

Australia's Trade and Investment relationships with African States – The Mauritius Perspective

1. Introduction

Australia and African countries share common geographical traits and attributes. The two continents are also linked by the Indian Ocean, whose strategic importance is increasing. Displaying booming growth rates, African economies could represent significant opportunities to Australian businesses once trade relationships and economic cooperation frameworks between Australia and African countries are mainstreamed and institutionalized.


This paper will analyze the triangular relationship between Mauritius, Australia and Africa. Trade statistics, developments and opportunities will also be considered whilst the last section will consist of a proposal for consideration and comments by Australia. The main objective of the submission is to show the potential for joint Mauritius-Australia collaborative partnership to explore bilateral opportunities as well as opportunities on the African continent.

2. Existing trade and Investment relation between Australia and African States


2.1 Africa as a strategic region for Australia

GDP growth in sub-Saharan African countries in 2015 and 2016 has exceeded the average of emerging market and developing countries and is expected to continue beyond 2020. In 2017, real GDP growth in sub-Saharan Africa was 2.6% and is forecasted to be 3.5% in 2018.

According to World Economic Forum – Africa Competitiveness Report 2017, the 10 best-performing African nations are listed below:



The 10 most competitive African economies
Africa Competitiveness Report 2017



Economy	GCI rank 2016–2017	Score
Mauritius	45	4.49
South Africa	47	4.47
Rwanda	52	4.41
Botswana	64	4.29
Morocco	70	4.20
Namibia	84	4.02
Algeria	87	3.98
Tunisia	95	3.92
Kenya	96	3.90
Côte d'Ivoire	99	3.86

It is equally to be highlighted that the latest World Economic Forum figures provides that the number of working-age people in the continent is expected to grow to 450 million over the next couple of decades.

2.2 Trade

Two-way trade between Australia and the African countries in 2016 was worth approximately USD 3.86 billion.

2.2.1 Australia's imports

Australia imports mainly resource-based and agricultural products from African countries. Particular examples include crude petroleum, coffee, cocoa paste, fresh cut roses and buds, fish, zinc ores, non-industrial diamonds, fertilizers, mixtures of food and nuts including other edible parts of plants, gold, pepper, fresh/dried lemons, tobacco, and paper products. It has equally been noted that Australia imports manufactured products from African countries such as passenger motor cars, medicaments, and clothing for men/women/children.

Based on analysis made, the following have been underlined:

- The total Australian imports from Africa have decreased over the last five financial years as illustrated in the table below.

Exporters	Imported value in 2012	Imported value in 2013	Imported value in 2014	Imported value in 2015	Imported value in 2016
	US Dollar thousand				
World	250,464,794	232,481,271	227,544,231	200,113,780	189,406,028
Africa Aggregation	7,141,510	5,589,718	4,647,651	1,731,767	1,974,210

Source: Trade map

- South Africa, Gabon, Algeria, Congo and Morocco are the African countries that export mostly to Australia. The table below provides further details in this context.

Exporters	Imported value in 2012	Imported value in 2013	Imported value in 2014	Imported value in 2015	Imported value in 2016
	US Dollar thousand				
South Africa	904,469	864,291	822,741	890,455	789,235
Gabon	1,160,282	942,567	1,066,470	460,803	438,086
Algeria	69	78,875	1,965	60	238,592
Congo	926,969	910,259	781,885	97,035	200,288
Equatorial Guinea	8	29,386	31,083	36,165	64,617
Morocco	44,424	28,059	78,674	30,849	49,223
Egypt	57,786	24,629	34,779	25,462	24,911
Tunisia	17,866	18,226	20,439	21,852	23,721
Kenya	15,042	28,494	31,254	32,441	22,586
Mauritius	12,796	10,774	14,199	16,313	19,810
Ethiopia	17,988	13,781	21,823	20,260	18,130
Côte d'Ivoire	32,121	7,972	1,8747	20,752	15,294
Angola	32	32,726	53,892	19,257	9,744

Source: Trade map

c. Trade potential

To deepen and expand the commercial links between Australia's current trade relationships with the African continent, untapped potential have been noted mostly in:

- Oils;
- Resourced based products such as gold, diamond
- Medicaments
- Manufactured products such as motor cars, parts of airplanes, textile products, cigarettes

Annex 1 provides for further details.

2.2.2 Australia's exports

Agricultural products such as wheat, dried/ shelled broad beans, flour, frozen cuts of sheep, processed cheese, dried/shelled lentils, meat, grain, oils, fish and fertilizers, as well as minerals and metals (aluminum oxide, coal, iron, steel, Copper oxides and hydroxides) dominate Australia's exports to Africa. It has been noted that some manufactured exports are slightly growing as well. For example, the export of passenger motor cars has grown from USD 4.8 million in 2015 to USD 6.9 million in 2016; parts of machinery for working mineral substances from USD 22,2 million to USD 26,3 million over the same period; and Men's or

boys' trousers rose from USD 172 thousand in 2015 to USD 1,2 million during the last financial year.

As per analysis made, it has been observed that Australia's exports to the African continent over the last five financial years have suffered continued falls. Further, among the African countries, Australia's most substantial trade relationship is with South Africa. In this regard, an outline pertaining to Australia's trade with the main African importing countries is provided in the table below.

Importers	Exported value in 2012	Exported value in 2013	Exported value in 2014	Exported value in 2015	Exported value in 2016
	US Dollar thousand				
World	25,6242,913	252,155,105	240,444,684	187,792,151	189,629,975
Africa Aggregation	3,353,486	2,173,528	2,665,546	2,341,064	1,890,066
South Africa	1,578,620	740,191	1,070,391	924,449	726,879
Egypt	530,257	426,428	427,511	401,930	308,909
Mozambique	340,841	66,183	361,584	344,537	276,267
Nigeria	77,635	155,080	198,002	187,507	142,140
Ghana	210,336	99,272	47,928	45,849	88,979
Mauritius	109,029	89,508	99,292	76,651	64,907
Kenya	52,188	88,293	78,028	56,617	50,019
Tanzania, United Republic of	82,252	113,997	52,418	86,677	39,086
Senegal	61,394	51,222	12,348	18,093	17,862
Morocco	24,529	32,049	41,527	10,130	17,330
Côte d'Ivoire	12,240	21,003	6,315	12,327	15,815
Malawi	1,270	28,933	11,805	13,120	13,935
Zambia	26,279	17,238	23,736	14,330	12,891

Source: Trade map

Australia's export potential to the African countries exists mainly on the following products:

- Petroleum oils
- Wheat
- Medicaments
- Meat
- Manufacturing products such as accessories of automatic data-processing machines, Instruments and appliances used in medical, surgical or veterinary sciences.

Refer to **Annex 2** for additional detail.

2.3 Investment

The African continent is the biggest market for Australian Mining, Equipment, Technology and Services (METS) companies outside of Australia. According to the latest figures from the Department of Foreign Affairs and Trade of Australia, investment in Africa in 2017 by around 170 leading METS firm has so far reached \$30 billion.

Australian-listed companies control more than 90 mining operations in Africa. The range of minerals is extensive and the scale of exploration, extraction and processing involving current and potential investment is estimated to be worth more than \$40 billion. In addition, there are hundreds of Australian based non-ASX-listed companies involved in exploration, operations and development projects in Africa. Furthermore, about one in 20 companies listed on the Australian Stock Exchange has an investment in Africa.

Other lucrative sectors for cooperation between Africa and Australia include agriculture, education, professional services and retail.

3. Mauritius as the bridge between Australia, Africa and the Indo-Pacific region

Mauritius could position itself as a springboard for increased trade between Australia and Africa, and with the Indo Pacific region for several reasons, including among others:

- Geographic location

It is geographically closer to Australia, linked by the Indian Ocean, whose importance has been recognised in Australia's 2017 Foreign Policy White Paper Australia's Indo-Pacific bilateral and regional partnerships bring Australia closer to conceiving of more structured relationships with countries of Africa. Being both an Indian Ocean and an African country, and hosting the Secretariats of both the Indian Ocean Rim Association and the Indian Ocean Commission, Mauritius sits at an ideal confluence to support Australia's engagement with the countries of Africa.

- Logistical advantage

Improvements in the seaport/airport of Mauritius, the development of the ocean economy and a bunkering hub make Mauritius a more attractive platform.

The coming of KLM Royal Dutch Airlines in Mauritius this year and additional flights to new destinations by Air Mauritius will further open up air access between Europe and

Australia with Mauritius as a corridor. From March 2018, Air Mauritius will start operations to Amsterdam and Netherlands (until October 2018).

The Air Corridor between Africa and Asia/South East Asia using Mauritius and Changi Airport as hubs was launched in March 2016, with a view to promote origin and destination traffic flows between Africa and Asia/South East Asia.

The table below provides information with regard to regional and international air linkages of Mauritius.

		Destination	Frequency of flights
(1)	Flights to Australia	Perth	<ul style="list-style-type: none"> - 2 flights per week with additional flights operated during peak periods - Air Mauritius codeshares on flights operated by Virgin Australia out of Perth to Melbourne, Sydney, Adelaide and Brisbane
(2)	Flights to Africa	Johannesburg	<ul style="list-style-type: none"> - 19 flights per week - Additional flights on 20 and 27 December 2017 and 03 January 2018
		Cape Town	3 flights per week
		Durban	3 flights per week
		Nairobi	3 flights per week
		Dar Es Salaam	1 flight per week
		Antananarivo	8 flights per week
		Seychelles	4 flights per week
(3)	Flights to Europe	Paris, Orly, Amsterdam, London, Gatwick, Vienna, Zurich, Frankfurt, Munich, Cologne, Milan, Rome, Geneva, Istanbul	A total of 51 flights per week
(4)	Flights to India	Mumbai, Delhi, Bangalore,	A total of 8 flights per week

		Chennai	
(5)	Flights to China	Hong Kong, Shanghai, Chengdu, Guangzhou	A total of 6 flights per week
(6)	Flights to Kuala Lumpur		<ul style="list-style-type: none"> - 4 flights per week (on the routing Mauritius-Singapore-Kuala Lumpur-Singapore-Mauritius). - Air Mauritius places its code on flights operated by Malaysia Airlines to 9 destinations beyond Kuala Lumpur (Hong Kong, Singapore, Bangkok, Beijing, Langkawi, Penang, Johar Bahru, Kota Bahru and Kuantan)
(7)	Flights to UAE		<ul style="list-style-type: none"> - 14 flights per week on the Mauritius-Dubai route. - Air Mauritius codeshares on Emirates' services to Cairo, Riyadh, Jeddah, Dammam, Colombo and Karachi

3.1 Mauritius Overview

Mauritius has long been the jurisdiction of choice for firms wanting to expand their businesses around the world. As a matter of fact, investors are attracted by the political and economic stability of the country, the risk mitigating avenues that it offers, its sound legal and regulatory framework, its pool of English and French speaking professionals as well as state-of-the-art infrastructure.

Today, Mauritius is committed to become the major platform for investors looking to penetrate the African continent. Given the extensive experience that Mauritius has acquired in dealing with Africa for the past decades, Mauritius is believed to be one of the most attractive destinations for multinationals looking to penetrate Africa. The country is today acclaimed as a leading investment destination.

However, Mauritius has low visibility as a country in Australia and also as a potential trading partner. A large portion of the Australian population has never heard of Mauritius. Most

people are not aware of the manufacturing capabilities of Mauritius but may have heard of the touristic potential of the country.

- **Favourable indices of economic performance**

Mauritius is recognised by international organisations for continuous improvement in its doing business regime. For instance, indexes where Mauritius occupies the leading position in the Sub-Saharan African region include inter alia:

- World Bank Ease of Doing Business 2018;
- World Economic Forum's Global Competitiveness Index 2016-2017; and
- Mo Ibrahim Index of African Governance 2017.

Further details are available at **Annex 3**.

- **Scope for increased business opportunities**

In the 2017-2018 budget, Government of Mauritius has introduced an 8-year income tax holiday for new companies engaged in the manufacturing of pharmaceutical products, medical devices and high-tech products. The Government of Mauritius could encourage the setting up of Australian healthcare and pharmaceutical firms in Mauritius as this industry currently ranks 6th in Australia. The tax holiday is also applicable for companies interested in the exploitation and use of Deep Ocean Water for providing air conditioning installations, facilities and services.

- **A liberalised economy facilitating movement**

Mauritius has some comparative advantages over some African countries, including free flow of capital, no exchange controls and extensive bilateral and multilateral relationships with several African countries.

3.1.1 Mauritius Financial Centre

Mauritius, with its robust financial services centre, has emerged as the preferred business, investment and trading hub for Africa. Backed by two decades of experience in cross border investment and finance, Mauritius provides local and international investors with an ideal platform for quality banking and non-banking financial services through its modern and innovative legal framework and ease of doing business regime.

To ensure the reliability and sustainability of the financial sector of Mauritius, the Government has established a number of institutions to efficiently regulate and promote the banking and non-banking financial sectors in the country. Moreover, the country has a wide network of Investment Promotion and Protection Agreements (23) and Double Taxation Agreements (21) which significantly reduce risks and protect investments in the region.

Mauritius is a signatory to the Multilateral Memorandum of Understanding (MMoU) of the International Association of Insurance Supervisors (IAIS) and The International Organization of Securities Commissions (IOSCO) which is reflected in the elaborate legal framework such as the Financial Services Act 2007, the Captive Insurance Act 2015, the Insurance Act 2005, the Private Pension Schemes Act 2012, the Protected Cell Companies Act, the Securities Act 2005, the Trusts Act 2001, amongst others.

The Financial Services Commission as the regulator of the non-banking financial services sector has signed several Memoranda of Understanding (MoUs) with local, regional and international counterparts aiming at consolidating supervision of cross-border operations of financial institutions and is also a member of the International Organisation of Pension Supervisors (IOPS).

Below is listed some of the financial products that the Mauritian companies offer to multinational investors:

- Well-regulated and structured stock market
- Global banking services
- Company structuring
- Regional headquartering
- Treasury services

Annex 6 provides a synopsis on the Financial Services Sector of Mauritius.

3.1.2 Mauritius Freeport

Mauritius established a Freeport area whereby companies are able to use Mauritius as a platform for re-export of products free of any duty. The Freeport is an ideal competitive regional logistics, marketing hub and value-addition platform for distribution to the African Countries. Today, about 250 companies operate in the Freeport Area whereby they are able

to process their imported products to meet the Rules of Origin for re-export to the Regional Economic Communities of Africa.

