

INTERNATIONAL



TRADE

Trade News Digest

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ESA-EU INTERIM ECONOMIC PARTNERSHIP AGREEMENT

The IEPA was signed and ratified by four (4) ESA countries (Madagascar, Mauritius, Seychelles and Zimbabwe) and entered into force on 14 May 2012. Comoros joined the IEPA on 07 February 2019.

The IEPA currently has three (3) chapters, namely, Trade in Goods, Fisheries and Development.



With a view to deepening the Agreement, both the EU and the ESA signatory States agreed on the scope the Agreement. The key areas identified are: (1) Trade in Services and Investment, (2) Review of Rules of Origin, (3) Trade Facilitation and Customs Cooperation, (4) Agriculture, (5) Export Taxes, (6) SPS, (7) TBT, (8) Intellectual Property Rights (IPR), (9) Competition Policy, (10) Sustainable Development, (11) Transparency in Government Procurement, (12) Dispute Settlement.

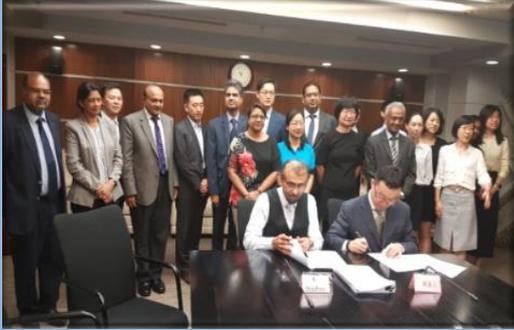
A joint scoping paper which would form the basis of negotiations was agreed and finalised by both sides in May 2019.

The formal launching of the negotiations will be held in Mauritius on 02 October 2019. It will be followed by technical negotiations on 03 – 04 October.

Mauritius-China Free Trade Agreement

An MOU confirming the conclusion of the negotiations on the Mauritius – China Free Trade Agreement (FTA) was signed on 02 September 2018. The FTA was negotiated by a small team of experts from the Ministry of Foreign Affairs, Regional integration and International Trade, Ministry of Finance and Economic Development, Attorney General’s Office, the MCCI, the Business Mauritius, the Economic Development Board.

Since then, both Mauritius and China have been engaged in the legal scrubbing of the FTA. The FTA contains a framework text and the following Annexes:



- Rules of Origin
- Market Access for Goods schedule for Mauritius
- Market Access for Goods schedule for China
- Services Market Access schedule for Mauritius
- Services Market Access schedule for China

The main text comprises chapters on trade in Goods, Services, Investment, Economic Cooperation, Sanitary and Phytosanitary Measures (SPS), and Technical Barriers to Trade (TBT), Trade Remedies, Competition Policy, Intellectual Property, E-Commerce, and Transparency.

The Mauritius – China FTA is a major achievement being the first Agreement that China will sign with a country in Africa.

Mauritius will benefit duty free access on the Chinese market on some 8,547 products, representing 96% of the Chinese tariff lines. The duties applicable on 88% of these tariff lines will be eliminated with immediate effect. The remaining tariffs will be eliminated over a 5 to 7-year period. These include key export items such as rum, frozen fish, noodles and pasta, wafers and biscuits, fresh fruits, juices, mineral water, linen, garments, watches and articles of leather, amongst others.

China agreed to grant Mauritius a Tariff Rate Quota (TRQ) for sugar of 50,000 tons. The quota will be phased in with an initial quantum of 15,000 tons upon entry into force of the Agreement to reach 50,000 tons over a period of 8 years.

In the Mauritius-China FTA, all products considered to be sensitive for Mauritius have been excluded. Mauritius will therefore eliminate tariffs on 148 tariff lines only, representing

2.5% of our tariff lines over a period of 5 years. The impact on the domestic industry is expected to be marginal.

Regarding the impact on finances, it is estimated that tariff elimination on the 2.5% tariff lines on which we have taken commitments would be to the tune of \$ 3 million after the transitional period of 5 years.

As regards trade in Services, Mauritius service providers would have access to more than 40 service sectors, including amongst others financial services, telecommunications, ICT, professional services, construction and health services. Mauritius would also be able to establish businesses in China as wholly owned entities or in joint partnership with Chinese operators.

