

Trade News Digest

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Issue 75



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3rd Round Negotiations

Mauritius - Indonesia Preferential Trade Agreement (PTA)

The third round of negotiations of the Mauritius - Indonesia PTA, covering trade in goods, was held on 21-22 December 2022 in Mauritius. The objectives of the meeting were to discuss the outstanding issues on the PTA text, the Rules of Origin text, the modalities regarding market access and the preliminary request/offer list of both parties.

Constructive discussions were held on the PTA text and agreement were reached on 86% of its provisions. With regard to the Indonesian proposal on classification of goods and transposition of schedules of tariff commitments, Mauritius agreed in principle on the substance of the provisions and would revert with amendments before the next round to ensure that sensitive products are not affected during the transposition exercise.

With respect to the Annex on Rules of Origin (ROO), both sides discussed lengthily on the consolidated text and agreement was reached on most parts of the text. With regard to the outstanding issues, it was agreed to pursue discussions in the next round.



Both sides exchanged views on the modalities pertaining to tariff liberalization. It was agreed to have a list of immediate liberalization of tariffs, a list of gradual liberalization of tariffs and a list of Tariff Rate Quotas. Both parties agreed that the timeframe for the reduction of tariffs would be over a maximum of 5 years. Mauritius further indicated their preference for a linear approach whereby tariff would be reduced by a fixed percentage until the agreed threshold is reached. Both parties agreed to re-work their offer based on the new modalities that had been agreed and to start negotiations pertaining to market access in the next round.

The next round of talks would tentatively be held in March 2023 in Indonesia and the aim would be to finalize the outstanding issues in the main text main text, the ROO text and discuss the request/offer list of each parties.

Economic Partnership Agreement (EPA)



10th Round of Technical Negotiations between the EU and Five Eastern and Southern Africa (ESA) countries

The 10th round of technical negotiations between the European Union (EU) and the Eastern and Southern Africa (ESA-5) (namely Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe) on the deepening of the iEPA, was held in hybrid virtual mode from 12 to 16 December 2022. The meeting was co-chaired by Mr Rammos, DG Trade, EU Commission and Mr Boodhoo, Director, International Trade Division, Ministry of Foreign Affairs, Regional Integration and International Trade for the ESA-5.

Negotiations were held in parallel sessions on 8 issues, namely: Rules of Origin (ROO), Technical Barriers to Trade (TBT), Agriculture, Trade in Services, Investment Liberalisation and Digital Trade (TiSIL&DT), Dispute Settlement & Institutional Provisions, Intellectual Property Rights (IPR), Competition and Fisheries.

Much progress was made in all areas during this round. Both Parties agreed to pursue internal discussions on the texts and meet intersessionally to advance the negotiations on issues such as Competition, TBT, TiSIL&DT and Fisheries. A summary of the outcome of the discussions held between both sides on the above-mentioned issues are as follows:

I. Technical Barriers to Trade

The Parties exchanged views on all the remaining articles of the TBT Chapter. Agreement was reached on the provisions pertaining to transparency procedures, TBT Chapter Coordinator and related tasks for the EPA Joint Committee.

In terms of follow-up work, both Parties agreed that intersessional meetings be held prior to the next round to close gaps on the outstanding issues namely on conformity assessment, technical regulations, cooperation and technical assistance, and collaboration and regional integration.

II. Rules of Origin

On Rules of Origin, the Parties continued discussion on the Product Specific Rules (PSR). Agreement was reached on most of the PSR for industrial products. Progress was also made on some agricultural products.

As regards text based discussions, both sides continued discussions on the outstanding provisions of Protocol 1 related to general requirements, wholly obtained, cumulation of product origin, tolerance, accounting segregation and final provisions. The Parties cleaned the text for origin procedures and final provisions.

III. Trade in Services, Investment Facilitation and Digital Trade

Constructive discussions were held on the chapters relating to Investment Liberalisation, Facilitation of Investment and of Trade in Services (FITS) and Sectoral Regulatory Framework (notably Telecommunications Services, International Maritime Transport and Delivery Services). Convergence on many provisions were reached.