The Mauritius Freeport contributes to about 0.5% to our GDP. The built-up space has rapidly grown from 5,000m² in 1993 to 295,000m² in 2015. This sector has so far attracted close to MUR 7 billion of investments with a number of projects under implementation within the seaport and airport zones. With the continued development of Freeport projects, an increase in the trade performance of the Freeport was observed in terms of value from MUR 47 billion (579,000 tons) in 2014 to MUR 61 billion (562,000 tons) in 2015. This increase in value is directly linked to mobile phones (handsets), seafood and fish products, general goods and pharmaceuticals, amongst others.

Our vision is to position Mauritius as the ‘HUB’ in Southern and Eastern Africa for the following reasons:

Neutral independence, open economy and strong political stability;

- Flexible, bilingual (French and English speaking population) and customer focus workforce which makes Mauritius particularly versatile when trading with Africa;
- 1st in Africa for the Ease of Doing Business (World Bank);
- Low tax platform and competitive costs compared to Europe and South Africa;
- Mauritius has an outstanding telecom infrastructure and the data communication network is the second largest of its kind in Africa;
- A web of sea links and direct air connections with different parts of Asia namely India, some major cities around Europe, Southern and Eastern African countries, amongst others;

Investment opportunities exist in a wide range of authorised export-oriented Freeport activities including, warehousing & storage, assembly, packaging, ship building, manufacturing, quality management, marketing, engineering, amongst others.

Additionally, the Freeport legislation provides for a liberal and comprehensive package of incentives for companies looking for a cost-effective logistics platform as mentioned below:

- Duty-Free and VAT free for goods and equipment imported into Freeport zones
- 0% corporate tax indefinite

- Preferential market access
- 100% foreign ownership
- Free repatriation of profits
- No foreign exchange control
- Reduced port handling charges
- 50 % of re-export value can be sold to the local market (subject to all taxes applicable)
- Access to offshore banking facilities

3.1.3 Services Industry

In recent years, the Mauritian economy has drastically evolved from being a sugar and tourism driven economy to become more focused on the provision of services. Several internal and external factors have led to this change such as the high competition on the global market due to the massive production capabilities of bigger countries. The high level of education of the Mauritian population has also led to the decline of manual jobs in the country. Accordingly, Mauritius has had to adapt in order to survive in this growingly competitive world.

Other than its financial services, Mauritius is able to provide a number of professional services and would be easily capable to deliver on the African market. The development of Mauritius has inexorably led to the progress of Mauritian companies in a number of services such as construction, information technology and education services. Mauritian professionals have had extensive experience in the said sectors and their related sub sectors which would be of particular interest to the developing countries of continental Africa. Mauritius would be able to provide a lot of advisory and technical expertise to the African continent should the right investment come their way.

Additionally, Mauritius is slowly positioning itself as an education hub for the region whereby locals and foreigners alike would be able to gain quality education from the region. In this same context, Mauritius would be able to provide a most conducive environment for Australian Universities and Institutions who wish to invest in branches for the African region.

Africa is also notorious for being impacted by diseases and health issues and Mauritius, which currently has a high tech health services sector, would certainly be able to target the

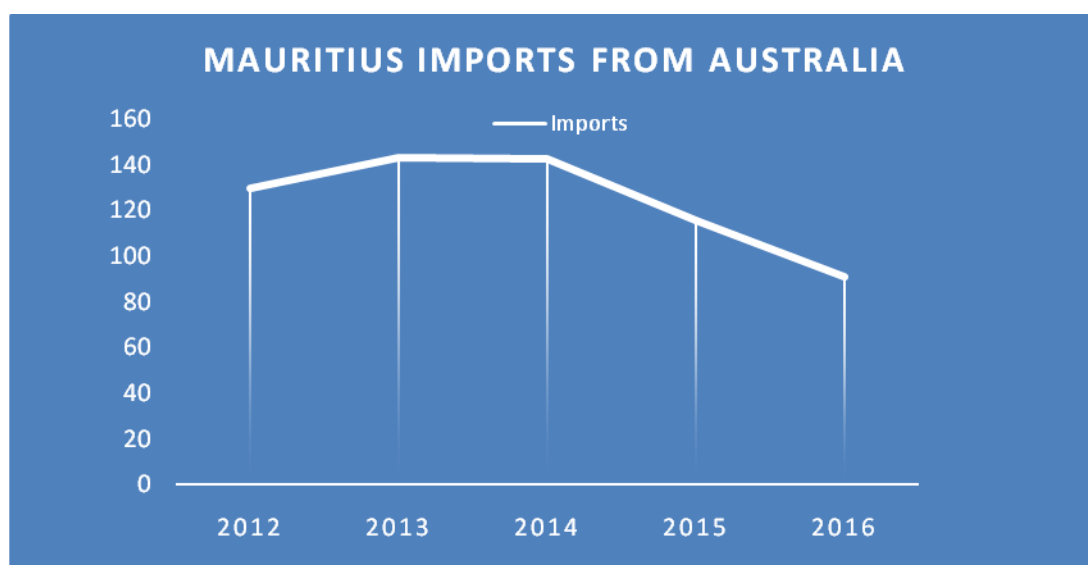
African region to provide premium health services. The relatively short travel distance and the idea of medical tourism would be particularly attractive to people from neighbouring countries..

3.2 Mauritius and Australia

3.2.1 Trade statistics

Mauritius' export to Australia has experienced an increasing trend over the past 5 years. Indeed, exports have increased by more than 90% and consisted mainly of textiles items, fish oils and frozen fish and other fish products.

However, there is potential for Mauritius to export additional products such as diamonds, medicaments, raw cane sugar, printed materials, Sports footwear and other sports gears. More detail is available at **Annex 5**.



Imports from Australia experienced a boom from 2012 to 2013. However, as from 2014 till September 2016, there has been a drastic decline in imports from \$142.3m to \$91m.

The decrease in imports was felt mainly in products such as wheat and meslin flour, toothfish, milk and cream, non-industrial diamonds, amongst others.

3.2.2 Mauritius Bilateral relation with Australia

No agreements exist with Australia, other than the Tax Information Exchange Agreement (TIEA) signed in December 2010.

3.3 Mauritius and Africa

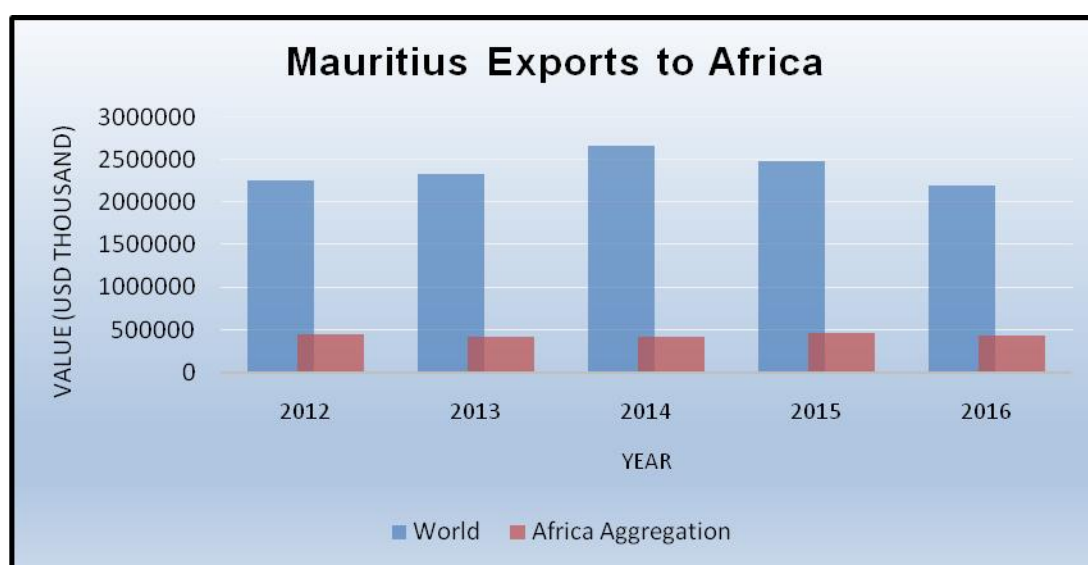
3.3.1 Trade statistics

The trade ties between Mauritius and other African countries have been growing rapidly in recent years as the FTAs established by the SADC and COMESA has created a lot of opportunities for African exporters. As it stands today, Mauritius trades with a number of African countries but mostly through the preferential access markets of the RECs. Below is table showing the top 10 African export partners of Mauritius.

Top 10 Export Partners of Mauritius in Africa					
Countries	2012	2013	2014	2015	2016
South Africa	220,798	196,736	188,417	214,303	178,852
Madagascar	155,653	146,696	173,561	161,457	160,822
Kenya	9,123	9,956	5,309	22,192	36,979
Seychelles	29,713	30,589	28,268	27,151	27,804
Tanzania, United Republic of	7,573	4,166	1,960	6,164	4,161
Comoros	5,386	4,588	5,248	5,544	4,100
Zimbabwe	3,172	2,877	4,228	4,543	3,852
Mozambique	789	2,426	1,219	1,211	2,228
Uganda	1,313	748	951	1,335	1,998
Algeria	1	0	114	234	1,099

All values are in USD thousands

The most common products exported to Africa from Mauritius are textile, sugar, electrical machinery & equipment and beverages. However, as seen below, the trend during the past 5 years has remained mostly stable and the vast majority of Mauritian products are exported to other areas of the world.



It is expected, that following the BREXIT, Mauritian exports to other areas of the world would grow. Moreover, a number of initiatives are being undertaken in Africa to regroup the

current RECs, namely, through the Tripartite Free Trade Agreement regrouping SADC, COMESA and EAC, and the Continental Free Trade Area (CFTA) which is expected to include all African Union countries.

3.3.2 Mauritius Bilateral relations with African countries

It is to be underlined that Mauritius has a network of agreements, comprising of both IPPAs and DTAAs with African states, which means that global investors and traders have preferential access to a number of key African markets and hundreds of millions of consumers.

3.4 Mauritius as a member of the African regional trading blocs

Mauritius is fully committed to developing economic ties with Africa, and in this context, it has elaborated a clear strategy to leverage on the opportunities and growth of the African economy. Its membership in SADC and COMESA provides duty free access to a market of around 500 million inhabitants. Australian companies can therefore establish in Mauritius and produce for exports to the regional markets, thereby benefiting from the duty and quota free access. The only requirement is for the Australian companies to meet the rules of origin requirements of SADC and COMESA.

Mauritius has also embarked on other initiatives such as the Tripartite Free Trade Agreement and the Continental Free Trade Agreement (CFTA). The Tripartite FTA initiative aims at harmonizing the trade regimes of the 3 Regional Economic Communities, namely COMESA, EAC and SADC. It encompasses an integrated market of 26 Member States with a combined population of 600 million people and a total GDP approaching US \$1.0 trillion. The Tripartite FTA initiative will pave the way for a Continental Free Trade Agreement. The establishment of the CFTA aims to create a continental market for goods and services in Africa covering over a billion people and a GDP of over 3 trillion USD. Negotiations on the CFTA are expected to be concluded by end 2017 or latest by mid-2018. It will set a timeframe to eliminate tariffs on at least 90% of intra Africa trade within the next five years, as well as remove impediments to trade in the services sector within Africa.

Further, Mauritius is an active member of the Indian Ocean Commission (IOC), the Indian Ocean Rim Association (IORA), the Cotonou Agreement and it benefits from the Africa Growth and Opportunity Act (AGOA).

3.5 Africa Strategy

Mauritius has negotiated Government to Government agreements for the establishment of Special Economic Zones (SEZs) in Senegal, Ghana, Ivory Coast and Madagascar, under which land has been made available as well as a series of incentives would be provided to investors investing in these SEZs.

The aim of Mauritius is to create a conducive and risk-free environment to mobilize private sector investment and, at the same time, enhance bilateral cooperation with these countries in various sectors, including trade, investment and capacity building.

Joint Investment possibilities between Mauritian and Australian investors could be considered to operate from the SEZ and export to African countries. The strategic location of the SEZs may also be of tactical interest for Australia.

Additional detail at **Annex 4**

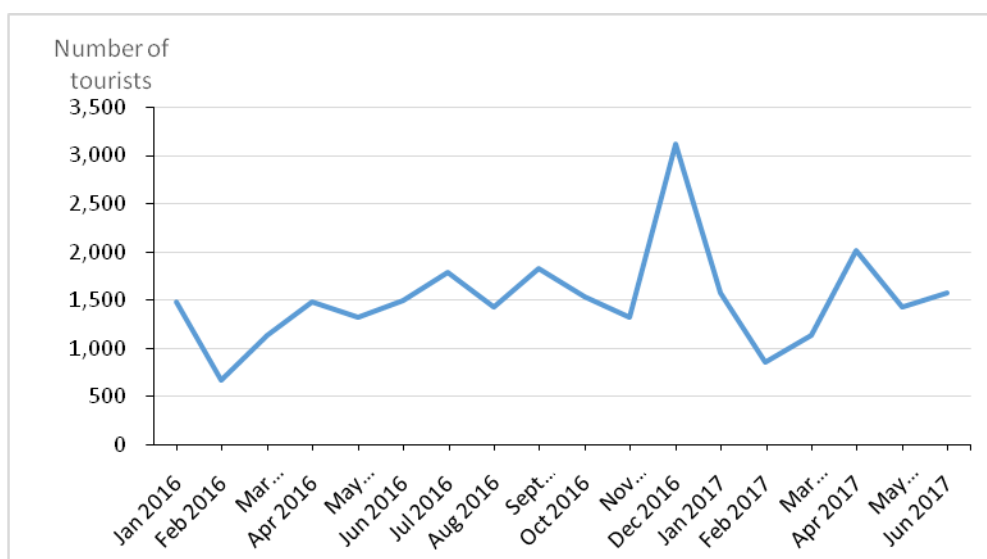
3.6 Economic Diplomacy

In the Budget Speech of 2016/2017, economic diplomacy was put forward for a crucial role to address cutting-edge issues in foreign policy, in particular in the areas of trade, finance and investment, so as to open new opportunities for Mauritian businesses. Economic diplomacy could therefore unleash more business ties between the two countries.

