

Trade News Digest

INTERNATIONAL TRADE DIVISION
MINISTRY OF FOREIGN AFFAIRS, REGIONAL
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5th Round of Technical Negotiations between the EU and Five Eastern and Southern Africa (ESA-5) Countries for the Deepening of the currently implemented Economic Partnership Agreement

The 5th round of technical negotiations between the European Union (EU) and ESA-5 (Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe) on the deepening of

the interim Economic Partnership Agreement was held virtually on 19-20 July and 22-23 July 2021.

The negotiations were preceded by the ESA-5 Technical Experts meeting which was held from 30 June to 01 July.

The negotiations focused on six topics, namely Technical Barriers to Trade, Rules of Origin, Trade in Services, Investment Liberalisation and Digital Trade, Economic and Development Cooperation / Means of Implementation, Intellectual Property Rights, and Transparency in Public Procurement.

Technical Barriers to Trade



Good progress was made, notably on Technical Regulations and Conformity Assessment.

Outstanding issues on which both sides have to pursue discussions include transparency, marking and labelling, technical assistance, private standards and implementation and review.

Rules of Origin

On Rules of Origin, the Parties discussed a comparative matrix covering both the ESA and EU proposals on Product Specific Rules (PSR) and the main text of the Protocol 1.





Discussions on PSR, allowed progress on several products including live animals, meat and edible meat offal, dairy produce, products of animal origin, live trees and other plants, edible vegetables and certain roots and tubers, edible fruit and nuts, coffee, tea, maté and spices, cereals, oil seeds and oleaginous fruits and vegetable plaiting materials.

As regards the main text of the Protocol 1, further negotiations would be required on importer's knowledge, cumulation, tolerance and insufficient operations.

Trade in Services, Investment Liberalisation and Digital Trade



Discussions were focused on Scope, **Definitions** (Investor of a Party, Preestablishment), Market Investment Access, Facilitation, Capital Movement, Entry and Temporary Stay of Natural for Persons Business Purposes, Delivery Services, Digital Trade, Maritime Transport, Financial Services and Telecommunications.

The Parties made substantial progress by reaching to a common understanding on most of the provisions discussed.

Economic and Development Cooperation / Means of Implementation



The EU made a presentation of its proposed text on "Means of Implementation" which will link the new EU-ESA EPA with the recently concluded EU-OACPS Partnership Agreement in terms of technical and financial assistance.

The ESA highlighted that, whilst EU proposal covered the various additional areas of negotiations, it constitutes a substantial departure from the current interim EPA Development Cooperation Chapter and the principles agreed in the EU-ESA Joint Scoping Paper.

It was also underlined that since the ESA will be taking extensive legal commitments in various sectors with financial and regulatory implications, the EU should provide targeted and customised financial and technical support embedded within the ESA framework to implement these commitments. The Parties agreed to have further discussion on the matter.







Views on the proposals of both sides were exchanged on General Principles and Geographical Indications. Whilst the EU aimed for a high ambition text on IPRs, the ESA-5 was of the view that the existing regulatory framework and the capacity of the ESA signatory States to implement commitments should be taken into account. The position of the ESA-5 is to have a collaborative and incremental approach. The ESA-5 would however consider taking commitments on the basis of support and technical assistance.

Transparency in Public Procurement

The ESA-5 noted that the EU proposal was based on the WTO Government Procurement Agreement and as such was not in line with the agreed EU-ESA Joint Scoping Paper which is limited to transparency only.

As a way forward, it was agreed that the ESA-5 would further examine the EU proposal and consider the transparency provisions contained therein which could be inserted in the ESA-5 proposal.

The next round has tentatively been scheduled from 22 to 26 November 2021.

The Parties are considering to discuss the following topics at the 6th round: Economic and Development Cooperation / Means of Implementation, Trade and Sustainable Development, Technical Barriers to Trade, Sanitary and Phyto-sanitary measures, Public Procurement, and Agriculture.



