



REPORT ON THE 11th ROUND OF NEGOTIATIONS BETWEEN THE EUROPEAN UNION AND FIVE EASTERN AND SOUTHERN AFRICA (ESA5) STATES FOR THE DEEPENING OF THE CURRENTLY IMPLEMENTED ECONOMIC PARTNERSHIP AGREEMENT

27 – 31 March 2023 in Victoria Falls (Zimbabwe)

Summary:

The European Union (EU) and the five Eastern and Southern African (ESA) states (Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe) implementing the interim Economic Partnership Agreement (EPA), met physically in Victoria Falls in Zimbabwe and via video-conference from 27 to 31 March 2023 to hold the 11th negotiating round at technical and senior officials' level for the EPA deepening, following the launch (on the initiative of ESA5) of these negotiations at political level on 2 October 2019 in Mauritius.

The 11th round included 10 thematic parts (out of 13 covered by these negotiations), namely Technical Barriers to Trade (TBT), Rules of Origin (RoO), Trade in Services, Investment Liberalisation and Digital Trade (TiSIL&DT), Intellectual Property Rights (IPR) and Geographical Indications (GIs), Competition (COMP), Transparency in Public Procurement (PP), Trade and Sustainable Development (TSD), Agriculture (AGRI), Fisheries as well as Dispute Settlement and Institutional Provisions (DS&IP).

The talks were held in a positive and constructive atmosphere. Good progress has been achieved on the legal texts of IPR, TiSIL&DT, COMP, PP, TSD and DS&IP chapters and further progress on already advanced RoO and AGRI. On TBT, the Parties need further discussions to resolve the few outstanding issues such as conformity assessment and technical assistance. On RoO, most of the product specific rules for industrial and on several processed agricultural goods have been agreed. On AGRI, one sole issue relating to the technical assistance and development cooperation remains open before provisionally concluding this chapter. On IPR, the subsection on designs was closed while trademarks, trade secrets, copyright and border measures - already well advanced - will require further discussions after input has been provided by ESA5 following the completion of their consultations. On GIs, the Parties exchanged views on the EU's approach relating to the GI protection system. On TiSIL&DT, good progress was made on regulatory provisions on international maritime transport, delivery services and telecommunication services. On PP, the Parties made progress on the legal text while ESA5 continue their internal consultations on the annexes describing the scope of transparency to be committed in this chapter. On COMP, continued high degree of convergence on the texts in Competition Policy, Subsidies, and State-Owned Enterprises (SOEs), allowed further progress. As for Fisheries, the Parties need to discuss further EU proposals to address the issues raised by ESA5 in this chapter.

On TSD, both sides discussed and increased their understanding on a number of labour, environmental and gender-related proposals, and converged on other substantive provisions, moving the negotiation forward. ESA5 continued to express concerns about their potential difficulties in implementing legally binding TSD commitments and conditioned the level of TSD ambition to receiving adequate development cooperation assistance.

REPORT ON THE 9th ROUND OF NEGOTIATIONS BETWEEN THE EUROPEAN UNION AND FIVE EASTERN AND SOUTHERN AFRICA (ESA5) COUNTRIES FOR THE DEEPENING OF THE CURRENTLY IMPLEMENTED ECONOMIC PARTNERSHIP AGREEMENT (EPA)

On Dispute Settlement, substantive progress has been achieved with one open issue on transparency provisions, which requires further discussion. On Institutional Provisions, the outstanding issue of civil society's involvement in monitoring of EPA implementation needs further discussions.

During the **senior officials' sessions**, the EU pointed at the need of increasing the pace of negotiations on the legal texts and leaving contentious issues for solving at senior officials or political level. In the same vein, while informing about its sensitivities and red lines, the EU suggested to address the few outstanding issues in some chapters with a view to their provisional closure in accordance with the rule that 'nothing is agreed until everything has been agreed'. The ESA5 side focused instead on the need to ensure sufficient technical/capacity building and financial support from the EU for implementing the commitments made in all chapters. The EU side underlined the notion of looking at the added value of the deepened trade agreement in terms of improved governance and future economic benefits (including attracting more investments) and confirmed that while there were no specific funds earmarked for the implementation of the deepened EPA, there was sufficient space to accommodate the support needed based on the partnership tools and instruments available under national programs (including innovative instruments leveraging private sector investment under the Global Gateway Investment Package) and the Sub-Saharan regional program (notably in its parts referring to trade-related matters, green transition and economic integration). Both sides agreed on a way forward with a view to progressing on outstanding issues in the various chapters, including on organizing intersessional meetings on specific topics at technical level before the next round.

The 12th round of talks will take place on 26-30 June 2023 in Brussels.

Details:

Technical Barriers to Trade

Both Parties had a constructive exchange on the outstanding issues, i.e. conformity assessment procedures, technical regulations and technical assistance.

Rules of Origin

The Parties continued discussions on the product specific rules (PSR) and agreed on most of the PSR for textiles and clothing and industrial products. Both sides continued discussions on outstanding provisions of Protocol 1 related to wholly obtained goods, cumulation of product origin, accounting, segregation and transitional provisions and managed to clean the text of that Protocol.