3.7 Culture, Art, Cinema and Tourism

Culture and Arts also offer avenues for cooperation. Australian cinema could offer an opportunity for cooperation, especially as Mauritius has recently developed its own local cinema while Australia already has a vibrant film industry.

Tourism is closely related to cultural exchange. Although Australia does not figure among the top source of tourists in Mauritius, cultural closeness can act as an impetus for the tourism sector. The number of tourist arrivals from Australia to Mauritius has been stable since the start of 2016.



Source: Statistics Mauritius, 2017

4. Recommendations

In light of the above chapters, Mauritius would propose that the two countries formally adopt a Comprehensive Economic Trade and Cooperation Agreement (CETCA) to provide a solid foundation to the relationship between the two countries.

Refer to **Annex 7** for the draft Comprehensive Economic and Trade Cooperation Agreement submitted by Mauritius to Australia in 2016, for consideration.

The Trade in goods section would tackle tariff barriers on bilateral trade which would not only increase imports and exports between Mauritius and Australia but also facilitate the transit of goods through Mauritius, particularly where transformation is required before re-export to the RECs.

The trade in services section will be crucial should Australia wish to provide services to Mauritius or from Mauritius to the African continent. Given, the slowdown of negotiations of the Trade in Services Agreement (TiSA), this chapter would make a lot of sense and could be structured in such a manner so as to facilitate the movement of Australian professionals in the African territory.

The annex on economic cooperation would aim at facilitating and promoting economic co-operation in various fields, including knowledge hub and centre of excellence, tourism, health and financial services. Additionally the economic cooperation annex could be tailored to

better suit the needs of Australia to penetrate the African market whilst using Mauritius as a trampoline to do so.

Promotion and protection of investment will likely be very relevant as Mauritius will be attracting Australian investors. Therefore, there should be cooperation between the two financial centers to mitigate risk and properly manage the flow of money. Moreover, each jurisdiction may need to develop specific products and adapt their legislations to meet the objectives of the agreement. This is coupled with the tax rules and dispute settlement mechanism in place.

It is to be noted that Mauritius has already established an arbitration centre which would allow for swift and independent resolution of disputes between parties, should the need arise.

4.1 Other recommendations to be considered include:

- Development of a comprehensive Africa engagement strategy by Australia;
- Consultations between African, Mauritian and Australian stakeholders;
- Integration of Mauritian services in value chains involving Africa;
- Involvement of Mauritian professionals in African & Australian projects;
- Joint study projects between Africa, Mauritius and Australia to identify opportunities for trade and investment;
- Improving and increasing the services complementary to the growth of trade & investment such as better air & sea connectivity;
- Increasing capacity building initiatives between the Africa, Mauritius and Australia;
- Australia's foreign policy towards Africa should acknowledge the African Union's Agenda 2063 framework and the African Development Bank's strategic thrust;
- Australia should assist the growth of Africa-focused research in Mauritius & Australia.

Annex 1

Product code	Product label	US Dollar thousand	Main African suppliers to Australia
		Indicative Potential in 2016	
'TOTAL	All products	187,431,818	
'270900	Petroleum oils and oils obtained from bituminous minerals, crude	5,029,235	Gabon, Algeria, Congo
'271019	Medium oils and preparations, of petroleum or bituminous minerals, not containing biodiesel, ...	4,510,045	Egypt, South Africa, Congo
'710812	Gold, incl. gold plated with platinum, unwrought, for non-monetary purposes (excluding gold ...	2,842,427	Liberia, Congo, Ghana
'870421	Motor vehicles for the transport of goods, with compression-ignition internal combustion piston ...	2,435,546	South Africa
'271012	Light oils and preparations, of petroleum or bituminous minerals which >= 90% by volume "incl. ...	2,421,285	South Africa
'870323	Motor cars and other motor vehicles principally designed for the transport of persons, incl. ...	2,307,557	South Africa, Namibia, Egypt, Mauritius
'870332	Motor cars and other motor vehicles principally designed for the transport of persons, incl. ...	1,997,960	South Africa
'710813	Gold, incl. gold plated with platinum, in semi-manufactured forms, for non-monetary purposes	1,553,732	South Africa, Ghana, Somalia
'870322	Motor cars and other motor vehicles principally designed for the transport of persons, incl. ...	1,475,060	South Africa
'999999	Commodities not elsewhere specified	1,340,643	South Africa, Egypt, Mauritius, Kenya
'300490	Medicaments consisting of mixed or unmixed products for therapeutic or prophylactic purposes, ...	765,665	South Africa, Ivory Coast, Swaziland, Algeria, Democratic Republic of Congo, Guinea, Mali, Mauritius
'852872	Reception apparatus for television, colour, whether or not incorporating radio-broadcast receivers ...	679,468	Ivory Coast, Mali, Mozambique
'880330	Parts of aeroplanes or helicopters, n.e.s. (excluding those for gliders)	657,627	Botswana, South Africa, Niger
'310210	Urea, whether or not in aqueous solution (excluding that in pellet or similar forms, or in ...	472,116	-
'240220	Cigarettes, containing tobacco	452,607	Saint Helena, Niger, South Africa, Egypt
'610910	T-shirts, singlets and other vests of cotton, knitted or crocheted	415,578	Mauritius, Egypt, Morocco, South Africa
'710239	Diamonds, worked, but not mounted or set (excluding industrial diamonds)	413,940	South Africa, Botswana, Tanzania
'392690	Articles of plastics and articles of other materials of heading 3901 to 3914, n.e.s (excluding ...	407,505	South Africa, Tunisia, Sierra Leone, Kenya, Mauritius
'940360	Wooden furniture (excluding for offices, kitchens and bedrooms, and seats)	399,782	South Africa, Egypt, Morocco
'330499	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), ...	387,051	South Africa, Nigeria, Ghana, Egypt, Morocco, Uganda, Benin, Ivory Coast, Tanzania, Ethiopia, Mauritius

Source: Trade map

Annex 2

Product code	Product label	US Dollar thousand	Main African importers
		Indicative Potential in 2016	
'TOTAL	All products	187,739,909	
'999999	Commodities not elsewhere specified	7,309,410	South Africa, Ghana, Tanzania, Burkina Faso, Egypt, Senegal, Mali, Togo, Kenya, Sierra Leone, Zambia, Ivory Coast, Seychelles, Eritrea, Mauritania, Nigeria, Mauritius, Mozambique
'270900	Petroleum oils and oils obtained from bituminous minerals, crude	3,527,585	South Africa
'100199	Wheat and meslin (excluding seed for sowing, and durum wheat)	3,376,581	Nigeria, Egypt, South Africa, Malawi, Mozambique, Mauritius
'271111	Natural gas, liquefied	2,540,689	-
'300490	Medicaments consisting of mixed or unmixed products for therapeutic or prophylactic purposes, ...	1,386,699	South Africa, Egypt, Mauritius
'271019	Medium oils and preparations, of petroleum or bituminous minerals, not containing biodiesel, ...	1,370,878	Mauritius, South Africa, French Southern and Antarctic Territories
'020230	Frozen, boneless meat of bovine animals	1,287,311	Egypt, South Africa, Angola, Mauritius
'880330	Parts of aeroplanes or helicopters, n.e.s. (excluding those for gliders)	1,13,9764	South Africa, Ethiopia, Nigeria, Uganda, Kenya, Tanzania, Seychelles, Angola, Central African Republic, Ghana, Mauritius
'870323	Motor cars and other motor vehicles principally designed for the transport of persons, incl. ...	1,048,076	Kenya, Nigeria, Tanzania, Egypt, South Africa, Zambia, Somalia, Mozambique, Benin, Ivory Coast, Mauritius
'210690	Food preparations, n.e.s.	1,016,229	South Africa, Mali, Seychelles, Mauritius
'740311	Copper, refined, in the form of cathodes and sections of cathodes	631,524	South Africa, Ivory Coast, Egypt
'100390	Barley (excluding seed for sowing)	558,450	Kenya, South Africa, Uganda, Tanzania
'300210	Antisera and other blood fractions and immunological products, whether or not modified or obtained ...	481,143	Mauritius, Egypt, Ethiopia, Kenya, South Africa
'847330	Parts and accessories of automatic data-processing machines or for other machines of heading ...	465,020	South Africa, Kenya, Morocco
'901890	Instruments and appliances used in medical, surgical or veterinary sciences, n.e.s.	346,029	South Africa, Egypt, Algeria, Zimbabwe, Ghana, Tunisia, Nigeria, Tanzania, Democratic Republic of Congo, Morocco, Seychelles, Kenya, Uganda, Zambia, Madagascar, Mauritius
'040210	Milk and cream in solid forms, of a fat content by weight of <= 1,5%	336,437	Algeria, Rwanda, Tanzania, Egypt, Mauritius
'851762	Machines for the reception, conversion and transmission or regeneration of voice, images or ...	330,742	South Africa, Uganda, Burkina Faso
'851712	Telephones for cellular networks "mobile telephones" or for other wireless networks	317,938	Ghana, Nigeria, South Africa
'010229	Live cattle (excluding pure-bred for breeding)	316,598	Libya, Mauritius, Egypt
'190110	Food preparations for infant use, put up for retail sale, of flour, groats, meal, starch or ...	295,172	Togo

'330499	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), ...	281,214	South Africa, Mauritius, Egypt, Morocco
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Source: Trade map

Annex 3

	Index	Global Rank	Africa Rank
1	World Bank Doing Business 2018	25 out of 190 countries	1st
2	Global Competitiveness Index 2017-2018	45 out of 137 countries	1st
3	Corruption Perceptions Index 2016 - (Transparency International)	50 out of 176 countries	3rd
4	International Property Rights Index 2016	34 out of 128 countries	3rd
5	Mo Ibrahim Index of African Governance 2017	-	1st
6	Press Freedom Index 2017 - (Reporters without Borders)	56 out of 180 countries	5th
7	The A.T. Kearney Global Services Location Index 2016	30 out of 50 countries	3rd
8	2017 Index of Economic Freedom - (Heritage Foundation)	21 out of 180 countries	1st
9	Economic Freedom of the World 2017 - (Fraser Institute)	7 out of 159 countries	1st
10	Human Development Index 2016	64 out of 188 countries	2nd
11	Democracy Index 2016 - Economist Intelligence Unit - Full Democracy	18 out of 167 countries	1st
12	Knowledge Economy Index 2012 - World Bank	62 out of 145 countries	1st
13	Global Enabling Trade Report 2016 - World Economic Forum	39 out of 136 countries	1st
14	Environmental Performance Index 2016	77 out of 180 countries	1st
15	Mercer's 2016 Quality of Living Survey	83 out of 230 countries	1st
16	E-Government Development Index 2016	58 out of 193 countries	1st
17	Global Information Technology Report 2016	49 out of 139 countries	1st
18	ITU - Measuring the Information Society Report 2016	73 out of 175 countries	1st
19	Forbes Survey of Best Countries for Business 2017	39 out of 139 countries	1st
20	The Travel and Tourism Competitiveness 2017	55 out of 136 countries	2nd
21	Social Progress Index 2016	40 out of 133 countries	1st

Source: BOI

Annex 4

SEZ	Area	Agreement	Objectives & Market	Opportunities for Australia through Joint Ventures with Mauritius
<u>Integrated Industrial Zone in Senegal</u>	53 hectares in Diamniadio which is strategically located between Dakar and the new Blaise Diagne International Airport.	Joint Development Agreement signed between Mauritius and Senegal in January 2017.	To develop an Industrial Park and Cargo Village. To enlarge the economic space of Mauritius and tap on the West African market through the Economic Community of West African States (ECOWAS) regional grouping.	Note: In terms of Australia's exports to Africa, Senegal is its 9th trade partner Companies operating in the SEZ will be given the free zone status and will be eligible to operate in dedicated zones. Export Oriented Enterprises will benefit from fiscal incentives while the other companies will pay taxes at the local rate based on volume of sales on local market. <i>A Special Purpose Vehicle has been set up in Senegal to take forward the SEZ project which shall consist of an Integrated Logistics, Warehousing and Distribution Centre.</i>
<u>Madagascar</u>	80 hectares within the Ehoala Park in Fort Dauphin in the Anosy region of South-Eastern Madagascar Mauritius has proposed that alternative sites be looked at. Diego Suarez and Tuléar are being considered.	MoU on the setting up of a SEZ signed between Mauritius and Madagascar in March 2016		There is opportunity for the Australian business community to engage jointly, with Mauritius, in Africa, and use the SEZ and Malagasy nationals as a platform to manufacture quality products at competitive prices to export back to Australia and other countries in Africa.
<u>Ghana</u>	20 hectares in Dawa, some 50 km East of Accra Mauritius has requested a second plot in the Kwabenya region of Greater Accra, as for two other plots.		To develop a Technology Park (Dawa) To house a Cyber Tower (Kwabenya) To set up a Solar Energy Power Generation plant and a Tourism and Hospitality projects (<i>on the two last plots</i>)	Note: In terms of Australia's exports to Africa, Ghana is its 5th trade partner Good synergistic effect is possible between China and Mauritius in cross-border investment in those specific fields (<i>technology, ICT, solar energy, tourism and hospitality</i>), in Africa, paving the way for both countries to further penetrate the African market. Australia may consider the possibility of joint ventures with Mauritius to tap the francophone market in the fields of knowledge process outsourcing, business process outsourcing, information and technology outsourcing. <i>A Special Purpose Vehicle between Mauritius and Ghana has been established.</i>
<u>Côte d'Ivoire</u>	<i>Discussions ongoing for:</i> 80 hectares within the 'Village des	MoU signed between Mauritius and Côte d'Ivoire in April 2016	50 hectares for a technology-centered Business Park and 30 hectares for residential/commercial	Note: In terms of Australia's exports to Africa, Senegal is its 11th trade partner

	Technologies de l'Information et de la Biotechnologie' (VITIB), outside Abidjan	The Government of Côte d'Ivoire, in collaboration with VITIB, has solicited the expertise of Mauritius to set up a Biotechnology, Information and Communication Technologies Free Zone in Grand-Bassam based on the model of the Cyber City in Ebène.	development Different areas identified include: Park tower; Administrative blocks including office towers for ICT companies; Hotels (both business and resort); Residential projects (apartments, villas, bungalows); Shopping mall; Logistics center; Toll bridge; Energy production (solar and other renewables)	
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Annex 5