We expect to have more investment in the services sector from China in view of the predictability and legal security which the agreement will provide to investors.

Regarding the Economic Cooperation chapter of the Agreement, Mauritius and China have agreed to collaborate in 10 areas, including industrial development to increase competitiveness; to develop manufacturing based on innovation and research; to conduct exchange of specialists; to have an exchange of researchers for disseminating know how and for support in technology and innovation and the setting up of a Renminbi Clearing Centre in Mauritius.

The modalities of the economic cooperation chapter will be determined once the agreement has been signed and ratified.

Industrial Property - National Assembly votes the Industrial Property Bill



The Industrial Property Bill was voted by the National Assembly on 30 July 2019. During his intervention, Honorable Nandcoomar Bodha, GCSK, Minister of Foreign Affairs, Regional Integration and International Trade, indicated that the Bill denotes the commitment of Government to modernize the industrial property framework in Mauritius create an investment friendly environment and transform our economy into a modern and dynamic one.

Summary of the Industrial Property Bill:

- (A) IP RIGHTS: Registration, Protection & Enforcement
- The objective of the Bill is to promote innovation, encourage and facilitate the registration and the protection of industrial property rights and create better conditions to attract high quality investment.
 - The Industrial Property Bill also calls for adequate enforcement mechanisms with regard to both civil and criminal procedures in case of violation of the industrial property rights.
- (B) NEW INSTITUTIONAL FRAMEWORK
- The Bill provides for an enhanced institutional framework to administer the industrial property legislation in Mauritius. The existing Industrial Property

Office will be reorganized and revamped. The new Industrial Property Office of Mauritius (IPOM) will administer and implement the Bill and assist in the protection, promotion and development of industrial property governed by the proposed legislation.

- Another responsibility of the IPOM will be to devise and assist in the preparation of educational and sensitization programs on industrial property.

(C) INTELLECTUAL PROPERTY COUNCIL

- The Industrial Property Bill makes provision for the establishment of an Intellectual Property Council which will be an independent overarching institution that will ensure a coordinated approach to it. The Council will comprise of representatives from various Ministries/Departments and representatives from the private sectors.

(D) ACCESSION OF MAURITIUS TO WIPO-ADMINISTERED TREATIES

- Madrid Protocol: The Madrid System is a convenient and cost effective solution for registering and managing trademarks worldwide. Accession to the Madrid Protocol will allow stakeholders to file a single application and pay one set of fees to apply for protection in up to 120 countries. Modification, renewal or expansion of global trademark portfolio will be done through one centralized system (instead of filing separately in the Trademark Offices of different countries and paying a separate fee in each Office).
- It is expected that the number of trademark filings in Mauritius will increase by approximately 30% (from

2,092 filings in 2018) within 4 years after joining the system.

- Patent Cooperation Treaty (PCT): The PCT assists applicants in seeking patent protection internationally for their inventions, helps patent Offices with their patent granting decisions and facilitates public access to a wealth of technical information relating to those inventions. By filing one international patent application under the PCT in Mauritius, applicants would, upon entry into the national phase, have the possibility to seek protection of an invention in up to 152 PCT contracting parties.
- Hague Agreement: The Hague Agreement concerning the international registration of industrial designs allows industrial designs to be protected in the 70 contracting parties with minimal formalities.

(E) MAIN FEATURES OF THE BILL

- The Industrial Property Bill repeals the Geographical Indications Act; the Layout Designs (Topographies) of Integrated Circuits Act; and the Patents, Industrial Designs and Trademarks Act. It also implies consequential amendments to the Protection against Unfair Practices (Industrial Property Rights) Act.
- The new provisions relating to patents concern the non-protectable subject matter under Section 10 of the Bill. Computer programs have now been explicitly mentioned. This Section also excludes known substances for which a new use has been discovered and not applicable to the use, itself, where they constitute a patentable invention.

