

II. TRADE AND INVESTMENT REGIMES

(1) INSTITUTIONAL FRAMEWORK

1. Under the 1968 Constitution¹, the Republic of Mauritius is a sovereign democratic state. The President is the Head of State and Commander-in-Chief of the Republic. The President and Vice-President are elected by the National Assembly on a motion made by the Prime Minister and supported by the votes of a majority of its members for a term of five years; both are eligible for re-election, with no limit on the number of terms. The President appoints as Prime Minister the member of the National Assembly he deems best able to command the support of its majority. On the advice of the Prime Minister, he also appoints the Deputy Prime Minister and the other Ministers (from among the members of the Assembly), and the Attorney-General. The Cabinet, consisting of the Prime Minister and other Ministers, is collectively responsible to the National Assembly.

2. Legislative power rests with the unicameral National Assembly in place for five-year terms. The Assembly is made up of maximum 70 members, out of which 62 are elected by universal adult suffrage, and up to eight members are appointed by the Electoral Supervisory Commission (from among the unsuccessful candidates with the largest number of votes at a legislative election) to ensure fair and adequate representation of each community. The Speaker, or in his absence, the Deputy Speaker, or in their absence, a member of the Assembly (not being a Minister) elected by the Assembly for the sitting, presides at any sitting of the Assembly.

3. The judiciary consists of the Supreme Court (holds original, appellate, and constitutional jurisdiction) and lower courts, such as the intermediate and district courts. In addition, there is an Industrial Court, which has jurisdiction to hear cases relating to employment, labour, and industrial relations. There are also a number of administrative tribunals or committees that assist in the adjudication process. These include the Assessment Review Committee (ARC), set up to speed up determination of tax appeals, replacing the Tax Appeal Tribunal and operational since February 2003²; and an Industrial Property Tribunal, which became operational in 2006. The Supreme Court is, in principle, the highest judicial authority; it consists of the Chief Justice, the Senior Puisne Judge, and Puisne Judges who currently number 12 in total. These are appointed by the President, after consultation with the Prime Minister, the Chief Justice, and the Judicial and Legal Service Commission, respectively. However, under the Constitution, there is still the right of appeal against judgements of the Supreme Court to the Privy Council of Great Britain.

4. The Constitution also provides for the office of Ombudsman to investigate the exercise of administrative functions by public officers or authorities. The Ombudsman is appointed by the President, after consultation with the Prime Minister, the Leader of the Opposition, and such other persons deemed by the President to be leaders of parties in the Assembly.

5. The Joint Economic Council (JEC), founded in 1970, is the coordinating body of the private sector in Mauritius. The JEC aims to, *inter alia*, promote the interests of the private sector, free enterprise, and consultation among private sector organizations. It liaises with the Government and other bodies.³ Its membership includes the nine main business organizations of Mauritius, i.e. the Mauritius Chamber of Commerce and Industry, the Mauritius Chamber of Agriculture, the Mauritius Employers' Federation, the Mauritius Sugar Producers' Association, the Mauritius Export

¹ The latest amendment was in 2003, to give additional powers to the President in areas such as electoral commissions, dissolution of Parliament, and the prerogative of mercy.

² The ARC hears appeals against decisions, determinations, notices or claims under various Revenue Acts.

³ Joint Economic Council online information. Viewed at: <http://www.jec-mauritius.org/>.

Association, the Mauritius Bankers' Association, the Mauritius Insurers' Association, the "Association des Hôteliers et Restaurateurs de l'Île Maurice", and the Association of Mauritian Manufacturers.

6. The National Productivity and Competitiveness Council (NPCC), grouping representatives of the Government, employers, and trade unions, has been operational since May 2000. It was created to stimulate productivity and quality consciousness with the ultimate goals of raising national output and achieving sustained growth and international competitiveness. It provides, among other things, a forum for dialogue and consensus-building on matters relating to productivity, quality and competitiveness; advises Government on the formulation of national policies and strategies; and monitors and coordinates related programmes and activities.

7. The State Investment Corporation (SIC), founded in 1984, is the investment arm of the Government.⁴ Its main objective is to provide funds, mainly equity, for the realization of high-growth entrepreneurial ventures and to assist businesses to develop leadership position. The SIC is incorporated under the Companies Act and, like any company, is subject to taxation and other statutory and fiduciary obligations.

8. The Small Enterprises and Handicraft Development Authority (SEHDA), created under the SEHDA Act 2005, provides support to potential and existing small entrepreneurs to enable them to start new enterprises or to improve their existing businesses.⁵ SEHDA provides services in areas such as business counselling and facilitation, skills development, business forums, marketing assistance and design services.

9. The National Computer Board (NCB), set up in 1988, is in charge of promoting the development of information and communication technologies (ICT) in Mauritius.⁶ It is a para-statal body, under the aegis of the Ministry of Information Technology and Telecommunications. Its core mission is to accelerate the transition of Mauritius into a regional ICT hub and ensure the realization of Government's objective to make the ICT sector one of the main pillars of the economy. It aims to foster the development and growth of information technology (IT), information systems and computer-related services. The NCB advises the Government on the formulation of national policies in respect of the promotion, development, and control of IT and its applications, and assists in the framing of appropriate national IT education, training, and research plans.

(2) POLICY FORMULATION AND IMPLEMENTATION

10. A new Government was formed in July 2005, with a reduced number of Ministers (19, down from 24).⁷ Each Ministry formulates policies within its field and thereafter instructs the Attorney-General's Office for the drafting of the required bills. The bills are submitted to the Cabinet for approval, then introduced into Parliament for three readings. Bills are adopted by a simple majority (except those on human rights and democratic principles or aimed at altering the Constitution, for which a qualified majority or referendum is required). Once adopted, they need Presidential assent to become law. The President may withhold assent (with some exceptions) and send a bill back to Parliament (only once) for reconsideration. All laws are Acts of Parliament and published in the *Government Gazette*.

⁴ State Investment Corporation online information. Viewed at: <http://www.stateinvestment.com/>.

⁵ SEHDA online information. Viewed at: <http://www.sehda.org>.

⁶ National Computer Board online information. Viewed at: <http://www.gov.mu/portal/sites/ncbnew/main.jsp>.

⁷ For the full list of Ministries, see Republic of Mauritius online information, "A-Z Government Listing". Viewed at: http://www.gov.mu/portal/goc/a-z/a_z_min1.jsp.

11. Ministers or implementation bodies may make secondary legislation (regulations, rules and orders) for the implementation of an Act, if so provided for by the Act. A secondary legislation is published in the *Government Gazette* and comes into force on the date of publication, unless a specific date is provided. Treaties/international agreements, including those relating to trade, are signed by authorized representatives of the Government (i.e. a Minister or a public official). International agreements/treaties must be enacted into domestic law to have standing before national courts.

12. The basic legal system is a mixture of English and French Law, and laws enacted by the Parliament. The Constitution is the supreme law of Mauritius and takes precedence over all legislation (including treaties and international agreements). It is followed by the Acts of Parliament, and secondary legislation. The legislation on intellectual property has been partly updated with the aim of bringing it into conformity with the WTO rules. New legislation on government procurement was adopted in 2006 and is to be promulgated soon (Table II.1). A new bill on competition has been drafted, after the failure to proclaim the Competition Act 2003 (Chapter III(4)(iii)); it was being debated in Parliament in November 2007 and is expected to be passed shortly. The Antidumping, Countervailing and Safeguard Measures Bill is also being finalized and is expected to be presented before Parliament for adoption around April 2008 (Chapter III(2)(vii)). Sector-specific laws are applied to the sugar, tea, and tobacco industries, other manufacturing activities, and tourism, and financial services (Chapter IV).

13. Primary responsibility for the formulation, review, and assessment of trade policies lies with the Ministry of Foreign Affairs, International Trade and Cooperation⁸, through its Trade Policy Unit (TPU). The TPU is also in charge of ensuring that Mauritius' concerns are adequately reflected in multilateral and regional trade arrangements and global trade rules. Major decisions about Mauritius' negotiating position (section (iii) below) and trade policy formulation are made, in consultation with other Ministries and their agencies, and the private sector. The latter is consulted on a regular basis, even though no formal framework for consultations exists. The Ministry of Industry, Small and Medium Enterprises, Commerce and Cooperatives is in charge of regulating the local market, and issues such as import and export controls.

14. Regular meetings are held on WTO matters. The private sector is represented in the WTO Standing Coordinating Committee, which deals with the implementation, follow-up and coordination of trade policy issues covered by the WTO Agreements. The Committee is chaired by the Minister of Foreign Affairs, International Trade and Cooperation, and comprises representatives from the public and private sectors. Various sub-committees have also been set up to address issues of specific interests. The TPU also convenes regular, specific meetings to discuss regional and bilateral trade negotiations. The Regional Cooperation Council, aimed at forging a coherent regional strategy for Mauritius, has ceased operations.