Product code	Product label	Potential in 2016
'TOTAL	All products	2177376
'160414	Prepared or preserved tunas, skipjack and Atlantic bonito, whole or in pieces (excluding minced)	206876
'620520	Men's or boys' shirts of cotton (excluding knitted or crocheted, nightshirts, singlets and ...	151238
'620342	Men's or boys' trousers, bib and brace overalls, breeches and shorts, of cotton (excluding ...	99218
'610910	T-shirts, singlets and other vests of cotton, knitted or crocheted	98154
'851712	Telephones for cellular networks "mobile telephones" or for other wireless networks	93648
'710239	Diamonds, worked, but not mounted or set (excluding industrial diamonds)	69133
'610990	T-shirts, singlets and other vests of textile materials, knitted or crocheted (excluding cotton)	56353
'620462	Women's or girls' trousers, bib and brace overalls, breeches and shorts of cotton (excluding ...	37746
'611020	Jerseys, pullovers, cardigans, waistcoats and similar articles, of cotton, knitted or crocheted ...	33559
'300490	Medicaments consisting of mixed or unmixed products for therapeutic or prophylactic purposes, ...	32352
'170114	Raw cane sugar, in solid form, not containing added flavouring or colouring matter (excluding ...	28236
'490199	Printed books, brochures and similar printed matter (excluding those in single sheets; dictionaries, ...	23662
'711319	Articles of jewellery and parts thereof, of precious metal other than silver, whether or not ...	18651
'610510	Men's or boys' shirts of cotton, knitted or crocheted (excluding nightshirts, T-shirts, singlets ...	17550
'611300	Garments, knitted or crocheted, rubberized or impregnated, coated or covered with plastics ...	17429
'901890	Instruments and appliances used in medical, surgical or veterinary sciences, n.e.s.	16621
'170199	Cane or beet sugar and chemically pure sucrose, in solid form (excluding cane and beet sugar ...	15892
'030389	Frozen fish, n.e.s.	15492
'051191	Products of fish or crustaceans, molluscs or other aquatic invertebrates; dead fish, crustaceans, ...	15352
'230120	Flours, meals and pellets of fish or crustaceans, molluscs or other aquatic invertebrates, ...	15116
'392330	Carboys, bottles, flasks and similar articles for the conveyance or packaging of goods, of ...	13983

Source: Trade map

Annex 6

Australia's Trade and Investment Relationship with Countries of Africa

By Financial Services Promotion Agency – 23 November 2017

The Australian Government is looking towards forging a more sustainable and diversified trade and investment relationship with Africa, beyond the current focus of investing in extractive industries.

Mauritius has positioned as a hub for the African region through its International Financial Centre (IFC) and Special Economic Zones (SEZs) by providing a number of incentives and advantages to investors investing in Africa.

The number of Global Business companies (GBC1) involved has been on a steady rise and so has the amount of inward and outward investments as demonstrated by the table below.

	2012		2013		2014		2015	
	No. of GBC1s Involved	Direct Investment (USD Millions)	No. of GBC1s Involved	Direct Investment (USD Millions)	No. of GBC1s Involved	Direct Investment (USD Millions)	No. of GBC1s Involved	Direct Investment (USD Millions)
Outward (from Mauritius to Australia)	36	1,133	47	481	25	635	54	1,044
Inward (From Australia to Mauritius)	113	1,581	102	1,902	88	2,710	123	2,343

Australian investors investing in Africa may avail of the following attributes and advantages of the Mauritius IFC:

1. Raising capital in Mauritius

The Stock Exchange of Mauritius (SEM) is an attractive multi-asset class capital raising and trading platform. The SEM became the first Exchange in Africa in June 2001, to move to a fully automated and electronic stock market infrastructure.

It is noteworthy that as at 29th September 2017, market capitalisation on the SEM reached US\$ 10.6 billion with around 169 listed securities. SEM allows issuers to list a wide spectrum

of financial instruments and raise capital through shares, bonds, funds, depositary receipts, convertible instruments and exchange traded funds which can be used by Investors.

SEM also facilitates international capital-raising through multi-currency listing, trading and settlement platform (USD, EUR, GBP, ZAR).

2. Banking

The banks in Mauritius offer a wide range of global banking and financial services to corporate, institutional and private clients.

Specialised services such as fund administration, custodial services, trusteeship, structured lending, structured trade finance, international portfolio management, investment banking, private client activities, treasury and specialised finance are also offered by our banks.

The Mauritian banking sector encompasses 23 strong domestic banks and leading international banks regulated by the Bank of Mauritius (BoM). Of the 23 banks, two banks carry on exclusively private banking business and one bank carries on exclusively Islamic banking business. The banking sector in Mauritius is very resilient, boasting a capital adequacy ratio in excess of 12% requested by international Basel standards.

3. Investing through Mauritius

Mauritius has more than two decades of proven expertise in cross-border movement of capital.

Investors have the opportunity to choose from a wide range of schemes and structures provided by the Mauritius IFC, encompassing Global Business companies (GBCs), Trusts, Protected Cell Companies, Foundations, Regional Headquartering and Treasury functions.

Having recently been categorised as compliant by the OECD, the Mauritius IFC has further instilled a great sense of confidence for foreign investors.

a) Structuring

Mauritius has developed a quality service in the increasingly competitive global business sector which resolved into an upward trend of GBCs. GBC companies benefit from optimum taxation rates and also from the number of fiscal agreements signed with different overseas jurisdictions. GBCs are ideal corporate vehicles for international investments. The Mauritius IFC does also offer a range of products from Trusts to Foundations and Protected Cell Companies.

b) Regional Headquartering

Regional headquarters registered in Mauritius can undertake a number of activities, namely, arrangement for credit facilities, arrangement for derivatives, corporate finance advisory, credit administration and control, factoring, forfeiting and re-invoicing activities and more.

The licence is provided to holding companies, incorporated in Mauritius and belonging to a well-established international group, reputed in its field of business and industry. The holding company should provide headquarter services to its subsidiaries operating in other countries. Global companies registered as Regional Headquarters in Mauritius benefit from a tax holiday of 8 years upon fulfilling the conditions of the license. One of the major requirements is the substance requirement to be fulfilled at the request of the FSC.

c) Treasury functions

The Treasury functions that is provided under the Global Treasury Activities of the Mauritius IFC offers services of arrangement for credit facilities and derivatives, corporate finance advisory, credit administration and control, letter of credits, factoring, forfeiting and re-invoicing activities, fund management, amongst others. As an investor, these services are used to achieve the respective international substance requirements.

The holder of the licence benefits from a 5 years' tax exemptions on the income it derives from providing such treasury services to its related companies.

4. Mitigating Risks

a) Invest Promotion and Protection Agreement (IPPAs)

Mauritius provides investors with additional protection and comfort through the network of IPPAs established in Africa since these agreements expressively diminishes the risks in those countries where there may be risks of nationalisation or expropriation.

Through the Mauritius IPPAs network, companies incorporated in Mauritius benefit from free repatriation of funds, protection against expropriation, compensation for losses in case of war, arbitration facilities and the most favoured nation treatment when dealing with investments.

b) Multilateral Investment Guarantee Agency (MIGA)

Mauritius is a member of the Multilateral Investment Guarantee Agency (MIGA), which is an international financial institution under the World Bank offering political risk insurance and credit enhancement guarantees.

The guarantees offered under the MIGA protects investors against expropriation, losses incurred due to war, terrorism and civil disturbances, protections for breach of contract and failure to honour sovereign financial obligations as well as currency inconvertibility and transfer restrictions.

c) Double Taxation Agreements (DTAAs)

Mauritius, having double taxation agreements with a number of African countries as well as countries such as Qatar and Oman, amongst others, help investors plan their investments so as to optimise their taxes on dividends and royalties with a preferential treatment of capital gains and interest payments of loans. This also creates an environment of clarity and simplicity between Mauritius and the respective state.

The different schemes and policies, tax treaties and adherence to African organisations are the very cornerstone of the Mauritius IFC's value-adding model.

The Investor is therefore presented with a number of advantages and additional incentives – tax holidays, etc. which are initiatives of the Government of Mauritius.

Mauritius and Australia have signed a partial DTAA in 2010; accordingly, the agreement contains provisions with respect to Transfer Pricing, Pensions and Retirement annuities, Government service and students.

5. Future projects of interest

a) The Mauritius International Derivatives and Commodities Exchange

The Mauritius International Derivatives and Commodities Exchange (MINDEX) has been proposed by the Government of Mauritius in light of setting up a multi-commodity and derivatives exchange platform. This initiative will offer new opportunities to Australian companies involved in the mining industry.

b) The Centralised KYC Project

The Centralised KYC (CKYC) project is a government-led initiative which will make use to new technologies (Distributed Ledger, Blockchain, etc.) to develop the Mauritius IFC. The main aim of the CKYC project is to provide a solution to recurrent issues with regards to the current KYC process of duplications, expenditures, etc. The CKYC initiative will also adhere to the reporting requirements under the Foreign Account Tax Compliance Act (FATCA) and the Common Reporting Standards (CRS).

Mauritius and Australia, being party to the exchange of information agreements on taxation, are in a good position to benefit under the CKYC project whereby there will be reduced costs, up-to-date information on clients.

DRAFT

**COMPREHENSIVE ECONOMIC AND
TRADE COOPERATION AGREEMENT
(CETCA)**

**BETWEEN THE REPUBLIC OF
MAURITIUS AND
THE COMMONWEALTH OF AUSTRALIA**



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COMPREHENSIVE ECONOMIC AND TRADE COOPERATION AGREEMENT (CETCA) BETWEEN THE REPUBLIC OF MAURITIUS AND THE COMMONWEALTH OF AUSTRALIA

PREAMBLE

We, the Head of States/ Governments of

The Republic of Mauritius & The Commonwealth of Australia

RECOGNISING the friendly ties that exist between the Peoples of the Republic of Mauritius and the People of the Commonwealth of Australia (hereinafter also referred as Australia);

FURTHER RECOGNISING their long-standing relationship in economic and commercial fields;

SEEKING to achieve this objective in a manner consistent with the protection of health, safety and the environment;

REAFFIRMING their willingness to reinforce and enhance their special relationship through the implementation of a comprehensive and integrated partnership based on development cooperation and economic and trade relations;

DETERMINED to minimize and, where ever possible, eliminate barriers to trade and investment and deepen economic linkages between the Parties;

AWARE that bilateral trade arrangements can contribute towards accelerating regional and global liberalisation and as building blocks in the framework of the multilateral trading system;

CONSCIOUS of their rights, obligations and undertakings under multilateral, regional and bilateral agreements and arrangements;

DESIRING to promote mutually beneficial economic relations, taking into account the asymmetry in their economies;

RECOGNISING that each Party has, in accordance with general principles of international law, the right to pursue economic philosophies suited to their development goals and the right to regulate activities to realize their national policy objectives;

ASSERTING their resolve to make through their cooperation, a significant contribution to their economic and social development and to the greater well-being of their population, helping them to face the challenges of globalization;

DESIRING to consolidate and further enhance their partnership;

HEREBY establish this Comprehensive Economic and Trade Cooperation Agreement (hereinafter referred to as CETCA)

PART I

PRELIMINARY CLAUSES

Article 1

General Definitions

For the purposes of the CETCA, unless the context otherwise requires:

“days” means calendar days and includes weekends and holidays;

“GATT 1994” means the General Agreement on Tariffs and Trade 1994;

“goods” and “products” shall have the same meaning;

“territory” - in respect of:

(a) Mauritius means the territory of the Republic of Mauritius and includes its territorial waters and air space, as well as the territorial sea and any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Mauritius may exercise rights with regards to the sea, the sea-bed, the subsoil and the natural resources;

“territory” (to put in definition at beginning) means

(1) in the case of the Republic of Mauritius -

- (i) all the territories and islands which, in accordance with the laws of Mauritius constitute the State of Mauritius;
- (ii) the territorial sea of Mauritius; and
- (iii) any area outside the territorial sea of Mauritius which in accordance with international law has been or may hereafter be designated, under the laws of Mauritius, as an area, including the Continental Shelf, within which the rights of Mauritius with respect to the sea, the sea-bed and sub-soil and their natural resources may be exercised;

- (b) in respect of Australia,

“WTO” means the World Trade Organisation.

Article 2

Objectives

The objectives of the CETCA are to:

- (a) strengthen and enhance the economic, trade and investment cooperation between the Parties;
- (b) liberalize and promote trade in goods in accordance with Article XXIV of the General Agreement on Trade and Tariffs;
- (c) liberalize and promote trade in services in accordance with Article V of the General Agreement on Trade in Services, including promotion of mutual recognition of professions;
- d) liberalize and promote investment flows and avoid the imposition of double taxation
- (e) improve the efficiency and competitiveness of their manufacturing and services sectors and expand trade and investment between the Parties, including joint exploitation of commercial and economic opportunities in non-Parties;
- (f) explore new areas of economic cooperation and develop appropriate measures for closer economic cooperation between the Parties;

(g) revitalise, enhance and reinforce the economic and social cooperation between the parties

(h) build upon their commitments at the World Trade Organisation .

Article 3

Scope

The Agreement shall cover trade in goods, trade in services, investment, the avoidance of double taxation and economic co-operation.

Article 4

Trade in Goods

Annex I shall govern trade in goods between the Parties.

Article 5

Economic Cooperation

Annex III shall govern economic cooperation between the Parties.

Article 6

Investment

Annex IV shall govern the conditions to promote and protect investments of a Party in the territory of the other Party.

Article 7

Cooperation in Taxation and in the Fight Against Fiscal Evasion

Annex V shall, as between the Parties, govern the cooperation in taxation matters and in the fight against fiscal evasion.

PART II

INSTITUTIONAL ARRANGEMENTS

Article 8

Establishment of Institution

(1) In addition to those institutions established under a specific Annex, a High Powered Joint Trade and Investment Committee is hereby established.

(2) Other institutions as may be agreed by the Parties may be established as and when necessary.

Article 9

The High Powered Joint Trade and Investment Committee

(1) The High Powered Joint Trade and Investment Committee shall-

- (a) oversee the implementation of this Agreement and any policies, strategies and programmes developed under this Agreement;
- (b) act as the reviewing body, under Article 19 ; and

(c) resolve any dispute under this Agreement that may be referred to it by the Parties, or any subsidiary body established under this Agreement;

(2) The High Powered Joint Trade Committee shall be the forum of negotiation for any matter under this Agreement, including new issues which the Parties may wish to include under this Agreement.