- Currently, the law provides that the right of the patent of any invention made in the execution of, or under, an employment contract belongs to the employer. Under the Industrial Property Bill, employees who are creative/innovative would be eligible to a fair share of benefits which the employer would derive from granted patents having a commercial value. Employees would also have the right to file for patents in the event employers fail to do so.
- In order to conform to the existing international framework on the protection of genetic resources (which is essentially set by the Convention on Biological Diversity, the Nagoya Protocol on Access and Benefit Sharing and the International Treaty on Plant Genetic Resources for Food and Agriculture), the Industrial Property Bill provides for the disclosure of genetic resources and prior informed consent. The requirement for this provision is that a patent applicant in the field of biotechnology should disclose the source of genetic resources which will eventually be used as raw material in the production of goods.
- In order to motivate small and medium enterprises and small inventors to innovate, the Industrial Property Bill makes provision for a new type of protection for small and incremental innovation. This is called the utility model. It is a fast and cheap option for protection of invention and has less stringent requirements that have to be met. Utility models are similar to patents to the extent that they provide an exclusive right to prevent unauthorized commercial use of the invention without the authorization of the right holder.

- Sections 42 to 50 of the Industrial Property Bill provides for the protection of layout-designs of integrated circuits, another industrial property right which involves major investment. A layout design is the three-dimensional layout of an integrated circuit, that is, the arrangement in a chip of active and passive electronic components.
- Integrated circuits are essential elements for a wide range of electrical products, including smart phones, watches, washing machines and medical apparatus.
- Also, a novel feature of the Industrial Property Bill is the provisions made in Sections 51 to 72 for the protection of new plant varieties. A plant breeder's right is another form of industrial property right granted to the breeder of a new plant variety. Under this right, certain acts with regard to the exploitation of the protected variety require the prior authorization of the breeder.
- The Industrial Property Bill also provides for the protection of Geographical Indications. Geographical indication means an indication which identifies a good as originating in the territory of a country, or a region or locality in that country, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
- A number of products in Mauritius and Rodrigues may qualify to be geographically labelled and protected on our export markets. Examples include local rum, our special sugar, local tea and the lemon and honey of Rodrigues.

A New Dawn for Mauritius Dodo craft

by Getachew Mengistie Alemu, Intellectual Property Consultant, USA



“Dodo” is a name of an extinct bird endemic to Mauritius. It is a landmark symbol that is closely linked with Mauritius. The dodo bird is part of the coat of arms of Mauritius and features in logos and products. Dodo and Mauritius are inseparable in that each is identified with and known by the other.

Mauritian handicraft producers have been producing dodo crafts that have a growing demand in the local market. The products have distinctive characteristics in that they are made with love and care completely by hand or using tools, machinery or technology where manual contribution is the major component of the finished product. The products bear the unique shape and design of the extinct dodo bird. The products range from intricate miniatures to utilitarian, decorative and souvenir items made mostly from biodegradable, eco friendly and sustainable raw materials such as wood, coconut, bamboo, textiles and natural fibers. The distinctive characteristics of dodo crafts are attributed to the knowledge, skill and experiences of the craft producers

acquired from previous generations or through training as well as nurtured by continued practice.

These qualities are well known and command a growing demand in the market. However, the market is flooded with similar products that are imported in bulk from foreign countries and marketed in the local market for a cheaper price as “Mauritian Dodo Crafts”. This has damaged the reputation and good will associated with authentic Mauritian handicrafts as well as forced a number of craft producers out of business. In a study carried out by Small and Medium Enterprises Development Agency (SMEDA) in 2014, 230 enterprises including handicrafts had to close down for various reasons including difficulty to sell their products due to high cost of production and competition from import of cheap products. About 400 jobs were lost due to the closure of the above enterprises.



The government recognizes the problem faced by handcraft producers and appreciates the role of intellectual property and branding in addressing the challenges. It sought for the technical assistance of the World Intellectual Property Organization (WIPO). WIPO accepted the request and has been implementing a project with the financial support of the Government of Japan -Japan Fund In Trust.