15. The Government holds meetings on broad economic policies with the Joint Economic Council (JEC). Periodic meetings on sectoral issues are held between the private sector and the relevant Ministries. The Mauritius Chamber of Commerce and Industry is the main institution representing the interest of the private sector with regard to trade and industrial issues.

⁸ In 2005, this replaced the Ministry of Industry, Commerce and International Trade.

Table II.1
Main trade-related laws and regulations, December 2007

Area	Legislation	Date of entry into force	Latest modification
Customs procedures and valuation	The Customs Act	1988	2007
	Customs Regulations	1989	2007
	The Customs Tariff Act	1970	2007
Taxes and charges	The Value-Added Tax Act	1998	2007
	The Excise Act	1994	2007
	Mauritius Revenue Authority Act	2004	2006
	The Income Tax Act	1995	2007
	Gaming Regulatory Authority Act	2007	n.a.
Export duties	The Sugar Industry Efficiency Act	1988	2007
Import and export control	The Supplies Control Act	1974	2007
	The Consumer Protection (Export Control) Regulations (Government Notice No. 97)	2000	2007
	The Consumer Protection (Control of Imports) Regulations (Government Notice No. 135)	1999	2007
	Fisheries and Marine Resources (Export of Fish and Fish Products) Regulations	2006	2006
TBT and SPSs	The International System of Units Act	1983	n.a.
	The Mauritius Standards Bureau Act	1993	1999
	General Notice No. 1058 (Labelling)	1983	n.a.
	The Food Act	1998	n.a.
	The Legal Metrology Act	1985	n.a.
	Chemicals Control Act	2004	n.a.
	Genetically Modified Organism Act (GMO)	2004	n.a.
	The Plant Protection Act	2006	n.a.
	The Animal Diseases Act	1925	1984
		The Investment Promotion Act	2000
Investment	The Freeport Act	1992	2006
	The Non-Citizen (Property Restriction) Act	1975	2007
	The Business Facilitation (miscellaneous Provisions Act)	2006	n.a.
	The Business Registration Act	2006	2007
	Immigration Act	1973	2007
	The Non-Citizen (Employment Restriction) Act	2001	2007
	The Sugar Industry Efficiency Act	2001	2007
	The Investment Promotion (Real Estate Development Scheme) Regulation	2007	n.a.
	The Small Enterprises and Handicraft Development Authority (SEHDA) Act	2005	n.a.
		Fair Trading Act	1979
Competition	Consumer Protection (Price and Supplies Control) Act	1991	2007
	Consumer Protection (Consumer Goods) (Maximum Mark Up) Regulations	1998	2007

Table II.1 (cont'd)

Area	Legislation	Date of entry into force	Latest modification
	Consumer Protection (Consumer Goods) (Maximum Price) Regulations	1998	2007
	Consumer Protection (Control of Price of Taxable and Non-Taxable Goods) Regulations	1998	2007
	Consumer Protection (Control of Price of Petroleum Products) Regulations	2004	2006
Government procurement	Central Tenders Board Act 2000	2000	2006
	The Public Procurement Act 2006	2008	n.a.
Intellectual property	The Copyright Act	1997	n.a.
	The Patent, Industrial Designs and Trademarks Act	2003	n.a.
	The Protection Against Unfair Industrial Practices (Industrial Property Rights) Act	2003	n.a.
	The Layout Designs (Topographies) of Integrated Circuits Act 2002	not yet in force	n.a.
	The Geographical Indications Act 2002	not yet in force	n.a.
Banking	Banking Act 2004		
	Bank of Mauritius Act 2004		
Non Banking Financial Services	Financial Services Act 2007	2007	2007
	Insurance Act 2005	2007	2007
	Securities Act 2005	2007	2007

n.a. Non applicable.

Source: WTO Secretariat.

16. The Board of Investment (BOI), operational since March 2001, is the leading governmental agency responsible for promoting and facilitating investment.⁹ The Mauritius Freeport Authority (MFA) and the Financial Services Promotion Agency (FSPA) merged with BOI, in 2005 and 2006 respectively, to have all promotional activities under a single umbrella. Under the authority of the Minister in charge of finance, the BOI aims to promote Mauritius as an international investment, business, and service centre. The BOI formulates investment promotion strategies and plans; facilitates investment into Mauritius by simplifying administrative procedures; and advises the Government on investment policies. BOI's activities include: counselling on investment opportunities in Mauritius; providing tailor-made information for the setting up of a business; organizing customized meetings and visits; and identifying joint-venture partners. It also acts as a single interface with all investors and liaises with the relevant authorities for occupation, residence, and other relevant permits. Its administrative and management board comprises private and public sector senior representatives. BOI is funded by the State.

(3) TRADE POLICY OBJECTIVES

17. Trade policies in Mauritius are an integral part of economic policies, and as such are aimed at improving the living standards of the population and securing full employment through accelerated transition towards a globally competitive economy, growing at high rates. This objective is expected to be achieved by, *inter alia*, further opening up the economy and facilitating business, massively

⁹ BOI took over the investment part of the Mauritius Export Development and Investment Authority (MEDIA), which, as a result of this transfer of responsibility, changed its name to Mauritius Industrial Development Authority (MIDA) (Chapter III(3)(v)).

investing in public infrastructures, as well as implementing sound macroeconomic policies, with trade and investment promotion playing an important role.

18. Mauritius intends to gradually move from its current partial openness to complete openness. It intends to pursue tariff simplification in order to transform "Mauritius into a globally competitive economy and to move speedily to a Duty Free Island"¹⁰, within three years. The new economic model aims to make Mauritius "an integrated, clean and efficient platform in the global supply chain, mainly in services and driven by good governance, an open transparent investment climate, high skills and state of the art infrastructure".¹¹ This change in policy orientation has been triggered by the changing international environment (erosion of preferences, increasing competition from lower cost economies, and rising oil prices). The economic development strategies are therefore less dependent on trade preferences, but rather on the global competitiveness of local products. The latter is to be achieved through, *inter alia*, the reduction of production costs, enforced competition, increased public investment in infrastructure, and education and training.

19. In order to attract investment, the new strategy of the Government is based on a generally low tax regime and targeted promotion (see section (5) below). The Government Programme 2005-10 also provides for a comprehensive review of legislation in order to establish a friendly and predictable business environment, remove all bureaucratic constraints in terms of access to finance and capacity, and improve governance.¹²

20. Given the limitations that its size sets to attracting foreign direct investment (FDI) in manufacturing or agri-business, Mauritius sees services as the main area for further economic diversification. A strategy is being put in place to promote Mauritius as an export-oriented centre for value-added services. In addition to financial services and tourism, the following emerging sectors have been identified as having the highest potential for growth: information technology enabled services (ITES), including business process outsourcing (such as call centres, back-office operations, and data processing); logistics services; health care, medical and education services; creative arts and media entertainment; and consultancy services. The development of the port is also considered to be crucial, due to its dual role of handling external trade and supporting the development of Mauritius into a hub for regional and international sea trade. Mauritius is also encouraging the development of emerging sectors like the seafood hub and real estate development, as well as the use of built-up capacities and competencies in its traditional sectors (sugar and garments) by investing in more competitive locations abroad. Export market diversification is also envisaged.

21. In order to further enforce competition, the Government intends to set up a Competition Commission, whose main role would be to act as a watchdog against restrictive business practices, to establish norms and guidelines with the power to take sanctions, to deal with complaints, and to regulate the advertising sector.¹³

(4) TRADE AGREEMENTS AND ARRANGEMENTS

(i) Overview

22. Mauritius is participating actively in the multilateral trading system and in various economic groupings and trade agreements/arrangements. As a small island country, Mauritius considers its participation in regional agreements as a necessary step towards exploiting its comparative advantages

¹⁰ Republic of Mauritius (2006).

¹¹ Joint Economic Council (2007).

¹² Republic of Mauritius (undated a).

¹³ Republic of Mauritius (undated a).

and economies of scale, improving its competitiveness, diversifying its exports, and facilitating its integration into the world economy. However, ensuring consistency between the national reform agenda and participation in a multitude of trade agreements, with different geographical coverage, liberalization agenda, provisions, and goals, remains a challenge.

(ii) WTO

23. Mauritius is an original member of the WTO and grants at least MFN treatment to all its trading partners. It is not a signatory to the WTO Plurilateral Agreements but is an observer to the Committee on Trade in Civil Aircraft. It has also signed the Ministerial declaration on Trade in Information Technology. Mauritius made specific commitments in the WTO negotiations on telecommunications under the Fourth Protocol (see Chapter IV(5)(iii)). It also participated in the financial services negotiations and undertook commitments under the Fifth Protocol (Chapter IV(5)(i)).

24. Mauritius has made a large number of notifications to the WTO, but as of June 2007, notifications were still pending on import licensing, enforcement of intellectual property rights, and more notably those under the Agreement on Agriculture, under which no notification has ever been made (Table II.2).