On the way forward, the parties agreed to discuss at the next round investment-related issues and the sectoral regulatory framework. They also agreed that an intersessional meeting be held prior to the next round to discuss the chapter on the movement of natural persons for business purposes as well as the Telecommunication Services and Computer Services.

IV. Intellectual Property Rights

Discussions were centered on Copyrights, Trademarks, Industrial Designs, Trade Secrets, Enforcement of Intellectual Property Rights and Civil Judicial Procedures and Remedies of Trade Secrets. Good progress was made on these topics.

Regarding Geographical Indications, the Parties discussed the capacity-building needs of ESA5.



V. Competition

The negotiations on competition focused on the three interconnected topics - competition policy, subsidies, and state-owned enterprises.

On competition policy, both sides agreed on some provisions of the text but would continue discussions on Competitive Neutrality, Legislative Framework, and Services of General Economic Interest (SGEI). With respect to subsidies, the ESA 5 reiterated their position to exclude services from the ambit of this Chapter. And on state-owned enterprises, a high degree of commonality was noted between the proposals of the Parties, where agreement was found on nearly all definitions.

VI. Agriculture

The discussions took place on the basis of the EU-ESA joint working document. Agreement was reached on the articles pertaining to General Provisions, Scope and Objectives, Exchange of Information and Consultations.

Discussions would continue on the provisions relating to specific area of cooperation, regional value chains, agricultural development as well as issues pertaining to technical assistance at the next round.

VII. Fisheries

During the 9th round, both sides had agreed on the Fisheries text except for the Article on Preferential Access. During this round of discussions, the EU indicated that it would like to review its position on the text including on ESA 5's proposal to have a Sub-Committee on Fisheries. To this end, the chapter will need some further discussions.

VIII. Dispute Settlement and Institutional Provisions

The Parties made good progress on the merged text on Dispute Settlement and agreed to reflect further on the Rules of Procedures of the panel as well as the Code of Conduct for Panelists and Mediators. With regards to the text on Initial, Institutional, General and Final Provisions, the Parties had exchanges on some of the contentious issues and agreed to further discuss the articles on Objectives, Principles, Participation of the Civil Society, Expenses, and Functions of the Joint Committee, amongst others. The Parties also agreed to initiate discussions on the Chapter dealing with Exceptions at the next round.

The next round of negotiations will be held in March 2023 in Zimbabwe. It will include all issues covered by this deepening process. Some meetings will be covered via video-conference. The third meeting of Senior Officials will also take place to take stock of the progress made so far and provide guidance on the way forward.



Agreement on Fisheries Subsidies

The WTO Agreement on Fisheries Subsidies, adopted at the 12th Ministerial Conference (MC12) on 17 June 2022, marks a major step forward for ocean sustainability by prohibiting harmful fisheries subsidies, which are a key factor in the widespread depletion of the world's fish stocks.

The Agreement represents a historic achievement as the first Sustainable Development Goal (SDG) target to be fully met, the first SDG target met through a multilateral agreement, the first WTO

agreement to focus on the environment, the first broad, binding, multilateral agreement on ocean sustainability, and only the second agreement reached at the WTO since its inception. The prohibition of subsidies for overfished stocks in the Agreement is critical to the development of sustainable fishing and is line with the initiatives taken by Mauritius to promote sustainable fishing.

For the Agreement to become operational, two-thirds of members have to deposit their “instruments of acceptance” with the WTO. On 20 January and 10 February 2023, Switzerland and Singapore formally submitted their respective instrument of acceptance of the WTO's new Agreement on Fisheries Subsidies. On 08 February 2023, the government of Japan contributed just under JPY 90 million (approximately CHF 763,000) to the WTO Fisheries Funding Mechanism to help developing and least-developed countries implement the adopted Agreement on Fisheries Subsidies. It is the first donation deposited to the Fund.

Lastly, WTO members confirmed on 27 January 2023 the appointment of Ambassador Einar Gunnarsson of Iceland as new chair of the Negotiating Group on Rules (NGR). On 20 February, Ambassador Einar Gunnarsson expressed confidence that members would be able to meet the target of concluding the second wave of fisheries subsidies negotiations by the 13th Ministerial Conference (MC13) in February 2024, following positive consultations with over 30 delegations in recent weeks.