EU approves Mauritius request for a derogation on Salted Fish under the interim Economic Partnership Agreement



In March 2021, Mauritius made a request for a normal derogation from the rules of origin in accordance with Article 42 of Protocol 1 to the ESA-EU interim Economic Partnership Agreement (iEPA), regarding 120 tonnes of salted snoek (barracouta) to be imported into the EU.

The request of Mauritius was based on the unavailability of snoek originating in the EU or Mauritius, and the fact that salted snoek originating from other ACP States does not meet the requirements regarding quality and regular supply.

In August 2021, the EU decided to grant a derogation of 100 tonnes of salted snoek for a period of one year, starting from the date, the EU and ESA Co-chairs of the Customs Cooperation Committee will adopt the decision on salted fish.



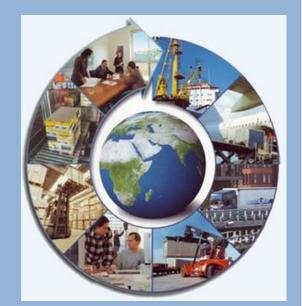
It is to be underlined that the derogation provided to Mauritius would contribute to the development of Small and Medium Enterprises and would allow diversification of the Mauritian seafood sector, which is predominantly based on tuna products.

The UK New Developing Countries Trading Scheme



The UK Government has on 19 July 2021 launched a public consultation to review its current Generalised Scheme of Preferences (GSP) for developing countries which will take effect in 2022. The consultation is expected to close on 12 September 2021.

The new UK GSP, termed as the Developing Countries Trading Scheme will apply to 47 countries in the Least Developed Country Framework (LDCF) and 23 additional countries classified by the World Bank as low-income and lower-middle-income country under the General and Enhanced Frameworks. Changes being proposed under the



new UK Developing Countries Trading Scheme include the following:

- Tariff Reductions Increasing product coverage for tariff reductions and removing of nuisance tariffs and simplifying complex tariffs on certain agricultural goods, such as those tariffs which vary by season.
- ➤ Simplification of Rules of Origin, including the use of non-originating materials up to 75% for some sectors, expanding cumulation for LDCs and GSP beneficiaries, and streamlining of cumulation procedures.
- ➤ Potential amendments to goods graduation, such as changing the product grouping used for assessing competitiveness of goods, and amending the frequency of good graduation assessments, which are currently set at every three years.
- Simplification of the conditions that could lead to a suspension or variation of preferences for any GSP country.

In line with the above, the International Trade Division in collaboration with the Private Sector and relevant Ministries, is consulting on a proposed submission to be made to the UK. The object of the submission is to ensure that the new UK Developing Countries Trading Scheme does not erode the market access of Mauritius and the other ESA signatory States.

What's happening at the WTO



Prior to the WTO's August break, WTO Members considered the progress made on ongoing discussions and discussed the way forward in the run-up to the 12th Ministerial Conference.

Members are currently engaged on a wide range of issues where they are hoping to achieve outcomes in the run-up to, or at, MC12.

Update on Current WTO Issues

Fisheries Subsidies





On 15 July 2021, a virtual WTO Trade Negotiations Committee at Ministerial





Level on Fisheries Subsidies was held.

The Minister of Foreign



Affairs, Regional
Integration and
International Trade, Hon
A. Ganoo, participated in
the virtual ministerial
meeting in his national
capacity and as
Coordinator of the African
Group for WTO issues.

The purpose of the meeting was to seek Ministerial guidance on the way forward in the negotiations on fisheries subsidies, including on the draft consolidated text (Ref: TN/RL/W/226 Rev.1).

In her opening statement, Dr Ngozi, Director General of the WTO thanked Members and the Chair of the Negotiating Group on Rules for the progress made so far. She further stated that despite differences in the position of Members, the current draft text is a good working document. She also encouraged the membership to show flexibility to ensure that the fisheries subsidies negotiations are finalised before the 12th Ministerial Conference (MC12) scheduled from 30 November to 3 December 2021 in Geneva, Switzerland.

The Chair of the Negotiating Group on Rules, Ambassador Wills, on his side requested Ministers to reflect on whether the current draft text contained fundamental elements to reach a balanced outcome by MC12 and if they considered





artisanal fisheries as a key component of Special & Differential Treatment (S&DT).

