

CHAPTER 7

INVESTMENT PROMOTION AND COOPERATION

Article 7.1 *Objectives*

1. The Parties recognise the importance of promoting and facilitating foreign direct investment as a means for fostering economic growth, innovation and green transition.
2. The Parties acknowledge the role of skilled workforce development to advance job opportunities, including through cooperation in basic, higher and technical-vocational education and skill training, capacity building and exchange programs.
3. The Parties share the objectives that:
 - (a) the EFTA States shall aim to increase foreign direct investment from investors of the EFTA States into India by 50 billion (US dollars) within 10 years from the entry into force of this Agreement and an additional 50 billion (US dollars) in the succeeding 5 years^{6 7}; and
 - (b) the EFTA States shall aim to facilitate the generation of 1 million jobs⁸ within 15 years in India from the entry into force of this Agreement, resulting from inflows of foreign direct investment from investors of the EFTA States into India.

⁶ Investments routed from outside EFTA States shall be taken into account if shown that the investments are made by investors of an EFTA State. Investments routed through EFTA States by investors of non-Parties either not established in an EFTA State, or established in an EFTA State but without substantial business activities in an EFTA State, shall not be considered as EFTA investments.

⁷ The Parties recognise that India's rapid economic development over the last two decades, a time period during which the country's annual nominal GDP growth rate of around 9.5% in US dollars terms, was accompanied by a sustained increase of nominal foreign direct investment stocks from the EFTA States into India (around 13% annual increase over the same time period), resulting in an foreign direct investment stock of the EFTA States in India of 10.7 billion US dollars in 2022. Based on these observations and on future economic growth foreseen by India, the EFTA States aim to contribute to sustaining, and strengthening their, investment footprint in India. This shared objective is based on an estimated nominal GDP growth rate of India in US dollars terms over the next 15 years in line with past growth rates as referred to above, and the anticipated benefits of a full implementation of this Agreement by the Parties, from which the Parties anticipate an outperformance margin on investment of 3 percentage points per year, in addition to estimated annual foreign direct investment increases from the EFTA States based on past growth rates as referred to above.

⁸ For greater certainty, "jobs" shall mean direct employment in India which are clearly attributable to the foreign direct investment.

Article 7.2
Investment Promotion

1. To achieve the shared objectives in paragraph 3 of Article 7.1, the EFTA States shall promote foreign direct investments⁹ from investors of the EFTA States into India and generation of jobs in India as a result of such investments.
2. In view of promotion activities for investments into India, India shall endeavour to ensure a favourable climate for foreign direct investment, while taking into account the need to identify, assess and mitigate potential risks for security or public order.

Article 7.3
Cooperation Activities

1. The Parties shall cooperate in areas of mutual interest with a view to benefitting from the complementarities of their economies and the opportunities created under this Agreement in terms of the envisaged job creation in accordance with Article 7.1.
2. Areas of cooperation may include:
 - (a) appropriate means of identifying investment opportunities and information channels on investment regulations, with the aim of facilitating foreign direct investment;
 - (b) elaboration of strategies and programs to identify key obstacles to and opportunities for investment in the Parties, with a focus on high value-added sectors with linkages to regional and global value chains and potential measures to remove obstacles;
 - (c) furthering of an environment conducive to increased investment flows; and technology collaboration¹⁰;
 - (d) development of mechanisms for joint investments and ventures between enterprises including micro, small and medium sized enterprises;
 - (e) development and execution of public-private strategies for the identification of investment opportunities in, and matchmaking of investors between, the Parties;

⁹ For greater certainty, Parties recognise that sovereign wealth funds are excluded from the promotion obligations undertaken by the EFTA States.

¹⁰ For greater certainty, technology collaboration does not require technology transfer. Technology collaboration may include collaboration for facilitating and promoting cooperation between centres of excellence, dialogue and exchange of information between the Parties, sharing best practices on industrial competitiveness, innovation and technological enhancements, facilitation of MoUs among stakeholders in the respective fields, and discussions on reducing barriers to such effective collaboration.

- (f) facilitation of continued skill development, vocational and professional education, and training;
 - (g) encouragement of technical cooperation and facilitation of technological collaboration in sectors of mutual interest for the development and enhancement of infrastructure and industrial capabilities; and
 - (h) facilitation of partnerships among centres of excellence, government agencies and expert institutes in fields of mutual interest. Such fields may include earth science, telemedicine, STEM, healthcare, biotechnology, digital technology, renewable energy, clean technology and sustainable metal making.
3. The Parties may cooperate pursuant to paragraph 2 through activities such as:
- (a) regular economic and scientific missions with high-ranking delegations;
 - (b) annual high-level meetings between individual EFTA States and India with the participation of the private sector;
 - (c) regular investment promotion events, such as, at the World Economic Forum with participation of the private sector;
 - (d) sector-specific business roundtables;
 - (e) roadshows in India and in the different EFTA States;
 - (f) thematic expert exchanges;
 - (g) support for Invest India in setting up representations in some EFTA States;
 - (h) exchanges within the framework of existing town twinning programmes;
 - (i) support for vocational education and training projects; and
 - (j) other activities as mutually agreed by the Parties.

Article 7.4

Sub-Committee on Investment Promotion and Cooperation

1. The Parties hereby establish a Sub-Committee on Investment Promotion and Cooperation (hereinafter referred to as “Investment Sub-Committee”), consisting of government representatives of the Parties.
2. The mandate of the Investment Sub-Committee is set out in Annex 7.A (Mandate of the Sub-Committee on Investment Promotion and Cooperation).