The objective of the second wave of negotiations will be to continue negotiations on outstanding issues namely overcapacity and overfishing, special and differential treatment, with a view to making recommendations by MC13 for additional provisions that would further enhance the disciplines of the Agreement. The second wave of negotiations is very important for Mauritius as we will have to secure policy space to be able to develop our fishing capacity in future.

The next fisheries subsidies meeting will be during the first 'fish week' scheduled for the week of 20 March.

AfCFTA

Adoption of three new Protocols by the Extraordinary Ordinary Session of the African Union on the African Continental Free Trade Area in Niamey Subsidies



The Extraordinary Summit of the African Union on Industrialization and Economic Diversification in Africa and the Extraordinary Ordinary Session of the African Union on the African Continental Free held on 25th November, 2022, in Niamey, Niger adopted three new protocols namely on Protocol on Competition Policy, the Draft Protocol on Investment; and the Intellectual Property Rights (IPR). These three new Protocols will be annexed to and form an integral part of the main Agreement establishing the African Continental Free Trade Area (AfCFTA).

The Summit also took note of the progress made so far on the African Continental Free Trade Area and adopted a Draft Decision of the Extraordinary Session on the African Continental Free Trade Area and three Operational Tools namely: AfCFTA E-Tariff Book, AfCFTA Rules of Origin Manual and the AfCFTA Guided Trade Initiative.

WIPO-Administered Treaties Mauritius accedes to the Patent Cooperation Treaty

In December 2022, H.E. Mrs U Dwarka-Canabady, Ambassador and Permanent Representative of Mauritius in Geneva, deposited the Instrument of Accession of Mauritius to the Patent Cooperation Treaty (PCT) with the Director General of the World Intellectual Property Organization (WIPO), H.E. Mr Daren Tang. The deposit of the Instrument of Accession of Mauritius was preceded by a video statement made by Ambassador U Dwarka-Canabady and Director General Daren Tang which was aired on social media.

Furthermore, in light of the accession of Mauritius to the PCT, a meeting was held in the office of the Director General. The meeting was also attended by WIPO Deputy Director General for Regional & National Development Sector and WIPO Deputy Director General for the PCT.

WIPO Director General acknowledged the efforts made by Mauritius in proclaiming the Industrial Property Act 2019, last year. He highlighted the ranking of Mauritius at the 45th position of the Global Innovation Index 2022. During the discussions the following were raised:

- WIPO will assist Mauritius to implement the PCT and to ensure that the Patent Cooperation Treaty ecosystem promotes the economic development of Mauritius. The assistance will cover accessing and using technologies, trademarks, designs and geographical indications to promote innovation and socio-economic development.
- Other technical areas of cooperation were identified including the Technology and Innovation Support Centres (TISC) Program and the PATENTSCOPE database i.e. WIPO patent database.

Mauritius can make use of the PATENTSCOPE

It was explained that Mauritius can make use of the PATENTSCOPE which covers more than 100 million technologies. According to WIPO, the database would benefit Mauritius within the framework of the TISC Program. Such service is free of charge.