(3) The High Powered Joint Trade and Investment Committee may set up such sub-committees or working groups as it may deem necessary.

(4) The High Powered Joint Trade and Investment Committee shall-

(a) meet at least years or earlier at the request of either Party; and

(b) adopt its own working procedures.

PART III

DISPUTE AVOIDANCE AND SETTLEMENT

Article 10

Consultations

1. The Parties shall endeavour to resolve any dispute concerning the interpretation or application of this Agreement by entering into consultations in good faith with the aim of reaching a mutually agreed solution.

2. A Party shall seek consultations by means of a written request to the other Party, copied to the High Powered Joint Trade and Investment Committee identifying the issue in dispute and the provisions of the Agreement that it considers the issue not to be in conformity with.

3. Consultations shall be held within [...] days of the date of the submission of the request. The consultations shall be deemed concluded within [...] days of the date of the submission of the request, unless both Parties agree to continue consultations. All information disclosed during the consultations shall remain confidential.

4. Consultations on matters of urgency, including those regarding perishable or seasonal goods shall be held within [...] days of the date of the submission of the request, and shall be deemed concluded within [...] days of the date of the submission of the request. Every effort shall be made to ensure that such consultations are held as soon as possible to avoid losses.

5. A dispute under this Agreement that cannot be settled by consultation shall be referred for dispute resolution in the manner set out at Annex V.

PART IV

HORIZONTAL EXCEPTIONS

Article 11

Taxation

1. Nothing in this Agreement or in any arrangement adopted under this Agreement shall be construed to prevent the Parties from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.
2. Nothing in this Agreement or in any arrangement adopted under this Agreement shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements or domestic fiscal legislation.
3. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

Article 12

Balance of payments difficulties

1. Where any Party is in serious balance of payments and external financial difficulties, or under threat thereof, it may adopt or maintain restrictive measures with regard to trade in goods and in services

2. The Parties shall endeavour to avoid the application of the restrictive measures referred to in paragraph 1.

3. Any restrictive measure adopted or maintained under this Article shall be non-discriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments and external financial situation. They shall be in accordance with the conditions established in the WTO Agreements and consistent with the Articles of Agreement of the International Monetary Fund as applicable.

4. Any Party maintaining or having adopted restrictive measures, or any changes thereto, shall promptly notify them to the other Party and present, as soon as possible, a time schedule for their removal.

5. Consultation shall be held promptly within the Committee. Such consultations shall assess the balance of payments situation of the concerned Party and the restrictions adopted or maintained under this Article, taking into account, inter alia, such factors as:

(a) the nature and extent of the balance of payments and the external financial difficulties;

(b) the external economic and trading environment;

(c) alternative corrective measures which may be available.

The consultations shall address the compliance of any restrictive measures with paragraphs 3 and 4. All findings of statistical and other facts presented by the IMF relating to foreign exchange, monetary

reserves and balance of payments shall be accepted and conclusions shall be based on the assessment by the IMF of the balance of payments and the external financial situation of the Party.

PART V

RELATIONSHIP WITH OTHER AGREEMENTS

Article 13

Relation with WTO obligations and other bilateral obligations

1. Arbitration bodies set up under this Agreement shall not adjudicate disputes on each Party's rights and obligations under the Agreement establishing the World Trade Organisation (WTO).
2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any action in the WTO framework, including dispute settlement action. However, a Party, with regard to a particular measure¹, instituted a dispute settlement proceeding, either under Article 6(1) of this Agreement or under the WTO Agreement, it may not institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has ended. For purposes of this paragraph, dispute settlement proceedings under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO.
3. Nothing in this Agreement shall preclude a Party from implementing the suspension of obligations authorized by the Dispute Settlement Body of the WTO. Nothing in the WTO Agreement shall preclude Parties from suspending benefits under this Agreement.

¹ "for the avoidance of doubt a measure may include a failure to act" joint declaration exact place to be agreed latter.

PART IV

FINAL PROVISIONS

Article 14

Protocols and Understandings

(1) The Parties shall conclude such protocols, memoranda or other arrangements, as may be necessary for the effective implementation of this Agreement. Such protocols, memoranda or arrangements shall be an integral part of this Agreement.

(2) Council of Ministers may adopt understanding on the interpretation on any part of this Agreement. An understanding shall be an integral part of this Agreement

Article 15

Review

The Parties shall review this Agreement every 5 years, with a view to enhance the benefits derives therefrom, in light of the objectives set out in this Agreement.

Article 16

Amendment

This Agreement may be amended with the common agreement of the Parties

Article 17

Language

Working language for this Agreement shall be English

Article 18

Savings Provisions

Subject to Article 3 of the Preliminary Chapter, any institution, obligation or arrangements which exist under any other agreement between the Parties, to the extent that it is not

inconsistent with the provision of this Agreement, shall continue to subsist, operate or bind the Parties, until the Parties determines otherwise.

Article 19
Entry into Force

This Agreement shall be deemed to have come into force on the

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement in good faith.

DONE at, on of 20..., in two originals, each in English, both texts being equally authentic.

**For the Government of
the Republic of Mauritius**

**For the Government of the
Commonwealth of Australia**

.....
**Minister of Foreign Affairs,
Regional Integration and
International Trade**

.....
Minister of

ANNEX I

TRADE IN GOODS

Article 1

Objectives

- (1) The objectives of this Annex are to:
 - (a) promote, through the expansion of trade, the harmonious development of the economic relations between the Parties;
 - (b) provide fair conditions of competition for trade between the Parties; and
 - (c) contribute, by removal of barriers to trade, to the harmonious development and expansion of trade between the Parties.
- (2) In the design and implementation of this Annex, the Parties shall take due account to overall asymmetry between the two economies and keep in view the relative sectoral differences in agriculture.
- (3) With a view to achieving these objectives, the Parties hereby agree to establish a Free Trade Agreement in accordance with the provisions of this Annex and in compliance with the provisions of the World Trade Organisation (WTO)

Article 2

Definitions

In this Annex, unless the context otherwise requires:

"Committee" means the Joint Trade Committee established under Article XVI;

"preferential treatment" means any concession or privilege granted under this Annex by one Party to the other through the progressive reduction or elimination of tariffs on the movement of goods;

"products" or "goods" means all products including manufactures and commodities in their raw, semi-processed or processed forms;

"tariffs" means any customs duty, import duty or a charge of any kind imposed in connection with the importation of a good, but does not include any:

- (a) internal taxes or other internal charges imposed consistent with Article III:2 of the General Agreement on Tariffs and Trade (GATT) 1994, in respect of like, directly competitive, or substitutable goods of a Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (b) anti-dumping or countervailing duties in accordance with Articles VI and XVI of GATT 1994, the WTO Agreement on Implementation of Article VI of GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures; and
- (c) other duties or charges imposed consistent with Article VIII of GATT 1994 and the Understanding on the Interpretation of Article II:1 (b) of the GATT 1994.

"Competent Authority" means -

- (a) in respect of Mauritius
- (b) in respect of Australia

Article 3

Tariff Liberalisation

- (1) The Parties hereby agree to allow the free movement of goods between their countries through progressive reduction and/or elimination of tariffs on goods in accordance with the provisions of Appendices A and B to this Annex.

Article 4

Non-Tariff Measures

(1) Except as otherwise provided in this Annex or the covered Agreements of the WTO, the Parties shall not apply non-tariff barriers to the products included in the Appendices A and B to this Annex.

(2) Non-tariff barriers shall refer to any administrative, financial, exchange-related or other measure whereby a Party prevents or hinders mutual trade by a unilateral decision.

Article 5

General Exceptions

Nothing in this Annex shall prevent a Party from taking action and adopting measures, which it considers necessary for the protection of its national security, the protection of public morals, the protection of human, animal or plant life and health, those relating to importation or exportation of gold and silver, the conservation of exhaustible natural resources and the protection of national treasures of artistic, historic and archaeological value in conformity with Articles XX and XXI of GATT 1994 and/or as provided in this Annex.

Article 6

National Treatment

The Parties agree to accord to each other's products imported into their territory, treatment no less favourable than that accorded to like domestic products in respect of internal taxation and in respect of all other domestic laws and regulations affecting their sale, purchase, transportation, distribution or use.

Article 7

State Trading Enterprises

(1) Nothing in this Annex shall prevent a Party from maintaining or establishing a state trading enterprise as provided in Article XVII of GATT 1994 and the Understanding on the Interpretation of Article XVII of GATT 1994.

(2) Each Party shall ensure that its state trading enterprise acts in a manner consistent with its obligations under this Annex and accords non-discriminatory treatment in the import from and export to the other Party.

5. Article 8

6. Import and Export Restrictions

Except as otherwise provided in this Annex and in accordance with provisions of GATT 1994, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the

other Party or on the exportation or sale for export of any good destined for the territory of the other Party.

6.1 Article 9

6.2 Rules of Origin

The products included in Appendices A and B to this Annex shall meet the Rules of Origin as set out in Appendix D to this Annex in order to qualify for preferential treatment.

The section on Rules of Origin shall be drafted subject to negotiations between both Parties.

Mauritius shall adopt rules based on Change in Tariff Headings (CTH), or specific processes or value-added.

6.3 Article 10

6.4 Customs Valuation

On matters relating to customs valuation, the Parties shall be governed by Article VII of GATT 1994 and the WTO Agreement on the Implementation of Article VII of GATT 1994.

6.5 Article 11

6.6 Safeguard Measures

(1) The Parties shall retain their rights and obligations to apply safeguard measures consistent with Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

(2) Notwithstanding paragraph (1), the application of preferential safeguard measures shall be in accordance with Appendix D to this Annex.

6.7 Article 12

6.8 Anti-Dumping and Countervailing Measures

In applying anti-dumping and countervailing measures, the Parties shall be governed by their respective legislation, which shall be consistent with Articles VI and XVI of GATT 1994, the Agreement on Implementation of Article VI of GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures.

6.9 Article 13

6.10 Technical Barriers to Trade

- (1) The Parties shall act in accordance with their rights and obligations set out in the WTO Agreement on Technical Barriers to Trade.
- (2) The Parties shall co-operate in the area of standards, technical regulations and conformity assessment procedures with the objective of facilitating trade.
- (3) The Parties shall endeavour to conclude mutual equivalence agreements and/or mutual recognition agreements.

6.11 Article 14

6.12 Sanitary and Phytosanitary Measures

- (1) The Parties shall act in accordance with their rights and obligations set out in the WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures.
- (2) The Parties agree to co-operate in the areas of animal health and plant protection, food safety and mutual recognition of Sanitary and Phytosanitary measures, through their respective competent authorities, including, *inter-alia*, equivalence agreements and/or mutual recognition agreements taking into account relevant international criteria.

6.13 (3) For the purposes of the effective implementation and operation of this Article and in an endeavour to promote closer cooperation on SPS matters, the Parties hereby agree to establish a Memorandum of Understanding on SPS, especially taking into account Annex1: Article 1, paragraph 2 of this Agreement and the different levels of development of the Parties.

6.14 Article 15

6.15 Intellectual Property

The Parties agree to cooperate with each other with a view to ensuring adequate protection of intellectual property rights.

6.16 Article 16

6.17 Administration of the Agreement

- (1) The Parties agree to establish a Joint Trade Committee consisting of Mauritius' Director of International Trade or his representative and by Australia's

(2) The Committee shall hold its first meeting within sixty (60) days of the entry into force of this Agreement and establish its working procedures.

(3) The Committee shall meet ordinarily at least once every year, at such venue as shall be agreed by the Parties, and extraordinarily at any time, at the request of a Party.

(4) The Committee shall adopt its decisions by consensus and shall have, *inter alia*, the following functions, to:

- (a) ensure the proper functioning and implementation of this Annex, its Appendices and additional Protocols, and continuation of the dialogue between the Parties;
- (b) consider and submit to the Parties any modifications and amendments to this Annex;
- (c) evaluate the process of trade liberalisation established under this Annex, study the development of trade between the Parties and recommend further steps to liberalize trade ;
- (d) perform other functions that may arise from the provisions of this Annex, its Appendices and any additional Protocols;
- (e) establish mechanisms to encourage the active participation of the private sectors in areas covered by this Annex
- (f) exchange opinions and make suggestions on any issue of mutual interest relating to areas covered by this Annex, including future actions;
- (g) establish subsidiary bodies as may be necessary under this Annex, *inter alia* on Customs, Trade Facilitation and Technical Barriers to Trade, Sanitary and phyto-sanitary. All the subsidiary bodies shall report to the Committee.

(5) Notwithstanding any other provision of this Annex, the Committee shall review the Appendices A and B at least every years or earlier upon request of a Party.

6.18 Article 17

6.19 Amendments and Modifications

Any amendment or modification to this Annex shall be adopted by means of additional Protocols.

Article 18

Appendices and Protocols

All Appendices and additional Protocols to this Annex shall form integral part thereof.

APPENDIX A

SCHEDULE OF THE REPUBLIC OF MAURITIUS

GENERAL NOTES

1. *Harmonized Tariff Schedule of the Republic of Mauritius:* The provisions of this schedule are expressed at the 6-digit level of the Harmonized Tariff Schedule of the Republic of Mauritius. The interpretation of the provisions of this schedule, including the goods coverage, shall be governed by the General Notes, Section Notes, and Chapter Notes of the Customs Tariff Act of Mauritius.

2. *Modality:* The following modality shall apply for the elimination / reduction of basic customs duties by Mauritius pursuant to Article 3 of Annex I (Trade in goods)

(a) Immediate Liberalisation

On the originating goods of Australia provided in this list, the duties shall be eliminated entirely and such goods will receive duty free entry into Mauritius from Australia from

(b) List of Products for Phased Elimination of Duty

On the originating goods of Australia provided in this List, the duties shall be removed in four equal stages beginning from and such goods shall receive preferential treatment upon entry into Mauritius from Australia effective

“(c) List of products excluded from this Agreement (or this Annex):

“Customs duties on imports into Mauritius of goods originating in Australia which are listed in Annex....will be excluded from tariff elimination.

