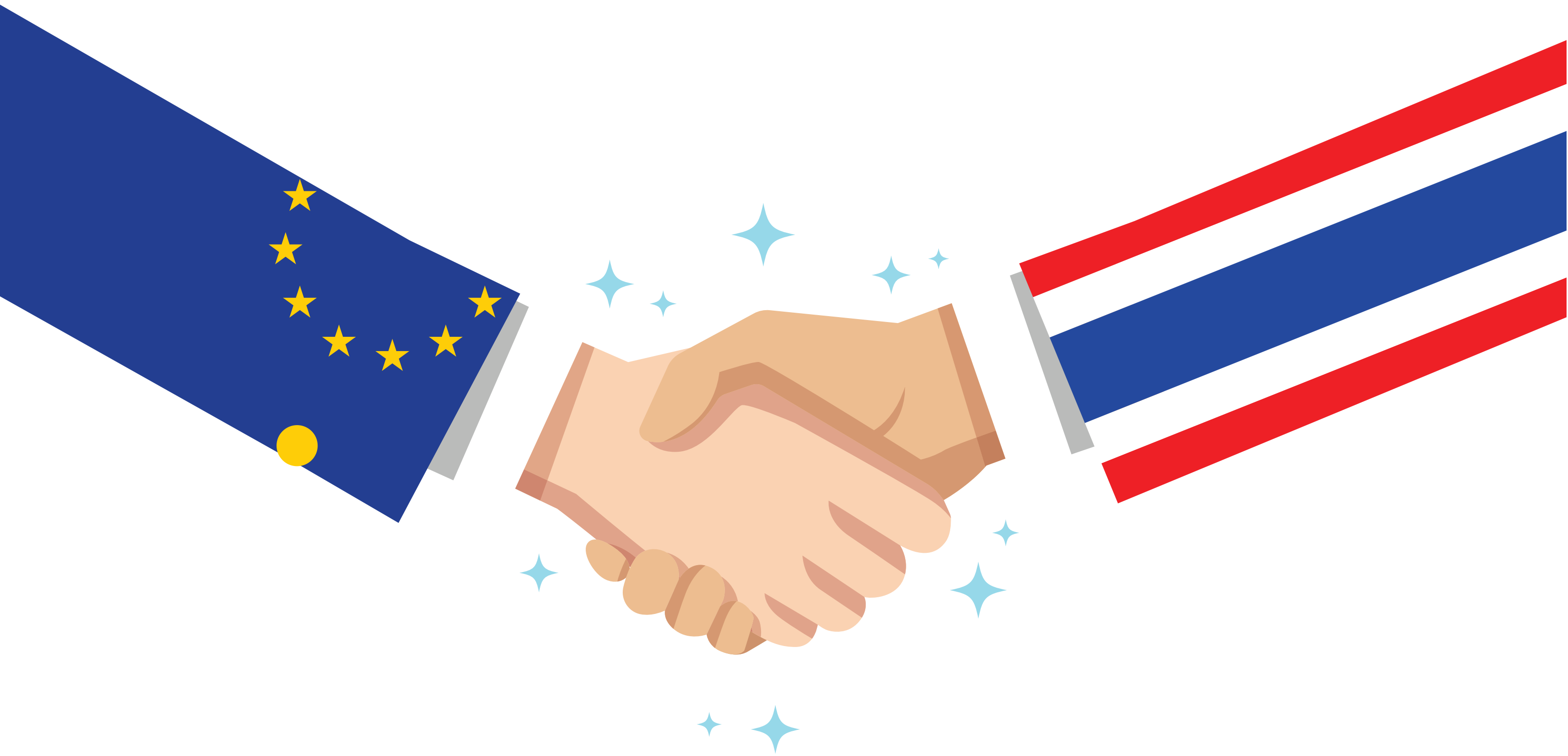
04

The EU's Indo-pacific strategy acknowledges ASEAN's centrality in regional architectures and expresses the EU's interest in further engaging with ASEAN and its member states, including through the possible resumption of trade negotiations with Malaysia, the Philippines, and Thailand. Once the conditions are right, the EU also seeks to resume negotiation of a region-to-region trade agreement. To date, there is limited progress as many negotiations have yet to be resumed. The following section showcases the importance of resuming and concluding trade agreements with Thailand, Malaysia, the Philippines, and ASEAN as a trading bloc.



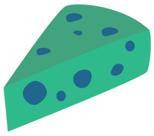
Paused Negotiations with Thailand

A



With a GDP of €446.7 billion (US$505 billion) in 2021, a population of 70 million people and its pivotal function as a manufacturing hub with a well-established supply chain network, Thailand is an important market for firms of all sizes. More than 600 German companies have a commercial presence in the country and many more export goods and services to Thai partners. Conducting business in Thailand can sometimes be cumbersome due to trade and investment measures in the country, some of which include:

30% **Duty on Fresh Cheese**



30% **Duty on Cotton Raincoats**

40% **Duty on Pickup Trucks**

54% **Duty on Sparkling Wine**

- High custom duties that are applied in several sectors, including agricultural commodities (Fresh Cheese: 30 per cent), motor vehicles and car parts (Pickup Trucks 40 per cent), alcoholic beverages (Sparkling Wine: 54 per cent), textiles, and apparel (Cotton Raincoats: 30 per cent).
- Import licenses in several sectors, including industrial machinery, textiles, pharmaceuticals, and agricultural commodities.
- Technical barriers to trade, such as labeling for alcoholic beverages.
- Restriction for investments in several sectors and foreign equity caps.
- Restricted or limited access to the procurement market, particularly for medical products.

