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# **Sustainability Impact Assessment in Support of Negotiations with Partner Countries in Eastern and Southern Africa in view of Deepening the Existing Interim Economic Partnership Agreement**

SIA Report on Trade in Services, Investment, and Digital Services • May 2021



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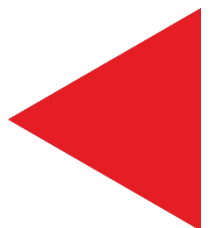
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## Abbreviations

AfCFTA	African Continental Free Trade Area
ACP	African-Caribbean-Pacific
ANRTIC	National Authority for Regulation of Information Technologies and Communications
BEA	US Bureau of Economic Analysis
BIC	Banque d'Investissement des Comores
BDC	Banque de Développement des Comores
CBS	Central Bank of Seychelles
CHCL	Cargo Handling Corporation Ltd
COMESA	Common Market for Eastern and Southern Africa
CITES	Convention on International Trade in Endangered Species
CSR	Corporate Social Responsibility
DG Trade	Directorate-General for Trade
EALA	East Africa Legislative Assembly
EAC	Eastern African Community
ESA	Eastern and Southern Africa
EC	European Commission
ECIPE	European Centre for International Political Economy
EPA	Economic Partnership Agreement
EPZ	Export Processing Zone
EU	European Union
ESA5	Five ESA Countries
FDI	Foreign Direct Investment
FSC	Financial Services Committee
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GHG	Greenhouse Gas
GDP	Gross Domestic Product
HDI	Human Development Index
IUU	Illegal, Unreported and Unregulated Fishing
ICT	Information and communication technology
IOC	Indian Ocean Commission
IOTC	Indian Ocean Tuna Commission
ILO	International Labour Organisation
IPR	Intellectual Property Rights
ITC	International Trade Centre
I-TIP	Integrated Trade Intelligence Portal for services
IL	Intervention Logic



LCA	Logistics Capacity Assessment
LDC	Least Development Country
LSE	London School of Economics and Political Science
MFI	Microfinance institutions
MOSC	Maison des Organisations de la Société Civile
MSME	Micro, Small & Medium Enterprises
MFN	Most Favoured Nation
NGO	Non-Governmental Organisation
NTM	Non-tariff Measures
OECD	Organisation for Economic Co-operation and Development
ORs	EU's Outermost Regions
OCT	Overseas countries and territories
OIE	World Organisation for Animal Health
POTRAZ	Postal and Telecommunications Regulatory Authority of Zimbabwe
PPPs	Public-private Partnerships
PPP	Purchasing Power Parity
RBC	Responsible Business Conduct
RBZ	Reserve Bank of Zimbabwe
REACH	Registration, Evaluation, Authorisation and Restriction of Chemicals
RECs	Regional Economic Communities
REX	Registered Exporter Scheme
ROO	Rules of Origin
SEATINI	The Southern and Eastern Africa Trade Information and Negotiations Institute
SEZ	Special Economic Zones
SPS	Seychelles Postal Services
STRI	Services Trade Restrictiveness Index
SME	Small and Medium Size Enterprise
SAPSN	Southern Africa People's Solidarity Network
SADC	Southern African Development Community
SFPA	Sustainable Fisheries Partnership Agreement
SITC	Standard International Trade Classification
SOE	State-owned Enterprises
SIA	Sustainability Impact Assessment
SDGs	Sustainable Development Goals
SFPA	Sustainable Fishery Partnership Agreement
SNPSF	Société National des Postes et Services Financiers
TBT	Technical Barriers to Trade
TSD	Trade and Sustainable Development
TFA	Trade Facilitation Agreement
TOR	Terms of Reference

UNFCC	UN Framework Convention on Climate Change
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
VAT	Value Added Tax
WTO	World Trade Organisation
ZIMPOST	Zimbabwe Post
ZSE	Zimbabwe Stock Exchange



## Executive Summary

The five ESA countries vary greatly in terms of economic, environmental, social, and human rights conditions. **Except for Mauritius and Seychelles, economic activities in services sectors in the ESA5 countries** are still underdeveloped, accounting for 53% of domestic GDP in Comoros in 2019, 52% in Madagascar and 61% in Zimbabwe. Partly driven by relatively large travel and tourism sectors, services sector penetration of the economy is generally higher in Mauritius (68%) and Seychelles (72%). For Mauritius and Seychelles, services exports to the EU are significantly higher than goods exports, driven by these countries' strong tourism services exports. The EU as a regional bloc is one of the biggest exporters in many services sectors. In the EU, value added in services sectors accounted for 79% of overall EU GDP (incl. construction services) in 2020.<sup>1</sup>

There are differences in the ESA5 countries including the overall state of economic development, **the current degree of restrictiveness of sectoral regulations and the quality of domestic horizontal institutions, e.g. the quality of the legal system, will have an impact on the overall magnitude of the economic impacts and the industries in which these impacts will materialise.**

**Clear and transparent rules are prerequisite to facilitate investment together with guidelines including cost and time for a decision by regulatory authorities. Overall, a deepened, modern, and comprehensive agreement on services, digital trade and investment would result in significant net economic benefits for ESA countries compared to the status quo.** An updated agreement would lock-in legal constraints on the creation of arbitrary and disproportionate future barriers to trade by ESA5 governments, thus improving the state of the rule of law in these countries. A deepened agreement between the EU and ESA5 countries would improve domestic regulatory frameworks for services and investment and likely increase the quality of governmental institutions.

**Mauritius and Seychelles are economically most developed and perform relatively well concerning the quality of their legal systems.** For these countries, the effects from "importing" good legal institutions for the facilitations of international services trade, digital trade and investment will be lower than for Comoros, Madagascar, and Zimbabwe. At the same time, Mauritius and Seychelles have much to gain from intensified efforts to harmonise current and future regulations across sectors or, at least, approximate EU law. Mauritius would benefit from the liberalisation of its maritime services sectors. Mauritius and Seychelles would also benefit from provisions that guarantee the free flow of data in the future and commitments on rules that guarantee the smooth facilitation of services, investment, and trusted e-commerce.

**For Comoros, Madagascar and Zimbabwe, the benefits from a deepened agreement would stem from the import and lock-in of good legal institutions for the facilitation of international services trade, digital and digitally enabled trade, and foreign investment.** A deepened agreement with the EU would help to eliminate long-standing barriers to domestic commerce in these countries and international trade and investment. A modern and more comprehensive agreement with the EU would complement efforts in these countries to liberalise domestic commerce and international trade, e.g. recent reforms in Zimbabwe to further liberalise the domestic telecommunications sector.

Due to positive cross-sectoral spill overs, economic benefits and new commercial opportunities can be expected from the following:

- the liberalisation of telecommunications and financial services trade restrictions,

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<sup>1</sup> See Eurostat 2020 data for EU27 gross value added by industry. Note: Agriculture, forestry and fishing and manufacturing sectors accounted for 21.2% of EU gross value added in 2020.

- the elimination of anti-competitive regulations in postal and courier services,
- new commitments on legal aspects that are critical for the facilitation of digital and Information and communication technology (ICT) enabled trade, e.g. the prevention of data localisation measures and a ban on levies on digital transmissions, and
- the elimination of remaining investment barriers e.g. unreasonable foreign investment requirements and discriminatory joint venture requirements.

**Negotiators from the EU and individual ESA countries should aim for ambitious provisions on investment liberalisation for all sectors of the economy, except those that should remain closed because of a legitimate national or European public interest, e.g. public health and security and national defence.** Each ESA5 country could develop a National EPA Committee which could develop the trade and development components of the National EPA Plan, based on the commitments made in the comprehensive EPA, and monitor implementation continuously.

To the extent that the investment agreement leads to greater economic growth, there could be increasing environmental pressures. On the other hand, investment, as well as increased trade in services, could lead to structural changes in ESA economies. While the overall impacts would depend on the sectors affected, there could be positive effects in terms of environmental pressures per unit of GDP. Investment could also bring technology and environmental governance that can reduce environmental pressures, also across value chains, though some investors may seek lower costs and lower environmental standards.

Investment could bring social benefits, including increased employment; nonetheless, some enterprises may suffer increased competition, with effects on their employees. Trade in services – including in specific sectors such as telecommunications and finance – could similarly bring employment growth, though domestic enterprises in these sectors could face greater competition.

**ESA5 countries require improved coordination of capacity building activities.** The EU can support the capacity building process in all ESA5 countries by identifying weaknesses and using its own institutional experiences in the liberalisation of trade in services and investment, as well as the enforcement of implementation measures. Part of the EU's development budget could be spent on accompanying measures related to the facilitation of investment and trade in services in all ESA5 countries.