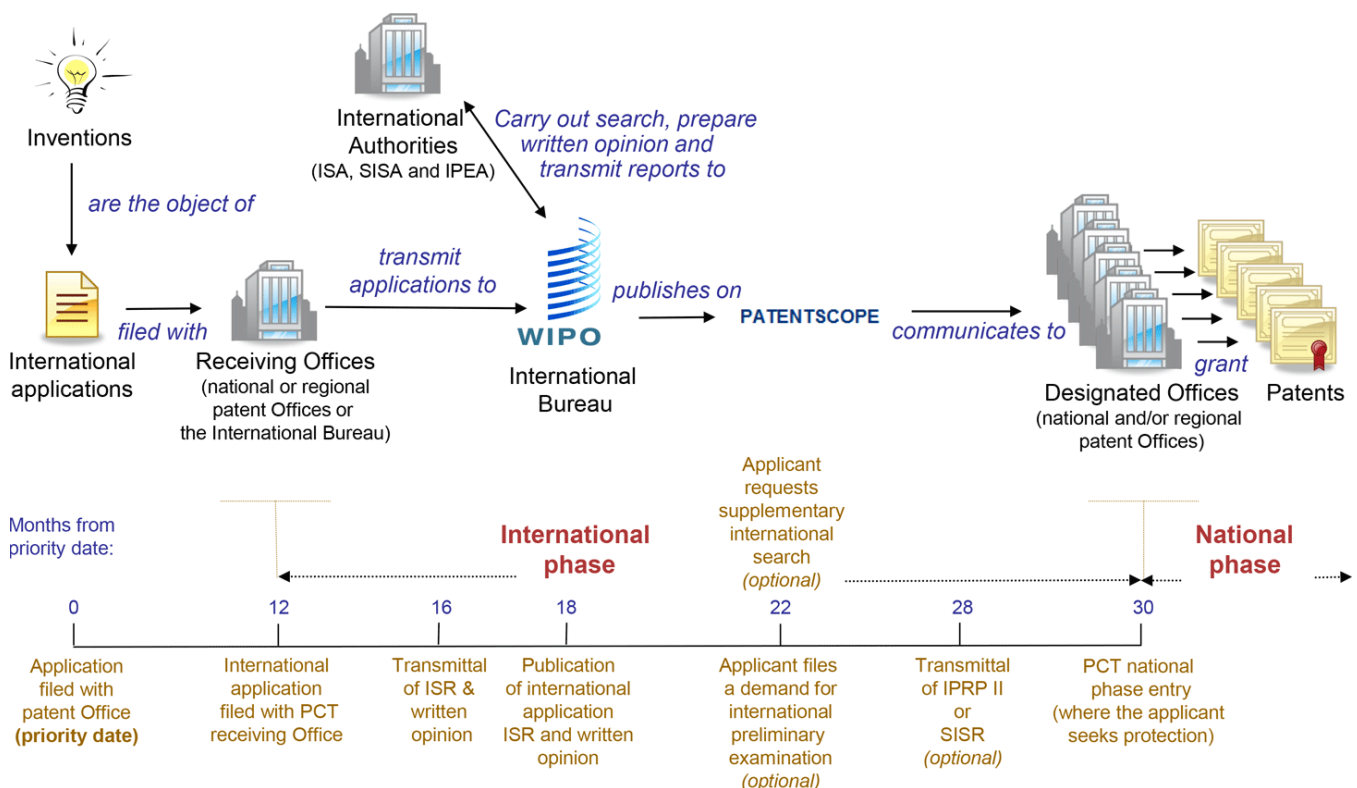
It is to be noted that the PCT which will enter into force, with respect to Mauritius, on 15 March 2023, will assist Mauritian applicants in seeking patent protection internationally for their inventions. The PCT will also help the Industrial Property Office of Mauritius in its patent granting decisions while at the same time, facilitating public access to technical information relating to inventions. By filing one international patent application under the PCT, Mauritian applicants can simultaneously seek protection for an invention in more than 155 PCT Contracting States.

What are the PCT procedures?

- **Filing:** Filing an international application with the Industrial Property Office of Mauritius (or WIPO), complying with the PCT formality requirements, in one language, and paying one set of fees.
- **International Search:** An “International Searching Authority” (ISA) (*one of the world’s major patent Offices*) identifies the published patent documents and technical literature (“prior art”)

which may have an influence on whether the invention is patentable, and establishes a written opinion on the invention's potential patentability.

- **International Publication:** As soon as possible after the expiration of 18 months from the earliest filing date, the content of the international application is disclosed to the world.
- **Supplementary International Search (*optional*):** A second ISA identifies, at the request of the applicant, published documents which may not have been found by the first ISA which carried out the main search because of the diversity of prior art in different languages and different technical fields.
- **International Preliminary Examination (*optional*):** One of the ISAs at the request of the applicant, carries out an additional patentability analysis, usually on an amended version of the application, done in light of content of the written opinion delivered in light of the international search.
- **National Phase:** At the end of the PCT procedure, usually at 30 months from the earliest filing date of the initial application, from which priority is claimed, the applicant may start to pursue the grant of the patent directly before the national (or regional) patent Offices of the countries in which the applicant wishes to obtain them.