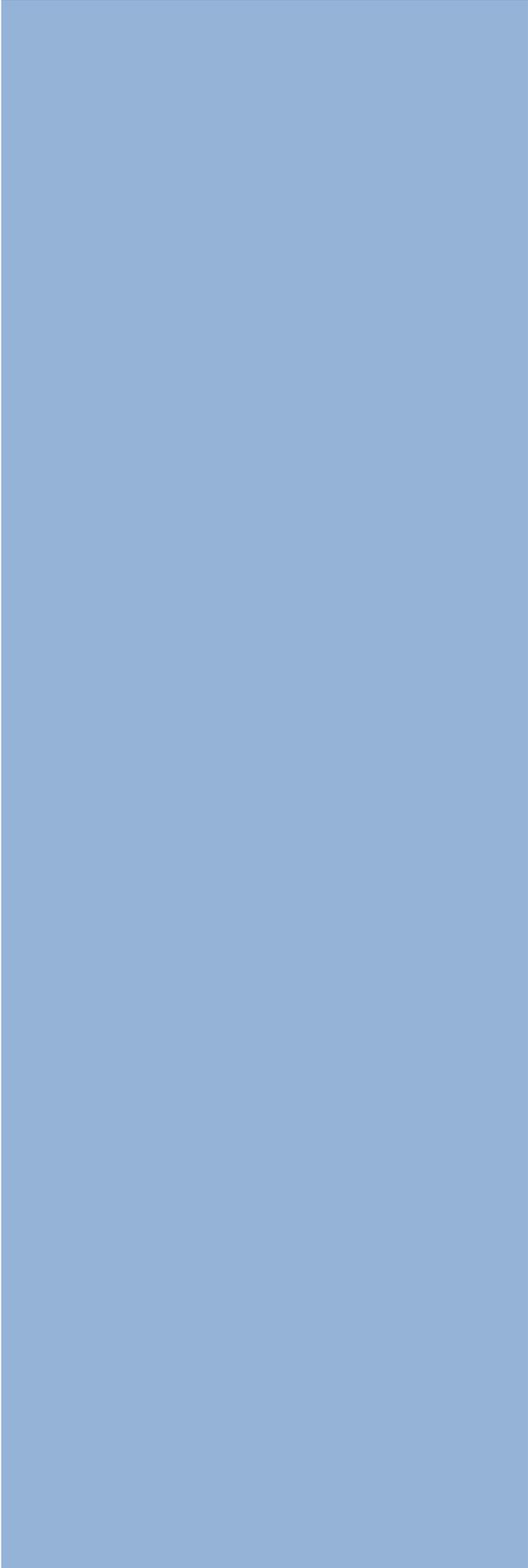
Under the project, a detailed feasibility study on the “Development of Intellectual Property and Branding Strategy for Selected Products of the Republic of Mauritius” was made in 2018. Stakeholders decided for the dodo crafts to benefit from the pilot project, which will be supported by WIPO and the government of Japan. Accordingly works have been made beginning from March 15, 2019. These include preparatory works and the first field mission that was carried out from May

20 to June 7, 2019. In the course of the field mission, amongst other things:

- a) Relevant information and data were collected from the stakeholders during bilateral meetings and focus group discussions;
- b) Efforts were made to learn from the ongoing nation branding program of the Economic Development Board (EDB); the experience of SME Mauritius Ltd. in managing hologram; the Creative Mauritius program implemented by the Mauritius Chamber of Commerce and Industry (MCCI) and SME Mauritius; and the Mauritius Manufacturers Association (MMA) in managing the collective brand “ Made in Moris”;
- c) Draft statute for the establishment of dodo crafts producers was prepared and submitted to SME Mauritius and the International Trade Division of the Ministry of Foreign Affairs, Regional Integration and International Trade; and
- d) A brand that is simple, easily memorable and recognizable; and reflects the distinctive characteristics of dodo and Mauritius was prepared with the support of a logo designer and inputs of stakeholders and submitted for consideration to SME Mauritius Ltd.

Currently the IP and branding strategy for the dodo craft is being prepared. When the strategy is approved and implemented, authentic Mauritian dodo crafts will be marketed with a brand that will be protected as a collective Mark in Mauritius and used collectively by dodo craft producers.