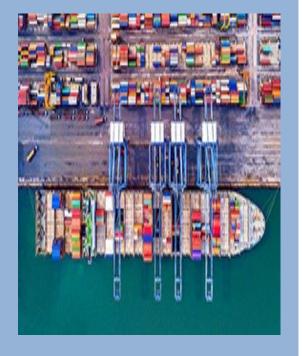
While Member States largely agreed that an outcome should be reached by MC12 and negotiators should be authorised to exercise flexibility, the position of Member States on key issues still remain apart.

Position of WTO Members on key issues

Countries, such as European Union, United States, Russia, Japan and Korea maintained that the hybrid approach is the only way forward and that countries must be careful to separate harmful from non-harmful subsidies. The European Union, having major interests in the fisheries sector, argued that the merits of subsidies to protect and rebuild overfished stocks had to be recognised by the instrument. The United States expressed their displeasure with the current text as they feel that it is not ambitious enough. They stressed that the organisation could have done more by taking on-board their concerns regarding forced labour on fishing vessels.

On the other hand, developing countries argued that the rules were too flexible such that they would legitimise harmful subsidies and perpetuate the status quo. Some Members also underscored that the bulk of subsidies provided to large fishing fleets, needs to be curbed as a priority. Few developed Member States including Norway and Switzerland supported this idea.

Special and Differential Treatment was also a major element of the discussions. Developed countries and big developing countries such as Russia were against a blanket exclusion of developing countries on the basis that many



developing countries had the necessary resources to implement the agreement and they could abuse the system at the detriment of the Sustainable Development Goals. Nonetheless, most countries agreed that artisanal and resource poor fishers should not be unduly targeted by the instrument and some form of flexibility should be granted to these communities. Norway was against S&DT other than for artisanal fishers and proposed capacity building for developing countries.

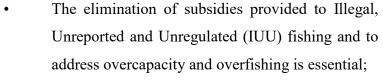
On the other side of the spectrum, developing Members and groups (e.g. ACP Group, Pacific Group) argued for flexibility that would give them sufficient policy space to develop their fisheries sector. A number of these Member States also requested that the ACP – African Group proposal on S&DT to be inserted in the text for consideration.

Intervention of Mauritius' Honourable Minister A. Ganoo in his national capacity and as Coordinator of the African Group

In his statement, Honourable Minister A. Ganoo confirmed the commitment of the African Group to remain constructively engaged in the process to find a balanced outcome on fisheries subsidies and highlighted the following in relation to the draft instrument:

- Artisanal fisheries should be carved out of the scope of the agreement;
- S&DT should not to be time bound. Also, African countries need policy space to develop their fisheries' sector;





• The instrument should not affect territorial claims and delimitation of maritime boundaries issues.

While concluding, the Director General recognised that there was a clear call by developing countries for S&DT. She also highlighted that Members' positions were still apart on some key elements and that further discussions would be needed to reach a consensus. The Chair of the Negotiating Group on Rules was of the view that WTO Members agreed on artisanal and small-scale fisheries being the key component of S&DT. It would seem that the Chair is trying to limit S&DT to artisanal and small scale fisheries.



The significant differences in Members' position will likely be a major stumbling block going forward in the negotiations as Members, generally, seem unwilling to change their positions. The messages put forward by Delegations at the virtual WTO Trade Negotiations Committee on Fisheries Subsidies were not different from what Geneva-based Delegations have been stating on the revised draft text.

Trade-Related Aspects of Intellectual Property Rights (TRIPS) - Intensive text-based process to discuss the waiver proposal

Following consultations held with groups of WTO (World Trade Organization) Members in June 2021, the Chair of the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS), H.E. Mr. Dagfinn Sorli has

TRIPS Trade Related Intellectual Property Rights





proposed "specific arrangements for an intensive textbased process to discuss the waiver proposal tabled by India and South Africa and related submissions and proposals".