This underscores the importance of a bilateral trade agreement between the EU and Thailand. Currently, there are ambitions to negotiate a comprehensive trade agreement. This dates back to March 2013, when the EU and Thailand formally launched FTA negotiations. These were suspended after the militant coup in Thailand in April 2014. Following the Thai general elections, the EU expressed openness to resuming trade negotiations with Thailand. This was echoed Thai government on several occasions. After a meeting between Thailand's Minister for Industry Jurin Laksanawisit and the EU Trade Commissioner Valdis Dombrovskis in January 26, 2023 in Brussels, both sides announced that they would like to resume negotiations on a free trade agreement after ten years hiatus. Talks shall be resumed in March 2023.

> **"The EU was the fifth-largest trading partner for Thailand in 2021 with a trade volume of 45.4 bill. USD and ranked the third-largest investor in Thailand with 39.5 bill. USD investment stock after ASEAN and Japan. A Free Trade Agreement between the EU and Thailand would raise bilateral trade by 3.4%, investments by 2.7% and Thailand's GDP growth by 1.63% per year, according to a study by the Thai Trade Negotiations Department in 2019. The FTA would also boost Thailand's position in trade and investments toward other competitors like Singapore and Vietnam which both have an FTA with the EU in force"**
>
> **– Dr. Roland Wein,**
> *Executive Director, German-Thai Chamber of Commerce*

Paused Negotiations with Malaysia

B

With a GDP of €328 billion (US$372 billion), a population of almost 33 million, and a strong manufacturing base, Malaysia is an important market. Around 700 German companies have a commercial presence in Malaysia, including manufacturing capabilities especially in electrical and electronics, medical devices and machinery sectors, and many more export goods and services to the country. Conducting business in Malaysia can sometimes be cumbersome because of trade and investment measures , some of which include:

- High custom duties are applied in several sectors, such as alcoholic beverages (varying between 15 per cent or 1.1 RM / litre depending on the type of beverage) and motor vehicles (105 per cent, motorhomes only 35 per cent).
- Non-tariff measures aimed at protecting domestic markets and strategic sectors, such as restrictions on automobiles under the Malaysian National Automotive Policy (NAP) and various licensing requirements.
- An investment regime that imposes restrictions, such as foreign equity caps, minimum paid-up capitals, and joint venture requirements in several sections, including trade, wholesale and retail, telecommunications (partially liberalised), financial services, energy, education, mining, and others.
- A government procurement system that invites international tenders only when domestic goods and services are not available as Malaysia has not signed the WTO Agreement on Government Procurement. Also, Bumiputera-qualifying enterprises obtain preferential treatment in public procurement.

This underscores the importance of a bilateral trade agreement between the EU and Malaysia that removes these barriers. Trade negotiations between the EU and Malaysia were launched in October 2010. After eight rounds of negotiations, both sides reached an impasse, and it was agreed to suspend talks in 2012. While there have been discussions over the years on resuming trade negotiations, palpable steps still have to be taken to formalise and initiate talks. In 2021, delegations between the EU and Malaysia resumed talks and industry associations signed a Memorandum of Understanding to establish a joint Task Force to work towards the realisation of the EU-Malaysia FTA.

> **"The German business community in Malaysia is hopeful that the EU and the Malaysian government will soon reactivate the negotiations for a comprehensive FTA. Based on experience with other countries in Southeast Asia, we are sure that such an FTA will yield tremendous benefits for the industry and the people of Malaysia"**
>
> **– Mr. Daniel Bernbeck,**
> *Executive Director, Malaysian-German Chamber of Commerce and Industry.*

Paused Negotiations with Philippines

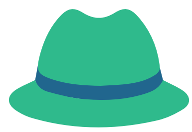
C

With a GDP of €347.8 billion (US$394 billion) in 2021, a population of 110 million, and a global hub for business process outsourcing, the Philippines is an important market. Around 800 German companies already have a commercial presence in the Philippines and many more export goods and services to the country. Conducting business in the Philippines can sometimes be cumbersome because of trade and investment measures ,measures, some of which include:

15% Duty on Potatoes

30% Duty on All-Terrain Vehicles

15% Duty on Hats



- High custom duties are applied in several sectors, agricultural products (Potatoes: 15 per cent), motor vehicles and car parts (All-Terrain Vehicles: 30 per cent), and textiles and clothing (Hats: 15 per cent).
- Non-tariff measures, such as quantitative restriction on used motor vehicles.
- The investment regime imposes restrictions in form of foreign equity caps in several sections, including express delivery, audiovisual services, construction, and others.
- A government procurement system that generally favours Philippine national or Filipino-controlled enterprises for procurement contracts.

