



## **REPORT ON THE 10<sup>th</sup> 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 12 – 16 December 2022 in Brussels**

### **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 Brussels and via video-conference from 12 to 16 December 2022 to hold the 10<sup>th</sup> negotiating round at technical level for the EPA deepening, following the launch of these negotiations on 2 October 2019 in Mauritius.

The 10<sup>th</sup> round included 8 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), Agriculture (AGRI), Fisheries and Dispute Settlement and Institutional Provisions (DS&IP).

The meeting was held in a positive and constructive atmosphere. There was good progress on the texts of IPR, DS&IP, COMP and TiSIL&DT chapters and further progress on already advanced RoO, TBT and AGRI. On IPR, subsections on trademarks, designs and trade secrets have almost been agreed while for other parts further progress was made. On Dispute Settlement, substantive progress was made including on the Code of Conduct for arbitrators and mediators. On Institutional Provisions, further progress was made in all parts with a better common understanding of the respective positions on the open issue of civil society involvement in the monitoring of EPA implementation. On Competition, convergent texts in Competition Policy, Subsidies, and State Owned Enterprises (SOEs) allowed for further progress, notably on the latter which was discussed for the first time. On TiSIL&DT, good progress was made on regulatory provisions in maritime, delivery services and telecommunication services sectors. On Geographical Indications, discussions focused on capacity building in the five ESA partner countries to create an efficient and effective GI protection system. On RoO, most of the product specific rules for industrial goods have been agreed. On TBT, further progress has been noted on provisions covering transparency and TBT coordinator while discussions continued on conformity assessment, as well as on technical regulations and development cooperation assistance. On the Agriculture chapter, discussions continued on the

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scope and outstanding issues of development cooperation. As for Fisheries, the Parties need to discuss further the proposals made by ESA5.

The 11<sup>th</sup> round of talks will take place in March in one of the ESA5 countries.

## **Details:**

### **Technical Barriers to Trade**

Both Parties had a constructive exchange of views on the outstanding issues of the TBT chapter. Progress was made on some of the remaining articles, notably on transparency provisions as well as the chapter coordinator and TBT-related tasks for the horizontal committee. Other issues discussed included conformity assessment procedures, technical regulations and technical and capacity building assistance.

### **Rules of Origin**

The Parties continued discussion on the product specific rules (PSR). They agreed on most of the PSR for industrial products and advanced their talks on some agricultural products. Both sides continued discussions on 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.

### **Intellectual Property Rights and Geographical Indications**

The Parties had constructive discussions on trademarks, designs, copyrights, trade secrets and enforcement (civil and administrative). Based on progress made, the subsections on trademarks, designs and trade secrets are on the verge of being agreed, pending further consultations on individual paragraphs before final approval. For copyright and civil and administrative enforcement, the Parties advanced their agreements and clarified their positions for the remaining provisions.

In respect of geographical indications, the Parties discussed capacity-building needs of ESA5 countries. The ESA5 were not prepared to engage on a textual discussion for this sub-section.

### **Trade in Services, Investment Liberalisation, 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). The Parties also continued their text-based discussions on Investment Liberalisation and Sectoral Regulatory Frameworks. Good progress was made on regulatory provisions in maritime, delivery services and telecommunication and by reaching common understanding on the provisions discussed. The EU and the ESA5 will consult internally on various provisions, as recorded in the merged texts, and revert to them at the next round.

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## **Competition**

The second text-based negotiations on competition focused on the three interconnected topics - competition policy, subsidies, and state-owned enterprises. Progress was made on principles and subsidies consultations. On state-owned enterprises, this first round of substantive discussions confirmed a high degree of commonality between the proposals of the Parties, where agreement was found on nearly all definitions.

## **Agriculture**

Based on the joint working document, the Parties progressed on some articles, including on scope, and discussed further the non-agreed parts of the text especially in relation to the technical assistance and capacity building for facilitation of trade in agricultural products as well as cooperation assistance covered by the Economic and Development Cooperation chapter.

## **Fisheries**

ESA5 partners have proposed some changes in the current chapter of the EU-ESA5 EPA. EU suggested not to modify the text and only ensure coordination between this chapter and the rest of the upcoming agreement. Nevertheless, the EU agreed to consider a few minor changes proposed by ESA5. To this end, the chapter will need some further discussions.

## **Dispute Settlement & Institutional Provisions**

The Parties continued the discussions on both chapters. As concerns dispute settlement provisions, following the constructive discussions during the previous round, the Parties made substantive progress on the main text of the chapter as well as on the Code of Conduct for arbitrators and mediators. Negotiations are set to continue on a limited number of areas including rules of procedure for arbitration and mediation. On the Institutional Provisions, the Parties made good progress on several sections. In particular, they were able to clear most open issues on certain areas such as the general principles and objectives of the agreement and the rules applicable to the entry into force and provisional application of the agreement. While other parts of the text such as the specific institutional structures for participation of civil society in monitoring of the implementation of the EPA remain open, the Parties made progress in the understanding of the respective positions in view of finding an appropriate common ground.

The EU reiterated that, while strongly committing support for the implementation of the agreement, it could not agree to an ESA5-EPA dedicated customized envelope, reiterating the clear red lines based on legal arguments presented in the Senior Officials Meeting of the last round. Simultaneously, EU clarified that all ESA5 countries were eligible for the EU's development cooperation funding.

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Both Parties noted that no common ground had been found, namely due to the divergence around the specific customized envelope for the ESA5 EPA beyond the available funds under programming 2021-2027. ESA5 suggested the outstanding issues to be re-submitted at Senior Officials meeting.