In the course of this "intensive" text-based process, the WTO Secretariat is allowing a combination of various formats of meetings and activities, while maintaining the central principles of openness, transparency and inclusiveness. The Secretariat has secured availability of conference facilities for informal open-ended meetings of the TRIPS Council.

It has been reported by the WTO, that many delegations are also "intensively" consulting their respective capitals in light of lobbying from India and South Africa to attract additional support.

During meetings, delegations can report on any bilateral discussions they may have had. Members can also generally take stock of the state of play of the text-based process.

On the other hand, in light of the new submission foreshadowed by the European Union (EU) titled "Urgent trade policy responses to the Covid-19 crisis: intellectual property", the EU had the opportunity to introduce its proposal to the TRIPS Council on 24 June 2021. Informal open-ended meetings are also being held between groups of WTO Members to discuss the proposal.

It is to be recalled that the proposal from India and South Africa calls for a temporary waiver from certain provisions of TRIPS for the prevention, containment and treatment of Covid-19. Relevant provisions pertain to TRIPS' sections titled Copyright and Related Rights; Industrial Designs; Patents and Protection of Undisclosed Information. Mauritius, being a Member of the African Group, currently supports the proposal. The EU proposal for its part, lays emphasis on voluntary licensing as per under Articles 31 and 31bis of the TRIPS Agreement.

The next regular formal meeting of the TRIPS Council has been scheduled for 13 - 14 October 2021.

Joint Statement Initiative on Electronic Commerce



In the E-commerce negotiations, Members are engaged in thematic discussions on a broad range of trade-related e-commerce/digital trade issues, grouped under the following key themes: enabling digital trade/e-commerce; openness; trust; and cross-cutting issues including development transparency and cooperation. The objective to ensure that adequate rules are agreed to better regulate E-commerce at the global level so that users of the E-commerce platform and consumers are protected.

Mauritius has been participating in the WTO Ecommerce JSI since 2018.

The last plenary meeting was held on 22 July 2021. The issues which were under discussions included:

(i) Provisions related to Electronic availability of trade related information - While the proponents



highlighted that this provision would include additional commitments to what was already agreed to in the Trade Facilitation Agreement (TFA) in 2013, others were of the view that this provision is a duplication of what already exist in the TFA.

that cybersecurity was an issue of growing concern to countries at all levels of development which can undermine trust and have serious financial and other consequences for businesses and consumers.

It is to be noted that Mauritius has a robust framework to deal with cybercrime and cybersecurity issues and this is an area where Mauritius is almost completely aligned with the JSI provisions, and joining the negotiations would have few implications for the country in terms of addressing legal inconsistencies.

The next negotiating meeting is expected to be held in September.

Joint Statement Initiative on Services Domestic Regulations



The JSI on Services Domestic Regulations is aimed at streamlining procedures relating to the requirements which





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Foreign Service Providers have to meet to establish commercial presence. These procedures relate to the submission of applications, application timeframes, electronic applications, processing of applications, fees, assessment of qualifications, recognition, independence, publication and information available, enquiry points and opportunity to comment on measures.

Ministers from 59 WTO members launched the services domestic regulation negotiations at the 11th Ministerial Conference held in December 2017 in Buenos Aires.

Progress made

As at date, a total of 33 indicative schedules of commitments have been submitted to the WTO, covering the 59 WTO members. They indicate how each government aims to integrate the negotiated disciplines into its WTO commitments. Saudi Arabia is the latest participant to have submitted its schedule, having provided it on 1 July.

A number of delegations, including the EU, the US, Australia, Hong Kong, China, Chinese Taipei and Brazil, also indicated their flexibility in respect of transitional period, Financial Services, and LDC participation.

US participation

On 20 July, the United States announced that it is joining the negotiations on services domestic regulation. Over one-third (64) of WTO members are now working towards establishing new disciplines regarding licensing and qualification requirements and procedures for services suppliers as well as technical standards.

The next meeting of the initiative will be held in September. It is expected that the signatories would deliver a meaningful outcome on the subject matter by MC12.