WIPO-Administered Treaties

Mauritius joins The Hague and Madrid Systems

Mauritius has joined the WIPO-administered Hague and Madrid Systems on 06 February 2023. The Hague System for the international registration of industrial designs allows Mauritian businesses to register up to 100 designs in 96 countries, by filling a single international application. On the other hand, the Madrid System allows for the registration and management of trademarks worldwide. Local businesses are now able to file a single international trademark application and pay one set of fees to apply for protection in up to 130 countries. The modification, renewal or expansion of global trademark portfolios can be done through one centralized system. Both Treaties will enter into force, with respect to Mauritius, on 06 May 2023.

The Instruments of Accession of Mauritius were deposited by H.E. Mrs U Dwarka-Canabady, Ambassador and Permanent Representative of Mauritius in Geneva, with the Director General of the World Intellectual Property Organization (WIPO), H.E. Mr Daren Tang on 06 February 2023.

In a video statement uploaded on WIPO’s webpage, H.E. Mrs U Dwarka-Canabady stated that the Mauritius accession to the Madrid Protocol and the Hague Agreement will help Mauritian creators and innovators to “protect trademarks and industrial designs in a simplified manner. This will also facilitate the marketing of their products and services in the international market”.



Advantages of Mauritius acceding to the Hague Agreement relate to the fact that there would be savings in terms of costs in as much as an applicant can obtain protection for his/her designs in multiple jurisdictions with a minimum of formalities. Furthermore, the Hague Agreement provides for a streamlined mechanism for the maintenance and management of industrial design rights.

With regard to the WIPO-administered Madrid System, Mauritius joined the system, rounding up the number of countries covered by WIPO's international trademark system to 130. As from 06 May 2023, brand owners in Mauritius will be able to seek protection of their trademarks in any of the other 129 countries covered by the Madrid System.

On the other hand, users of the Madrid System worldwide will be able to designate Mauritius when filing their international applications, and existing holders of international registrations will be able to expand the geographical scope of protection of their registrations to include Mauritius, using the online platform eMadrid.



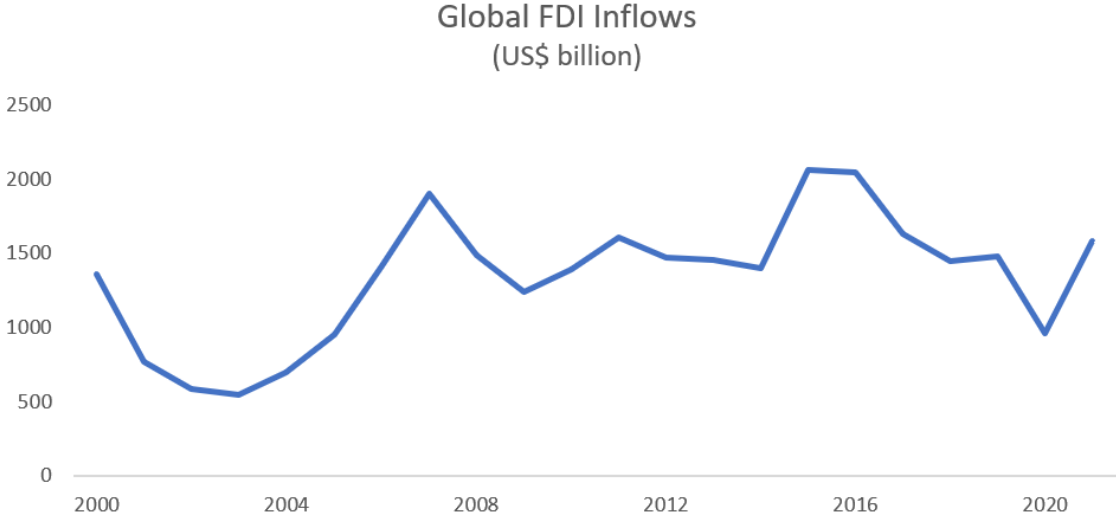
A new WTO deal to facilitate investment could be ready in 2023.

The World Trade Organization (WTO) stands poised to reach a new agreement on investment facilitation for development (IFD) in 2023, which will aim at helping countries across regions improve their investment climate and attract foreign direct investment (FDI).