This underscores the importance of a bilateral trade agreement between the EU and the Philippines. This ambition to conclude a trade agreement was pursued when the Philippines and the EU formally launched negotiations in December 2015. However, negotiations have been on hold since February 2017. This year, the Department for Trade of the Philippines has conveyed that they are keen to resume trade negotiations and is awaiting a decision from the EU. A survey conducted by the German Chamber network[3] found that the resumption of the trade agreement is important to a vast majority of companies (83 per cent) German and Filipino companies.

> **“The Philippines is a growing market for German companies and in light of supply chain disruptions and rising trade barriers, an EU-Philippines FTA can help companies create new business opportunities and navigate uncertainties. Therefore, we urge the EU and the Philippines to resume negotiations as soon as possible and are open to contributing to the FTA discussions”**
>
> **– Mr. Christopher Zimmer,**
> *Executive Director, German-Philippine Chamber of Commerce and Industry*

[3] The survey was conducted in May 2020 by the German-Philippine Chamber of Commerce and Industry and the Singaporean-German Chamber of Industry and Commerce. 210 member companies participated in the survey.

Paused Negotiations for a Region-To-Region Trade Agreement

D

With a GDP of €2.2 billion (US$2.5 billion), the 10 member states of ASEAN collectively comprise the seventh-largest economy in the world. With a population of 662 million people and projected economic growth of around 5 per cent in the years to come, it is estimated that ASEAN will become the fourth-largest economy in the world by 2050. ASEAN is a major global hub for manufacturing and trade and ten nations have advanced the so-called ASEAN Economic Community over the years, which the ambition to promote economic integration to transform ASEAN into a single market and production base. Despite the economic integration efforts, many trade and investment barriers prevail. Some notable issues are:

- ASEAN is not a customs union, and each ASEAN country applies its separate system of procedures, rules, and taxes for imports, exports, and transit goods. Customs duties, import license requirements, customs procedures, and other border measures vary significantly across the ten markets.
- In many sectors regulatory harmonisation has only partially occurred, and companies have to navigate through complex regimes of testing, certification, labeling, etc.
- Many commercially meaningful sectors are restricted for trade in services. Likewise, investment regimes also vary from country to country, and investment barriers prevail in key industries.

While the EU is seeking to negotiate bilateral trade agreements with several ASEAN member states, a region-to-region trade agreement is equally important to address trade and investment barriers. A region-to-region FTA can harmonise trade rules and procedures, such as rules of origin, and promote the harmonisation of standards across ASEAN. This reduces trade compliance costs and can help companies to leverage value chains in ASEAN.

Over a decade ago, in 2007, the EU and ASEAN attempted to negotiate a region-to-region FTA. The trade talks were suspended in March 2009 as the EU and ASEAN countries agreed to pursue a bilateral format. In March 2017, the EU and ASEAN agreed to launch formal region-to-region talks to develop a framework setting out the parameters of a future EU-ASEAN FTA. Since 2017, not much has developed on this front despite the EU's intention to enhance cooperation with ASEAN under the Indo-Pacific Strategy.

The EU's Indo-Pacific strategy has stipulated that the EU is committed to engage on open, sustainable, and rule-based trade with partners in the region and seeks to enhance its network of trade agreements. This section puts forward recommendations, ideas, and insights on how the EU could approach this.