# 1. Introduction

This report is part of the project to prepare a *Sustainability Impact Assessment (SIA) in support of negotiations with partner countries in Eastern and Southern Africa (ESA) in view of deepening the existing interim Economic Partnership Agreement (EPA)*. Under this project, a brief evaluation of the existing, interim EPA has been prepared. The study is also developing a series of SIA reports for the deepening of the EPA. In particular, **this report presents an assessment of potential provisions for the Chapter on Investment Liberalisation and Trade in Services**. This report builds on the analysis in the evaluation, which included an assessment of economic as well as environmental, social, gender and human rights impacts of the interim EPA.

The following sections provide an economic impact assessment of the provisions on services trade, digital trade, and investment in the five Eastern and Southern countries (ESA5). The existing interim agreement does not include provisions on commitments for services trade and digital trade, nor does it stipulate provisions on investment liberalisation or facilitation. As such, the existing agreement does not account for the vast spectrum of economic opportunities that could arise from new and updated provisions on the liberalisation of various services trade, digital and digitally enabled trade and the cross-sectoral importance of low investment barriers and regulatory improvements.<sup>2</sup> The European Commission (EC) has published<sup>3</sup> draft negotiating text proposals for these three issues, for which an initial screening is provided below.

**It should be noted that the economic impact assessment is constrained by the limited availability of publicly available trade and investment data and regulatory information.** European Union (EU)-ESA EPA services trade data is only available at the aggregate services level (total services exports/imports). Some (rudimentary) investment data is only available for Mauritius. For benchmarking horizontal regulations, the Fraser Institute's well-recognised Index of Economic Freedom is consulted for horizontal barriers that affect domestic services supply and trade in services. A systematic sector-specific benchmarking of regulatory data is provided by the World Bank's Services Trade Restrictiveness Index (STRI), whereas the latest data available is based on surveys undertaken in 2008 (published in the release of 2012), excluding Comoros and Seychelles. The STRI also covers restrictions on investment in services sectors (i.e. mode 3 trade). Additional regulatory information on market access and domestic regulations that impact international trade are taken from the World Trade Organizations' (WTO) latest Trade Policy Reviews (Zimbabwe: 2020; Madagascar: 2015; Mauritius: 2015), excluding Comoros and Seychelles.<sup>4</sup> Information on national treatment for all modes of services supply is extracted from the latest WTO schedules for specific commitments under General Agreement on Trade in Services (GATS), excluding Comoros and Seychelles.

The Sustainability Impact Assessment for the deepening of the EPA includes this report along with five other thematic reports, covering the following topics:

- Trade and Sustainable Development (TSD)
- Trade in goods, agriculture, and fisheries
- Public procurement and competition
- Intellectual Property Rights
- Dispute avoidance and settlement and Institutional structure

Each of these reports will also include an assessment of environmental, social, gender and human rights impacts, proportionate to the expected importance of the impacts for each area of negotiation.

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<sup>2</sup> For a discussion, literature and relevant data about the impact of services trade, digital trade and investment see, e.g., UNCTAD's 2019 Digital economy report, available at <https://unctad.org/webflyer/digital-economy-report-2019>; UNCTAD's 2020 World Investment Report, available at <https://unctad.org/topic/investment/world-investment-report>; and the WTO's World Trade Report 2019 - The future of services trade, available at [https://www.wto.org/english/res\\_e/publications\\_e/wtr19\\_e.htm](https://www.wto.org/english/res_e/publications_e/wtr19_e.htm).

<sup>3</sup> See [https://trade.ec.europa.eu/doclib/docs/2021/january/tradoc\\_159393.pdf](https://trade.ec.europa.eu/doclib/docs/2021/january/tradoc_159393.pdf)

<sup>4</sup> See WTO Trade Policy Reviews, available at [https://www.wto.org/english/tratop\\_e/tpr\\_e/tpr\\_e.htm](https://www.wto.org/english/tratop_e/tpr_e/tpr_e.htm)

## 1.1 Context

In 2007, six countries from the ESA region – Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe – concluded an interim EPA with the EU. In 2009, **four of these countries (Madagascar, Mauritius, Seychelles, and Zimbabwe) signed the agreement, which has been provisionally applied in these countries since May 2012. Comoros signed the agreement in July 2017 and ratified it in January 2019.** The interim EPA includes a ‘Rendez-vous clause’ (Article 53), by which the parties ‘agree to continue negotiations... with a view to concluding a full and comprehensive EPA’. The Article includes trade, environment, and sustainable development among the areas for further negotiation.

The EU and ESA5 partners launched negotiations for the deepening of the currently implemented EPA in October 2019. The parties clarified horizontal issues regarding the negotiations and exchanged views on technical barriers to trade (TBT) and agriculture. After that, three rounds of negotiations took place in January 2020, July 2020 and the third one in November 2020.

For a brief overview of the five ESA countries, please see Appendix I and, the Ex-Post Evaluation within this SIA of January 18, 2021.

## 1.2 Methodology

The analytical work for this report involved, as a first step, a screening of potential provisions set out in the EU’s textual proposals on services trade liberalisation, digital trade and investment liberalisation. The results of this screening are provided in Section 2 and 3 below. As a second step, horizontal and sectoral measures and behind-the-border issues were compiled and analysed for ESA countries, particularly Madagascar, Mauritius, Seychelles, and Zimbabwe. Limited information on regulatory frameworks that impact international trade is available for Comoros. The analysis of these issues aims at identifying existing barriers to trade and economic development in ESA5 countries. The findings of this analysis are presented in Section 2.4.

Based on the assessment of horizontal and sectoral measures and behind-the-border issues, a scoping and deeper analysis of the issue areas with potential economic impacts was undertaken. **This analysis aims at identifying those issue areas where the economic impact is likely to be relatively significant (major), and those areas where the economic impact can be considered to be rather minor.** For sectoral policies, major impacts are expected from liberalisation measures that facilitate trade and investment in industries and sub-sectors whose output (goods and services) is intensively used by other sectors of the economy as an input for production, the creation of value-added or sales activities, e.g. telecommunications or transport services. Similarly, for horizontal policy areas, e.g. data (privacy) regulations, major impacts are expected from policies that govern business activities of companies that operate in a broad range of industries. By contrast, if certain policies only affect a low number of companies in a particular sector or a low number of companies across different sectors, the impacts from liberalisation measures are considered minor. The assessment also includes, to the extent possible, a screening of the sector-specific economic impacts. For each topic covered in this economic analysis, the relevant baseline is briefly presented and also the actions needed for implementation are considered. Potential impacts of each provision are then described.

**The analysis of economic impacts is accounted for in the impact assessment of environmental, social, gender and human rights impacts that are likely to emanate from the economic impacts.** These impacts are also assessed in the context of commitments made in the TSD Chapter. This social analysis follows the same methodological steps as the economic analysis described above, also including an analysis of horizontal issues (e.g. gender) where relevant, and is outlined in Section 4. Where relevant, the SIA analyses the impact that the horizontal and sectoral issues may have on the neighbouring Outermost regions (OR) ie Reunion Island and Mayotte. The analysis also looks at the opportunities that may arise for the OR from this new agreement and that could contribute to their sustainable growth, job creation and regional integration. The findings of the economic and social impact assessments are then used to develop a set of proposals for policy recommendations and flanking measures, which are presented in Section 9.

Desk research and analysis has provided the main source of information for this report. **It should be noted that although interviews have been carried out in ESA countries, many of the interviewees did not have a strong awareness of the interim EPA and did not have specific comments on the potential impacts of individual negotiating provisions regarding the different topics negotiated under the deepening process.**

## 2. State and coverage of negotiations in relevant policy areas

This thematic chapter analyses potential economic, social, human rights and environmental impacts of the EU-ESA5 EPA deepening negotiations on trade in services, digital trade, and investment, as well as development cooperation in these areas. Where relevant, this chapter also analyses the potential impact that the deepening negotiations on the mentioned sectors may have on the OR and look at the opportunities that may arise for these regions from this new agreement.

**The assessment of the impacts specifically of trade in services and investment lays a focus on market access, national treatment, regulatory frameworks for services and investment establishment, services trade and investment barriers, local content requirements, and digital trade.**

The EU and ESA5 partners launched negotiations for the deepening of the currently implemented EPA in October 2019.<sup>5</sup> The parties clarified horizontal issues regarding the negotiations. After that, three rounds of negotiations took place in January 2020, July 2020 and the third one in November 2020.

The first two negotiation rounds did not include the liberalisation of trade in services, investment liberalisation and digital trade.<sup>6</sup> Trade in services, investment liberalisation and digital trade were discussed for the first time in the third round of negotiations. Accordingly, the EU and ESA5 countries had a productive exchange on liberalisation in all areas. While ESA countries raised issues of clarifications and comments, all sides agreed on the importance of services trade, investment liberalisation and digital trade and agreed on the need for ambitious results, while considering the differing levels of development among the ESA states.

Text-based discussions will start in the fourth round after the EU submitted its text proposal to the ESA5 countries. The EU text proposal contains a placeholder for a chapter on the facilitation of investment and of trade in services, which should be discussed at a later stage of the negotiations.