Joint Statement Initiative (JSI) on Investment Facilitation for Development









Investment facilitation has been receiving increasing attention by WTO Members as a meaningful mean to promote crossborder investment flows and, therefore, strengthen the global economy. It has been recognized by many Members that there are dynamic links between investment, trade and development in today's global economy, as well as for need closer international cooperation at the global level to create a more transparent, efficient, predictable environment for facilitating cross border investment.

At last plenary negotiating meeting prior to the August break, participating members of the JSI undertook a stocktaking and planning session, where the WTO Director-General welcomed the headway towards an



agreement made by participants in the negotiations on investment facilitation for development. She stressed that facilitating investment flows to developing countries would be essential to sustain and accelerate the post-pandemic economic recovery, particularly in developing and least-developed economies.

Participating members also acknowledged the significant progress made in the negotiations since the release of a new text in April that will serve as the basis for negotiations towards a substantive outcome at MC12.

The targeted outcome for MC12 will be a clean text, together with a joint ministerial declaration. A work programme would be established to complete the negotiations post-MC12, with clear targets and deadlines.

The next negotiating meetings have been scheduled for 7-8 September, 4-5 October, 2-3 November and 24 November, with intersessional meetings, if needed, on 23 September, 20-21 October and 16-17 November. Issues to be discussed include: special and differential treatment, technical assistance and capacity building, scope and definitions, MFN, as well as movement of business persons.

Joint Statement Initiative on Micro, Small and Medium-sized Enterprises (MSMEs)







Members of the Informal Working Group on MSMEs on 26 July 2021 moved closer to a final draft ministerial declaration for the WTO's 12th Ministerial Conference (MC12).

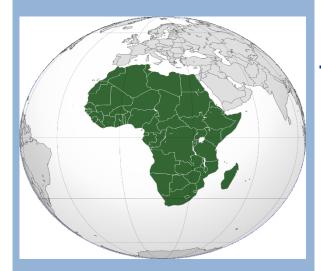
It is to be underlined that the draft declaration states the Group's commitment to address challenges facing MSMEs seeking to trade internationally. It recognizes the negative impact of COVID-19 on small business and the need for a global coordinated response to help MSMEs recover from the pandemic. It also takes stock of the Group's work since it was established at the 11th WTO Ministerial Conference in Buenos Aires in December 2017, including the adoption of a package of six recommendations and declarations in December 2020.

During the meeting, Group members discussed the draft declaration (INF/MSME/W/33/Rev.2) for MC12, focusing on reaching consensus on a few bracketed areas of the text where an issue is still under consideration. They resolved differences on most parts of the text while agreeing to further consultation on a few remaining issues.

Group members also reiterated the importance of monitoring the implementation of the package of recommendations for MSMEs. In this context, Uruguay and Brazil provided updates on their preparations for setting up automatic transmission of tariff and trade data to the WTO's Integrated Data Base (IDB). This will enable MSMEs to have access to reliable and comprehensive information on tariffs and other market access data. Côte d'Ivoire said it will submit in September 2021 its proposed roadmap to help MSMEs gain access to trade finance.



Ambassador José Luís Cancel



The Coordinator of the Group, Ambassador José Luís Cancela (Uruguay), urged members to intensify the consultation with each other before 01 September. He said he plans to discuss with all concerned parties between 01 and 06 September to finalize the agreed language for the declaration so that the text could be adopted at the next Group meeting on 24 September 2021.

It is to be noted that Mauritius considers that the initiative on MSMEs as key to promoting MSME's participation in international trade. Since 2018, Mauritius has been participating actively in the discussions on MSMEs. On 11 December 2020, Mauritius indicated its intention to support and co-sponsor a package of six declarations and recommendations of the Informal Working Group on MSMEs.

ITC and UNCTAD: Sustainable and Inclusive: Regional Integration in Africa



2021 is an important year for regional integration in Africa, as it marks the beginning of trade under the African Continental Free Trade Area (AfCFTA). As shown in joint

research by ITC and UNCTAD, fostering intra-continental trade can contribute to sustainable and inclusive growth in Africa, as intra-African trade tends to favour structural transformation, the trade integration of small firms, and the economic participation of women.