Article 7.5
Contact Points

1. Upon entry into force of this Agreement:
 - (a) each Party shall designate a contact point responsible for facilitating communication between the Parties regarding the implementation of this Chapter; and
 - (b) India shall establish a dedicated EFTA-Desk to assist investors from the EFTA States seeking to invest, investing or having invested, in particular with any problems that may arise.
2. Each Party shall provide the other Parties with the contact details of its contact point and shall promptly notify the other Parties of any change in contact point designated in paragraph 1.

Article 7.6
Dispute Settlement

No Party shall have recourse to dispute settlement under Chapter 12 (Dispute Settlement) for any matter arising under this Chapter.

Article 7.7
Review, Reporting and Three-tier Government-to-Government Consultations

1. The Parties agree to a three-tier Government-to-Government consultations procedure for resolution of differences raised in relation to the obligations in paragraph 1 of Article 7.2.
2. The Investment Sub-Committee shall review progress towards the achievement of the shared objectives under paragraph 3 of Article 7.1.
3. The first review by the Investment Sub-Committee shall be held no later than 5 years after entry into force of this Agreement. The second review by the Investment Sub-Committee shall be held no later than 10 years after entry into force of this Agreement. The final review by the Investment Sub-Committee shall take place 15 years after entry into force of this Agreement. The Parties may mutually agree on a different timeline or additional reviews.
4. The Investment Sub-Committee shall prepare a report for each of the reviews. If the Investment Sub-Committee finds that the progress towards achievement of the shared objectives in paragraph 3 of Article 7.1 has been insufficient, it shall record the occurrence of any unforeseen events and other factors which have had a material bearing on the progress.

5. In case of occurrence of any unforeseen circumstances like global pandemic, war, geopolitical disruptions, financial crisis or sustained economic underperformance, which have had a material bearing on the progress to achieve the shared objectives, the Parties shall adjust the shared objectives accordingly through an amendment of paragraph 3 of Article 7.1.
6. Should the shared objectives under paragraph 3 of Article 7.1 not be reached by the final review, and India considers that the EFTA States have not fulfilled the obligations to promote investments from investors of the EFTA States into India as set out in paragraph 1 of Article 7.2, India may request consultations. The Investment Sub-Committee shall be convened within 30 days of receipt of India's written request for such consultations.
7. The scope of the consultations shall be limited to determining whether the EFTA States have fulfilled their obligations under paragraph 1 of Article 7.2 related to the shared objectives under paragraph 3 of Article 7.1, and where applicable, to finding a mutually satisfactory solution between the Parties.
8. The Investment Sub-Committee shall endeavour to settle issues within 60 days from convening of the Investment Sub-Committee with due consideration to the final report. This period may be extended by no more than 1 year upon request of a Party.
9. If the Investment Sub-Committee determines that the obligations in paragraph 1 of Article 7.2 have not been fulfilled, the Investment Sub-Committee shall make recommendations to the Joint Committee.
10. If after the 1 year period from the request of consultations by India, the matter remains unresolved, then the Investment Sub-Committee shall refer the matter to the Joint Committee for consultation, with its recommendations.
11. The Joint Committee shall begin consultation upon the receipt of the referral from the Investment Sub-Committee under paragraph 10, with a view to reaching a mutually satisfactory solution. If the Joint Committee cannot resolve the matter within 6 months, the same shall be referred to the representatives of the EFTA States and India at the level of Ministers. Such representatives shall be identified in writing.
12. Such representatives of the EFTA States and India shall begin consultations no later than 30 days from the receipt of the referral from the Joint Committee. The representatives of the Parties shall take no more than 6 months from the receipt of the referral from the Joint Committee, to arrive at a mutually satisfactory solution to the matter raised by the requesting Party. If the matter is not resolved within 6 months, a grace period of an additional 3 years shall, upon request of a Party, be observed. The request shall state the grounds and may outline possible actions from the EFTA States towards the achievement of the shared objectives under paragraph 3 of Article 7.1.

13. Nothing in this Chapter shall require the Parties to disclose any information that they consider confidential. The Parties shall treat as confidential any information designated as such by the Party providing the information.

Article 7.8
Remedial Measures

1. If no mutually satisfactory solution subsequent to consultations under paragraphs 6 to 12 of Article 7.7 has been found and the grace period has elapsed without having achieved the shared objectives under paragraph 3 of Article 7.1, India may, notwithstanding any other provision under this Agreement, within 1 year, undertake temporary and proportionate remedial measures to rebalance the concessions given to the EFTA States in the Schedule of Commitments under the Chapter on Trade in Goods.
2. India shall notify the EFTA States of the remedial measures it intends to take, the grounds for such remedial measures and when they will commence, no later than 30 days before the date on which the remedial measures are due to take effect.
3. Remedial measures shall be temporary and shall be:
 - (a) terminated once the shared objectives set out in paragraph 3 of Article 7.1 have been achieved; or
 - (b) modified or terminated pursuant to:
 - (i) a mutually agreed solution between the Parties to such effect; or
 - (ii) a decision to such effect pursuant to paragraph 4.
4. If remedial measures continue beyond 3 years, a Party may request the Joint Committee to examine whether the remedial measures should be modified or terminated. Such request shall include the requesting Party's grounds for modification or termination of remedial measures. The Joint Committee shall begin consultations on such a request no later than 30 days from the receipt of such a request. The Joint Committee shall aim to find a mutually agreed solution within 6 months from the request by the Party. If the Joint Committee cannot resolve the matter within 6 months, the same shall be referred to the representatives of the EFTA States and India at the level of Ministers. If the Joint Committee or the representatives at the level of Ministers recommend modification or termination of the remedial measures, the measures necessary to modify or terminate shall be taken within the agreed time period in accordance with the recommendation. Unless the remedial measures are terminated, the Joint Committee shall thereafter examine the continuation or modification of the remedial measures at a 2-year interval, following the same procedure, until the remedial measures have ceased to apply.