Branding of dodo crafts and protection of the brand using appropriate intellectual property tool will, inter alia, help to:

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- a) Differentiate the authentic Mauritian dodo craft from the inferior similar products made in foreign countries, imported to and marketed in Mauritius;
 - b) Capture and further build reputation and good will associated with genuine Mauritian dodo crafts;
 - c) Prevent the misuse of the protected brand by unauthorized persons;
 - d) Maximize benefit from the growing demand for authentic products in Mauritius as well as the growing international market for gift articles;
 - e) Improve the income and standard of living of dodo craft producers and their families;
 - f) Unleash the creative potential of artisans;
 - g) Attract and motivate the youth to learn the knowledge and skill of dodo crafts and engage in production activities there by contributing to alleviation of the problem of youth unemployment;
 - h) Preserve cultural heritage associated to dodo and dodo crafts;
 - i) Support the Tourism industry and the nation image building by making available gift articles that have growing demand by tourists, the Diaspora and Mauritians that are travelling outside of the country
 - j) Complement government measures and branding initiatives such as hologram and “Made in Moris” by incentivizing the production and marketing of authentic Mauritian dodo craft products;
 - k) Widen the government revenue base by increasing taxable income; and
 - l) Meet the needs of consumers by maintaining and enhancing the quality of the dodo crafts as well as ensuring authenticity of the products.

There is a strong belief that with the leadership of relevant government bodies, the commitment of stakeholders and the support of WIPO and the Government of Japan the project will end with success. The lesson that may be learned and the experience that may be gained from this initiative will be used in the future to develop and implement similar strategies in other sectors.

Launching of the operational phase of the AfCFTA

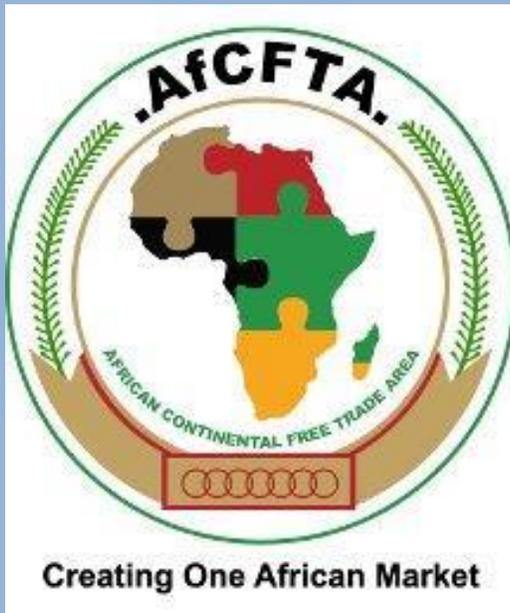


The 12th Extra-Ordinary Session of the Assembly of the African Union was held on 07 July 2019, in Niger. The aim of the AU Summit was to launch the operational phase of the African Continental Free Trade Area (AfCFTA) which entered into force on 30th May 2019.

Several instruments were launched during the AU Summit, namely:

i. Online Mechanism on Reporting, Monitoring and Elimination of Non-Tariff Barriers

The aim of the monitoring mechanism is to improve efficiency in identification and resolution of NTBs in the AfCFTA. The AfCFTA mechanism will facilitate States Parties reporting, monitoring and negotiation of the removal of NTBs across regions and countries, thereby reducing time and cost of cross



border trade. The mechanism will be accessible to the private sector and will supported by robust enforcement instruments and dedicated institutions at national, RECs and continental levels.

ii. Agreed Rules of Origin of Appendix IV to the Annex 2 on Rules of Origin

The meeting was informed that 90% of the rules of origin had already been agreed. Same were adopted and launched by the AU Summit.