25. Mauritius has used the WTO dispute settlement mechanism on several occasions, but has never appeared as a complainant or respondent. Since its last Review, Mauritius has participated as a third party in following cases (respondents between brackets): Anti-Dumping Investigation of High-Fructose Corn Syrup from the United States (Mexico)¹⁴; Conditions for the Granting of Tariff Preferences to Developing Countries (European Communities)¹⁵; and Export Subsidies on Sugar (European Communities).¹⁶

26. In the context of the Doha Round, Mauritius has made several contributions and proposals, either alone, as part of Small Vulnerable Economies (SVES), ACP Group, African Group, or together with other WTO Members. Mauritius is an active defender of the interest of developing countries in general, and SVES in particular, and considers that the development interests and concerns of developing countries must remain at the centre of the negotiations. It considers that bigger market access without the capacity to produce is meaningless, and therefore several issues are of critical importance, namely balanced rules that provide developing countries the policy space to pursue development policies, enhanced market access for products and services of interest to them, capacity-building programmes and technical assistance (including supply-side capacity, institution building, and human resource development), and adjustment support measures.¹⁷ Mauritius deems vital the engagement of international community in supporting developing countries to address the problem of supply capacity, competitiveness, and upgrading product standards to meet sanitary and phytosanitary (SPS) and technical requirements in the export markets.¹⁸ It considers that even though preferences are recognized as legal in the WTO system, they should not nonetheless impede trade liberalization and calls for concrete trade-related solutions to their erosion¹⁹, notably in the case of most "vulnerable" products.

¹⁴ WTO documents of series WT/DS132.

¹⁵ WTO documents of series WT/DS246.

¹⁶ WTO documents of series WT/DS265, WT/DS266 and WT/DS283.

¹⁷ WTO document WT/MIN(05)/ST/120, 16 December 2005.

¹⁸ WTO document WT/MIN(03)/ST/70, 12 September 2003.

¹⁹ WTO document WT/MIN(05)/ST/120, 16 December 2005.

Table II.2
Most recent notifications to the WTO, January 2008

Agreement/ Decision	Symbol and date of most recent notification	Description of requirement and frequency
Agreement on Agriculture		
Article 10 and Articles 18.2	Not yet submitted	Export subsidies; annual
Article 18.2	Not yet submitted	Domestic support; annual
Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement)		
Article 16.4	G/ADP/N/72/Add.1/Rev.5, 25/10/ 2005	Anti-dumping measures; semi- annual
Articles 16.5 and 25.12	G/ADP/N/14/Add.23/Rev.1*-G/SCM/N/18/Add.23/Rev.1*, 30/04/2007	Authorities and procedures; once
Article 18.5	G/ADP/N/1/MUS/2, 13/11/1995	Laws and regulations; ad hoc
Agreement on Implementation of Article VII of the GATT 1994 (Agreement on Customs Valuation)		
Article 22	G/VAL/N/1/MUS/1, 27/09/2001	Laws and regulations; once
Decision on the Checklist of Issues (G/VAL/5)	G/VAL/N/2/MUS/1, 26/09/2001	Checklist of issues/ questionnaires (replies); once
Agreement on Import Licensing Procedures		
Article 1.4(a) and Article 8.2(b)	G/LIC/N/1/MUS/2, 11/05/2007	Laws and regulations; once
Article 7.3	G/LIC/N/3/MUS/2, 4/07/2002, and G/LIC/N/3/MUS/2/Corr.1 10/09/2002	Completion of questionnaire; annual
Agreement on Preshipment Inspection		
Article 5	G/PSI/N/1/Add.10, 19/07/2004	Laws and regulations; once
Agreement on Rules of Origin		
Article 5 and Annex II, paragraph 4	G/RO/N/1, 9/05/1995	Laws and regulations (rules of origin in effect); once
Agreement on Safeguards		
Article 12.6	G/SG/N/1/MUS/1, 3/05/1995	Laws and regulations; once
Agreement on Subsidies and Countervailing Measures		
Article 25.1; Article XVI.1 of the GATT 1994	G/SCM/N/155/MUS-G/SCM/N/160/MUS, 5/07/2007	Subsidy programmes; every three years for full notifications, annual for changes
Article 25.11	G/SCM/N/106/Add.1/Rev.1, 25/10/2004	Countervailing actions taken; semi-annual
Article 25.12	G/ADP/N/14/Add.23/Rev.1*-G/SCM/N/18/Add.23/Rev.1*, 30/05/ 2007	Authorities and procedures; once
Article 27.4	G/SCM/N/163/MUS, 27/08/ 2007	Transition period for the elimination of export subsidies; ad hoc
Article 32.6	G/SCM/N/1/MUS/2, 29/06/1995	Laws and regulations; once
Agreement on Technical Barriers to Trade		
Article 2.10	G/TBT/N/MUS/1, 3/05/2005	Technical regulation (urgent), ad hoc
Article 10.1, 10.2 and 10.3	G/TBT/ENQ/29, 12/03/2007	Enquiry point; once
Article 15.2	G/TBT/2/Add.40, 17/09/1997	Implementation and administration of measures; once

Table II.2 (cont'd)

Agreement/ Decision	Symbol and date of most recent notification	Description of requirement and frequency
Annex 3C	G/TBT/CS/N/117, 2/02/2000	Acceptance of the Code of Good Practice; once
Agreement on Textiles and Clothing		
Article 2.7	G/TMB/N/295, 23/09/1997	Integration programmes (first stage); once
Article 2.8(a) and 2.11	G/TMB/N/242, 9/04/1997	Integration programmes (second stage); once
Article 2.8(b) and 2.11	G/TMB/N/376/Rev.1, 23/03/2001	Integration programmes (third stage); once
Agreement on the Application of Sanitary and Phytosanitary Measures		
Annex B, paragraph 7	G/SPS/N/MUS/12, 15/09/2004	Sanitary and phytosanitary measures; ad hoc
Annex B, paragraph 3	G/SPS/ENQ/19, 25/01/2006	Enquiry point; once
Annex B, paragraph 10	G/SPS/NNA/8, 20/12/2004	National notification authority; once
Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)		
Article 63.2	Submitted on 16/01/2008 ^a Not yet submitted	Laws and regulations; once Checklist of Issues on Enforcement; once
Article 69	IP/N/3/Rev.7, 19/08/2003	Contact point; once
Agreement on Trade-Related Investment Measures (TRIMS)		
Article 5.1	G/TRIMS/N/1/MUS/1, 4/04/1995	Trade-related investment measures; once
Article 6.2	G/TRIMS/N/2/Rev.4, 5/08/1998	Publications in which TRIMS may be found; ad hoc
Decision on Notification Procedures for Quantitative Restrictions		
G/L/59	Submitted on 12.04.2007 ^a	Notifications of quantitative restrictions; every two years
General Agreement on Trade in Services		
Article III:4 and/or Article IV:2	Submitted on 14/01/2008 ^a	Enquiry point; once only
Article V:7(a)	Not yet submitted	Economic integration agreements; once only
General Agreement on Tariffs and Trade 1994		
Article XVII:4(a)	G/STR/N/8/MUS, 2/08/2002	Notification on state-trading enterprises; every three years for full notifications, on an annual basis for changes (as from 2004, every two years)
Article XXVIII:5	G/MA/53, 17/02/1997	Modification of the Schedule of Concessions (reservation of the right to modify the Schedule during a three-year period); every three years

a Notifications being processed by the WTO Secretariat.

Source: WTO Secretariat.

27. Mauritius has also submitted or co-signed communications on a wide range of issues, including fisheries subsidies; designation of regional bodies for areas such technical barriers to trade (TBT), SPS measures, and trade-related aspects of intellectual property rights; aid for trade; subsidies and countervailing measures; implementation of international standards; logistics services; post-ATC (Agreement on Textiles and Clothing) adjustment-related issues; experience with the SPS

agreement; special and differential treatment and implementation issues; agriculture; non-agricultural market access; Singapore issues; development issues; transfer of technology; small economies as small suppliers of services; trade in information technology products; geographical indications; trade by and issues of concern to small economies; and non-trade concerns. In May 2004, Mauritius circulated its offer on services in the context of the Doha Development Agenda negotiations. Mauritius has also participated actively in the development of the concept of aid for trade.

(iii) Preferential trade agreements and arrangements

(a) Common Market for Eastern and Southern Africa (COMESA)

28. Mauritius is a founding member of COMESA²⁰, which aims to promote regional integration through the development of trade, and natural and human resources for the benefit of all its members. The main objectives of COMESA include the creation of a free-trade area (FTA); the establishment of a customs union; free movement of capital and investment, supported by the adoption of a common investment area; a gradual establishment of a payment union based on the COMESA Clearing House and the eventual establishment of a monetary union; and the adoption of common visa arrangements, leading eventually to the free movement of persons.²¹ COMESA has been notified to the WTO under the Enabling Clause.²²

29. The COMESA FTA was launched in October 2000 with nine participating states (including Mauritius), after 16 years of gradual reduction of tariffs on intra-COMESA trade.²³ In November 2007, 13 countries were participating in the FTA; other member states had carried out tariff reductions of between 10% and 80%.²⁴ The FTA was meant to be a step towards the establishment of the Customs Union. Initially, the common external tariff (CET) was to be in place by 2004. However, the launch of the Customs Union was once more deferred for December 2008. In May 2007, the COMESA Council of Minister agreed on the CET rates as follows: zero on raw materials and capital goods, 10% on intermediate goods, and 25% on finished goods. The CET will be based on the Common Tariff Nomenclature (CTN), adopted in 2004. The CTN is being revised by the COMESA Secretariat. The sensitive lists of goods for exclusion from the CET are also being finalized.