The EU's preliminary **negotiation proposal for trade in services and investment emphasises that all parties retain the right to regulate within their jurisdictions to achieve legitimate policy objectives, including the protection of public health, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, privacy and data protection, or the promotion and protection of cultural diversity.**

Generally, trade and investment liberalisation measures should not apply to:

- a) air services or related services in support of air services, other than the following:
  - i. aircraft repair and maintenance services;
  - ii. computer reservation system (CRS) services;
  - iii. ground handling services;

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<sup>5</sup> See: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_19\\_5951](https://ec.europa.eu/commission/presscorner/detail/en/IP_19_5951)

<sup>6</sup> See: [https://trade.ec.europa.eu/doclib/docs/2009/september/tradoc\\_144912.pdf](https://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.pdf)

- iv. the following services provided using a manned aircraft, subject to the Parties' respective laws and regulations governing the admission of aircraft to, departure from and operation within, their territory: aerial fire-fighting, flight training, spraying, surveying, mapping, photography, and other airborne agricultural, industrial, and inspection services; and
  - v. the selling and marketing of air transport services;
- b) audio-visual services;
  - c) national maritime cabotage; and
  - d) internal waterways transport services.

The proposed provisions would still allow the Parties to regulate the cross-border movement of persons.

## 2.1 Trade in services

The EU's proposal for a Title on services trade **aims to ensure non-discriminatory market access for the Parties' services providers**. The deepened agreement shall include regulatory provisions for the following service sectors:

- **Delivery Services:** postal, courier, express delivery or express mail services, which include the following activities: the collection, sorting, transport, and delivery of postal items;
- **Telecommunications Services:** covering the supply of telecommunication transport network or other related services, e.g. essential facilities, interconnection services, internet services;
- **Financial Services:** insurance and insurance-related services (e.g. direct insurance, reinsurance, intermediation services) as well as banking and other financial services (excluding insurance, e.g. deposit banking, leasing services, payment and clearing services, foreign exchange services, asset management services);
- **International Maritime Transport Services:** transport of passengers or cargo by sea-going vessels between a port of one Party and a port of another Party or a third country, or between ports of different Member States of the European Union.

According to the said text proposal, services trade liberalisation commitments would not apply to government procurement of services. Subsidies and grants provided by the negotiation parties would not be affected by liberalisation efforts either.

**Market access conditions aim to prohibit or contain limitations on the number of foreign suppliers and the number of transactions and operations of foreign suppliers in the partner countries' territories.** In addition, the proposal seeks to eliminate and prevent domestic measures that restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service. Finally, national treatment and most favoured nation treatment provisions shall ensure that the service suppliers of another party, in respect of all measures affecting the cross-border supply of services, shall not be treated less favourably than domestic service suppliers.

Specific conditions are laid down for the temporary movement of natural persons for business purposes, including intra-corporate transferees and business visitors. The provisions aim to commit Parties to allow the entry and temporary stay of intra-corporate transferees and business visitors for establishment purposes as well as the employment of intra-corporate transferees of another Party. The proposal aims to prohibit and aims for national treatment of intra-corporate transferees and business visitors from another Party. The Parties are also asked to ensure entry and temporary stay of business sellers and contractual services suppliers and



independent professionals. Also, the Parties shall make publicly available information on relevant measures that pertain to the entry and temporary stay of natural persons for business purposes of another Party.

## 2.2 Digital trade

The overall objective of the provisions on digital trade is the facilitation of trade that is enabled by digital means. According to the current negotiation proposal, **the deepened agreement aims to address unjustified barriers to digital trade. It also aims at ensuring an open, secure, and trustworthy online environment for businesses and consumers.** The agreement also aims to safeguard the Parties' right to regulate to ensure legitimate public policy objectives. Regarding the facilitation of digital trade between the EU and ESA5 countries, the agreement builds on four pillars:

- **Free Cross-border Data Flows:** cross-border data flows shall not be restricted between the parties by another party e.g., through data localisation, local storage and processing requirements, or by conditional data flow regimes (Comoros, Madagascar and Zimbabwe are exempt from these provisions);
- **The Protection of Personal Data and Privacy:** the agreement aims that the parties recognise that the protection of personal data and privacy is a fundamental right and that high standards in this regard contribute to trust in the digital economy and to the development of trade; Parties may adopt appropriate safeguard measures and should inform each other about any safeguard measures and updates thereof (Comoros, Madagascar, Zimbabwe are exempt from these provisions).
- **Customs Duties on Electronic Transmissions:** Electronic transmissions shall be considered as a supply of services; the Parties shall not impose customs duties on electronic transmissions;
- **Conclusion of Contracts by Electronic Means:** Each party shall ensure that contracts may be concluded by electronic means (exemptions apply for sensitive services, such as gaming services and services of notaries);
- **Electronic Authentication and Electronic Trust Services:** A party shall not deny the legal effect and admissibility as evidence in legal proceedings of an electronic document, e.g. an electronic signature or an electronic seal;
- **Transfer of or Access to Source Code:** A party shall not require the transfer of, or access to, the source code of software owned by a natural or juridical person of another party.
- **Online Consumer Trust:** Party shall adopt or maintain measures to ensure the effective protection of consumers engaging in electronic commerce transactions;
- **Unsolicited Direct Marketing Communications:** Each party shall ensure that users are effectively protected against unsolicited direct marketing communications.
- **Cooperation on Regulatory Issues concerning Digital Trade:** The parties shall exchange information on regulatory matters in the context of digital trade, e.g. in consumer protection policies and the development of digital trade.

## 2.3 Investment liberalisation

The overall objective of the chapter on investment liberalisation is to improve market access for foreign businesses seeking to create an establishment or operation to perform economic activities in the partner country. The investment chapter excludes public procurement and subsidies provided by the parties. Each party shall not adopt or maintain limitations on the number of enterprises, the total value and assets, the



number of operations, the participation in shareholding (e.g. maximum percentage limits), or the total number of natural persons that may be employed. Moreover, the agreement seeks to prevent restrictions regarding specific types of legal entity or joint ventures through which an investor of another party may perform an economic activity. The agreement generally seeks to guarantee national treatment and most favoured nation treatment, whereby parties shall be prevented from imposing economic needs test and performance requirements, such as export quotas and local content requirements. It should be noted that there will be no investor to state dispute settlement provisions in the EU-ESA EPA.

## 2.4 Inventory and assessment of major horizontal and sector-specific non-tariff measures

### 2.4.1 Trade in services

Except for Mauritius and Seychelles, economic activities in services sectors in ESA5 countries are still underdeveloped, accounting for 53% of gross domestic product (GDP) in Comoros in 2019, 52% in Madagascar and 61% in Zimbabwe.<sup>7</sup> Partly driven by relatively large travel and tourism sectors, services sector penetration of the economy is generally higher in Mauritius (68%) and Seychelles (72%). In the EU, value added in services sectors accounted for 66% in 2019. For Mauritius and Seychelles, services exports to the EU are significantly higher than goods exports, most likely driven by these countries' strong tourism services exports.<sup>8</sup>

### EU services trade patterns

The EU is one of the world's major services exporters and importers. EU trade data demonstrate that EU businesses are particularly strong exporters of business services (which include research and development services, legal, accounting, business and management consulting services, advertising, architectural, engineering, scientific and other technical services) and construction services. Other sectors in which EU businesses are strong exporters are transport services, telecommunication, computer and information services, insurance and pension services, manufacturing services, personal, and cultural and recreational services.

Data for EU services trade with individual ESA countries is scarce. Organisation for Economic Co-operation and Development (OECD) trade in services data is only available at the aggregate services level. As outlined in Table 1, **EU services trade with African countries is generally underdeveloped, accounting for only 1.9% of the EU's total services exports and 2.1% of the EU's total services imports to and from African countries respectively.** This pattern is also reflected by the volume of services trade between individual ESA countries and the EU. EU services exports to the group of ESA countries account for only 0.07% of total EU services exports. EU services imports from the group of ESA countries account for only 0.13% of the EU's total services imports.

<sup>7</sup> See World Bank data on the value added of services in % of national GDP.

<sup>8</sup> As reported by Koema (2021), in 2019 the contribution of travel and tourism to GDP (% of GDP) for Mauritius was 23.9 %. Though Mauritius contribution of travel and tourism to GDP (% of GDP) fluctuated substantially in recent years, it tended to decrease through 2000 2019 period ending at 23.9 % in 2019. In 2019, contribution of travel and tourism to GDP (% of GDP) for Seychelles was 65.8 %. Though Seychelles contribution of travel and tourism to GDP (% of GDP) fluctuated substantially in recent years, it tended to increase through 2000 - 2019 period ending at 65.8 % in 2019. See <https://knoema.com/atlas/Seychelles/topics/Tourism#Travel-and-Tourism-Total-Contribution-to-GDP>.