As global growth is projected to slow this year to its third-weakest pace in nearly three decades and with governments' fiscal space tightening, an agreement to facilitate investment could help overturn challenging prospects by boosting growth and investment, particularly in developing and least-developed countries.

Private investment is key to foster growth, as well as to finance the digital and energy transitions. For poor countries, it is critical to attain the Sustainable Development Goals. Under the right conditions, FDI fosters economic transformation to spearhead growth and prosperity through rising productivity and efficient use of resources; increased global trade integration via improved access to international markets and participation in global value chains; local technology transfer and innovation spillovers;

and creation of jobs and enhancement of new skills, know-how and management techniques. Given the potential contribution of FDI to sustainable growth, most countries aim at scaling up private investment. Unfortunately, even before the pandemic, FDI flows had already weakened. The war in Ukraine, rising inflation and concerns over a potential recession, have further dampened investor sentiment, and countries need to redouble efforts to bring in new investments.



Source: UNCTAD, World Investment Report 2022.

While reforms to attract increased FDI depend on each country’s circumstances, key determinants of international investors' locational decisions, such as the size of the market or the availability of skilled human resources, cannot be rapidly improved by governments, especially poorer ones. It is within their reach, however, to implement investment facilitation best-practices to reduce transaction costs and help target, attract, and retain sustainable FDI flows. In recognition of this, the IFD agreement aims at bringing greater transparency and predictability to investment measures, speeding-up and streamlining investment-related administrative procedures, and enhancing international cooperation, information sharing and the exchange of best practices.

For sure, many governments are already working at the national level to enhance investors’ experience, for example via online single investment windows or ‘red carpet’ programs implemented by investment promotion agencies. At the bilateral and regional levels, countries have also explored collaborative approaches on investment facilitation, either as stand-alone initiatives, like Brazil’s pioneer cooperation and facilitation investment agreements or the Asia-Pacific Economic Cooperation Investment Facilitation Action Plan, or as part of broader projects, like the provisions on investment facilitation in the African Continental Free Trade Agreement protocol on investment. An IFD would complement these and other efforts to facilitate investment at the bilateral, regional, or continental level.

The benefits of agreeing on investment facilitation provisions at the WTO are significant. First, it creates clear and consistent global benchmarks for investment facilitation. Second, it can help anchor domestic reform efforts at the international level, decreasing policy uncertainty and sending a clear signal to investors. Third, it provides a global forum to share best practices on investment facilitation and fostering regulatory cooperation. And fourth, given how it is structured, an IFD deal would allow developing and least-developed economies to access technical assistance and capacity building to facilitate investment. Several international organizations are ready to conduct needs-assessment and provide the necessary support for the implementation of the future IFD agreement.

An agreement to facilitate investment at the WTO, encompassing two thirds of its membership or more, would be an important tool to foster investment and growth. Preliminary estimates by the German Institute of Development and Sustainability, show that the IFD agreement could generate global welfare gains of between 0.56 and 1.74 percent, depending on the depth of a potential deal, with the highest welfare increase for low and middle income countries. Amid a challenging global economic context, with many countries still facing the lingering effects of the pandemic, the war in Ukraine and tightening financial conditions, a deal that helps unleash private investment is to be welcome and cannot come soon enough.

Mauritius has also been actively involved in the discussions and formally joined the initiative in June 2020. The International Trade Division participates in the negotiating meetings together with the Ministry of Finance, Economic Planning and Development, the Economic Development Board and our Mission in Geneva. Mauritius also tabled proposals on Risk Management Techniques, Silence is Consent and Business Obstacles Alert Mechanism.

The document under discussion contains a number of principles and good practices which are already being implemented in Mauritius, namely online publication of measures taken in respect of Investment Facilitation, submission of electronic applications, simplified procedures, reasonable time frame and fees for processing of applications, among others. Implementation of the Investment Facilitation disciplines is expected to help the country bring a number of advantages to our business community, among others:

- It would send a strong signal to foreign investors
- Mauritian investors will be able to invest in other jurisdictions which have predictable and transparent frameworks and environments.
- Better standards and streamlined procedures are expected to increase the potential for Mauritian investors to join regional and global value chains

Source: WTO

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