30. To benefit from preferential treatment, goods originating in COMESA have to satisfy one of five origin criteria. The COMESA origin is granted to: goods wholly produced in the region using no outside materials; goods with a maximum imported content of 60% of the c.i.f. value of materials used in production; goods containing no less than 35% ex-factory value added²⁵, reduced to 25% if

²⁰ The members of COMESA are: Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

²¹ COMESA (2007).

²² WTO document WT/COMTD/N/3, 29 June 1995.

²³ The COMESA was formed in 1994 as a successor to the Preferential Trade Area (PTA). Tariff reduction started already in 1984 within the framework of the PTA, but was accelerated with the formation of COMESA.

²⁴ Preferential margins granted to COMESA partners not yet participating in the FTA are: Democratic Republic of Congo, zero (i.e. no preference granted); Eritrea, 80%; Ethiopia, 10%; and Uganda, 80%. Swaziland is not participating in the FTA and not extending any tariff reduction under derogation, due to its membership in the Southern African Customs Union.

²⁵ Value added is defined as the difference between the ex-factory cost of the finished product and the c.i.f. value of material inputs imported from outside the COMESA sub-region. The minimum level of value added was reduced from 45% to 35% in 2000.

the final product is considered of "particular importance" to the economic development of a member state²⁶; or goods that have been subject to a change in tariff heading (4-digit level) following transformation. In December 2007, the change in tariff heading criterion had been agreed for a certain number of tariff lines (HS chapters 1, 2, 3, 22, 24, and 27); agreement is yet to be reached on other items, notably wheat flour, cooking oil, plastics, textiles, machinery, and equipment.

31. COMESA cooperates with other regional organizations to liberalize trade. Under Memoranda of Understanding, the Indian Ocean Commission (IOC) (see below), East African Community, and Intergovernmental Authority on Development have agreed to adopt the COMESA trade liberalization programme. A Joint Task Force of COMESA, EAC, and SADC (see below) has also been set up to harmonize their programmes.

32. The COMESA Treaty provides also for trade remedies. In November 2001, regional Trade Remedy Regulations were adopted, and in 2003, harmonized COMESA public procurement rules, regulations, and procedures were adopted. Specific competition rules have been adopted for air transport.

33. A phased monetary harmonization programme is being implemented in four stages beginning in 1992. The last stage should result, in 2018, in a full-fledged monetary union in which there will be either permanently fixed exchange rates or a single currency, in order to be in line with the target date of 2021 for the establishment of the African Monetary Union; full harmonization of economic, budgetary, and monetary policies; full integration of the financial structure; a pooling of exchange reserves; and the establishment of a single monetary authority. A coordination body composed of experts from central banks and ministries of finance, has been set up to oversee implementation of the measures and ensure the progress of the harmonization process.

34. The decision-making structure of COMESA includes the Authority of Heads of State and Government (the supreme policy-making organ); the Council of Ministers; the Sectoral Ministerial Meetings; the Committee of Governors of Central Banks; the Intergovernmental Committee; Technical Committees; and the Secretariat. A Consultative Committee of the Business Community and Other Interest Groups has also been established.

35. In addition, several specialized institutions have been established to assist COMESA members in their development. The Eastern and Southern African Trade and Development Bank (PTA Bank) provides trade and project financing to public and private investors domiciled in a bank member state.²⁷ Since 2000, Mauritius has been a member of the PTA Re-Insurance Company (ZEP-RE), which assists the development of the insurance and re-insurance industry in the region. The Africa Trade Insurance Agency (ATI), launched in August 2001, is aimed at creating investor confidence by providing cover against political risk; Mauritius however is not yet member.²⁸ The COMESA Court of Justice, operational since 1998, adjudicates and arbitrates on, *inter alia*, unfair trade practices and interpretation of regional legislative acts, and ensures that member states

²⁶ A long list of approved products is specified in the COMESA Treaty as being of particular importance to the economic development of the members.

²⁷ The PTA Bank currently has 19 shareholders, 14 of which are COMESA member States: Burundi, Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Malawi, Mauritius, Rwanda, Sudan, Uganda, Zambia, and Zimbabwe. The non-COMESA shareholders are the African Development Bank (institutional investor), China, Somalia, and Tanzania.

²⁸ The ATI is also open to the member states of the African Union. It currently has 11 members: Burundi, Kenya, Malawi, Rwanda, Tanzania, Uganda, and Zambia (founding members); and Congo D.R., Djibouti, Eritrea, and Madagascar. Only Tanzania is a non-COMESA member.

implement and comply with agreed decisions. Mauritius has not been involved in any formal dispute within this framework.

36. The COMESA Clearing House, established to facilitate the settlement of intra-regional transactions in goods and services, ceased its operations in 1997. However, due to the shortage of foreign exchange in member states, a new regional payment and settlement system (REPSS) is being designed, which would enable the use of local currencies in intra-COMESA trade.

37. In order to attract investment, the COMESA Common Investment Area (CCIA) was launched in 1998. In 1999, it was decided to establish a Regional Investment Agency (RIA) to implement the CCIA; the RIA was officially launched in June 2006. The CCIA is expected to be fully functional by 2010, availing COMESA investors national treatment; similar treatment should be granted to non-COMESA investors by 2015.

38. The Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence is to be implemented in several stages. In November 2007, however, only four member states (Burundi, Kenya, Rwanda and Zimbabwe) had signed.

(b) Southern African Development Community (SADC)

39. Mauritius joined SADC in 1995. The SADC Treaty aims to provide balanced economic growth and development, political stability, and security for all its members.²⁹ The Treaty provides for several protocols in specific areas, such as trade, finance, industry, agriculture, transport, and investment. The protocols bind only the member states that are parties to them.

40. The SADC Trade Protocol came into force on 25 January 2000 after ratification by 12 members.³⁰ It aims to gradually establish a free-trade area (FTA). To achieve this goal, products have been grouped under three main categories. Category A (mostly capital goods and equipment) was liberalized in the first year; Category B (goods that constitute important sources of customs revenue) is to be liberalized gradually, by 2008³¹; and Category C (products deemed sensitive), which cannot exceed 15% of each member's total merchandise trade, is to be liberalized by 2012. In addition, a fourth category (Category E) covers goods ineligible for preferential treatment under general and security exceptions permitted by the Protocol. These are expected to represent a limited number of products, so that by 2010 about 98% of intra-SADC merchandise trade should be duty free. The phase-down offers (under Categories B and C) are country specific, with more developed member states undertaking faster liberalization than their less developed counterparts. The SADC Free Trade Area has been notified to the WTO.³²

41. The Trade Protocol has also identified several non-tariff measures to be eliminated, such as import quotas, cumbersome customs procedures, and export subsidies. A mechanism for monitoring, reporting, and eliminating NTBs was adopted.

42. A draft regulation on mutual assistance and cooperation in customs matters was approved on 31 March 2000.³³ The SADC Subcommittee on Customs Cooperation and Trade Facilitation has

²⁹ Angola, Botswana, Congo D.R., Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

³⁰ The Democratic Republic of Congo has not yet ratified the protocol. Madagascar acceded to the Protocol on 21 February 2006.

³¹ Category A and B products cover an estimated 85% of goods traded among SADC members.

³² WTO documents WT/REG176/N1/Rev.1, 27 August 2004; WT/REG176/1, 8 October 2004; and WT/REG176/Rev.1, 19 November 2004.

³³ Appendix I to Annex II of the SADC Protocol on Trade, as amended.

finalized discussions on customs documentation (the format of bills of entry and certificates of origin), and commenced the monitoring process for removal of non-tariff barriers by establishing systems for electronic validation of certificates of origin. SADC rules of origin are being negotiated on a product-by-product basis. Negotiations are continuing for certain products, including wheat flour and its products, electrical products, and optical, photographic, measuring, and surgical instruments.³⁴

43. The long-term objective for sugar is to fully liberalize its trade within the SADC region after the year 2012. The SADC sugar market-access and cooperation agreement has been implemented since 2001, and incorporated as Annex VII to the amended Trade Protocol. A SADC Regional Sugar Strategy is being developed in order to promote the sugar industries in the region.