05

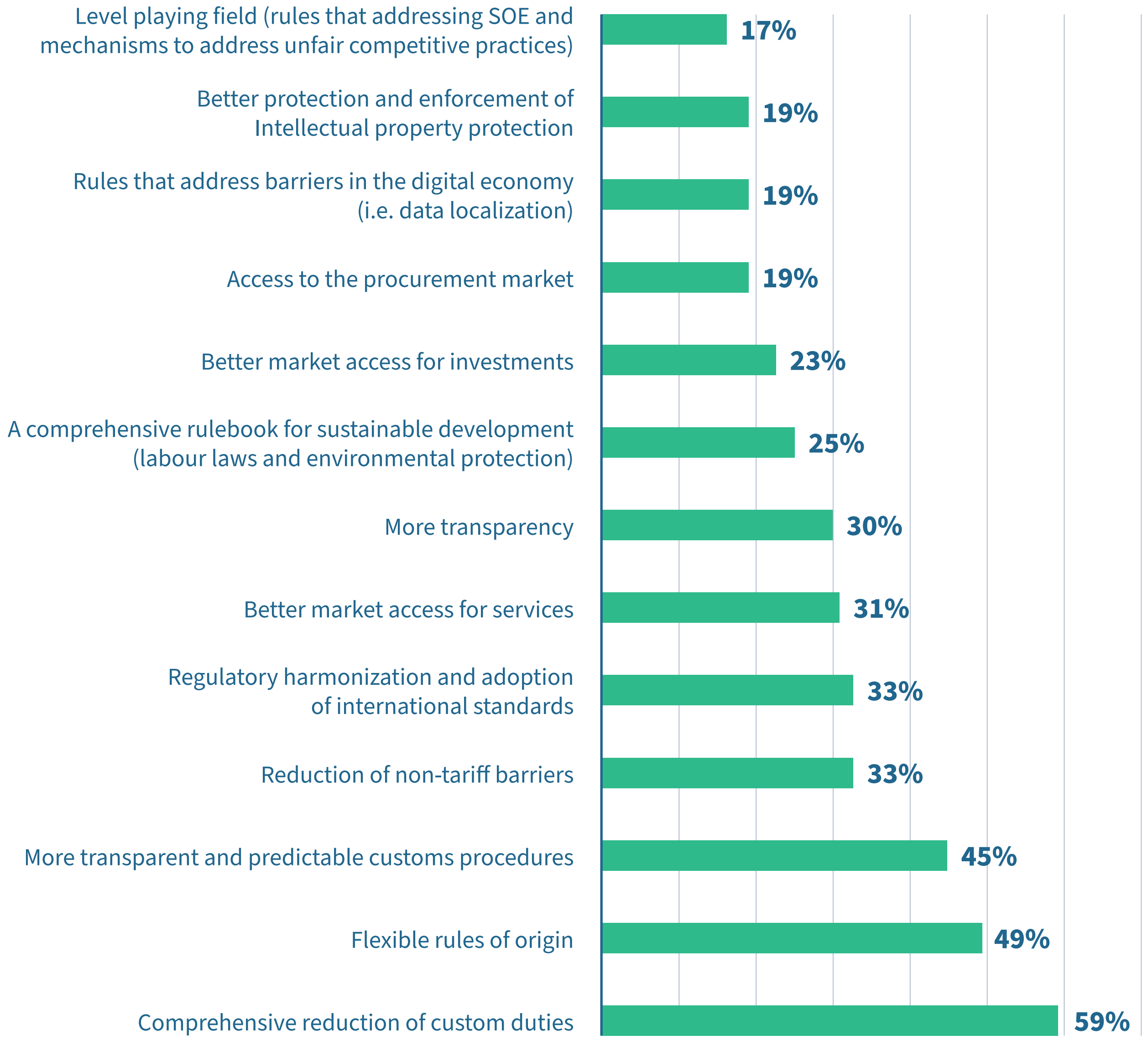
Going Forward

Market Access Concessions as the Key Consideration in The Negotiations with India

A

The EU has already published its textual proposals for a modern trade agreement with India, and the two parties have seemingly made progress in the last two rounds of negotiation. While the parties should strive to conclude a well-rounded and comprehensive trade agreement, the EU's primary focus in the negotiations should be market access, according to a survey conducted by the German Chamber network on the prospects of the EU-India trade agreement. A vast majority (70 per cent) of respondents indicated that the comprehensive reduction of customs duties is the most relevant aspect of the EU-India trade agreement. The tariff reduction should go hand-in-hand with flexible rules of origin (40 per cent). 47 per cent of companies asserted that service sector liberalisation is a relevant aspect in agreement. Although provisions on digital trade, state-owned enterprises, and intellectual property protection are vital features to facilitate trade and investment, they are less relevant for many companies in the context of the EU-India trade agreement.

Graph 1:
What aspect do you deem the most relevant in an EU-India trade agreement?



Expanding the EU Trade Agreement Network in ASEAN

B

While the EU's Indo-pacific strategy has started to materialise with the conclusion of the EU-NZ FTA and the resumption of negotiation between the EU and India, only a little progress has been made in advancing the EU's trade policy agenda with ASEAN partners since the entry into force of the EUSFTA and the EVFTA. This has to change. Not only is ASEAN gaining traction as a growing consumer market for goods and services, but also an alternative manufacturing and sourcing hub to China for companies that are rethinking their supply chain amidst global challenges. To help EU companies to access these markets and create a more open, transparent, and fair operating environment, trade agreements are essential.

In December 2022, an EU-ASEAN Summit is scheduled in light of the 45th Anniversary of the EU and ASEAN dialogue partnership. The EU and ASEAN countries should leverage the political momentum of this summit and make meaningful commitments to strengthen their FTA connectivity by:

1. Concluding the EU-Indonesia trade agreement negotiations in 2023.
2. Resuming bilateral trade negotiations between the EU and Thailand in 2023.
3. Enhancing the political dialogue between the EU, Malaysia, and the Philippines in 2023 and aiming to resume trade negotiations by 2024.
4. Engaging in an ongoing dialogue on resuming negotiations for a region-to-region trade agreement.

Modernising Existing Trade Agreements – A missing puzzle piece?

C

The Indo-Pacific strategy has asserted the EU's commitment to modernise the WTO but remained silent on the need to modernise trade agreements. The latter is of utmost importance because, with the passage of time and the evolution of the EU's trade policy, some agreements lag in important areas and leave some room for further liberalisation. Furthermore, certain rules and provisions require minor tweaking to ensure that the companies can successfully leverage agreements.