Appendix B

SCHEDULE OF THE COMMONWEALTH OF AUSTRALIA

GENERAL NOTES

1. Harmonized Tariff Schedule of the Commonwealth of Australia: The provisions of this schedule are expressed at the 6-digit level of the Harmonized Tariff Schedule of the Commonwealth of Australia. The interpretation of the provisions of this schedule, including the goods coverage, shall be governed by

2. Modality: The modality shall apply for the elimination / reduction of basic customs duties by Australia pursuant to Article 3 of Annex I (Trade in goods).

List of products excluded from this Agreement (or this Annex):

“Customs duties on imports into Mauritius of goods originating in Australia which are listed in Annex....will be excluded from tariff elimination.

APPENDIX C

Rules of Origin

(To be inserted)

Appendix D

PREFERENTIAL SAFEGUARD MEASURES

Article 1

Title

(1) The provisions under this Appendix shall be known as Preferential Safeguards Measures.

Article 2

Definitions

For the purposes of this Appendix:

"domestic industry" shall be understood to mean the producers as a whole of the like or directly competitive products operating in the territory of the Party, or those whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of such products.

"serious injury" shall be understood to, mean the significant overall impairment in the position of a domestic industry;

"threat of serious injury" shall be understood to mean the serious injury that is clearly imminent, based on facts and not merely on allegation, conjecture or remote possibility;

Article 3

Conditions for Application of Preferential Safeguard Measures

(1) The Parties can apply, safeguard measures under the conditions established in this Appendix, when the imports of a product under preferential terms have increased in such quantities, absolute or relative to, domestic production of the importing Party under such conditions that the imports, from the exporting Party alone cause or threaten to cause serious injury to the importing Party's domestic industry.

(2) Preferential safeguard measures shall be applied following an investigation by the competent authorities of the importing Party under the procedures established in this Appendix. These

measures may not be applied simultaneously for the same product with the application of Global Safeguards.

Article 4

Exception

Preferential safeguard measures may not be applied to any product in the first year after the tariff preferences negotiated under the Annex come into force.

Article 5

Product under Preferential terms

Either Party may apply a Preferential Safeguard Measure only to the imports from the other contracting Party where such serious injury or threat thereof is being caused by the imports of a product under preferential terms.

Article 6

Application of measures

(1) The preferential safeguard measures adopted under this Appendix shall consist of temporary suspension or reduction of the tariff preferences established under this Annex for the product subjected to the measure.

(2) Imposition of quantitative restriction which shall not reduce the quantity of imports below the level of a recent period which shall be the average of imports in the two (2) years.

Article 7

Period of Application

(1) The total period of application of a preferential safeguard measure including the period of application of any provisional measure shall not exceed two (2) years.

(2) No preferential safeguard shall be applied again to the import of a product under preferential treatment which has been subject to such a measure unless the period of non-application is at least of one (1) year from the end of the previous measure.

Article 8

Imports prior application of this Annex

The preferential safeguard measures applied in accordance with this Appendix shall not affect the imports, which have been cleared by the Customs Authority of importing Party prior to the date of entry into force of the measure.

Article 9

Investigation

(1) The investigation to determine serious injury or threat thereof as a result of increased preferential imports of a certain product shall take into consideration all relevant factors of an objective and quantifiable nature having a bearing on the situation of the domestic industry affected, particularly the following:

(a) the amount and rate of the increase in preferential imports of the product concerned in absolute and relative terms;

(b) the share of the domestic market taken by increased preferential imports;

(c) the price of the preferential imports;

(d) the consequent impact on the domestic industry of the like or directly competitive products, based on factors, including: production, productivity, capacity utilisation, stock, sales, market share, prices, profits, losses and employment;

(e) the relationship between the preferential and non-preferential imports as well as between the increase of one and the other.

(2) Where factors other than increased preferential imports are causing injury to the domestic industry, such injury shall not be attributed to the increased preferential imports.

Article 10

Initiation of measure

A Party may initiate a safeguard investigation at the request of the domestic producers in the importing Party of the like or directly competitive product.

Article 11

Purpose of Investigation

The purpose of an investigation, under Article 9, shall be:

(a) to assess the quantities and conditions under which the product is being imported;

(b) to determine the existence of serious injury or threat of serious injury to the domestic industry; and

(c) to determine the causal link between the increased imports of the product concerned and the serious injury or threat thereof to the domestic industry, in compliance with the provisions of this Annex.

Article 12

Date of Final decision

The period between the date of publication of the decision to initiate the investigation and the publication of the final decision shall not exceed one (1) year.

Article 13

Transparency

Each Party shall establish or maintain transparent, effective and equitable procedures for the impartial and reasonable application of safeguard measures, in compliance with the provisions of this Appendix.

Article 14

Provisional Safeguards

(1) In critical circumstances where delay may cause damage which would be difficult to repair, a Party, after prior notification to the other Party, may take a provisional safeguard measure pursuant to a preliminary determination that there is clear evidence that increased preferential imports have caused or are threatening to cause serious injury.

(2) The duration of the provisional measure taken under paragraph (1) shall not exceed two hundred (200) days, during which period the requirements of this Annex shall be met.

(3) Where, the final determination concludes that there was no serious injury or threat thereof to domestic industry caused by imports under preferential terms, the increased tariff, if collected under provisional measures, shall be promptly refunded.

Article 15

Notification

(1) The importing Party shall notify the exporting Party of a decision:

- (a) to initiate the investigation under this Appendix;
- (b) to apply provisional safeguard measure; or
- (c) whether or not to apply definitive safeguard measure.

(2) A decision listed under paragraph (1), shall be notified by the Party within a period of seven (7) days from the publication and shall be accompanied by the appropriate public notice.

Article 16

Public Notification

(1) Public notice of the initiation of a safeguard investigation shall include the following information:

- (a) the name of the petitioner;

(b) the complete description of the imported product under investigation, which is sufficient for customs purposes and its classification in accordance with the Harmonized System;

(c) the deadline for the request for hearings and the venue where hearings shall be held;

(d) the deadline for the submission of information, statements and other documents;

(e) the address where request or other documents related to the investigation can be examined;

(f) the name, address and telephone number of the institution which can provide further information; and

(g) a summary of the facts upon which the initiation of the investigation was based, including data on imports that have supposedly increased in absolute or relative terms to total production.

(2) The public notice of the decision to, apply a provisional or definitive preferential safeguard measure shall include the following information:

(a) the complete description of the product, subject to the safeguard measure, sufficient for customs purposes, including its tariff classification under the Harmonized System;

(b) information and evidence leading to the decision, such as:

(i) the increasing or increased preferential imports;

(ii) the situation of the domestic industry ;

(iii) the fact that the increasing preferential imports that are causing or threatening to cause serious injury to the domestic industry; and

(iv) in the case of preliminary determination, the existence of critical circumstances;

(c) other reasoned findings and conclusions on all relevant issues of fact and law;

(d) description of the measure to be adopted; and

(e) the date of entry into force of the measure and its duration.

Article 17

Consultations

(1) (a) A Party proposing to apply a definitive preferential safeguard measure shall provide adequate opportunity for prior consultations to the exporting Party.

(b) With this objective, the Party shall notify the other Party its decision or proposal, by the competent authority, to apply a definitive preferential safeguard measure no less than thirty (30) days before the measure comes into force.

(2) The notification shall include:

(a) evidence of the existence of serious injury or threat of serious injury to the domestic industry caused by the increased imports;

- (b) the complete description of the product subject to the measure, which is sufficient for customs purposes, including its tariff classification under the Harmonized System;
- (c) description of the measure proposed;
- (d) the date of entry into force of the measure and its duration;
- (e) the period for consultations; and
- (f) the criteria employed or any objective information proving that the conditions established in this Annex for the application of a measure have been met.

Article 18

Request for consultation and additional information

At any stage of the investigation, the notified Party may request consultations to the other Party or any additional information that it considers necessary.

Article 19

Competent Authorities

The competent investigating authorities referred to in this Appendix will be:

(a) in the case of Australia,

(b) in the case of Mauritius

ANNEX II

ECONOMIC CO-OPERATION

Article 1

Co-operation

The Parties shall facilitate and promote, in conformity with the provisions of this Agreement, all forms of economic co-operation, as they may deem fit and beneficial to their citizens.

Article 2

Forms of Co-operation

Co-operation between the Parties may be effected through separate Memoranda of Understanding, Agreements or Protocols to be concluded between authorized institutions or bodies in accordance with the laws and regulations in force from time to time in each country.

Article 3

Areas of Co-operation

1. The areas of cooperation shall cover the fields identified below and shall be subject to revision and update as may be decided after mutual consultation between the Parties.

1.1 For areas of cooperation not identified, the Parties shall continue to build upon existing or agreed programmes set out in other agreements, to develop new economic cooperation programmes and conclude specific agreements.

1.2 Nothing in this Annex shall be construed as preventing the parties from entering into new economic cooperation agreements and/or programmes, with a view to enhancing the economic cooperation between the Parties.

2 The Parties shall encourage close co-operation in the following areas:

2.1 Triangular Co-operation

- (a) The Parties recognize that opportunities exist for strategic investment jointly by Mauritius and Australia in Africa and agree to promote collaborative ventures in the following priority areas such as:
- (i) Infrastructure;
 - (ii) Health Care and Pharmaceutical;
 - (iii) Agriculture and Agro-industry, fisheries and aqua-culture;
 - (iv) Tourism;
 - (v) Education;
 - (vi) Information and Communication Technology;
 - (vii) Industrial and SME development;
 - (viii) Financial Services and Products;
 - (ix) Engineering, mainly Telecommunications, Manufacturing, Sustainable Engineering;
 - (x) Renewable energy

2.2 Knowledge hub and centre of excellence

(a) The Parties recognize the importance of education and undertake to strive to attain world class recognition in the field of education. The Parties agree to:

- (i) cooperate in education and human resource development through collaboration between educational institutions in accordance with the existing framework;
- (ii) Promote mutually beneficial projects in the field of education and human resource development;

- (iii) Enhance the quality of education through training exchange programmes for academics, staff and students;
 - (iv) collaborate in inter and multi-disciplinary research activities ;
 - (v) develop and implement joint research programmes;
 - (vi) develop an education platform for sharing resources including educational literature, I-Labs for ICT programmes, published materials,;
 - (vii) organize joint events (e.g. conferences, symposia) on subjects of mutual interests.

- (b) The Parties shall facilitate collaboration in specific projects/ programmes through high tech training facilities, including Knowledge Process Outsourcing (KPO), Engineering, ICT and management.

- (c) The Parties shall authorise professionals registered in the territory of a Party to provide professional services in the territory of the other Party without the need for any further registration formality.

- (d) The Parties recognize that mutual recognition of professional qualifications is an important mechanism to promote trade in services. The Parties agree to:
 - (i) develop appropriate framework for mutual recognition of qualifications delivered by educational and training institutions in both countries;
 - (ii) facilitate Mutual Recognition Agreements in relation to professions such as accounting, architecture, engineering, medicine and dentistry to facilitate the recognition of awards and eventually the movement of professionals;
 - (iii) foster creation of joint international Academic/Professional societies in view of encouraging professional membership and creation of think-tanks;
 - (iv) develop mutual standards for the purpose of registering professionals

2.3 Financial services and products

- (a) The Parties agree to cooperate in the financial services sector with a view to:

- (i) promoting Australia and Mauritius as financial centers;
- (ii) facilitating knowledge sharing and research in the field of financial services;
- (iii) undertaking capacity building initiatives for financial services through technical assistance, training, secondments and study tours;
- (iv) assisting each party in enforcement, anti-money laundering and combating financial terrorism matters for the sound conduct of business in each jurisdiction.

2.4 Tourism

The Parties shall cooperate in the field of tourism to further develop their relationship and shall:

- (v) encourage the exchange of experience and know-how and assist in areas where there is scarcity of technical expertise, capacity building and training;
- (vi) develop tourist infrastructure;
- (vii) explore possibilities for co-operation in branding and image building, event creation and promotion, restoration of historical and cultural monuments, eco-tourism and nature conservation.

2.5 Health

The Parties agree to cooperate in the health sector with a view to:

- (i) providing an effective and efficient health services to their population through the development of infrastructural projects;
- (ii) providing training and capacity building in such fields as may be agreed by the Parties, including health management and administration;
- (iii) assisting in:

- (a) the procurement and supply chain management of medical products including pharmaceutical products and equipment;
- (b) developing medical and educational research
- (c) hospital management ; and

(iv) identifying investment opportunities in high-tech medicine and medical health tourism.

2.6 Seafood industry and marine environment

The Parties, recognizing the importance and potential of the seafood industry, undertake to develop mutually beneficial cooperation in the areas of:

- (i) fisheries, fisheries research and fishing technology;
- (ii) protection, conservation and management of the marine environment;
- (iii) electronic technology for clearance for fishing vessels;
- (iv) capacity building for health certification of fish, laboratory accreditation, fish stock assessment, ecosystem based fisheries management and policy and planning;
- (v) aquaculture, warehousing, processing and value addition;
- (vi) monitoring, control and surveillance of respective Exclusive Economic Zone (EEZ) ;

(vii) research and development in the field of marine biotechnology to produce feed, food and drugs from sea;

(viii) biosecurity action plan to support the safe movement of live ornamental fish, eggs and juveniles for on-growing and also brood stock;

2.7 Information and Communication Technology (ICT)

The Parties recognize the importance of the ICT sector and agree to:

- (i) co-operate in the implementation of programmes related to the ICT sector;
- (ii) develop an inclusive information society;
- (iii) accelerate the exploitation of digital opportunities to support socio economic development;
- (iv) facilitate knowledge sharing, capacity building and research in ICT;
- (v) explore joint venture avenues for business opportunities between the Parties;
- (vi) encourage the adoption of international ICT best practices;

2.7 Industrial Cooperation and Small and Medium Enterprises (SMEs)

(a) The Parties shall facilitate collaboration and promotion in industrial development including SMEs and Micro Enterprises, with a view to supporting the setting-up of desired industries in their respective territories as well as for joint ventures in third countries.