44. The SADC Protocol on Development of Tourism, signed in 1998, entered into force on 26 November 2002. It is aimed at ensuring equitable, balanced, and complementary development of the tourism industry in the region; optimizing the use of resources through joint development of infrastructure; involving small and micro-enterprises, local communities, and women and youth; and facilitating intra-regional travel through easing of visa restrictions. The Protocol also contains a provision for setting up a regional body to market the region as a collective tourism destination. As result, the "Regional Tourism Organization of Southern Africa" (RETOSA) was established in 1998. The RETOSA is partially funded by the private sector.

45. The SADC Treaty provides for a tribunal to adjudicate members' disputes arising from the interpretation or application of the Treaty, the interpretation, application or validity of Protocols or other subsidiary instruments.³⁵ Its composition, powers, functions, procedures, and other related matters are prescribed in the Protocol on Tribunal and the Rules of Procedure. The Members of the Tribunal were sworn in on 18 November 2005. The Tribunal is based in Windhoek (Namibia) and functions currently with an interim budget.

46. SADC intends also to liberalize trade in services, but negotiations are yet to start. Nevertheless, the SADC programme on trade in services is being implemented through a project called Support to SADC Regional Integration and Multilateral Trading System, funded by the EC, UNCTAD, and the SADC Secretariat.

47. The main bodies of SADC are the Summit (comprising Heads of State or Government), Organ on Politics Defence and Security (OPDS), the Council of Ministers, Tribunal, SADC National Committees, and the Secretariat.

(c) Other trade arrangements

African Economic Community (AEC) and the African Union (AU)

48. Mauritius is a founding member of the AU, which succeeded the Organization of African Unity (OAU) in July 2002.³⁶ The AU aims at becoming, in the longer run, an economic and political union, and is being structured largely on the model of the European Union. Its organs comprise the Assembly, composed of Heads of State and Government (decisional body), the Council of Ministers (executive body), the Pan-African Parliament (consultative body), the Commission (including eight

³⁴ For example, for electrical machinery, some members want to prevent "single assembly" of white goods, while for plastics they want to prevent the use of imported plastic waste.

³⁵ Article 32 of the Treaty, as amended.

³⁶ The Charter establishing the OAU was signed on 25 May 1963. The Constitutive Act of the AU was adopted in July 2000 at the Lome Summit (Togo), and entered into force in 2001. The AU was officially launched at the Durban Summit.

commissioners, each responsible for a portfolio), and the Peace and Security Council (PSC). The AU will also comprise an African central bank; an African monetary fund; an African investment bank; a Court of Justice; an Economic, Social and Cultural Council (whose Statutes have been elaborated); and specialized technical committees.

49. In June 1991, the OAU founded the African Economic Community (AEC). Under the AU, the EAC is to become a customs and monetary union in six stages, over a 34-year period. The AEC is encountering several difficulties, however, including conflicts, institutional and budgetary insufficiencies, and weak commitment by its members.

50. One of the main initiatives under the AU is the New Partnership for African Development (NEPAD). The NEPAD has its own Secretariat, based in South Africa. It has resulted from the fusion of two other plans proposed for Africa - the Omega Plan and the Millennium African Plan. The goals of NEPAD are to halt the marginalization of Africa in the globalization process; to eradicate poverty; and to promote accelerated growth and sustainable development. It places the private sector and investment promotion at the centre of its project, and also aims at trade integration and improved access to the developed countries markets.³⁷

51. To respond to the objectives defined by the AU and the NEPAD, an EC-Africa partnership to develop trans-African connections was launched in 2006. A total of €5.6 billion from the 10th European Development Fund (EDF, 2008-13) will support regional development in the following priority areas: transport, energy, water, information technology, and telecommunication networks.³⁸

Indian Ocean Rim-Association for Regional Cooperation (IOR-ARC)

52. The IOR-ARC (formerly the Indian Ocean Rim Initiative) was formally launched in Mauritius in March 1997.³⁹ It aims to build and expand mutually beneficial cooperation through a consensus-based, evolutionary, and non-intrusive approach. The four main pillars of the economic cooperation are: trade liberalization, including reduction to zero of all tariffs by 2020 for all member countries; trade and investment facilitation, based on information sharing regarding trade and investment regimes (including information on customs regulations, intellectual property, procurement procedures, and harmonization of standards); economic and technical cooperation, involving identification of specific areas for cooperation, and capacity building; and trade and investment dialogue, through regular meetings of government, business, and academia representatives. No tariff preference is yet granted under this forum.

53. The highest authority of the IOR-ARC is the Council of Foreign Ministers (COM), which *inter alia*, formulates policy, reviews progress on cooperation issues, and makes decisions on new areas of cooperation and the establishment of additional mechanisms or matters of general interest. The Committee of Senior Officials (CSO), composed of government officials, reviews the implementation of the COM decisions. In cooperation with the Indian Ocean Rim Business Forum and the Indian Ocean Rim Academic Group, the CSO also establishes economic cooperation priorities, and develops, monitors, and coordinates work programmes. The Working Group on Trade

³⁷ For more information, see NEPAD online information. Viewed at: <http://www.nepad.org>.

³⁸ European Commission (2006).

³⁹ Currently, the IOR-ARC members are: Australia, Bangladesh, India, Indonesia, Iran, Kenya, Madagascar, Malaysia, Mauritius, Mozambique, Oman, Singapore, South Africa, Sri Lanka, Tanzania, Thailand, United Arab Emirates, and Yemen. China, Egypt, France, Japan, and the United Kingdom are dialogue partners, while the Seychelles withdrew as a member on 1 July 2003. The Indian Ocean Tourism Organization has observer status. For further details, see Indian Ocean Rim Network. Viewed at: <http://www.iornet.com/>.

and Investment (WGTI), established in 1999, has as its main objectives trade facilitation and liberalization, and economic and technical cooperation. An IOR-ARC Coordinating Secretariat, based in Mauritius, coordinates, services, and monitors the implementation of policy decisions and work programmes.

54. A paper, prepared by the Committee of Senior Officials, "Medium to Long Term Vision of the IOR-ARC", has identified the following priority areas: trade, investment and finance; education and technology; fisheries; tourism; natural disaster; and ICT.

Indian Ocean Commission (IOC)

55. The IOC was launched in Mauritius in 1982 and established in 1984 by the General Agreement of Cooperation by Madagascar, Mauritius, and the Seychelles; Comoros and Reunion (France) joined in 1986. Over the years, the mission of the IOC has evolved to take into account the evolution of other regional organizations, such as COMESA or SADC (see above). Between January and July 2005, new strategic orientations were adopted, clarifying the objectives of the IOC. In addition to the political dimension, its activities are now oriented towards defence of insular interests of its members in international and regional fora, preservation of and adding value to environment and natural resources, and regional dimension of human development.⁴⁰

56. The IOC Council of Ministers meets once a year to define the broad orientation of activities to be carried out. Each member State assumes the presidency of the Council, in alphabetical order, for one year. Each member State is also represented on the Committee of Permanent Liaison Officers (CPLO); its representative being responsible for the coordination and implementation of regional cooperation in his/her home country. The IOC General Secretariat, located in Mauritius, is the administrative arm of the IOC, and responsible for the implementation of decisions of the Council and of the CPLO.

57. Regional cooperation within the IOC is characterized by projects reflecting common interests and concerns of island countries in areas such as environment, tourism, protection of coastal zones, fight against fuel spillage, fisheries, and telecommunications. These projects are mostly financed by the EC.⁴¹ Other important funding sources are the World Bank (Global Environment Facility), and United Nations. The Integrated Regional Programme for the Development of Exchanges (PRIDE), aimed at executing a regional strategy facilitating and promoting the free movement of goods, services, capital, and labour, was terminated in October 2002 with the closure of the project funding. However, trade between Mauritius and Madagascar is continuing on a duty-free basis within the framework of the IOC. The IOC intends to develop a new programme *Programme Régional Innovation, Connaissance, Excellence* (PRICE) with the main objective of improving competitiveness and innovation in the region.

Relationship with the European Communities

58. Mauritius is signatory to the Cotonou Agreement between the European Communities (EC) and 78 African, Caribbean and Pacific (ACP) states. The agreement was signed in June 2000 (for a period of 20 years) and entered into force in April 2003.⁴² It was ratified by Mauritius in September

⁴⁰ Indian Ocean Commission online information, "La Commission de l'Océan Indien en bref". Viewed at: <http://www.coi-ioc.org/index.php?id=45>.

⁴¹ European Commission (undated).

⁴² The ACP states comprise 48 African states, covering all sub-Saharan Africa, 15 states in the Caribbean, and 15 in the Pacific (the Democratic Republic of East Timor acceded to the Cotonou Agreement in May 2003).

2000. It aims to reduce poverty, and builds on three interlinked pillars: a political dimension; development and finance cooperation; and economic and trade cooperation. The agreement affords ACP countries preferential trade and aid links with the EC.