However, rules of origin on fish and fish products, sugar, textiles and some other products such as dairy produce, articles of leather, spices and fruit juices still remained outstanding. For sugar and textiles, it has been agreed that policy notes would be developed by the AU Commission and same would be discussed either in a workshop or in the next NF.

iii. Password Protected Online Portal for Tariff Offers

The Password-Protected On-line Portal for Tariff Offers will serve as a portal to facilitate tariff negotiations involving Member States and the Customs Unions and will provide a platform for them to interact. Through the Portal, negotiating partners will define their own offers, share offers with selected negotiation partners for discussion, comment on offers that have been shared, suggest counter proposals, simulate and compare offers.

iv. African Trade Observatory Dashboard

The ATO will provide trade related information such as tariff, imports and exports data, applicable sanitary and phyto-

sanitary measures and technical barriers to trade to the private and public sector in order to boost intra African trade.

v. ***Pan - African Payments and Settlements System (PAPSS)***

The Pan- African Payments and Settlements System is a continent-wide payment digital system focused on facilitating payments for goods and services traded among Member States in African currencies. The Platform, which will also be available on mobile devices, will facilitate the clearing and settlement of intra-African trade transactions in African currencies and significantly reduce the dependence on US dollars and other hard currencies in the settlement of regional trade. Currently only six (6) countries are connected to the system.

vi. ***AfCFTA Web-based and Mobile Application for Business***

Its main purposes are to: (i) disseminate information on the AfCFTA to the business community; (ii) serve as a one stop shop for trade data access; and (iii) provide a link to all other instruments that will support the AfCFTA operational phase.

However, while the Agreement has come into force, work still remains in term of the finalisation of rules of origin and market access for both Trade in Goods and Trade in Services. Member States have been requested to submit their market access offer for 90% tariff lines by September 2019. The deadline to submit tariff offers covering 10 percent of tariff lines is set for end of November 2019. The final market access offers of AU Member States for Trade in goods as well as the Schedule of Specific



Commitments will be submitted to the January 2020 Session of Assembly.

As at date 54 African Member States, with the exception of Eritrea, have signed the Agreement and 27 countries have ratified it. With the implementation of the AfCFTA, it is expected that entrepreneurs across the continent, including Mauritius, will have access to a much larger market. The AfCFTA is widely seen as an important opportunity for African countries. Eliminating tariffs will help African countries boost economic growth, transform the economies and achieve the SDGs. The positive impact of the AfCFTA is expected to be even greater if non-tariff measures are addressed, informal trade is integrated into formal channels

SADC Protocol on Trade in Services

The SADC Protocol on Trade in Services was adopted in August 2012 and was ratified by Mauritius in September 2015. The Protocol on Trade in Services will enter into force after ratification by two-thirds of the SADC Member States. As at date, seven Member States have ratified the Protocol on Trade in Services, namely Botswana, Mauritius, Mozambique, Lesotho, Seychelles, Swaziland and South Africa. The Protocol will enter into force after ratification by three additional Members.

Six priority sectors were identified to kickstart the trade in services negotiations namely, Financial Services, Communications, Tourism, Transport, Construction and Energy-related services. The first round of negotiations focused on the first four priority sectors, namely Communications, Financial, Tourism and Transport services. Most of the Member States have an Offer in these four sectors.

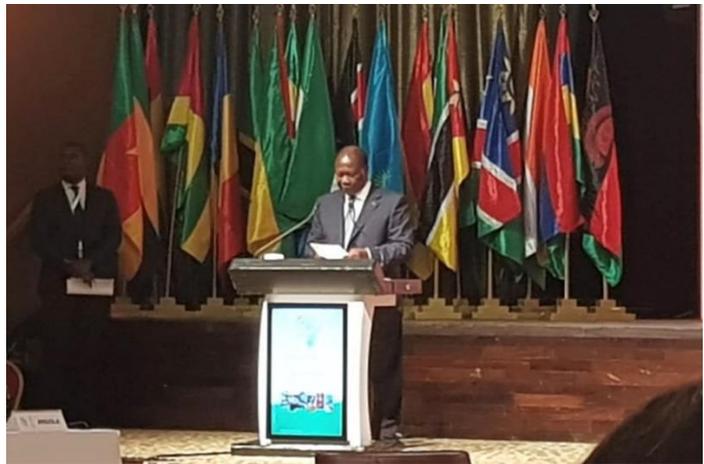


Mauritius Market Access Offer in the four priority sectors was endorsed by the SADC Committee of Ministers of Trade (CMT) in 2018.