The EU-KOR FTA is a prime example of an agreement that could be modernised. The agreement still applies the direct transport rule. This is an outdated rule and no longer applied in more recent trade agreements. Instead, FTAs apply a rule of non-manipulation/non-alteration. The EU-KOR FTA also excluded semitrailer towing tractors from receiving technical standard equivalence even if they meet Korean safety standards. This should be modified to remove supplementary expensive testing and facilitate the trade of such vehicles. The FTA also does not entail a separate chapter that governs digital trade- a gap that should be filled as businesses are becoming increasingly digitalised through industry 4.0 and technological disruptions.

It is crucial to also consider modernising existing trade agreements, particularly the EU-KOR FTA, as a key action to strengthen the EU's trade and investment relationship with countries in the Indo-Pacific region.

Addressing the Elephant in the Room

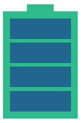
D

The EU is not intending to negotiate a trade agreement with China. This is also reflected in the EU's Indo-Pacific strategy which only mentioned the ratification of the Comprehensive Agreement on Investment between the EU and China as a matter of interest. The latter is currently on hold on account of China's decision to sanction Members of the European Parliament.

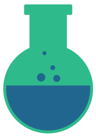
With a GDP of US$ 17.7 trillion in 2021, a population of 1.4 billion, and accounting for 30 percent of global manufacturing output, China is the largest and most important market in the Indo-Pacific. Around 5200 German companies have a commercial presence in China, many of which have expanded their manufacturing and often also R&D capabilities over the years. German companies also extensively export goods and services to Chinese partners, making the country Germany's most important trading partner. Conducting business in China is challenging due to trade and investment measures in the country, some of which include:

14% Duty on Sparkling Wine

8% Duty on Batteries



5.5% Duty on Sodium Dichromate



15% Duty on All Terrain Vehicles

- High custom duties that are applied in several sectors, including alcoholic beverages (sparkling wine: 14 per cent), Primary cells and primary batteries (8 per cent) chemicals (Sodium dichromate: 5.5 per cent), and motor vehicles (All Terrain Vehicles: 15 per cent).
- Sanitary and phytosanitary measures, including cumbersome application processes for approval of meat establishments for export to China.
- An investment regime that imposes far-reaching restrictions in several industries, including audiovisual, software and cloud computing, telecommunication, and financial services. Additionally, informal market access barriers exist, e.g. through further steps such as granting licenses.
- Restricted or limited access to the public procurement market and policies that favour products, services, and technologies made or developed by Chinese companies.

This showcases the urgent need to cooperate with China on trade policy challenges. While the EU does not intend to negotiate a trade agreement with China anytime soon, the EU's Indo-Pacific strategy asserted that the EU would pursue a multifaceted engagement with China to promote solutions to common challenges, cooperating on issues of common interest and encouraging China to play its part in a peaceful and thriving Indo-Pacific region. A constructive and continuous dialogue between the EU and China on market access challenges and barriers to trade should therefore mark the centerpiece of this multifaceted engagement.

> **"Despite all odds and challenges, China remains unrivaled in terms of market size and market growth opportunities for many German companies. Free market access remains a concern, which we continue to address with the Chinese government."**
>
> **– - Mr. Jens Hildebrandt,**
> *Executive Director, German Chamber of Commerce in China - North China*

Negotiating Business-Friendly Trade Agreements

E

As the EU's network of trade agreements is expanding in the region, it is crucial to ensure that rules and procedures, particularly the rules of origin, are business-friendly. This will enhance the preference utilisation rate of and enable companies to fully ripe the benefits of the trade agreement.

Harmonising rules of origin across different trade agreements

Businesses are suffering from the unmanageable diversity of rules of origin. For instance, the product-specific rules for musical instruments differ across the EU-KOR FTA, the EUSFTA and the EVFTA. Harmonising rule of origin across different trade agreements reduces compliance costs.

Limit the differentiation along the Harmonised System (HS)

The less specific rules of origin are and the more they are consistent across different EU agreements, the greater the degree of utilisation. The aim should therefore be to ensure that the rules are not too detailed. Larger product groups should be grouped according to the first four digits of the customs tariff number of the Harmonised System (HS). Further differentiation along the first six HS digits increases the risk of companies unintentionally applying incorrect rules of origin.

Tolerance thresholds

Where the rules of origin are based on a change of tariff position, EU trade agreements usually contain tolerance thresholds for materials that do not comply with this rule of origin. Currently, the tolerance threshold is set at 10 per cent in the EKFTA, EJEPA, EUSFTA, EVFTA, and EU-NZ FTA. Going forward, this tolerance threshold should be 15 per cent. For goods put together in sets, the tolerance limit should be at least 20 per cent instead of 15 per cent. More liberal tolerance rules are important to accommodate production in global value chains, particularly in Asia, where product networks have strong regional characteristics.

Non-alteration instead of direct transport rule

The "principle of direct transport" is a classic component of many EU trade agreements, including the EU-KOR FTA. It states that, in principle, the preferential treatment provided for in the agreement applies only to originating products, when they are transported directly between the contracting parties or – in the case of transport via or storage in third countries – remain under customs supervision. To reflect the increasingly complex global logistic network, many trade agreements, including the EUSFTA, EVFTA, EPA, and EU-NZ FTA have adopted the principle of non-alteration to regulate the transit of goods. According to this principle, products transported through other territories, in addition to transhipment or temporary warehousing in those territories, could retain their preferential status even if they were split into partial consignments – presumed that customs supervision is maintained. This would reflect the trend towards regional distribution centres.