59. Under the Cotonou Agreement, ACP countries (except South Africa) benefit from non-reciprocal trade preferences during an interim period (2001-07).⁴³ These include duty-free treatment on industrial products, certain agricultural products, and fishery products, subject to a safeguard clause. For sugar, bananas, beef and veal, and rice, the EC provides special market access under "commodity protocols". The preferential rules of origin contain product-specific requirements⁴⁴, and allow for regional cumulation. The provisions on unilateral preferences were to be replaced on 31 December 2007 at the latest, by a set of Economic Partnership Agreements (EPAs) between the EC and individual ACP countries or regional groupings; these are expected to be reciprocal and WTO-compatible.

60. The primary objectives of the EPAs are to foster sustainable development, and integrate the ACP states into the world economy. The basic guiding principle for EPAs is to build on and reinforce ACP regional integration processes, and provide for appropriate differentiation and asymmetry to take into account the level of development of ACP countries. EPAs will provide for the progressive elimination of tariffs and non-tariff measures between the parties on goods and services, and are expected to address other trade-related issues.⁴⁵ Development concerns will be reflected through flexibility concerning depth and asymmetry of liberalization, transition periods, trade coverage and exceptions, and assistance from the EC. The EPA negotiations started formally in September 2002. Mauritius is participating in the EPA negotiations as member of the Eastern and Southern Africa (ESA) Group. In December 2007, Mauritius signed an interim agreement, which entered into effect on 1 January 2008 and will be applicable until the EPA will come into force.

61. Mauritius also benefits from preferential tariff treatment on the EC market under the Generalized System of Preferences. It has also received financial assistance from the EC under, *inter alia*, the European Development Fund through the national or regional indicative programmes; and the European Investment Bank for commercial/concessional loans.

Relationship with the United States

62. Mauritius benefits from preferential access to the U.S. market under the Generalized System of Preferences (GSP) scheme and the African Growth and Opportunity Act (AGOA).⁴⁶ Under the AGOA, Mauritius qualifies for duty-free and quota-free access for a range of products (including agricultural and textile products) until 2015.⁴⁷ Since January 2001, Mauritius also qualifies for duty-free access to the U.S. market under the AGOA's "wearing apparel" provisions. However, as it is not considered a Lesser Developed Country, Mauritius cannot use non-qualifying third-country textile inputs in the manufacture of AGOA-eligible apparel. The Miscellaneous Trade and Technical Corrections Act of 2004 granted Mauritius the lesser-developed beneficiary country status for one

⁴³ The agreement was under a WTO waiver approved at the Doha Ministerial Meeting (WTO document WT/MIN(01)/15, 14 November 2001).

⁴⁴ The requirements relate to maximum import content, specific processing criteria, and change in tariff heading.

⁴⁵ These may include sanitary and phytosanitary measures, intellectual property rights, public procurement, competition policy, investment, trade and environment, trade and labour standards, consumer policy regulation and consumer health protection, standardization and certification, and food security.

⁴⁶ The AGOA was amended several times, namely in 2002, 2004 and 2006.

⁴⁷ Until its amendment by AGOA Acceleration Act of 2004, the AGOA was due to expire in 2008.

year (up to 30 September 2005).⁴⁸ The share of duty-free exports in total textile and apparel exports increased gradually from 13.9% in 2001 to 95.4% in 2007.

63. In addition, Mauritian apparel made with third-country fabric was subject to a special sub-cap set at 5% of the LDC tariff quota for 2004-05 (equivalent to approximately 27 million m² equivalents). This provision resulted in a 4.7% increase of duty-free textiles and apparel exports by Mauritius to the United States. However, since the end of the derogation, exports of these items under the AGOA to the United States have decreased from US\$147.8 million (in 2004) and US\$143.4 million in 2005 to US\$110.3 in 2006.⁴⁹

64. In practice, Mauritius has failed to benefit from the AGOA in sectors other than the textile and clothing. Total exports to the United States under AGOA amounted to US\$160.5 million in 2004 and US\$152.6 million in 2005; virtually all were in textiles and apparel. However, in 2006, their share fell to 76% (out of total exports of US\$157.5 million), due mainly to an increase (in absolute and relative terms) in export of agricultural products.⁵⁰ Between 2005 and 2006, exports of agricultural products increased from US\$3.4 million to US\$35.5 million, comprising mainly fish and fish products. Exports under the GSP scheme have been fluctuating, falling from US\$12.7 million in 2004 to US\$5.8 million in 2005, and then rising to US\$11.7 million in 2006. In 2007, products exported to the United States under the GSP scheme were: flowers and leaves, fresh fruits and vegetables, sugar, silver and gold, sunglasses, frames, carnival masks, hair brushes and ornaments, marine and invertebrate fish, and rum.

65. A Trade and Investment Framework Agreement (TIFA) between the United States and Mauritius was signed on 18 September 2006. It is aimed at strengthening and expanding trade and investment ties between the two countries. The TIFA contains no specific commitment to move to a preferential or free-trade area. The parties agreed on a 14-point working programme that is in the process of being implemented. Negotiations are to start on a bilateral investment treaty.

Other preferential agreements

66. Mauritius also benefits from preferential tariff treatment granted under the GSP schemes of, *inter alia*, Canada, Japan, New Zealand, Norway, and Switzerland. However, its use of these preferences remains limited, mainly due to the limited quantity of production, as well as product coverage. In 2007, products exported under the GSP were: sugar to Canada; hair brushes, garments, and ornaments to Japan; fabrics to Turkey; pineapples, garments, wooden furniture, watch dials, paragliders, and tuna to Switzerland; ship models, and flowers and leaves to Canada and Switzerland; and sunglasses to Canada and Japan.

67. Mauritius is not a signatory to the Agreement on Global System of Trade Preferences (GSTP) concluded among developing countries.

68. Mauritius grants preferences on a bilateral basis to imports from Pakistan (since November 2007). Negotiations of bilateral preferences have been concluded with India, but the Agreement has yet to be signed.

⁴⁸ Under the AGOA amendments, the waiver from the normal rules of origin for wearing apparel, as applicable to "lesser developed beneficiary countries", was extended from September 2004 to September 2007.

⁴⁹ Based on Trade Law Center for Southern Africa online information, "Bi-Lateral Trade Profile : Us – Mauritius". Viewed at: http://www.agoa.info/?view=country_info&country=mu&story=trade.

⁵⁰ Based on Trade Law Center for Southern Africa online information, "Bi-Lateral Trade Profile : Us – Mauritius". Viewed at: http://www.agoa.info/?view=country_info&country=mu&story=trade.

(5) FOREIGN INVESTMENT REGIME

69. Since its last TPR in 2001, Mauritius has made major changes to its investment regime. In order to set off the decline in investment, the Government changed its strategy from granting numerous and overlapping incentives towards one based on a low-tax regime and targeted promotion of projects. The new strategy also involves the creation of a unique brand identity for Mauritius, instead of targeting sectors individually through their respective promotion agencies.⁵¹ For this, a Committee has been set up under the chairmanship of the Minister of Tourism, Leisure and External Communications. The legal framework for businesses has also been modified, partly as a follow-up to Mauritius' 2000 Commitment Letter to the OECD on the elimination of unfair tax competition. In order to facilitate business procedures, the Business Registration Act 2002 and Business Facilitation (Miscellaneous Provisions) Act 2006 were enacted, the latter providing for the possibility for businesses to start their operations on the basis of self-adherence to established guidelines, and for ex-post control of compliance.

70. Regarding the investment incentives regime, numerous Acts were amended⁵² or repealed⁵³ by the Finance Act 2006.⁵⁴ All schemes established under the Investment Promotion Act, with the exception of the Integrated Resort Scheme (IRS)), were also repealed (Chapter III(4)(i)).⁵⁵ The other remaining incentive scheme is the Freeport Scheme (Chapter IV(5)(iii)(a)). A Real Estate Scheme was introduced in November 2007 to create opportunities for small landowners to participate in real estate development (Chapter IV(5)(iv)). However, some incentives are being grandfathered up to 2012 (up to 2016 in the case of the spinning, weaving, dyeing and knitting companies (Chapter IV(3))) to promote and protect investments already realized in these sectors.

71. Corporate tax was reduced from 25% to 22.5% and then to 15% (the rate previously used to attract investments under specific schemes), effective 1 July 2007.⁵⁶ The incentives granted during the period under review are summarized in Table AIII.2; all of them are administered by the Mauritius Revenue Authority (MRA).

72. Steps have also been taken to facilitate investment procedures, as well as acquisition of properties by foreigners (see below). In 2006, a single Occupation Permit replaced the former work and residence permits; a single Building and Land Use Permit (BLP) replaced the former Development and Building Permits; and trade licences were abolished.⁵⁷ The former "screen and

⁵¹ Ministry of Finance and Economic Development (2005).

⁵² The amendments concern the Investment Promotion Act, the VAT Act, the Customs Act, as well as the Non Citizens (Employment Restriction) Act and Non Citizens (Property Restriction) Act.