**Table 1: EU services trade with the world, Africa and individual ESA5 countries, exports and imports, 2018, in bn USD**

	Total EU services exports to ESA countries		Total EU services imports from ESA countries	
	2018	in percent of total	2018	in percent of total
<b>World</b>	2,223	100%	1,995	100%
<i>Africa</i>	42	1.90%	42	2.11%
<i>Comoros</i>	0	0.00%	0	0.00%
<i>Madagascar</i>	0	0.01%	0	0.02%
<i>Mauritius</i>	1	0.04%	2	0.08%
<i>Seychelles</i>	0	0.01%	1	0.03%
<i>Zimbabwe</i>	0	0.00%	0	0.00%

Source: OECD. Note: numbers represent EU28 trade values corrected by UK services export and imports respectively.

As concerns EU trade in services sectors that are affected by the liberalisation measures of the deepened EPA, sector-by-sector data is only available for trade between the EU28 (as of 2018) and the African continent (see Table 2).<sup>9</sup> EU services exports to African countries account for 2% of total EU services exports. EU services imports from African countries account for 2.2% of total EU services imports. EU services export data indicate that sea transport services (8bn USD in 2018), financial services (3.9bn USD) and telecommunications services are important export sectors for EU businesses. By contrast, EU services import data indicate that sea transport services (9.8bn USD) and telecommunication services are important export sectors for African businesses.

**Table 2: EU services trade in sectors affected by liberalisation measures, exports and imports, 2018, in bn USD**

EU exports	Total EU services exports	Total EU services exports to Africa	Share services exports to Africa in total services exports
<b>All services</b>	2,620	53.3	2.0%
<b>Telecommunications services</b>	46	2.4	5.3%
<b>Financial services</b>	251	3.9	1.5%
<b>Insurance services</b>	75	1.1	1.5%
<b>Postal and courier services</b>	12	0.1	0.6%
<b>Sea transport services</b>	149	8.0	5.3%

<sup>9</sup> Africa includes: Algeria; Angola; Benin; Botswana; British Indian Ocean Territory; Burkina Faso; Burundi; Cameroon; Cape Verde; Central African Republic; Chad; Comoros; Congo; Congo, The Democratic Republic of the; Côte d'Ivoire; Djibouti; Egypt; Equatorial Guinea; Eritrea; Ethiopia; Gabon; Gambia; Ghana; Guinea; Guinea-Bissau; Kenya; Lesotho; Liberia; Libya; Madagascar; Malawi; Mali; Mauritania; Mauritius; Morocco; Mozambique; Namibia; Niger; Nigeria; Rwanda; Saint Helena; Sao Tome and Principe; Senegal; Seychelles; Sierra Leone; Somalia; South Africa; South Sudan; Sudan; Swaziland; Tanzania; United Republic of; Togo; Tunisia; Uganda; Zambia; Zimbabwe. The British Indian Ocean Territory is included in Asia. Reunion and Mayotte are included in Africa.

EU imports	Total EU services imports	Total EU services imports from Africa	Share services imports from Africa in total services imports
All services	2,253	49.0	2.2%
Telecommunications services	41	2.5	5.9%
Financial services	149	0.5	0.3%
Insurance services	47	0.4	0.9%
Postal and courier services	9	0.1	0.6%
Sea transport services	119	9.8	8.2%

Source: OECD. Note: numbers represent EU28 trade values. Due to lacking data, EU28 trade values are not corrected by UK services exports and imports respectively. Africa includes Algeria; Angola; Benin; Botswana; British Indian Ocean Territory; Burkina Faso; Burundi; Cameroon; Cape Verde; Central African Republic; Chad; Comoros; Congo; Congo, The Democratic Republic of the; Côte d'Ivoire; Djibouti; Egypt; Equatorial Guinea; Eritrea; Ethiopia; Gabon; Gambia; Ghana; Guinea; Guinea-Bissau; Kenya; Lesotho; Liberia; Libya; Madagascar; Malawi; Mali; Mauritania; Mauritius; Morocco; Mozambique; Namibia; Niger; Nigeria; Rwanda; Saint Helena; Sao Tome and Principe; Senegal; Seychelles; Sierra Leone; Somalia; South Africa; South Sudan; Sudan; Swaziland; Tanzania, United Republic of; Togo; Tunisia; Uganda; Zambia; Zimbabwe. The British Indian Ocean Territory is included in Asia. Reunion and Mayotte are included in Africa, but it should be noted that Reunion and Mayotte are fully-fledged EU regions, i.e. and integral part of the EU as per art 349 TFEU.

## Horizontal measures

As concerns, horizontal restrictions to services trade, the Fraser Institute's Economic Freedom Index provides an overview of the restrictiveness of ESA countries domestic legislative frameworks, which includes various behind-the-border measures that affect domestic and foreign services providers, including the regulations and enforcement of property rights and, generally, the freedom to trade internationally. Table 13 to Table 28 in Appendix II provide an overview of index measures for the period 2013 to 2018 (2018 is the latest year for which index values are available) for four ESA countries (Madagascar, Mauritius, Seychelles and Zimbabwe, an index is not constructed for Comoros). A higher score indicates a higher degree of economic freedom and international openness, respectively.<sup>10</sup>

For the overall legal framework, the index includes measures for the quality of judicial independence, impartial courts, protection of property rights, the integrity of the legal system and legal enforcement of contracts as sub-measures. Overall, Mauritius scores highest, followed by Seychelles, Zimbabwe, and Madagascar.

These findings are generally confirmed by the World Bank's recent Global Governance Indicators, which also include Comoros. Comoros, Zimbabwe, and Madagascar perform weakest regarding the state of the rule of law and regulatory quality, while Mauritius scores highest, followed by Seychelles. The numbers also indicate

<sup>10</sup> The Economic Freedom Index provide scores that often synthesise complex national situations and are thus open to discussion and interpretation.

that both the state of the rule of law and regulatory quality deteriorated in Zimbabwe since 2006 and 2009 respectively.<sup>11</sup>

Madagascar performs relatively poorly in many horizontal areas that are important for international investment and international services trade, including judicial independence and impartial courts. The country also lacks proper mechanisms to legally enforce contracts and property rights. **Several restrictive regulations are in place for financial services, which are reflected by very low levels of financial openness, induced, for example, by capital controls.** At the same time, Madagascar shows high scores for the freedom of foreigners to visit the country, but relatively low scores for the freedom of movement of business people.

**Mauritius performs relatively well in many horizontal areas that are important for international investment and international services trade.** However, the country performs poorly in various categories that are critical for foreign investors and services exporters, such as the legal enforcement of contracts and impartial courts. Mauritius shows high scores for the freedom of foreigners to visit the country and, in addition, relatively high scores for the freedom of movement of people.

**Seychelles performs relatively well in many horizontal areas that are important for services trade.** At the same time, the country performs relatively poorly in many aspects related to the country's judicial system, such as the protection of property rights and the enforcement of contracts, and regulatory barriers. Seychelles ranks high regarding financial openness and the absence of capital controls. The country also scores high with regard to the freedom of movement of people.

**Zimbabwe performs very poorly in many horizontal areas that are important for international investors and international services trade, including judicial independence and impartial courts.** The country also lacks solid mechanisms to legally enforce contracts and property rights. Several restrictive regulations are in place for financial services, which are reflected by very low levels of financial openness, induced, for example, by capital controls. At the same time, Zimbabwe shows high scores for the freedom of foreigners to visit the country, but relatively low scores for the freedom of movement of people.

Regarding the business environment, the economic freedom index also includes a measure of regulations, with sub-indexes on credit market regulations, labour market regulations and business regulations.<sup>12</sup> For business regulations, Mauritius had the highest score of 8.25 in 2018, followed by Seychelles (7.63), Madagascar (5.80) and Zimbabwe (5.15).

Regarding the business environment in Comoros, which is not covered by the Economic Freedom Index, the International Trade Centre (ITC) conducted a non-tariff measures (NTM) business survey on company perspectives which also covers various types of barriers related to the overall business environment.<sup>13</sup> It provides a comprehensive assessment of the challenges that operators face in their business operations in Comoros. These obstacles concern all companies regardless of their activity and they are also of key relevance for foreign companies considering becoming a potential services trader or investor in Comoros. It turns out that Comoros performs very poorly with regard to judicial independence and impartial courts.

The surveyed companies surveyed pointed out that administrative services are characterised by the ineffective application of the law (64%), corruption (62%), delays in procedures (58%) and even arbitrary or inconsistent

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<sup>11</sup> See World Bank Global Governance Indicators (WGI). Note: regulatory quality captures perceptions of the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development, including investment freedom and financial freedom. Rule of law captures perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts.

<sup>12</sup> The sub-index of business regulations is further broken down into measures of administrative requirements, regulatory burden, starting a business, impartial public administration, licencing restrictions and tax compliance.