Accounting segregation also for trading-goods

The separate storage of interchangeable originating and non-originating materials entails considerable costs and difficulties. Trade agreements should therefore provide for the unrestricted possibility of accounting segregation of these materials, whether they are inputs for further manufacturing or pure trading-goods. Accounting segregation should be possible automatically and without the need for authorisation. This would significantly reduce storage costs for manufacturers and traders.

Further ideas on how to make trade agreements more business-friendly are found in The DIHK's Concept Paper for Modern Trade Agreement.

While the EU currently does not enforce trade agreements with key markets in the Indo-Pacific region, companies can obtain preferential market access by leveraging regional trade agreements. As of 2022, there are more than 200 FTAs in force that offer European companies the opportunity to export competitively across Indo-Pacific markets. This section provides an overview of, arguably, the two most important regional agreements, the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Agreement for Transpacific Partnership (CPTPP).

06

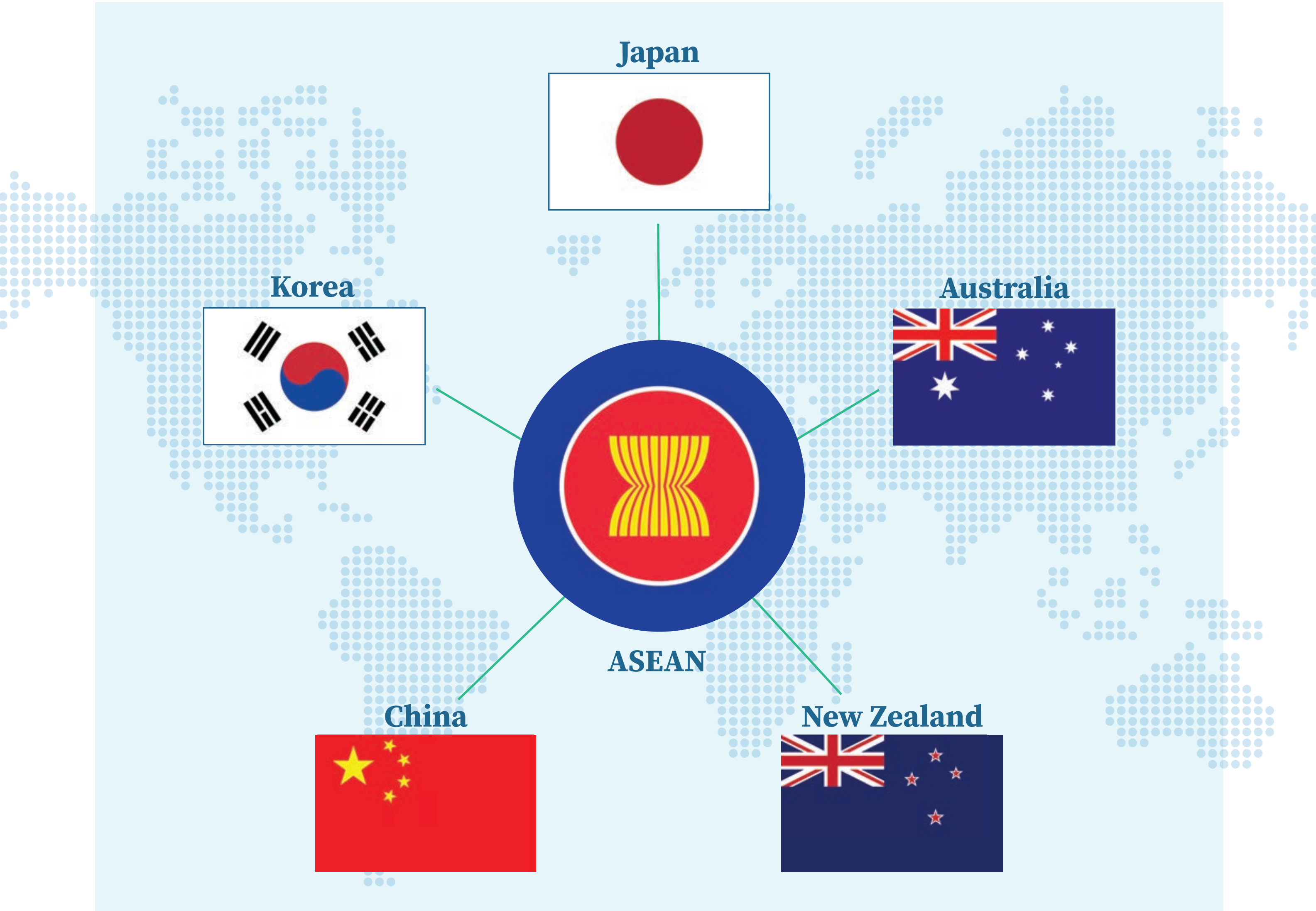
Regional Trade Agreements

The Regional Comprehensive Economic Partnership (RCEP)

A

The Regional Comprehensive Economic Partnership (RCEP) is a trade agreement between 15 countries: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Vietnam, Australia, China, Japan, Korea, and New Zealand. This makes RCEP the world's largest trade agreement, comprising 30 per cent of the GDP and a third of the world's population. RCEP was an ASEAN-driven initiative and negotiations were formally launched at the 2012 ASEAN Summit in Cambodia and were concluded after 31 full negotiation rounds. The agreement was signed in November 2020 and enforced in January 2022. To date, only Myanmar has not ratified the agreement.