⁵³ The Export Service Zones Act, Hotel Management (Incentives) Act, Industrial Expansion Act (except section 20), and Health Development Certificate Act were repealed.

⁵⁴ Repealed by the Finance Act 2006.

⁵⁵ The regulations repealed by the Finance Act 2006 are: Investment Promotion (ICT Scheme) Regulations 2002; Investment Promotion (Permanent Resident Scheme) Regulations 2002; Investment Promotion (Regional Development Scheme) Regulations 2001; Investment Promotion (Regional Headquarters Scheme) Regulations 2001; and Investment Promotion (SAPES) Regulations 2002.

⁵⁶ The Finance Act 2007. The tax is applicable to companies, unit trust schemes, trusts, and non-resident societies (partnerships). Resident societies are not liable for income tax, but the associates are taxable on their share of income from the societies. The 15% rate also applies to personal income. Taxable income includes income derived from business, rents, royalties, premium, property, dividends (foreign), and interest, but not capital gains. Income is taxed before distribution of dividend. A non-resident is liable only on income derived from Mauritius, while residents are liable on their world income. Resident companies (i.e. companies incorporated or having their central management and control in Mauritius) are allowed to claim tax credits on account of foreign tax paid on income chargeable to tax in Mauritius.

⁵⁷ The Business Facilitation (Miscellaneous Provisions) Act 2006.

approve" approach, where investors were granted investment certificates for qualifying activities, has been replaced by an approach based on registration with the BOI. Hence there is no need to submit project briefs and feasibility studies, prior approval by the BOI, except for the Real Estate Development Scheme (REDS) (Chapter IV(5)(iv)) and Freeport. Registration with the BOI is optional, but is compulsory for investors intending to apply for an Occupation Permit; non-citizen investors wishing to acquire property or lease land; investors wishing to benefit from land conversion tax exemption under the Sugar Industry Efficiency Act; investors with a development project under the REDS or intending to operate in a Freeport Zone; and companies producing goods for export and wishing to benefit from special labour and employment provisions (under Section 20 of the repealed Industrial Expansion Act).

73. To register with the BOI, an investor has to first incorporate/set up a company or *société*⁵⁸ and register its business with the Registrar of Businesses (e.g. Registrar of Companies).⁵⁹ Registration can be done online or at the Office of the Companies Division. With some exceptions⁶⁰, a business may start activities within three working days after registration. Regulated activities require a prior licence from a regulatory authority: these include banking services (Bank of Mauritius), global business (Financial Services Commission), internet service provider (Information and Communication Technologies Authority), and freeport activities (Mauritius Revenue Authority). If expected annual turnover is less than MUR 10 million and the business employs less than ten employees, it qualifies as small or medium-size enterprise (SME) and can be registered with SEHDA, except if it is engaged in activities relating to ICT, financial services, cultivation of land, and for religious or charitable purposes.

74. The Companies Act 2001 replaced the Companies Act 1984⁶¹, and the International Companies Act 1994, thereby creating a unified legal regime for all companies. Changes were also brought to the financial services sector, which was unified by the Financial Services Development (FSD) Act 2001. All financial services, with the exception of banking, were brought under one umbrella institution, the Financial Services Commission (FSC), which became the regulator for non-banking financial services, including the global business sector (formerly the offshore sector). In this context, the FSC replaced the Mauritius Offshore Business Activities Authority (MOBAA) (Chapter IV(5)(i)).

75. The Companies Act 2001 provides for various types of companies: limited by shares; limited by guarantee; limited by shares and guarantee; unlimited; foreign companies (e.g. incorporated outside Mauritius); and limited life companies.⁶² Any of these may be licensed as Category 1 or 2 global business companies (GBC1 and GBC2); however, limited life company status is available only for GBCs. A GBC1 may also be registered as a protected cell company (PCC).⁶³ Every company,

⁵⁸ According to the Investment Promotion Act, an investor is a person carrying out or who intends to carry out an economic activity generating an annual turnover exceeding MUR 3 million, and can be a non-citizen of Mauritius or a body, whether corporate or incorporate, of persons in association, *société*, partnership or company, the control or management of which is vested in persons who are not citizens of Mauritius.

⁵⁹ The Business Registration Act 2002. The following are not required to register: any person carrying on business exclusively in the island of Rodrigues, any office or employment specified in Part I of the First Schedule to the Business Registration Act, and any business activity specified in Part II of the First Schedule.

⁶⁰ These exceptions concern: regulated activities; activities that require environmental clearance; and activities that involve land development, or construction works.

⁶¹ With the exception of the sections on insolvency and public companies, which remain in force until the adoption of separate legislation.

⁶² This form allows the dissolution of the company on the occurrence of events specified in the Companies Act 2001 (Article 290).

⁶³ The PCC is a special legal structure made up of cellular and non-cellular assets and provides legal segregation of assets attributable to each cell of the company (whether owned by individuals or body corporate).

with the exception of a GBC2 (see below), is either public or private; the private company is not allowed to offer shares or debentures to the public.

76. A foreign company registered in Mauritius is treated for most purposes as a Mauritius-incorporated company. Direct ownership by foreigners of an onshore Mauritian company, or part of it, requires authorization from the Prime Minister. The authorization is not automatic if the activity in question is in competition with Mauritian-owned companies.⁶⁴

77. Under the Companies Act 2001, the GBC1 replaced the offshore company. The FSD Act 2001, repealed by the Financial Services (FS) Act 2007, enabled a GBC1 to undertake only activities listed in its Second Schedule.⁶⁵ Any resident corporation that proposes to conduct business outside Mauritius may now apply to the FSC for a Category 1 or 2 Global Business Licence (GBL). A GBC may carry out any activity unless it is unlawful, contrary to public interest or may cause prejudice to the good repute of Mauritius as a centre for financial services. The conduct of business of a GBC1 must be managed from within Mauritius. In this context, a GBC must, *inter alia*, have at least two directors resident in Mauritius. The GBC1 is considered as resident in Mauritius, and may benefit from Mauritius' double taxation avoidance treaties; it must, however, hold a Tax Residency Certificate. Annual financial statements must be filed with the FSC. A GBC1 is subject to an annual licence fee of US\$1500 and an application fee of US\$500 to the FSC. A new fee structure was scheduled to come into effect in January 2008.⁶⁶ A GBC1 is liable to corporate tax at the current standard rate of 15%, but benefits from a foreign tax credit of 85% which, in practice, lowers the rate to 3%.

78. The GBC2 replaced the international company (IC). Only a private company is eligible to apply for a Category 2 GBL after being incorporated under the Companies Act 2001. It cannot conduct business with persons resident in Mauritius; open and maintain with a bank an account in Mauritius currency; lease, hold, acquire or dispose of an immovable property or any interest in immovable property situated in Mauritius; nor invest in any securities listed on a securities exchange licensed under the Securities Act 2005. The GBC2 is treated as non-resident for tax purposes, and is therefore exempt from the provisions of the Income Tax Act and cannot benefit from Mauritius' double taxation avoidance treaties; it is not required to file annual accounts. A GBC2 is not allowed to operate in the freeport. A GBC2 must have a registered agent in Mauritius who must be a management company licensed by the FSC. It must have at least one director; corporate directors are allowed.

79. Companies holding a GBL cannot deal with residents. Nonetheless, a GBC can open and maintain with a bank an account in foreign currency; hold any share, debenture, security or any interest in or otherwise deal or transact with a corporation holding a GBL; or enter into a business relationship with the holder of a management licence or a law practitioner or qualified auditor in Mauritius. In addition, a GBC1 may open and maintain with a bank an account in Mauritius currency for the purpose of its day-to-day transactions; leases, holds, acquires or disposes of an immovable property subject to the Non-Citizens (Property Restrictions) Act; invests in any securities listed on

The PCC is regulated by the Protected Cell Companies Act 1999 and Protected Cell Companies (Amendment of Schedule) Regulations 2005.

⁶⁴ Grant Thornton online information, "Forms of company". Viewed at: <http://gtmu.com/index.php?langue=ang&rubrique=108>.

⁶⁵ These activities were: aircraft financing and leasing, assets management, consultancy services, employment services, information and communication technologies, insurance, licensing and franchising, logistics and or marketing, operational headquarters, pension funds, shipping and shipping management, trading, or any other activity as may be approved by the commission.

⁶⁶ There have been no changes in the fee structure since its inception in 1994.

the Stock Exchange; and, subject to authorization from the FSC, deals or transacts with residents in Mauritius where this is incidental to the conduct of business outside Mauritius. Any person (resident or not) may hold shares in a company holding a GBL. As at 30 September 2007, there were some 33,492 GBCs.

80. Companies benefit from corporate tax exemptions on royalties payable to non-residents, dividends payable by resident companies, gains on sales of securities by GBCs, and income derived from the operation of a registered foreign vessel or from deep sea international trade by a local registered vessel. Tax deduction at source (TDS) has been introduced on certain payments. The rate of TDS is 15% for interest, 10% for royalties, 5% for rent, 3% for payments to providers of services, and 0.75% for payments to contractors and sub-contractors. In case of interest however, TDS is attracted only if the aggregate amount of deposits held by a depositor in a financial institution, including its branches, exceeds MUR 2 million.