Negotiations on the remaining two priority sectors, namely Construction and Energy-related services have been concluded. The schedules of commitments in the two sectors were legally cleared and submitted to the SADC Committee of Ministers of Trade (CMT) for adoption. At its 31st Meeting in Windhoek, Namibia in June 2019, the CMT adopted the schedules of commitments of 13 Member States in the two sectors, including that of Mauritius.

The conclusion of these negotiations is now expected to provide service providers with a predictable legal environment for trade and investment in these six priority sectors within the SADC region. Mauritian service providers will have the opportunity to access the region and enlarge their actual market base.

AGOA Forum



Mauritius attended the 18th AGOA Ministerial Forum which was held in Abidjan, Cote d'Ivoire on 5-6 August 2019 and was preceded by the AGOA Senior Officials and AGOA

Ministerial Consultative Group Meetings which were held on 3rd and 4th August respectively.

The Mauritian delegation was led by H.E. Ambassador S. Phokeer, who was also the co-chair for both the Senior Officials Meeting and the AGOA Ministerial Group Meeting.

At the AGOA Consultative Group Meetings, Mauritius had the opportunity to raise issues of interest, namely:

- i. There should be no graduation of AGOA eligible countries to ensure predictability and prevent disruption of trade;
- ii. AGOA countries should be able to bid for governmental tenders in the U.S.;
- iii. Need for U.S. assistance to address the S.S.A. countries to achieve compliance to Food and Drug Administration requirements;
- iv. Setting up of an appropriate follow-up mechanism in Washington to follow-up on recommendations made at the AGOA Ministerial Consultative Group.



At the AGOA Ministerial Forum, Cote D'Ivoire pointed out that in nineteen years, AGOA has not delivered on equal benefits so that there was need to address the structural obstacles that prevent full utilization. Out of the annual \$90 bn of apparel being imported by the US, only \$1 bn came from Sub Saharan African countries. Moreover, six years till the expiry of AGOA preferences, there appeared to be a period of uncertainty as the U.S. Administration seemed to be in favour of a shift towards bilateral Free Trade Agreements.

One of the main highlights of the Forum was the closed Trade Ministers Meeting. The US delegation was led by Ambassador Mahoney, Deputy U.S. Trade Representative whose presentation focused on the future US-SSA relationship. He

stressed that it is very unlikely that AGOA preferences would be renewed in their present form. He mentioned that bilateral FTAs was the preferred route of the U.S. Administration with a view to subsequently culminating into a US-AfCFTA Free Trade Area in the long term.

Whilst trying to lock in the gains from AGOA, the U.S. side would want to go for comprehensive agreements which would include goods, services, investment, digital trade and intellectual property rights.

Ambassador Mahoney and Mr. Muchanga, the Trade Commissioner of the AU signed a Joint Statement on the AfCFTA whereby both parties agreed to work together with a view to meeting the set objectives of the trade bloc. A copy of the document has not yet been circulated.

It was noted that the AfCFTA was the largest FTA in the world and that one of its main objectives was to create a harmonized approach towards policy for the benefit of the private sector. Interventions stressed on the need to make sure that the AfCFTA balances the interests of the private sectors of both the US and African countries with a view to attracting more U.S. investment and be conducive for business.



COMESA - Meeting of the Kenya Sugar Safeguard Sub-Committee

On 15 – 16 July 2019, Mauritius participated in the COMESA Kenya Sugar Safeguard Sub-Committee to discuss:

- The allocation of a quota to Mauritius as a COMESA exporter of sugar to Kenya
- The implementation of COMESA Council of Ministers decisions with respect to the Kenya sugar safeguard

WTO Structured Discussions on Investment Facilitation

During the six months since its establishment, the working group coordinator consulted participating delegations and worked on the following issues:

- i. Members' assessment of the example-based discussions in the first half of 2019;
- ii. Members' views on how to make further progress on investment facilitation for development towards MC12;

- iii. Members' views on how to best leverage the Compendium of Text-Based Examples to move discussions forward.

These discussions illustrate how the possible elements of a multilateral framework might be further developed.



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