RCEP consists of 20 chapters and covers market access for goods and services, investment, technical barriers, digital trade, and competition policy.



Market Access for Goods

On average, tariff elimination of about 92 per cent of goods traded amongst the parties. In most markets, the tariffs are being phased out over 20 years.

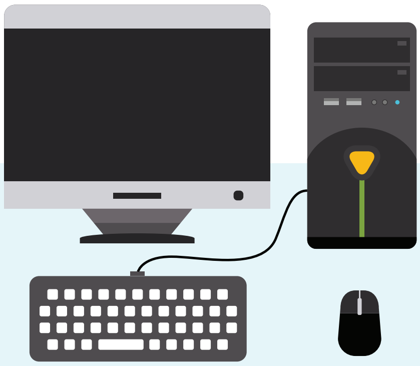
The tariff reduction also varies from country to country. Australia, Brunei, Cambodia, Malaysia, Myanmar, New Zealand, Singapore, and Thailand have just one tariff schedules in which the tariff reduction is listed. In other words, all countries receive the same tariff reduction. The remaining countries have some variations in their schedule. For example, China has five separate tariff reduction schedules for ASEAN, Australia, Korea, Japan, and New Zealand. This means China's tariff reduction for specific products can vary depending on where goods originate from.

Investment Liberalisation and Trade in Services

The agreement has made it easier for companies to provide services across the RCEP region and has open opportunities to invest in both services and manufacturing sectors. RCEP ensures a level playing field between service providers across the 15 markets.

Concessions were negotiated in a complex manner. Australia, Brunei, Indonesia, Japan, Korea, Malaysia, and Singapore made concessions based on the "negative list" approach which provides for greater clarity and transparency of commitments. Cambodia, China, Laos, Myanmar, New Zealand, Philippines, Thailand, and Vietnam made concessions based on a "positive list" approach but are expected to transition to a negative list approach in the years to come.

RCEP has liberalised 65 per cent of service sectors and better market access was granted in several sectors, including professional services, business services, computer services, distribution, and logistics services. Compared to the EU-KOR FTA, EUSFTA, EVFTA, EPA, and EU-NZ FTA, RCEP's degree of liberalisation is modest.



Government Procurement

As members of the WTO Government Procurement Agreement (WTO GPA), Australia, Japan, Korea, New Zealand, and Singapore already apply a high standard of transparency and procedural fairness to their public procurement regime and allow foreign companies to compete in tenders. This is not the case for the remaining RCEP parties. China is currently negotiating its accession to the WTO GPA, while Indonesia, Malaysia, the Philippines, Thailand, and Vietnam are observers. Cambodia, Laos, and Myanmar currently have no WTO GPA status. In RCEP, member states commit to increasing transparency by publishing laws, regulations, and procedures regarding government procurement. The agreement has no concessions on procedural fairness, non-discrimination, and market access.

Regulatory Aspects, Fair, Transparent, and Sustainable Trade

- To encourage research and development, innovation, and creativity, the agreement sets a high standard for intellectual property protection and enforcement. The agreement covers provisions on copyright and related rights, trademarks, industrial designs, geographical indications (GIs), and provisions of IP enforcement.
- To foster digital trade, the agreement encourages parties to improve trade administration and processes by using electronic means. It also facilitates Cross-Border and prohibited unjustified data localisation. Nevertheless, companies should not expect that they can move data freely across the 15 markets as the digital trade chapter is not very binding and allows for broad exceptions.
- At present, the RCEP Agreement does not contain Investor-State Dispute Settlement provisions. It includes a built-in work program for Parties to enter discussions in the future.
- RCEP does not entail sector-specific rules that reduce and prevent obstacles to trade, does not regulate state-owned enterprises, and does not entail any rules on sustainable development.

The Comprehensive and Progressive Agreement for Transpacific Partnership (CPTPP)

B

The CPTPP is a trade agreement between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. The CPTPP-market accounts for 500 million people and 13.5 per cent of the GDP. The agreement was signed in March 2018 and entered into force in December 2018.

The CPTPP is the most modern and comprehensive regional trade agreement. It consists of 30 chapters, covering market access for goods and services, investments, government procurement, digital trade, competition policy, state-owned enterprises, technical barriers to trade, and sustainable development.

