

19 October 2023

October 2023 - Flashnews**News from India****1. India on the Moon**

On 23 August 2023, India became the first country to land near the Moon's South Pole (and the first country to land on the Moon since China in 2020 and US and Russia previously), an area of particular interest because this is the first time it has been reached. Landing on the Moon represents a unique opportunity for India to engage in international cooperation and competition in a peaceful way, and could have several economic benefits for the country and the Earth's population as a whole: in the short term, it could support the growth of startup companies working on space technology (and India has recently seen a surge in space startups), and eventually it could also provide economic benefits based on the natural resources that can be found there (such as water, helium and other elements).

2. The India – Middle East – Europe Economic Corridor

The project was launched during the G20 meeting in India in September 2023 and formalized by the signing of an agreement between the EU, the US, India, Saudi Arabia and the United Arab Emirates. The aim of the project is to create a rail corridor that will connect the three regions and help take economic relations between them to a new level, providing better access to goods, energy and data. These objectives would be achieved by (i) integrating railway lines and port connections; (ii) developing energy infrastructure and enabling the production and transport of green hydrogen; and (iii) strengthening telecommunications and data transfer through new submarine cable connections. The project is a further step in the Partnership for Global Infrastructure and Investment (PGII), launched by the G7 to finance infrastructure projects in developing nations.

3. India-EU FTA negotiations

The 6th round of negotiations on the India-EU Free Trade Agreement (FTA) will take place in October 2023. Ugo Astuto, European Union Ambassador to India, underlined the shared determination of both sides to reach a productive conclusion. The objective is to achieve a comprehensive Free Trade Agreement (FTA). In this new round, trade, investment protection and geographical indications (GIs) will be negotiated separately rather than as chapters of a single agreement, increasing the likelihood of a deal in at least one or two areas. The main hurdles still facing India and the EU relate to rules of origin and the EU's Carbon Border Adjustment Mechanism.

4. Women's reservation bill passed in September

The Lok Sabha, the lower house of India's parliament, recently passed a bill to reserve a third of seats for women in what Prime Minister Modi described as "historic legislation" and a "defining moment in our nation's democratic journey". The bill not only provides for 33% reservation for women in the lower house, but also in state assemblies. Six previous attempts to pass the bill have stalled over the decades since it was first introduced in 1996. For it to have any real effect, certain processes will have to take place to redraw India's electoral boundaries.

5. G20 New Delhi leader's declaration

Amongst the objectives reached at the G20 (the theme of which was "Vasudhaiva Kutumbakam", meaning "The world is one family") held in India in September 2023, is certainly the consensus reached by world leaders under the New Delhi Declaration, which represents a step forward in achieving the goals of the Paris Agreement. The Declaration addresses a range of global issues, from Russia-Ukraine tensions to sustainable development, food security and the launch of the Global Biofuel Alliance (an India-led initiative that aims to develop an alliance of governments, international organizations and industry to promote the adoption of biofuels).

News from the EU and Italy

1. Foreign Subsidies Regulation and its Implementing Regulation

On 10 July 2023, the EU Commission published the Regulation laying down "detailed arrangements" for the implementation of Regulation (EU) 2022/2560 on foreign subsidies that distort the internal market (the "**FSR**"). The FSR introduces a new reporting obligation for EU and non-EU companies wishing to enter into M&A transactions and/or participate in EU tenders, in respect of financial contributions received in the previous three years: (i) in connection with M&A transactions involving the acquisition of a target with an EU turnover of EUR 500 million, if the acquiring party and the target have received EUR 50 million in financial contributions from any third country in the last three years; and (ii) for companies wishing to participate in public tenders, if the tender value is EUR 250 million or more and the financial contributions per third country are EUR 4 million or more in the last three years. Special rules apply to private equity ("**PE**") funds. While the rule is that the financial contribution should be aggregated at group level, for PE funds the financial contribution may be assessed at the level of the individual fund if: (i) the fund that controls the acquiring entity is subject to the Alternative Investment Fund Managers Directive 2011/61/EU of 8 June 2011 or alternative third country legislation; and (ii) the economic and commercial transactions between the fund that controls the acquiring entity and other investment funds (and the entities controlled by these funds) managed by the same investment company are non-existent or limited. In the case of M&A, filing is mandatory, there is a standstill obligation and fines for failure to notify may reach up to 10% of the aggregate turnover of the undertakings concerned. In the case of tenders, failure to notify also results in fines and possible rejection of the bid.

2. Implementation of the "DORA" Regulation to European financial institutions

At the beginning of 2023, the Digital Operational Resilience Act entered into force, establishing a general framework aimed at creating a secure technological structure capable of protecting both individual financial services firms and the financial system as a whole against cyber risks, with the ultimate aim of safeguarding financial stability and filling the gaps in the current regulatory framework to prevent, resist and respond to cyber threats. DORA will apply from January 2025, and in 2024 the European Supervisory Authorities will submit draft regulatory technical standards to the EU Commission, which will adopt technical implementing measures. DORA will apply to "traditional" banking and financial services providers (such as banks and investment firms), cryptocurrency service providers and crowdfunding service providers. In applying the DORA, financial institutions will have to comply with several requirements, such as: ensuring an efficient and prudent control of ICT risks; adopting an ICT risk management plan; classifying ICT-related incidents and a monitoring system for ICT-related incidents; providing information sharing protocols between financial institutions.

3. Non-possessory pledges in Italy, a new tool for facilitating access to credit

With the publication of its register, the long-awaited non-possessory pledge has finally become a reality in the Italian legal system. The characteristic of this tool is that it allows the borrower to use their movable assets as financing collateral while retaining possession of them (the pledgor can continue to use the pledged assets, transform them in the production process and dispose of them). It may be created over existing or future

unregistered movable assets that are identified or identifiable to the extent that they relate to the borrower's business activity. The enforceability of the pledge is guaranteed by the registration of the deed in a special electronic register held by the Italian Revenue Agency, which is accessible to anyone upon payment of the required fees. The enforcement procedure is also simpler and more effective than for ordinary pledges, allowing the secured creditor to either sell, assign or lease the pledged asset or (under certain circumstances) transfer the pledged asset directly to the secured creditor.

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