So far, intra-African trade represents a relatively small share of African exports. However, as shown in joint research by ITC and UNCTAD, regional trade integration is already relatively high in view of the continent's small share in international trade and the lack of overlap between African countries' export profile and import basket. Intra-African trade represented 14% of African exports on average between 2015 and 2019.

A diversified export basket that contains transformed goods rather than raw commodities represents a solid basis for sustainable economic growth. The share of processed and semi-processed goods in intra-African trade is 61%, compared to 37% in exports to the rest of the world.

Intra-regional trade contributes to transformative and inclusive growth

Africa's intra-regional exports are also characterized by a higher level of processing, a higher share of technologically advanced products and a higher level of export diversification than the region's exports to the rest of the world. Intra-regional exports more often involve small firms, and, due to their sectoral composition, are characterized by larger employment and participation of women.





In sum, regional trade can play an important role in contributing to the transformation of African exports and to inclusive growth on the continent.

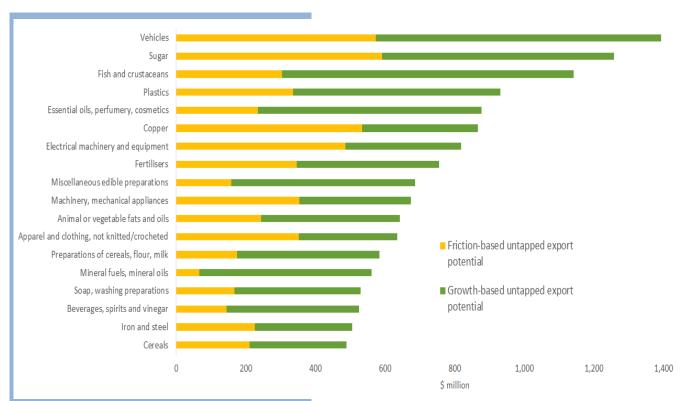
Under current tariffs, there is \$22 billion in untapped intra-African export potential

There are numerous opportunities for African countries to increase trade with their neighbours. ITC's export potential methodology reveals untapped export potential of \$22 billion within the region. More than one third of this export growth potential (\$8.6 billion) relates to frictions that need to be identified and addressed to enable business to exploit these opportunities.

The remaining \$13.3 billion consists of growth-driven untapped export potential that will arise through increasing demand on the continent over the coming years. Realizing this potential growth requires investing in production capacities to meet increasing demand and sustaining the quality and other characteristics of products.

The sectors with the highest export potential under current tariff conditions are vehicles (\$1.4 billion) and sugar (\$1.3 billion). Other top sectors include fish and crustaceans (\$1.1 billion), plastics (\$931 million), essential oils, perfumery and cosmetics (\$877 million) and copper (\$867 million).

Figure 1: Under current tariffs, top sectors with growth potential for intra-African exports include vehicles, sugar, fish



Tariff reductions under the AfCFTA could increase export potential by up to \$9.2 billion





Under the AfCFTA, intra-African tariffs will be liberalized within the next five years by non-LDCs or ten years by LDCs and countries Regional Economic Communities (REC) with LDCs. While 90% of products will be fully liberalized, 7% of products be may categorized as "sensitive" and liberalized over a longer period, and 3% of products can be excluded

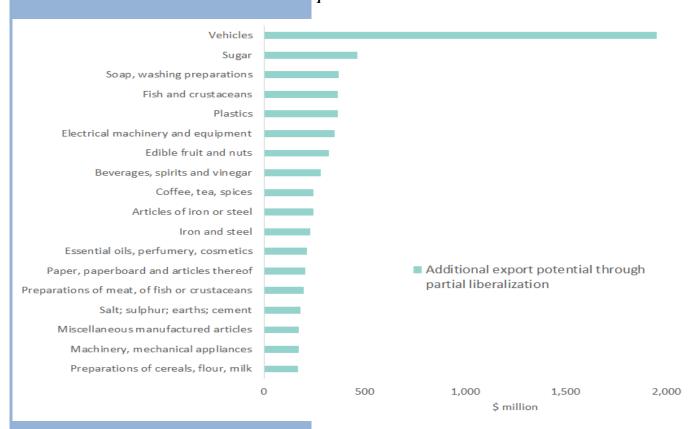
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from liberalization altogether.