(b) Co-operation between the Parties shall include:

(i) collaboration between their respective support institutions;

(ii) capacity building in industrial development issues pertaining to small, medium and large enterprises through training, study tours or attachments;

(iii) technical assistance for product and market development, entrepreneurship development, productivity and quality enhancement, research and development, innovation, as well as in trade and export promotion activities;

(iv) exchange of information on industrial policies pertaining to small, medium and large enterprises as well as support measures;

(v) facilitation of cross-border investment in high technology sectors;

(vi) promotion of joint ventures and support for infrastructure set-up;

(vii) the implementation of credit rating through credit rating agencies to facilitate access to finance including from existing line of credit;

(viii) collaboration in micro finance development, for capacity building, entrepreneurship development and up scaling of micro finance interventions including promotion of Micro enterprises.

2.8 Co-operation in the field of ocean economy

The parties agree to:

- (a) Collaborate and enhance synergies in the field of ocean economy, infrastructure, Research & Development, capacity building, knowhow and technology transfer with respect to Deep Ocean Water Application, seaport related activities, marine renewable energies, exploration of continental margins and deep sea basins and ocean knowledge.
- (b) Collaboration in the field of Marine biotechnology (Microalgae cultivation mainly for food, feed, pharmaceuticals).
- (c) Collaboration in:
 - (i) to augment technical and analytical , skills in Ballast Water Management
 - ii) development of infrastructure facility that includes establishment of land based and mobile laboratory.
 - iii) Satellite data services-deployment of data buoys in the South-Western Indian Ocean and interpretation software.
 - (iv) Scientific cruises for multidisciplinary studies
 - (v) Support of a wide range of marine geophysical instruments
 - (vi) Seabed mineral survey
 - (vii) Infrastructure facilities, training and bilateral exchange programmes
 - (viii) Marine equipment support
 - (ix) Support of one month ship-time every year to explore our maritime zone

2.9 Technological co-operation in agriculture and agro-industry

- (a) The Parties recognizing the importance of agricultural technology to enhance progress in agriculture agree to facilitate a mutually beneficial long-term cooperation in improving sustainable agricultural productive capacity.
- (b) The Parties shall facilitate collaboration, in term of transfer of technology, research and development in the following areas:
 - (i) animal and plant breeding including exchange of genetic resources;
 - (ii) animal and plant biosecurity and quarantine;
 - (iii) rapid diagnosis technologies for animal and plant diseases and pests;
 - (iv) animal and plant biotechnology;
 - (v) agro-processing, storage and associated logistics like cold-chain;
 - (vi) dairy industry;
 - (vii) food quality and safety management;
 - (viii) agro-ecological environment protection technology sectors like bio-pesticide and bio-fertiliser;
 - (ix) environment friendly and sustainable crop production and processing technologies;
 - (x) organic farming;
 - (xi) cattle including dairy cattle production and processing (cattle farms, slaughter and packing houses, cattle by-products processing plants and cold-chain logistics);
 - (xii) agricultural product quality control and detection of pesticide residues and veterinary drugs;
 - (xiii) remote sensing technologies for agriculture.

2.10 PRIVATE SECTOR DEVELOPMENT

1. The Parties recognize the importance of cooperation to develop their private sectors as the main engine of wealth creation in view to set up an appropriate enabling environment which is conducive to investment and growth.

2. The scope of cooperation of private sector development will cover, inter alia, investment, trade, industrial development and competitiveness enhancement, micro-enterprises, small and medium sized enterprises development, and tourism development as well as other productive sectors which are directly and indirectly covered by this Agreement.

3. The Parties shall therefore provide deeper cooperation with private sector institutions and intermediary organizations dealing with trade and investment promotion including through, inter alia, business dialogue, cooperation and partnership.

4. The Parties shall collaborate in strengthening and building the capacity of private sector institutions such as investment and trade promotion agencies, chambers of commerce and other relevant institutions in their States.

2.11 Law and legal services

The Parties agree to collaborate and build capacity in the following fields:

- i. law of the sea
- ii. aviation law
- iii. piracy and maritime violence
- iv. company law and insolvency
- v. legislative drafting
- vi. treaty negotiations
- vii. international trade laws
- viii. law relating to financial services
- ix. the laws relating to such areas as the parties may agree upon

ANNEX III

PROMOTION AND PROTECTION OF INVESTMENT

Article 1 Definitions

(1) For the purposes of this Annex

- (a) “investment” means every kind of asset admissible under the relevant laws and regulations of the Contracting Party in whose territory the respective business undertaking is made, and in particular, though not exclusively, includes:

- (i) movable and immovable property as well as other rights in rem such as mortgages, liens or pledges;
 - (ii) shares, debentures and any other form of participation in a company;
 - (iii) claims to money, or to any performance under contract having an economic value;
 - (iv) industrial and intellectual property rights, including copyrights, patents, utility-model patents, designs, trade-marks, geographical indications, trade-names, technical processes, know-how, and goodwill;
 - (v) economic value of concession rights or permits conferred in accordance with the law or under contract, including concessions to search for, cultivate, extract or exploit natural resources;
- (b) “return” means the amount yielded by an investment and in particular, though not exclusively, profit, interest, capital gains, dividends, royalties and fees;
- (c) “investor” means in respect to either Contracting Party:
- (i) the “national”, that is a natural person deriving his or her status as a national of that Contracting Party from the relevant laws of that Contracting Party; and
 - (ii) the “company” that is a legal person, such as a corporation, firm or association, incorporated or constituted in accordance with the law of that Contracting Party;

- (3) Any change in the form in which assets are or have been invested does not affect their character as investments as defined in this Annex.

Article 2

Scope

This Annex shall only apply to investments made by investors of either Contracting Party in the territory of the other Contracting Party in conformity with the host Contracting Party's laws.

Article 3

Promotion and Protection of Investments

- (1) Each Contracting Party shall, subject to its general policy in the field of foreign investment encourage the making of investments in its territory by investors of the other Contracting Party, and, subject to compliance with the provisions of its laws, shall admit such investments.
- (2) Each Contracting Party shall use its best endeavors to grant, in accordance with its laws, the necessary permits in connection with the carrying out of such investments and, whenever necessary, licensing agreements and contracts for technical, commercial or administrative assistance.
- (3) Investments approved under Article 2 shall be accorded fair and equitable protection in accordance with this Annex.

Article 4

Treatment of Investments

- (1) Investments and returns of investors of either Contracting Party shall at all times be accorded fair and equitable treatment in the territory of the other Contracting Party.

Neither Contracting Party shall in any way impair by unreasonable nor discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory by investors of the other Contracting Party.

- (2) Each Contracting Party shall in its territory accord to investors and to investments and returns of investors of the other Contracting Party treatment not less favourable than that which it accords to investments and returns of its own investors or investors of any third State.
- (3) The provisions of paragraph (2) shall not be construed so as to oblige either Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:
 - (a) any customs union, free trade area, common market or any similar international agreement or interim arrangement leading up to such customs union, free trade area, or common market of which either of the Contracting Parties is a member;
 - (b) any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation;
- (4) Each Contracting Party shall observe the obligations under its laws and under this Annex which bind the Contracting Party and its investors and the investors of the other Contracting Party in matters relating to investments.

Article 5

Compensation for Losses

- (1) Investors of either Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State. Resulting payments shall be freely transferable at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

(2) Without derogating from the provisions of paragraph (1) of this Article, investors of either Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party resulting from:

(a) requisitioning of their property by the forces or authorities of the latter Contracting Party, acting under and within the scope of the legal provisions relating to their competences, duties and command structures; or

(b) destruction of their property by the forces or authorities of the latter Contracting Party, which was not caused in combat action or was not required by the necessity of the situation or observance of any legal requirement;

shall be accorded restitution or adequate compensation, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State.

Article 6

Expropriation

(1) Investments of investors of either Contracting Party in the territory of the other Contracting Party shall not be nationalized, expropriated or subjected to measures having effects equivalent to nationalization or expropriation except for public purposes, under due process of law, on a non-discriminatory basis and against prompt, adequate and effective compensation. Such compensation shall be made without delay, and be effectively realizable. Resulting payments shall be freely transferable at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

(2) The investor affected by the expropriation shall have a right, under the law of the expropriating Contracting Party to prompt review, by a court of law or other independent and impartial forum of that Contracting Party of the expropriation case.

(3) Where a Contracting Party expropriates, nationalizes or takes measures having effect equivalent to nationalization or expropriation against the assets of a company which is incorporated or constituted under the laws in force in any part of its own territory, and in

which investors of the other Contracting Party own shares, it shall ensure that the provisions of paragraph (1) of this article are applied to the extent necessary to guarantee compensation as specified therein to such investors of the other Contracting Party who are owners of those shares.

Article 7

Transfer of Investment Capital and Returns

- (1) Each Contracting Party shall, in accordance with its relevant laws, allow investors of the other Contracting Party the free transfer of funds relating to their investments and returns, including compensation paid pursuant to the provisions of articles 5 and 6 of this Annex.
- (2) All transfers shall be effected without delay in any convertible currency at the market rate of exchange applicable on the date of transfer. In the absence of such a market exchange rate, the rate to be used will be the most recent exchange rate applied to inward investments or the most recent exchange rate for conversion of currencies into Special Drawing Rights, whichever is the more favourable to the investor.

Article 8

Subrogation

- (1) If a Contracting Party or its designated agency makes a payment to its own investor under a guarantee it has given in respect of an investment made in the territory of the other Contracting Party, the latter Contracting Party shall recognize the assignment to the former Contracting Party of all the rights and claims of the indemnified investor, and shall also recognize that the former Contracting Party or its designated Agency is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the original investor.
- (2) Any payment made by one Contracting Party or its designated Agency to its own investor as provided in paragraph 1 shall not affect the right of such investor to make his claims against the other Contracting Party in accordance with Article 8 provided that the exercise of such a right does not overlap, or is not in conflict with, the exercise of a right in virtue of subrogation under that paragraph.

Article 9

Application of Other Rules

- (1) If the provisions of the law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties, in addition to the present Annex, contain rules, whether general or specific, entitling investments and returns of investors of the other Contracting Party to treatment more favourable than that provided for by the present Annex, such rules shall, to the extent that they are more favourable, prevail over the present Annex.
- (2) Each Contracting Party shall, however, honor any obligation it may have entered into with regard to investments of investors of the other Contracting Party.

Article 10

Prohibitions and Restrictions

The provisions of this Annex shall not in any way limit the right of either Contracting Party to apply prohibitions or restrictions of any kind or take any other action which is directed to the protection of its essential security interests, or to the protection of public health or the prevention of diseases and pests in animals or plants.

Article 11

Final Clauses

The provisions of this Annex shall apply to all investments made by investors of either Contracting Party in the territory of the other Contracting Party, whether made before or after the coming into force of this Annex. For the avoidance of any doubt, it is declared that all investments shall, subject to this Annex, be governed by the laws in force in the territory of the Contracting Party in which such investments are made.

ANNEX IV
COOPERATION IN TAX MATTERS

Article 1

Personal Scope

This Annex shall apply to persons who are residents of one or both of the Contracting States.

Article 2

Taxes covered

1. This Annex shall apply to taxes on income imposed on behalf of a Contracting State, its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income.
3. The existing taxes to which this Annex shall apply are in particular:
 - (a) in Mauritius, the income tax;
(hereinafter referred to as "Mauritius tax");
 - (b) in :
(hereinafter referred to as).
4. This Annex shall also apply to any other taxes of a substantially similar character which are imposed by either Contracting State after the date of signature of this Annex in addition to, or in place of, the existing taxes.
5. The competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws, and if it seems desirable to amend any Article of this Annex, without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of an Exchange of Notes.

Article 3

General Definitions

1. In this Annex, unless the context otherwise requires:

- (a) the term "....." means
- (b) the terms "a Contracting State" and "the other Contracting State" mean Mauritius or, as the context requires;
- (c) the term "company" means anybody corporate or any entity which is treated as a body corporate for tax purposes;
- (d) the term "competent authority" means:
 - (i) in the case of Mauritius, the Minister to whom responsibility for the subject of finance is assigned or his authorized representative; and
 - (ii) in,
- (e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (g) the term "national" means any individual having the citizenship of a Contracting State and any legal person, partnership (société) or association deriving its status as such from the laws in force in a Contracting State;
- (h) the term "person" includes an individual, a company, a trust and any other body of persons which is treated as an entity for tax purposes; and
- (i) the term "tax" means Mauritius tax or, as the context requires.

2. As regards the application of the Annex at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Annex applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

1. For the purposes of this Annex , the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

1. For the purposes of this Annex, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include:

- (a) a place of management;
- (b) a branch;

- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a warehouse, in relation to a person providing storage facilities for others;
- (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
- (h) an installation or structure used for the exploration of natural resources.

3. The term "permanent establishment" likewise encompasses:

- (a) a building site or construction, installation or assembly project, or supervisory activities in connection therewith only if the site, project or activity lasts more than months.
- (b) the furnishing of services including consultancy services by an enterprise of a Contracting State through employees or other personnel engaged in the other Contracting State, provided that such activities continue for the same or a connected project for a period or periods aggregating to more than months within any month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise; and
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the

fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, a person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of an independent status to whom paragraph 6 of this Article applies) notwithstanding that he has no fixed place of business in the first-mentioned State shall be deemed to be a permanent establishment in that State if he has, and habitually exercises, a general authority in the first-mentioned State to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property, (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in determining the profits of a permanent establishment, of amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the

enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Annex, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and Air Transport

1. Profits of an enterprise from the operation or rental of ships or aircraft in international traffic and the rental of containers and related equipment which is incidental to the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

1. Where:

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Annex and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall, if the recipient is the beneficial owner of the dividends, be taxable only in that other State.

2. The term "dividends" as used in this Article means income from shares or other rights, not being debt claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the

company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

4. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall, if the recipient is the beneficial owner of the interest, be taxable only in that other State.

2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. The term "interest" shall not include any item which is treated as a dividend under the provisions of Article 10 of this Annex.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

4. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Annex.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall, if the recipient is the beneficial owner of the royalties, be taxable only in that other State.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films, tapes or discs for radio or television broadcasting), any patent, trade mark, design or model, computer programme, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

4. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been

agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Annex.

Article 13

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Dependent Personal Services

1. Subject to the provisions of Articles 15, 17, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any 12-month period commencing or ending in the fiscal year concerned; and
- (b) the remuneration is paid by, or on behalf of an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 15

Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16

Entertainers and Sportsmen

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities, referred to in paragraph 1, performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are

exercised if the visit to that State is wholly or substantially supported by funds of either Contracting State, a local authority or public institution thereof.