<sup>13</sup> ITC (2018). The Comoros: Company Perspectives – An ITC Series on Non-Tariff Measures. See: <https://www.intracen.org/publication/ntm-comores/>

behaviour of officials (53%). According to the survey results from businesses, the primary difficulty relating to the business environment in Comoros is that companies face concerns regarding the supply of electricity.<sup>14</sup>

Accordingly, companies in Comoros also face significant problems relating to the business environment, in addition to obstacles relating to non-tariff regulations. These problems join the obstacles related to NTMs, namely payment problems, lack of information and transparency, and discriminatory behaviour in the application of regulations (see TSIA report on Trade in Goods).<sup>15</sup> All these situations are considered unchanged in recent years according to the companies' responses.

## Sectoral measures

The World Bank STRI provides detailed information on services trade policy measures on five major services sectors (telecommunications, finance, transportation, retail and professional services) and key modes of delivery.<sup>16</sup> For three ESA countries, Madagascar, Mauritius and Zimbabwe, the STRI indicates how ESA governments regulated market access in multiple services sectors back in 2008, including financial services, professional services, retail services, telecommunications, and transportation services.<sup>17</sup> The data show that in the past many services sectors were still regulated in ways that severely hampered foreign businesses to provide services freely in these countries (see Table 30, Table 31 and Table 32).<sup>18</sup>

2008 data indicate that Zimbabwe was the most restrictive country compared to Madagascar and Mauritius, applying various restrictions on the supply of professional services (legal and accounting services), financial and insurance services, air passenger services, rail freight services and telecommunications services. Zimbabwe's most restricted sectors include retail banking, automobile insurance services, life insurance services, reinsurance services, retail services, fixed and mobile telecommunication services, road and retail freight services. However, **Zimbabwe saw many attempts to liberalise trade and investment in the country over the past 10 years.** The 2020 WTO Trade Policy Review for Zimbabwe (see Table 35) indicates that Zimbabwe began to liberalise trade and investment in many services sectors. Nevertheless, **many restrictions on foreign participation and investment are still in place in insurance and banking services**, incl. a ban on foreign branches and foreign representative offices. Even though some restrictions for telecommunications services were lifted in 2017, competition in various telecommunications services is still relatively low. **Zimbabwe applies a complex licensing regime for various telecommunications services.**<sup>19</sup> In delivery services, Zimbabwe Posts (ZIMPOST), a state-owned company, still is the designated postal operator, with the mandate of providing universal postal and courier (as well as real estate and financial) services within Zimbabwe. The Logistics Capacity Assessment (LCA) database<sup>20</sup> provides valuable

<sup>14</sup> 92% of companies suffer from this problem in their day-to-day business activities. And note that 59% consider that the situation has deteriorated in recent years. This problem is a particularity of Comoros among the countries surveyed by ITC and according to ITC it demonstrates the urgency of resolving the infrastructure challenges so that business operations are facilitated.

<sup>15</sup> See also the SIA of trade in goods.

<sup>16</sup> See: <https://www.worldbank.org/en/research/brief/services-trade-restrictions-database>

<sup>17</sup> The STRI is a measure of the restrictiveness of an economy's regulatory and policy framework with respect to trade in services. It quantifies the information from the Services Trade Restrictions Database (STRD) and provides a comparison base on services trade policies for three out of the four modes of supply in the GATS, namely cross-border supply (mode 1), commercial presence (mode 3) and presence of natural persons for business purposes (mode 4), comprising 103 economies (plus the EU-20 aggregate) and 19 subsectors. It ranges from 0 to 100, where 0 indicates that none of the restrictions underlying the index is applied, and 100 means that the sector/mode is completely closed to foreign services and service suppliers. The data was collected in 2008, except if indicated differently. In addition to the three modes of supply, an overall STRI was computed that combines the three modes of supply in a sector-level index.

<sup>18</sup> Note that the STRI ranges from 0 to 100, where 0 indicates that none of the restrictions underlying the index is applied, and 100 means that the sector/mode is completely closed to foreign services and service suppliers.

<sup>19</sup> See Techzim (2020). Telecoms regulation and licencing, what's what. Available at <https://www.techzim.co.zw/2020/07/telecoms-regulation-and-licencing-whats-what/>. Also see Statutory Instrument 159 of 2020. Postal and Telecommunications (Licensing Registration and Certification) (Amendment) Regulations, 2020 (No. 12). Available at [https://www.veritaszim.net/sites/veritas\\_d/files/SI%202020-159%20Postal%20and%20Telecommunications%20%28Licensing%20Registration%20and%20Certification%29%20%28Amendment%29%20Regulations%2C%202020%20%28No.%2012%29.pdf](https://www.veritaszim.net/sites/veritas_d/files/SI%202020-159%20Postal%20and%20Telecommunications%20%28Licensing%20Registration%20and%20Certification%29%20%28Amendment%29%20Regulations%2C%202020%20%28No.%2012%29.pdf).

<sup>20</sup> The LCA database, which is hosted by the World Food Programme, covers logistics infrastructure, processes and regulations and markets in a given country. There are currently LCAs for over 100 countries. Assessments are conducted in a given country every two years, mainly by WFP logistics staff and also by staff from other humanitarian organisations or private sector partners. This information is published by the Global Logistics Cluster.

complementary information for the regulation of various services sectors in Zimbabwe. According to information from November 2017, Zimbabwe has an overnight courier system. The normal post office document movement system is reported to work well. In addition, international companies DHL and FEDEX provide efficient document movement within and outside the country. The services are widely available and fairly reliable. The postal and courier services fall under the postal and telecommunications ministry, which controls the postal and courier services of the country, and their overall capabilities.

In Madagascar, relatively high services trade restrictions were applied to the supply of professional services (legal and accounting services), and telecommunications services. Madagascar's most restricted sectors included retail banking, life insurance services, international air passenger services, and auditing services. **The latest 2015 WTO Trade Policy Review (see Table 33) outlines that Madagascar's telecommunications and financial services markets are relatively open for foreign participation and investment.** In general, no limit is set for foreign ownership or control. The Investment Law (Law 2007-036) stipulates that investors, foreign or Malagasy, are free to hold up to 100% of shares or stock in the company in which they carry out their activities. The one exception is the telecommunications industry, where there is a cap on foreign shareholding of 66%. **Investment in certain sectors is subject to specific regulations, including licensing requirements in banking, insurance, and telecommunications. However, national treatment is not denied to any foreign investor even in these sectors.**<sup>21</sup>

As concerns telecommunications services, a 2017 LCA mapping indicates that the telecommunications sector in Madagascar has about 12 operators providing various telecommunications services, suggesting functioning competition.<sup>22</sup> By contrast, **Madagascar's postal and courier services sector is closed:** the public postal operator, Paositra Malagasy (PAOMA), which is responsible for managing postal services, has the monopoly of several reserved postal services (letters and packages weighing less than 2 kg and postal accounts). LCA data from 2017 indicate that the Malagasy post is still operational and offers short and long-distance courier services throughout the whole country and internationally. Other companies are available to provide services in sending freight, air or postal or door to door, such as DHL or Colis Express.

National cabotage, "bornage", are generally reserved for Malagasy flag vessels, and port services require concessions from governmental institutions. To facilitate foreign investors' work arrangements, the Law on Investment in Madagascar allows their entry and short-stay visa to be extended and converted into a "professional category resident visa", whether they have a contract of employment with a Malagasy enterprise or are occupying a senior management or executive position in that enterprise.

According to the STRI, **Mauritius generally was least restrictive for banking services, transport services and telecommunications services compared to other ESA countries.** At the same time, several restrictions are still applied for certain sectors and business models. The most restricted sectors were automobile insurance services, life insurance services, international air passenger services, maritime auxiliary services, accounting services, and legal services. **According to the 2015 WTO Trade Policy Review of Mauritius, the country is generally relatively open to foreign participation and investment in domestic services activities.** With respect to financial services, Mauritius participated in the WTO financial services negotiations and undertook commitments under the Fifth Protocol. Foreign banks are generally allowed to

<sup>21</sup> See USTR (2021). *Madagascar - Openness to and Restriction on Foreign Investment*. Available at <https://www.privacyshield.gov/article?id=Madagascar-openness-to-foreign-investment>.