81. A Temporary Solidarity Levy was introduced, effective 1 July 2006, on the turnover of hotels, hotel management and tour operators. In addition, an environment protection fee of 0.75% is levied on the monthly turnover of hotels and boarding houses, and enterprises engaged in stone crushing and in the manufacture or processing of aggregate, concrete, blocks, precast units, coral sand, rock sand, and basalt sand. A passenger fee varying between MUR 150 and MUR 700 is levied on passengers leaving Mauritius by air, excluding passengers whose journey originates in Mauritius. A special levy on the turnover and accounting profits of banks was introduced, effective from the fiscal year 2007/08 (i.e. 1 July 2007) (Chapter IV(5)(iv) and (5)(i)(b)).

82. Under the Non-Citizens (Property Restriction) Act, a non-citizen investor may acquire property in Mauritius subject to prior approval by the Prime Minister. However, approval is not required when property is acquired under a lease agreement not exceeding 20 years, under the REDS to purchase a villa, or when the investor has obtained approval from the BOI (since October 2006) for business purposes. For other regulated activities that require prior clearances from the relevant ministries or agencies, investors must follow guidelines set by these institutions prior to commencing their operations. Each public sector agency dealing with investment-related matters is required to publish clear and transparent guidelines. The relevant agencies are responsible for ex-post control to ensure compliance. Other limitations to investment by foreigners concern immigration regulations; the tourism subsector (Chapter IV(5)(iv)); specific incentive schemes (eligibility criteria); and areas still under state monopoly, including water, ports, and airports.

83. Mauritius has concluded 33 double-taxation avoidance treaties.⁶⁷ Investment promotion and protection agreements (IPPAs) have been signed and are effective with 16 countries⁶⁸, and have been signed but not yet ratified with 17 more countries.⁶⁹ Negotiations have been concluded or are under way with 12 more countries.

⁶⁷ The treaties currently in force are with: Barbados, Belgium, Botswana, China, Croatia, Cyprus, France, Germany, India, Italy, Kuwait, Lesotho, Luxembourg, Madagascar, Malaysia, Mozambique, Namibia, Nepal, Oman, Pakistan, Rwanda, Senegal, Seychelles, Singapore, South Africa, Sri Lanka, Swaziland, Sweden, Thailand, Uganda, United Kingdom, United Arab Emirates and Zimbabwe. Other treaties await ratification (with Bangladesh, Malawi, Nigeria, Russia, Tunisia, Viet Nam and Zambia).

⁶⁸ China, Czech Republic, France, Germany, India, Indonesia, Madagascar, Mozambique, Pakistan, Portugal, Romania, Singapore, South Africa, Sweden, Switzerland, and the United Kingdom.

⁶⁹ Barbados, Belgium, Benin, Botswana, Burundi, Cameroon, Chad, Comoros, Ghana, Guinea Republic, Luxembourg, Mauritania, Nepal, Rwanda, Senegal, Swaziland, and Zimbabwe.

ANNEX II.1: AID FOR TRADE

1. Mauritius has benefited from a range of trade-related technical assistance activities since its last TPR. Nevertheless, it continues to face significant challenges in the context of the changing international environment. In response to the latter, Mauritius has undertaken some bold reforms that have led to the revival of its economic growth in recent years (Chapter I(2)). The authorities consider that Mauritius needs significant international assistance in its transition from dependence on preferences to an open and competitive economy; the required reforms could be at least partially funded through assistance provided under Aid For Trade (AFT). Past technical assistance activities, as well as areas where support from the international community could help Mauritius achieve greater integration into the global economy are highlighted below.

2. According to the Joint WTO/OECD database, during the period under review (2001-06), Mauritius has benefited from trade-related assistance, funded by international institutions and bilateral donors.¹ The amount of grants and concessional loans to Mauritius has been following an upward trend, from US\$207,000 in 2001 to US\$1,050,000 in 2006 (from US\$248,000 to US\$1,425,000 if all grants and loans were taken into account).² Assistance in trade development has been increasing gradually since 2004 and has overtaken that granted under the heading of trade policy and regulations. The major donors of gross official development assistance (ODA) to Mauritius over 2004-05 (latest data available) were France, EC, Japan, Arab Agencies, International Fund for Agricultural Development (IFAD), United Nations Technical Assistance (UNTA), Canada, Luxembourg, United States, and Global Environment Facility (GEF).³

3. Technical assistance granted by the WTO has been delivered mostly through regional activities and workshops, and trade policy courses, but also through national workshops or technical missions. National activities have been focusing on notifications, rules of origin, subsidies, government procurement, sanitary and phytosanitary measures and technical barriers to trade, anti-dumping, market access issues (textiles and clothing), trade-related intellectual property rights, trade in services (including domestic regulation and preparation of initial requests for specific commitments), trade facilitation, development of trade negotiating skills, dispute settlement, participation in Cotonou and Post-Doha Agenda (outcome and implementation).

4. Mauritius has been at the forefront of discussions on AFT since the WTO Ministerial Conference in Hong Kong, China in 2005. The Task Force on AFT identified the following broad categories for intervention: trade policy and regulations; trade development; infrastructural development; productive capacity building; adjustment to cushion the effects of trade liberalization; and other trade-related assistance needs.⁴ A major area of emphasis for Mauritius is trade-related adjustment assistance. Mauritius has proposed that assistance be provided to cover the costs of adjustment required by liberalization, including preference erosion (e.g. in the textile, clothing and sugar industries), loss of tariff revenues, rising food prices (following the gradual dismantling of

¹ Assistance was granted in agriculture, business-support services and institutions, customs valuation, dispute settlement, market analysis and development, training on negotiations, regional trade agreements, rules, sanitary and phytosanitary measures, services, tariff negotiations (non-agricultural market access), tariff reforms, technical barriers to trade, textiles and clothing, competition regime, trade and environment, trade and investment, trade facilitation, mainstreaming trade into development plans, trade promotion strategy design and implementation, trade-related intellectual property rights, and transparency in government procurement.

² The data for 2006 are still partial.

³ OECD, *Mauritiu*. Viewed at: <http://www.oecd.org/dataoecd/23/25/1882308.gif>.

⁴ The first two categories (trade policy and regulations, and trade development) are to follow the definition of the Joint WTO/OECD database; other categories fall under the AFT only if the activities in question have been explicitly identified as trade-related priorities in the recipient country's national development strategy.

agricultural subsidies), export earning shortfalls, and social costs (e.g. those related to employment losses).⁵

5. Mauritius' AFT requests are based on its national trade development strategy based on a ten-year programme announced in the FY 06/07 Budget, which is aimed at opening the economy to the rest of the world and implementing wider economic and social reforms. In consultation with the World Bank and the IMF, Mauritius estimated that such reforms would cost € 4 billion, the majority of the funding needing to be frontloaded. While approximately half of that amount is expected to be financed through investment, the authorities are seeking to obtain the remainder through concessionary finance, preferably under AFT.⁶ Mauritius has estimated its trade-related investments for 2006-15 at €2,248 million, with the biggest needs in ICT, SME support to existing sectors, power plant, ports and airports, and seafood hub (Table II.3).

Table II.1
Trade-related investment needs, 2006-15
(€ million)

Sector	TRTA	TRCB	TRPCB	TRInf	TRAM	Total
Sugar:						
Derocking/irrigation			63			63
Mechanization			24			24
VRS II compensation					97	97
Cess restructuring					24	24
Centralization				43		43
Blue print compensation					35	35
Power plant				215		215
Ethanol			16			16
Debt servicing					41	41
Income support					11	11
Research		14				14
SME support to existing sectors		100			120	220
New sectors:						
Knowledge hub			145			145
Seafood hub			160			160
Light engineering			60			60
Pharmaceuticals/medical hub			85			85
ICT (EASSy, etc.)				660		660
Ports & airports			190			190
Empowerment programme					45	45
Tariff revenue loss					100	100
Total		114	743	918	473	2248

TRTA Trade-Related Technical Assistance.
TRCB Trade-Related Capacity Building.
TRPCB Trade-Related Productive Capacity Building.
TRInf Trade-Related Infrastructure.
TRAM Trade-Related Adjustment Measures.

Source: OECD and WTO (2007), *Aid for Trade at a Glance 2007*, Country and Agency Chapters. The Chapter on Mauritius is available at: <http://www.oecd.org/dataoecd/45/47/39639129.pdf>.

⁵ WTO document WT/AFT/W/8, 4 May 2006.

⁶ Statement by the Minister of Finance and Economic Development at the OECD Policy Dialogue with Non-Members on Aid for Trade, 6-7 November 2006. Viewed at: <http://www.oecd.org/dataoecd/42/29/37692681.pdf>.