If countries liberalizing as non-LDCs fully liberalize all products within the next five years, and countries liberalizing as LDCs reduce tariffs by half, this would increase intra-African export potential by \$9.2 billion.

In this scenario, the sector with the highest export potential growth is vehicles, with almost \$2 billion. It is followed by sugar (\$463 million), soap and washing preparations, fish and crustaceans, plastics, and electrical machinery and equipment (all between \$350 million and \$375 million).

Figure 2: Export potential can increase significantly with (partial) tariff reductions under the AfCFTA, in particular in the vehicles sector



Targeted trade policies will allow African countries to leverage opportunities of regional trade



To leverage opportunities of regional trade for sustainable and inclusive growth on the continent, African policymakers, businesses and development partners can follow three complementary approaches.

- 1. First, they can leverage existing export potential.

 They need to identify and address frictions that prevent trade flows in the present and invest to ensure that supply meets demand in the future.
- 2. Second, they can create additional export potential. To do so, they can reduce tariffs further than required under the AfCFTA and implement other policies to facilitate trade and improve the business climate, such as increasing regulatory transparency, cutting red tape, and investing in infrastructure.
- 3. Third, when targeting specific sectors for trade support, they can focus on sectors that support structural transformation, inclusiveness, or both.

Other International Trade News



IMF: New Global Database to Enhance Transparency and Improve Delivery of COVID-19 Tools

The Task Force on COVID-19 Vaccines, Therapeutics Diagnostics for Developing Countries, established by the heads of the International Monetary Fund, World Group, World Health Bank Organization and the World Trade Organization to identify and resolve finance and trade impediments to vaccine. diagnostics, therapeutic production and deliveries, on 30 July 2021, launched a new website that includes the first phase of a global database and country dashboards on vaccines, therapeutics, and diagnostics to guide their work and advocacy.

Read more on:

https://www.imf.org/en/News/Articles/2021/07/30/pr21241-joint-statement-task-force-covid-19-vaccines-therapeutics-diag-dev-countries-2nd-meeting

AfCFTA: Status of AfCFTA Ratification

According to Article 23 of the Agreement Establishing AfCFTA, entry into force occurs 30 days after the 22nd instrument of ratification is deposited with the Chairperson of the African Union Commission (AUC). The Agreement entered into force on 30 May 2019 for the 24 countries that had deposited their instruments of ratification by this date.

The operational phase of the AfCFTA was launched on 7 July 2019. Start of trading under the AfCFTA Agreement began on 1 January 2021. As at 7 July 2021, 37 countries have deposited their instruments of ratification (ordered by date): Ghana, Kenya, Rwanda, Niger, Chad, Eswatini, Guinea, Côte d'Ivoire, Mali, Namibia, South Africa, Congo, Rep., Djibouti, Mauritania, Uganda, Senegal, Togo, Egypt, Ethiopia, Gambia, Sahrawi Arab Democratic Rep., Sierra Leone, Zimbabwe, Burkina Faso, São Tomé Príncipe, Equatorial Guinea, Gabon, Mauritius, Central African Rep., Angola, Lesotho, Tunisia, Cameroon, Nigeria, Malawi, Zambia, and Algeria.

Parliamentary/Cabinet approval has been received for Seychelles and Burundi. Somalia is pending.

Post Brexit: EU halts legal action against UK over Northern Ireland Protocol breaches

The EU has agreed to a standstill in legal action against the UK for breaches to the Northern Ireland protocol.

The European Commission initiated infringement proceedings against the UK government last March after it unilaterally extended Grace Periods on goods no longer allowed to be exported to Northern Ireland due to Brexit.

The next step in the legal proceedings has been halted in an effort to quell tensions that have been rising between Brussels and London ever since the Northern Ireland protocol came into force at the start of the year.

Read more on

https://www.euronews.com/202 1/07/27/eu-halts-legal-actionagainst-uk-over-northernireland-protocol-breaches

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