<sup>22</sup> Fixed telephony service provided by the incumbent TELECOM MALAGASY (TELMA); GSM and Internet standard mobile telephony service offered by the four operators: Orange Madagascar, Airtel Madagascar, Telma mobile, Gulsat/Blueline; Telecommunications service offered by Iridium Africa Services Corporation; Data transmission service offered by Telma Global Net and Gulfast Madagascar; Internet service provided by the two Internet service providers Blueline and Telma Global Net; Other telecommunication services, such as the electronic payment processing service by the Monetics Treatment Center of Madagascar (CTMM), the provision of the IRIDIUM satellite mobile telephone service by GLOBAL Plus, the resale of mobile telephone, SMS and data provided by BLUELINE, the provision of INMARSAT and IRIDIUM-type mobile telecommunications services by VIA SPACE MADAGASCAR. See Logistics Capacity Assessment (LCA) database.



establish either as wholly owned subsidiaries or branches or to form joint ventures with local banks. Also, any person may carry on insurance business in Mauritius provided they hold a license from the Financial Services Committee (FSC). There are no limitations on commercial presence for foreign insurers. As concerns postal and courier services, licenses by the Postal Authority are required to carry out postal and courier services. Mauritius Post Ltd. is the major company currently responsible for postal and courier services in Mauritius. As concerns international maritime transport services, certain restrictions still apply. The state-owned Cargo Handling Corporation Ltd (CHCL) is the sole provider of general cargo. The Merchant Shipping Act from 2007, promulgated in 2009, contains registration requirements for the owners of Mauritian ships. Since 2007 Mauritius improved incentives for ship registration. Mauritius ship registration is regulated by the Merchant Shipping Act 2007 and the Merchant Shipping Regulations 2009. To be eligible for registration in Mauritius, a ship must be aged less than 15 years, it should carry liability insurance and comply with all the international protocols/conventions related to safety, protection of the environment and security. If the ship's weight is over 500 tons, it must present a certification from a recognised international classification society. Ship's ownership shall be restricted to Mauritius citizens, corporate entities, partnerships and societies incorporated in Mauritius.

In Mauritius, licenses before company registration are required for businesses engaged in regulated activities, such as banking, non-banking financial services, freeport services, internet service providers and tourism activities. In the tourism sector, there are certain conditions for investment by non-citizens in the following activities: (i) guesthouse/tourist accommodation, (ii) pleasure crafts, (iii) scuba diving, and (iv) tour operator business. Generally, the limitations refer to a minimum investment amount, number of rooms, or maximum equity participation depending on the business activity.<sup>23</sup>

**Comoros' markets for telecommunications and financial services are characterized by market concentration.** For Comoros, LCA data from 2019 suggest that **only two companies** (Hury, in which the government is still the majority shareholder, and Telecom Madagascar) share the telecommunications market. Telma has a slightly wider network coverage and offers a better quality of internet connection, while Hury is significantly cheaper and more widespread in terms of subscription. The National Authority for Regulation of Information Technologies and Communications (ANRTIC) regulates telecoms, under the Ministry of Transport, Posts and Telecommunications. **Comoros' financial sector is small and concentrated with a significant state presence.** The financial sector comprises only four banks, four microfinance institutions (MFIs), three financial intermediaries, including Société Nationale des Postes et Services Financiers (SNPSF), and a recently licensed electronic money issuer. The Comorian government continues to hold a significant stake in the capital of two private banks (34 percent in Banque d'Investissement des Comores - BIC and 35 percent in Banque de Développement des Comores - BDC). The Comorian state also remains the sole shareholder in the, SNPSF. BIC, BDC and SNPSF are the three largest financial institutions, and they account for 63% of the total deposits, just over 56% of the total loans and 58% of financial sector assets.<sup>24</sup> A World Bank report from 2019 states that Comoros financial sector faces stability challenges are centered around persistently high non-performing loans and low sector profitability. Comoros banks' negative profitability is a major constraint for the sector.

In Seychelles, the banking sector is still highly concentrated. Licensing requirements apply for financial and telecommunication services. A 2018 analysis of the Central Bank of Seychelles (CBS) concludes that the market structure of the local banking sector is highly concentrated. The three largest banks accounted for more than 80% of the total assets of the banking industry. Similar patterns were estimated for deposits and loans.<sup>25</sup>

<sup>23</sup> See Mauritius chamber of Commerce and Industry (2021). Available at <https://www.mcci.org/en/inside-mauritius/doing-business/start-a-business/regulated-activities/>. Also see US Bureau of Economic Analysis (2016). 2016 Investment Climate Statements , Mauritius. Available at <https://2009-2017.state.gov/e/eb/rls/othr/ics/2016/af/254223.htm>.

<sup>24</sup> World Bank (2019). Report on Comoros Financial Sector Development Project (P166193). 22 January 2019. A Wolters Kluwer (2021) reports that there are seven licensed commercial banks in Seychelles, together with a credit union and eight money changers. Of the commercial banks, two are state owned, three are branches of foreign banks and two are locally incorporated subsidiaries. Whilst all the banks hold licences to conduct domestic banking, only two have been granted licenses to carry out offshore banking activities. See: <https://www.lowtax.net/information/seychelles/seychelles-banking.html>.



Non-domestic banking in Seychelles is regulated by the Central Bank of Seychelles and is administered under the Financial Institutions Act 2004 (amended in 2008, 2009 and 2011) to cater for offshore as well as domestic banking. The Act regulates licensing of offshore banks. The CBS is responsible for licensing banking activities (onshore and offshore) and payment system providers, while the Financial Services Authority (FSA) licences the further activities of the financial sector. In the insurance market, licensing of domestic and non-domestic (offshore) insurance companies is in the hands of the Insurance Authority under the Minister of Finance and Communications. Licenses are granted to foreign companies which have registered under the Companies Act. The minimum paid-up capital for general or life insurance companies is USD 125,000, for reinsurance companies USD 1m, and captive insurance companies, USD 70,000. In telecoms, 2017 information from the International Telecommunications Union (ITU) indicates that there are two mobile operators providing services in Seychelles: Cable and Wireless, a subsidiary of Cable and Wireless Communications (CWC), and Airtel, a subsidiary of the Indian mobile group. In fixed-line services, incumbent Cable and Wireless offers prepaid and postpaid copper landline telephone service. In addition, Intellivision offers fixed telephony over its fibre-optic network and Kokonet offers voice-over-Internet Protocol (VoIP). Fixed-broadband penetration is considered high by regional standards. ITU concludes that the government of Seychelles has created a predictable regulatory framework and generated a realistic degree of competition in the ICT sector given the country's relatively small population.<sup>26</sup> As concerns delivery services, Seychelles Postal Services (SPS) operates as the designated Universal Postal Service Provider to provide universal postal services and services of clearing, sorting, transporting and delivery of postal articles of domestic and cross border correspondence and direct mail, whether by accelerated delivery or not, weighing five times more than 500 grams. Companies are generally not allowed to offer postal or courier services without a license issued by the Seychelles Licensing Authority on the advice of the Postal Regulator.

**The lack of legal clarity regarding Foreign Direct Investment (FDI) entry in Seychelles creates difficulties for foreign investors.** UNCTAD (2020) outlines that restrictions to FDI in Seychelles entry stem from a complex web of legal texts. Some activities are only open to Seychelles citizens, while in other sectors FDI entry is conditional on partnerships with Seychellois (within specified participation thresholds), as well as activities in which FDI entry is subject to an economic-needs test. Moreover, all foreign investments are screened, based on the Investment Code of Seychelles Act of 2005 (Act 13 of 2005). UNCTAD reports that the criteria against which Seychelles Investment Board (SIB) approval is examined are often unclear and subject to interpretation.<sup>27</sup>

### **ESA countries' WTO GATS commitments (Madagascar, Mauritius, Seychelles, Zimbabwe)**

As concerns ESA countries' current services trade commitments, the Integrated Trade Intelligence Portal for services (I-TIP Services) provides a comprehensive overview of WTO member's commitments under the WTO's GATS.<sup>28</sup> It should be noted that ESA countries GATS commitments do not necessarily reflect the state of autonomous liberalisation in domestic services sector regulations. Additional information is provided below.

**The WTO's GATS schedules reveal that ESA countries commitments vary substantially across all services sectors, including sectors for which liberalisation measures are currently envisaged under the deepened EPA, i.e. telecommunications services, financial services, insurance services, delivery (postal and courier) services, and sea transport services.** It should be noted that Comoros is not a member of the WTO, which is why its GATS schedules are not available.

<sup>26</sup> Regarding the sector's performance, UNCTAD's *Investment Policy Review for the Seychelles from 2020* outlines that the internet penetration rate (58.4%) was in 2017 higher than the world's average (49%) and comparator countries (Cabo Verde – 57.16% and Mauritius – 55.4%), except Barbados (81.76%), according to the International Telecommunications Union statistics database ([itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx](http://itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx)).

<sup>27</sup> UNCTAD (2020). *Investment Policy Review for the Seychelles*.

<sup>28</sup> The Integrated Trade Intelligence Portal for services (I-TIP Services) is a joint initiative of the WTO and the World Bank. See: [https://www.wto.org/english/res\\_e/statis\\_e/itip\\_e.htm](https://www.wto.org/english/res_e/statis_e/itip_e.htm)

Compared to Madagascar, Mauritius and Zimbabwe, the GATS schedule of Seychelles is most comprehensive and advanced regarding sector coverage and liberalisation commitments. Seychelles made specific commitments in all tradable services sectors. By contrast, Madagascar made only commitments for a very limited group of business services. Mauritius made commitments for a limited number of telecommunication services, financial services, and tourism-related services. Similarly, Zimbabwe's commitments only extend to certain telecommunication services, financial services, and tourism-related services (see Table 36 and Table 37). At the same time, **ESA countries apply only a few exemptions on the most favoured nation treatment: Mauritius in financial services, Seychelles in telecommunication services (see Table 38).**

As outlined in Table 39, Madagascar's current GATS commitments do not extend beyond technical testing and maintenance and repair services. No commitments were so far made for telecommunications services, financial services, insurance services, delivery (postal and courier) services, and sea transport services.