Article 17

Pensions

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar payments arising in a Contracting State and paid in consideration of past employment to a resident of the other Contracting State, shall be taxable only in that other State.

2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

Article 18

Government Service

1.
 - (a) Salaries, wages, and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision, local authority or statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body shall be taxable only in that State.
 - (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2.
 - (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision, local authority or statutory body thereof to an individual in respect of services rendered to that State or subdivision, authority or body shall be taxable only in that State.
 - (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State, or a political subdivision, local authority or statutory body thereof.

Article 19

Professors and Teachers

1. Notwithstanding the provisions of Article 14, a professor or teacher who makes a temporary visit to one of the Contracting States for a period not exceeding two years for the purpose of teaching or carrying out research at a university, college, school or other educational institution in that State and who is, or immediately before such visit was, a resident of the other Contracting State shall, in respect of remuneration for such teaching or research, be exempt from tax in the first-mentioned State, provided that such remuneration is derived by him from outside that State.

2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but wholly or mainly for the private benefit of a specific person or persons.

Article 20

Students and Business Apprentices

A student or business apprentice who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for the purposes of his maintenance, education or training.

Article 21

Other Income

1. Subject to the provisions of paragraph 2 of this Article, items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Annex shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income

is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

Article 22

Elimination of Double Taxation

Double taxation shall be eliminated as follows:

1. In the case of Mauritius:

- (a) Where a resident of Mauritius derives income from the amount of tax on that income payable in..... in accordance with the provisions of this Annex may be credited against the Mauritius tax imposed on that resident.
- (b) Where a company which is a resident of..... pays a dividend to a resident of Mauritius who controls, directly or indirectly, at least 5% of the capital of the company paying the dividend, the credit shall take into account (in addition to any tax for which credit may be allowed under the provisions of subparagraph (a)) the tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid.

Provided that any credit allowed under this paragraph shall not exceed the Mauritius tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within

2. In the case of..... ;

Article 23

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances in particular with respect to residence, are or may be subjected. This provision shall,

notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 5 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

6. In this Article the term "taxation" means taxes which are the subject of this Annex.

Article 24

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Annex, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Annex.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Annex. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Annex. They may also consult together for the elimination of double taxation in cases not provided for in this Annex.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Annex or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Annex. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with

the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above.. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 26

Assistance in the Collection of Taxes

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term “revenue claim” as used in this Article means an amount owned in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political

subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Annex or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owned by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraphs 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall, not in that State have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be:

- (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who at that time, cannot under the laws of that State, prevent its collection, or

- (b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection.

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to carry out measures which would be contrary to public policy (*ordre public*);
- (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
- (d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 27

Diplomatic Agents and Consular Officers

Nothing in this Annex shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

ANNEX V

DISPUTE AVOIDANCE AND SETTLEMENT

Article 1

Mediation

1. If consultations fail to produce a mutually agreed solution, the Parties may, by agreement, seek recourse to a mediator. Unless the Parties agree otherwise, the terms of reference for the mediation shall be the matter referred to in the request for consultations.
2. The mediator's opinion may include a recommendation on how to resolve the dispute consistent with this Agreement. The mediator's opinion is non-binding.
3. The proceedings involving mediation, in particular all information disclosed and positions taken by the Parties during these proceedings shall remain confidential.

SUB-PART I

Arbitration

Article 2

Initiation of the arbitration procedure

1. Where the Parties have failed to resolve the dispute by recourse to consultations as provided for in Article 11 or by recourse to mediation as provided for in Article 12, the complaining Party may request the establishment of an arbitration panel.
2. The request for the establishment of an arbitration panel shall be made in writing to the Party complained against and the High Powered Joint Trade and Investment Committee. The complaining Party shall identify in its request the specific measures at issue, and it shall explain how such measure constitutes a breach of this Annex.

Article 3

Establishment of the arbitration panel

1. An arbitration panel shall be composed of arbitrators.
2. Each party to the dispute shall appoint one arbitrator within [...] days of the date of the submission of the request for the establishment of an arbitration panel to the Joint High Powered Committee. The Parties shall consult in order to reach an agreement on the composition of the arbitration panel.
3. The chairperson of the Joint High Powered Committee or her or his delegate, shall select the arbitrators within five days of the request referred to in paragraph 3 by either Party and in the presence of a representative of each Party.

Article 4

Interim panel report

The arbitration panel shall notify to the Parties an interim report containing both the descriptive section and its findings and conclusions, as a general rule not later than [120] days from the date of establishment of the arbitration panel. Any Party may submit written comments to the arbitration panel on precise aspects of its interim report within [15] days of the notification of the report.

Article 5

Notification of arbitration panel ruling

1. The arbitration panel shall notify its ruling to the Parties and to the Joint High Powered Committee within [150] days from the date of the establishment of the arbitration panel. Where it considers that this deadline cannot be met, the chairperson of the arbitration panel must notify the Parties and the Joint High Powered Committee in writing, stating the reasons for the delay and the date on which the panel plans to conclude its work. Under no circumstances should the ruling be notified later than [180] days from the date of the establishment of the arbitration panel.
2. In cases of urgency, including those involving perishable and seasonal goods, the arbitration panel shall notify its ruling within [...] days from the date of its establishment. Under no circumstance should it take longer than [75] days from its establishment. The arbitration panel may give a preliminary ruling within [10] days of its establishment on whether it deems the case to be urgent.
3. Either party may request the arbitration panel to provide a recommendation as to how the Party complained against could bring itself into compliance.

SUB-PART II

COMPLIANCE

Article 6

Compliance with the arbitration panel ruling

The Party complained against shall take any measure necessary to comply with the arbitration panel ruling and the Parties will endeavour to agree on the period of time to comply with the ruling.

Article 7

The reasonable period of time for compliance

1. No later than 30 days after the notification of the arbitration panel ruling to the Parties, the Party complained against shall notify the complaining Party and the Joint High Powered Committee of the reasonable period of time it will require for compliance.
2. If there is disagreement between the Parties on the reasonable period of time to comply with the arbitration panel ruling, the complaining Party shall, within [20] days of the notification made under paragraph 1, request in writing the arbitration panel to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the other Party and to the Joint High Powered Committee. The arbitration panel shall notify its ruling to the Parties and to the Joint High Powered Committee within [30] days from the date of the submission of the request.
3. The arbitration panel will, in determining the length of the reasonable period of time, take into consideration the length of time that it will normally take the defending Party, to adopt comparable legislative or administrative measures to those identified by the defending Party, as being necessary to ensure compliance. The arbitration panel also take into consideration capacity constraints and the different levels of development which may affect the adoption of the measures.
4. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures set out in Article 7 shall apply. The time limit for notifying the ruling shall be [45] days from the date of the submission of the request referred to in paragraph 2.
5. The reasonable period of time may be extended by agreement of the Parties.

Article 8

Review of any measure taken to comply with the arbitration panel ruling

1. The Party complained against shall notify the other Party and the Joint High Powered Committee before the end of the reasonable period of time of any measure that it has taken to comply with the arbitration panel ruling.
2. In the event that there is disagreement between the Parties concerning the compatibility of any measure notified under paragraph 1, with the provisions of this Agreement, the complaining Party may request in writing the arbitration panel to rule on the matter. Such request shall identify the specific measure at issue and it shall explain how such measure is incompatible with the provisions of this Agreement. The arbitration panel shall notify its ruling within [90] days of the date of the submission of the request. In cases of urgency, including those involving perishable and seasonal goods, the arbitration panel shall notify its ruling within [45] days of the date of the submission of the request.
3. The time limit for notifying the ruling shall be 105 days from the date of the submission of the request referred to in paragraph 2.

Article 9

Temporary remedies in case of non-compliance

1. If the Party concerned fails to notify any measure taken to comply with the arbitration panel ruling before the expiry of the reasonable period of time, or if the arbitration panel rules that the measure notified is not compatible with that Party's obligations under the provisions referred to in this Agreement, the Party complained against shall, if so requested by the complaining Party, present an offer for temporary compensation.

2. If no agreement on compensation is reached within [30] days of the end of the reasonable period of time or of the arbitration panel's ruling under Article 7 that a measure taken to comply is not compatible with the provisions referred to in this Agreement the complaining Party shall be entitled, upon notification to the other Party, to adopt appropriate measures. In adopting such measures, the complaining party shall endeavour to select measures that least affect the objective of this Agreement and shall take into consideration the impact on the economy of the party complained against. The complaining Party may adopt the appropriate trade measures [10] days after the date of the notification.

3. The Australian party shall exercise due restraint in asking for compensation or adopting appropriate measures pursuant to this Article in particular where failure to comply results due to Mauritius' capacity constraints.

4. The appropriate measures shall be temporary and shall be applied only until any measure found to violate the provisions of this Agreement has been withdrawn or amended so as to bring it into conformity with those provisions or until the Parties have agreed to settle the dispute.

Article 10

Review of any measure taken to comply after the adoption of appropriate measures

1. The Party complained against shall notify the other Party and the Joint High Powered Committee of any measure it has taken to comply with the ruling of the arbitration panel and of its request for an end to application of appropriate measures by the complaining Party.

2. If the Parties do not reach an agreement on the compatibility of the notified measure with the provisions of this Agreement within [30] days of the date of the submission of the notification, the complaining Party shall request in writing the arbitration panel to rule on the matter. Such request shall be notified to the other Party and to the Joint High Powered Committee. The arbitration panel ruling shall be notified to the Parties and to the Joint High Powered Committee within [45] days of the date of the submission of the request. If the arbitration panel rules that any measure taken to comply is not in conformity with the provisions of this Agreement, the arbitration panel will determine whether the complaining Party can continue to apply appropriate measures. If the arbitration panel rules that any measure taken to comply is in conformity with the provisions of this Agreement, the appropriate measures shall be terminated.

3. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures laid down in Article 7 shall apply. The period for notifying the ruling shall be [60] days from the date of the submission of the request referred to in paragraph 2.

SUB-PART III

COMMON PROVISIONS

Article 11

Mutually agreed solution

The Parties may reach a mutually agreed solution to a dispute under this Agreement at any time. They shall notify the Joint High Powered Committee of any such solution. Upon adoption of the mutually agreed solution, the procedure shall be terminated.

Article 12

Rules of procedure

1. Dispute settlement procedures shall be governed by the Rules of Procedure adopted by [institutional body].....within 3 months of provisional application of this Agreement.

2. Any meeting of the arbitration panel shall be opened to the public in accordance with the Rules of Procedure, unless the arbitration panel decides otherwise on its own motion or at the request of the Parties.

Article 13

Information and technical advice

At the request of a Party, or upon its own initiative, the arbitration panel may obtain information from any source, including the Parties involved in the dispute, it deems appropriate for the arbitration panel proceeding. The arbitration also has the right to seek the relevant opinion of experts as it deems appropriate. Interested parties are authorized to submit *amicus curiae* briefs to the arbitration panels in accordance with the Rules of Procedure. Any information obtained in this manner must be disclosed to each of the Parties and submitted for their comments.

Article 14

Languages of the submissions

1. The written and oral submissions of the Parties shall be made in the official language of the Parties.

Article 15

Rules of interpretation

Any arbitration panel shall interpret the provisions referred to in this Agreement in accordance with customary rules of interpretation of public international law, including the Vienna Convention on the Law of Treaties and taking into account the objectives of this Agreement. The rulings of the arbitration panel cannot add to or diminish the rights and obligations provided in the provisions referred to in in this Agreement.

Article 16

Arbitration panel rulings

1. The arbitration panel shall make every effort to take any decision by consensus. Where, nevertheless, a decision cannot be arrived at by consensus, the matter at issue shall be decided by majority vote.
2. The ruling shall set out the findings of fact, the applicability of the relevant provisions of this Agreement and the basic rationale behind any findings and conclusions that it makes. The Joint High

Powered Committee shall make the arbitration panel rulings publicly available unless it decides not to do so.

Article 17

Time lines

1. All time limits laid down in this Part, including the limits for the arbitration panels to notify their rulings, shall be counted in calendar days from the day following the act or fact to which they refer.
2. Any time limit referred to in this Part may be extended by mutual agreement of the Parties.

Article 18

Settlement of Disputes Between An Investor and A Contracting Party

- (1) Subject to paragraph (3) any dispute between an investor of one Contracting Party and the other Contracting Party in connection with an investment in the territory of the other Contracting Party shall, as far as possible, be settled amicably through negotiations between the parties to the dispute.
- (2) If the dispute cannot be settled through negotiations within six months, either party to the dispute shall be entitled to initiate judicial action before the competent court of the Contracting Party accepting the investment.
- (3) If a dispute involving the amount of compensation resulting from expropriation, nationalization, or other measures having effect equivalent to nationalization or expropriation, mentioned in Article 6 cannot be settled within six months after resort to negotiation as specified in paragraph 1 of this Article by the investor concerned, it may be submitted to an international arbitral tribunal established by both parties.

The provisions of this paragraph shall not apply if the investor concerned has resorted to the procedure specified in paragraph 2 of this Article.

- (4) The international arbitral tribunal mentioned above shall be specially constituted in the following manner. Each party to the dispute shall appoint an arbitrator. The two arbitrators shall appoint a third arbitrator as Chairman. The arbitrators shall be appointed within two months and the Chairman within four months from the date on which one party concerned notified the other party of its submission of the dispute to arbitration.
- (5) If the necessary appointments are not made within the period specified in paragraph 4, either party may, in the absence of any other agreement, request the Chairman of the International Arbitration Institute of the Stockholm Chamber of Commerce to make the necessary appointments.
- (6) The arbitral tribunal shall, apart from what is stated below, determine its own arbitral procedures with reference to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington on 18 March 1965.
- (7) The tribunal shall reach its decision by a majority of votes.
- (8) The decision of the arbitral tribunal shall be final and binding on both parties.
- (9) The arbitral tribunal shall state the basis of its decision and state reasons upon the request of either party.
- (10) Each party concerned shall bear the cost of its own arbitrator and its representation in the arbitral proceedings. The cost of the Chairman in discharging his arbitral function and the remaining costs of the tribunal shall be borne equally by the parties concerned. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two parties, and this award shall be binding on both parties.
- (11) The provisions of this Article shall not prejudice the Contracting Parties from using the procedures specified in Article (9) where a dispute concerns the interpretation or application of this Annex.