Intellectual Property Rights

The Parties had constructive discussions on designs, trademarks, international intellectual property treaties and general provisions. The section on designs has been agreed. Other core sections of the IPR chapter remain on the verge to be finalized pending ongoing internal consultations of the Parties. In this respect, the Parties concurred on the further roadmap and commitments in the negotiation process to safeguard that these sections can be closed in the next round as well. The deliberations in the next round will also permit both Parties to revise some of their proposed provisions to find an agreement eventually.

In respect of GIs, the Parties exchanged notably their views on the approach proposed by the EU to permit a direct legal protection by means of the deepened EPA of selected GIs in the territories of EU and ESA5.

REPORT ON THE 9th ROUND OF NEGOTIATIONS BETWEEN THE EUROPEAN UNION AND FIVE EASTERN AND SOUTHERN AFRICA (ESA5) COUNTRIES FOR THE DEEPENING OF THE CURRENTLY IMPLEMENTED ECONOMIC PARTNERSHIP AGREEMENT (EPA)

Trade in Services, Investment Liberalization, and Digital Trade

The Parties continued their text-based discussions on the EU-ESA5 merged chapter dealing with the Facilitation of Investment and Trade in Services (FITS), covering the whole chapter. The Parties also continued discussions on Investment Liberalisation and Sectoral Regulatory Frameworks. Good progress was made on regulatory provisions in telecommunication, international maritime transport, and delivery services and by reaching common understanding on the provisions discussed. Both Parties will consult internally on various provisions, as recorded in the merged texts, and revert to them at the next round.

Public Procurement

Under the common understanding and acceptance from ESA5 to conclude work and consultations on the annexes, which would indicate the entities and thresholds that would apply to qualify tender and contract awards for transparency in ESA5 countries, substantive progress on the legal text was achieved, albeit divergences in approach in certain areas need further discussion.

Competition

The negotiations continued on the three interconnected topics of Competition Policy, Subsidies, and State-owned Enterprises, with progress made on definitions, legislative framework, and exceptions. Further work was agreed on public services, services subsidies, and the exemption of the smallest SOEs from the rules of this chapter.

Agriculture

Discussions allowed to close all issues except one article relating to development cooperation. The Parties will continue discussions at the next round with a view to provisionally concluding this chapter.

Fisheries

The Parties continued discussions on the ESA5 proposal for reviewing this chapter. Two main proposals, namely on supply of raw materials to the fish processing industry in ESA5 countries and the establishment of a dedicated fisheries sub-committee, require further discussions.

Trade and Sustainable Development

The negotiators had their third negotiating session following the last one in November 2021. Meanwhile, the Commission had conducted a review of its TSD policy, which has been reflected in the Communication *"The power of trade partnerships: together for green and just economic growth"*. Discussions were based on the EU's proposal in accordance with that Communication. The EU proposed to extend the compliance mechanism of the general state-to-state dispute settlement to TSD provisions, including the possibility to apply the temporary suspension of obligations in cases of failure to comply with provisions that materially defeats the object and purpose of the Paris Agreement on Climate Change or in serious instances of non-compliance with the ILO fundamental principles and rights at work. Discussions on dispute settlement for TSD provisions should therefore take place in the framework of the general dispute settlement chapter.

ESA5 indicated that their approach to TSD was of a collaborative nature, whereby both sides would need to work together towards the implementation of the Sustainable Development Goals. ESA5 insisted that an ambitious TSD chapter would require considering the difficulties of implementing the commitments to be undertaken and stated clearly that the level of ambition in the TSD text was conditional to receiving adequate development cooperation assistance. The EU underlined the need for a high ambition and for strong commitments on TSD, and took note of ESA5's conditional approach to TSD commitments.

REPORT ON THE 9th ROUND OF NEGOTIATIONS BETWEEN THE EUROPEAN UNION AND FIVE EASTERN AND SOUTHERN AFRICA (ESA5) COUNTRIES FOR THE DEEPENING OF THE CURRENTLY IMPLEMENTED ECONOMIC PARTNERSHIP AGREEMENT (EPA)

Discussions covered matters related to the scope of the TSD chapter, the right to regulate and levels of protection, labour and environmental standards, trade and gender equality, trade matters related to climate change, biological diversity and forests, as well trade and responsible business conduct and supply chain management favouring sustainable development.

Both sides increased their understanding on a number of proposals and converged on others, moving the negotiation forward. It was agreed to hold an intersessional meeting to continue discussions on pending areas, ahead of the next negotiating session in June 2023.

Dispute Settlement and Institutional Provisions

On Dispute Settlement, the text is quasi provisionally concluded except for the provisions on transparency (documents to be disclosed to the public, hearings open to the public and interested parties' need to be able to make submissions in connection to disputes) and the open issue of covering TSD provisions. On Institutional Provisions, the main divergence on the mechanism relating to civil society involvement in monitoring the EPA implementation remains, given ESA5 concerns on implementing the EU's proposal of dedicated institutional structures and their advisory roles. The Parties need to discuss further to find a common ground.