As shown in Table 40, Mauritius' services trade commitments under GATS already include commitments for services affected by the deepened EPA. In telecommunications services full market access is granted for mode 2, partial market access is granted for mode 1 and 3, while no commitments were made for mode 4. For financial and insurance services, Madagascar's government is still free to maintain or introduce measures inconsistent with market access or national treatment. No commitments were made for delivery and sea transport services.

As outlined by Table 41, **Seychelles committed to extensive market access in telecommunications services, postal and courier services, and financial and insurance services, and transport services.** However, for services supplied as mode 4, the government of Seychelles is still free to maintain or introduce measures inconsistent with market access or national treatment.

As outlined in Table 42, Zimbabwe's current GATS commitments do not go beyond a limited number of (public) telecommunications services, financial and insurance service and tourism services. **For telecommunications and financial and insurance services, Zimbabwe's government is still free to maintain or introduce measures inconsistent with market access or national treatment.**

#### 2.4.2 Digital trade

E-commerce and digital trade have been growing rapidly globally. The Covid-19 pandemic has accelerated the digital transformation that is essential for mitigating the economic slowdown and speeding up economic recovery. **Digital and digitally enabled trade holds many economic opportunities not only for developed economies but also for emerging markets and developing countries.**

The identification and measurement of digital trade is challenging in many respects. The US Bureau of Economic Analysis (BEA), for example, recognises that there are various methodological challenges regarding the measurement of business activities related to or comprising the digital economy.<sup>29</sup> There is generally a lack of data on the scale, nature, and trends of cross-border digital trade. For example, as reported by the OECD, intra-firm transactions in cross-border data flows are unlikely to be recorded at all in official trade statistics.<sup>30</sup> Similarly, the IMF reports several methodological challenges regarding the statistical accounting of digital business models, particularly the recording of domestic and international transactions of Infrastructure as a Service (IaaS), Platform as a Service (PaaS) and Software as a Service (SaaS) activities.<sup>31</sup>

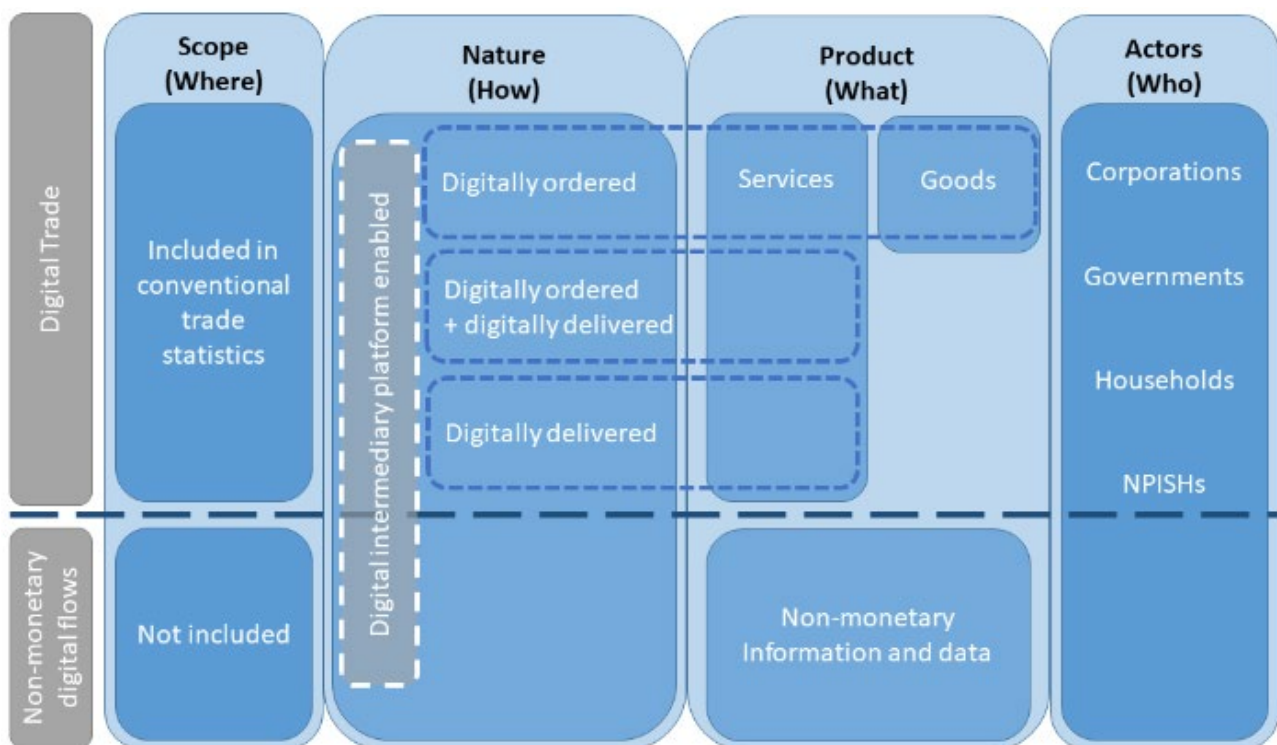
<sup>29</sup> See, e.g. BEA (2019). *Research Spotlight: Measuring the Digital Economy*. Available at <https://apps.bea.gov/scb/2019/05-may/0519-digital-economy.htm>; BEA (2018). *Defining and Measuring the Digital Economy*. Available at <https://www.bea.gov/system/files/papers/WP2018-4.pdf>; BEA (2020). *New Digital Economy Estimates*. Available at <https://www.bea.gov/system/files/2020-08/New-Digital-Economy-Estimates-August-2020.pdf>.

<sup>30</sup> Cambridge Econometrics. (2020). *Understanding and measuring cross border digital trade*. Retrieved from [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/885174/Understanding-and-measuring-cross-border-digital-trade.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885174/Understanding-and-measuring-cross-border-digital-trade.pdf)

<sup>31</sup> IMF (2020). *Accounting for Cloud Computing in the National Accounts*. IMF Working Paper WP/20/127.

The OECD's conceptual framework for digital trade (see Figure 1), which was developed in cooperation with the IMF and the WTO, reflects the broadest expert consensus on measuring digital trade. It focuses on the nature of the transaction, defining digital trade as encompassing both digitally ordered and digitally delivered products and services.<sup>32</sup> These are the services for which digital technologies are thought to play an important role in facilitating trade. At the same time, it should be noted that there is no way to determine the portion of trade in these services that were delivered digitally. In addition, other types of services could be traded digitally, such as education, but these are not included because digital delivery is not generally the primary mode of supply (delivery) for these services. Finally, UNCTAD defines ICT-enabled services as composed of the following categories: communications services, insurance services, financial services, computer and information services, royalties and license fees, business services and personal, cultural, and recreational services.<sup>33</sup> Following the classification of the OECD-IMF-WTO consensus, the sectors considered in this analysis are outlined in **Table 3**.

**Figure 1: Taxonomy and data gaps in the conceptual framework for digital trade**



Source: OECD-IMF-WTO handbook on measuring digital trade.

<sup>32</sup> Similarly, "ICT-enabled" services correspond to the following categories of services in the BEA's published statistics on international trade in services: royalties and license fees, insurance, financial services, telecommunications, and business, professional, and technical services (except construction).

<sup>33</sup> See, e.g., UNCTAD (2019). *Digital Economy Report 2019*, available at <https://unctad.org/webflyer/digital-economy-report-2019>.

**Table 3. Digital trade / potentially ICT-enabled services sub-groupings, following OECD-IMF-WTO classifications**

Sector	Coverage in OECD Services trade statistics
1.1 ICT services - Telecommunications	Yes. Covered by telecommunications services.
1.2 ICT services - Computer services (including computer software)	Yes. Covered by computer services. Disaggregation: computer software and other computer services.
1.3 Sales and marketing services, not including trade and leasing services	Yes. Covered by advertising services, which also includes market research and public opinion polling services.
1.4 Information services	Yes. Covered by information services, which includes news agency services and other information services.
1.5 Insurance and financial services	Yes. Covered by financial and financial intermediation services and insurance services.
1.6 Management, administration, and back office services	Yes. Covered by professional services, which include a broad range of business and legal services.
1.7 Licensing services	Yes. Covered by charges for the use of intellectual property, which includes individual sections for specific licenses including licenses to reproduce or distribute computer software.
1.8 Engineering, related technical services and R&D	Yes, covered by engineering services and scientific and other technical services.
1.9 Education and training services	Yes. Covered by other services, which includes a separate section for education services.