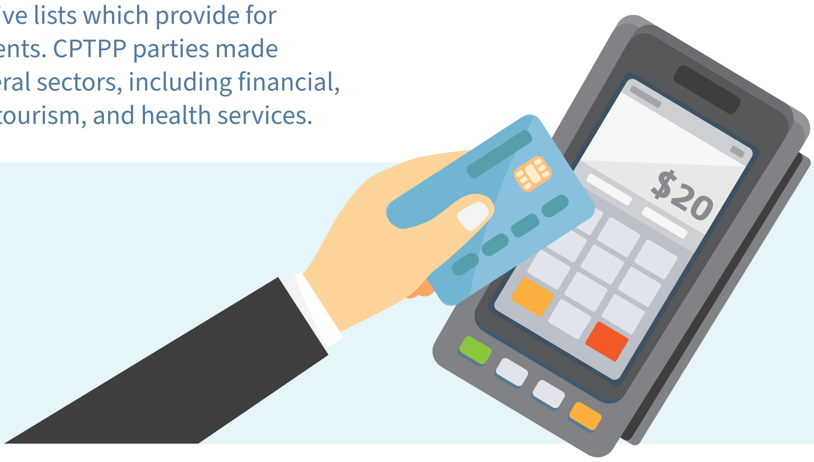
Market Access for Goods

Upon entry into force, CPTPP eliminated 90 per cent of customs duties between trading partners. The duty reduction and elimination for the remaining products occur over transition periods that can take up to 20 years. Upon full implementation, 99 per cent of goods can move duty-free across the CPTPP region.

Investment Liberalisation and Trade in Services

The agreement has made it easier for companies to provide services across the CPTPP region and has opened opportunities to invest in both services and manufacturing sectors. The CPTPP ensures a level playing field between service providers across the eleven markets.

Concessions were negotiated based on negative lists which provide for greater clarity and transparency of commitments. CPTPP parties made commercially meaningful concessions in several sectors, including financial, telecommunications, logistics, construction, tourism, and health services.



Government Procurement

As members of the WTO Government Procurement Agreement (WTO GPA), Australia, Canada, Japan, New Zealand, and Singapore already apply a high standard of transparency and procedural fairness to their public procurement regime and allow foreign companies to compete in tenders. This is not the case for the remaining CPTPP parties. Chile, Malaysia and Vietnam hold an observer status, while Brunei, Mexico and Peru are not a party to the agreement. The CPTPP sets common standards for government procurement that are robust, and transparent and allow suppliers to participate fairly in procurement processes.

All CPTPP parties have made market access concessions in CPTPP, including those that are not a member of the WTO GPA. The concession is not as comprehensive as concessions made in EU trade agreements.

Regulatory Aspects, Fair, Transparent, and Sustainable Trade

To reduce and prevent obstacles to trade, the agreement prescribed sectoral rules for wine and distilled spirits, information, and communications technology products (ICT), organic products, proprietary formulas for pre-packaged foods and food additives, cosmetics, medical devices, and pharmaceuticals.

For wine and distilled spirits, the agreement provides guidance on labelling including minimum requirements for labels for wine and spirits products.

For ICT products, CPTPP provides guidance on the application of technical requirements and conformity assessment obligations to ICT products that use cryptography or that have an electromagnetic capability.

For organic products, the agreement encourages information exchange on matters relating to organic production and certification and to work towards improved international standards.

For food additives, CPTPP provides guidance to ensure the confidentiality of commercially sensitive information for proprietary formulas and in implementing technical requirements such as labelling.

Separate annexes covering Pharmaceutical Products, Medical Devices, and Cosmetics provide further commitments relating to the technical requirements of these industries. They share a range of overlapping themes, using international standards, recommendations, and guidelines when determining technical requirements and taking a risk-based approach in assessing applications.

To ensure a level playing field, the agreement sets out binding rules on the behaviour of state-owned enterprises (SOEs), by requiring the SOEs to act according to commercial considerations and non-discrimination when buying and selling goods and services.

To encourage research and development, innovation, and creativity, the agreement sets a high standard for intellectual property protection and enforcement. The agreement covers provisions on copyright and related rights, trademarks, industrial designs, geographical indications (GIs), plant varieties, and solid provisions on IP enforcement.

To foster digital trade, the agreement ensures predictability and legal certainty for companies and a secure online environment for consumers. It also removes barriers and prevent discrimination between online and offline activities and facilitate the Cross-Border movement of data by prohibiting unjustified data localisation. It was the first trade agreement with comprehensive rules on digital trade and has profoundly shaped digital trade regulations in the region.

To safeguard environmental protection, human and labour rights, and tackle climate change, the agreement entails a chapter on human rights and labour and a chapter on environmental protection. Parties agreed to respect and uphold international human rights, labour and environmental standards.

The CPTPP entails a comprehensive dispute settlement mechanism that applies to the entire agreement, including the chapters that safeguard environmental protection, and human and labour rights. CPTPP also prescribes an investor-state dispute settlement that promotes investor confidence and can protect against sovereign or political risk by granting companies access to an independent tribunal if parties fail to uphold investment obligations in CPTPP.

Singapore-German Chamber of Industry and Commerce

25 International Business Park
#03-105 German Centre
Singapore 609916

T +65 6433 5330
F +65 6433 5359