Source: OECD-IMF-WTO handbook on measuring digital trade.

Digital trade data indicate that there is a large gap between developed and developing countries when it comes to both digital endowments as well as the use of digital technologies. At the same time, significant barriers to digital and digitally-enabled trade still exist in economies across the globe, including developing countries.<sup>34</sup> The European Centre for International Political Economy (ECIPE) has produced the Digital Trade Restrictiveness Index (DTRI), which ranks 64 countries using variables like restrictions on data flows and establishment restrictions. ECIPE analysis predicts that if countries lifted their restrictions on cross-border data flows, the imports of services would rise on average by 5% across all countries, and there would be productivity gains of approximately 4.5% on average.<sup>35</sup>

Data on digital trade flows are not available for trade between the EU and individual ESA countries. For EU trade with the African continent as a whole (see Table 4), available data indicate that EU imports and exports of digital and digitally-enabled services account for only very low shares in total EU trade in these sectors. Telecommunications, computer, and information services account for the highest shares in EU digital exports to African countries, followed by financial and professional services. With respect to EU imports from African countries, telecommunications, computer, and information services are the most important export sector in terms of trade value, followed by professional services, advertising, market research and public opinion polling services, and financial and insurance services.

<sup>34</sup> See, e.g., ECIPE's Digital Trade Restrictiveness index, Ferracane, M., Lee-Makiyama, H. & Van der Marel, E. (2015). Digital Trade Restrictiveness Index. European Centre for International Political Economy. Retrieved from [https://ecipe.org/wp-content/uploads/2018/05/DTRI\\_FINAL.pdf](https://ecipe.org/wp-content/uploads/2018/05/DTRI_FINAL.pdf); OECD's Digital Services Trade Restrictiveness Index.

<sup>35</sup> See Ferracane, M., Lee-Makiyama, H. & Van der Marel, E. (2015). Digital Trade Restrictiveness Index. European Centre for International Political Economy. Retrieved from [https://ecipe.org/wp-content/uploads/2018/05/DTRI\\_FINAL.pdf](https://ecipe.org/wp-content/uploads/2018/05/DTRI_FINAL.pdf); Ferracane, M., Kren, J. & Van der Marel, E. (2018). The cost of data protectionism. VoxEU. Retrieved from <https://voxeu.org/article/cost-data-protectionism>

**Table 4: EU-Africa trade in potentially ICT-enabled services, exports and imports, 2018, in bn USD**

Potentially ICT-enabled services	Total EU services exports	Total EU services exports to Africa	Share services exports to Africa in total EU services exports
Telecommunications, computer, and information services	333	7.7	2.3%
Information services	22	0.3	1.5%
Advertising, market research, and public opinion polling services	60	0.6	1.0%
Financial services	251	3.9	1.5%
Insurance services	75	1.1	1.5%
Professional and management consulting services	239	3.4	1.4%
Charges for the use of intellectual property	168	2.0	1.2%
Potentially ICT-enabled services	Total EU services imports	Total EU services imports from Africa	Share services imports from Africa in total EU services imports
Telecommunications, computer, and information services	183	3.5	1.9%
Information services	13	0.0	0.4%
Advertising, market research, and public opinion polling services	79	0.7	0.8%
Financial services	149	0.5	0.3%
Insurance services	47	0.4	0.9%
Professional and management consulting services	233	2.3	1.0%
Charges for the use of intellectual property	237	0.2	0.1%

Source: OECD. An overview of digitally enabled services is provided by OECD (2020).<sup>36</sup> Note: numbers represent EU28 trade values. Due to lacking data, EU28 trade values are not corrected by UK services exports and imports respectively. Africa includes Algeria; Angola; Benin; Botswana; British Indian Ocean Territory; Burkina Faso; Burundi; Cameroon; Cape Verde; Central African Republic; Chad; Comoros; Congo; Congo, The Democratic Republic of the; Côte d'Ivoire; Djibouti; Egypt; Equatorial Guinea; Eritrea; Ethiopia; Gabon; Gambia; Ghana; Guinea; Guinea-Bissau; Kenya; Lesotho; Liberia; Libya; Madagascar; Malawi; Mali; Mauritania; Mauritius; Morocco; Mozambique; Namibia; Niger; Nigeria; Rwanda; Saint Helena; Sao Tome and Principe; Senegal; Seychelles; Sierra Leone; Somalia; South Africa; South Sudan; Sudan; Swaziland; Tanzania, United Republic of; Togo; Tunisia; Uganda; Zambia; Zimbabwe. The British Indian Ocean Territory is included in Asia. Reunion and Mayotte are included in Africa, but it should be noted that Reunion and Mayotte are fully-fledged EU regions, i.e. and integral part of the EU as per art 349 TFEU. Note: sector coverage based on OECD-IMF-WTO Handbook on measuring digital trade.

<sup>36</sup> See Handbook on Measuring Digital Trade. Version 1. Joint release by the OECD, WTO and IMF.



### 2.4.3 Investments

**Data on EU investment in individual ESA countries is not available.** Data from the Bank of Mauritius indicate that Mauritius' total FDI inflows amounted to 21,337 million Rs in 2019 (approx. 436 million EUR, as of February 2021 exchange rate).<sup>37</sup> FDI inflows from the EU27 amounted to 9,550 million Rs, of which FDI was registered from Belgium (320 million Rs), Luxembourg (67 million Rs), France (7,092 million Rs), and Germany (376 million Rs). By contrast, Mauritius FDI outflows to the EU27 amounted to only 224 million RS in 2019 (approx. 4.6 million EUR as of February 2021 exchange rate), of which 101 million Rs is registered for FDI flows to France.

Concerning restrictions on investment, except for Seychelles, ESA countries' GATS schedules indicate that for many services sectors ESA countries' governments are still free to impose laws and regulations that are inconsistent with market access and national treatment provisions ('unbound'). Among these sectors are typically telecommunications and financial services, i.e. sectors that are also affected by the envisaged liberalisation measures of the deepened agreement.

Mode 3 restrictions recorded by the World Bank's STRI indicate the degree of restrictiveness for several additional services sectors (for Madagascar, Mauritius, and Zimbabwe). **The recorded data indicate that various types of investment restrictions are in place in a wide range of services industries and sub-sectors.** In addition to telecommunication and financial services, market access restrictions are commonly applied in retail services, transportation services and professional services, with varying degrees of restrictiveness (see Table 43, Table 45 and Table 47).

**Investment restrictions typically applied by ESA countries include foreign ownership limitations including joint venture obligations, maximum ownership thresholds, local registration and certification (licensing) requirements, government approval (e.g. in financial services), and entire bans on the entry of foreign market participants (see Table 44, Table 46 and Table 48).**

## 3. Impact Assessment

In this section, we outline the extent to which services, trade, digital trade and investment is covered by the existing interim EPA. Potential economic impacts are summarised by detailed screening tables. Generally, for sectoral policies, major impacts are expected from liberalisation measures that facilitate trade and investment in industries and subs-sectors whose output (goods and services) is intensively used by other sectors of the economy as an input for production, the creation of value-added or sales activities, e.g. telecommunications or transport services. Similarly, for horizontal policy areas, e.g. data (privacy) regulations, major impacts are expected from policies that govern business activities of companies that operate in a broad range of industries. By contrast, if certain policies only affect a low number of companies in a particular sector or a low number of companies across different sectors, the impacts from liberalisation measures are considered minor.

### 3.1 Cross-border services trade

#### 3.1.1 Baseline

In the interim EPA, the parties agreed to cooperate in the development of various services sectors to support trade in services in the region, including tourism services, financial services and ICT services. **The interim EPA does not cover trade in services otherwise.**

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<sup>37</sup> Bank of Mauritius (2019). Preliminary Gross Direct Investment Flows: 2019 (Excluding Global Business Sector). Foreign exchange rates provided by Morningstar.

## 3.1.2 Screening: Potential economic impacts

Table 5: Detailed screening table of potential services trade provisions

Provision	Main economic sectors that could be affected	Possible economic impacts	Potential importance
<b>Telecommunications services</b>	All economic sectors	Greater supply and greater competition through investment and foreign participation in the telecommunication sector has a positive impact on the overall economy. It reduces the cost of production and may eventually increase the employment rate of ESA5 countries.	<b>Major</b>
<b>Financial services</b>	All economic sectors	Greater supply and greater competition through investment and foreign participation in financial intermediation, banking and insurance services sectors sector have a positive impact on the overall economy. It reduces the cost of production and may eventually increase the employment rate of ESA5 countries.	<b>Major</b>
<b>Delivery services</b>	Logistics, agriculture and manufacturing sectors	Greater supply and greater competition through investment and foreign participation in postal and courier services can improve logistics value chains in ESA5 countries commodity sectors. The expansion of delivery services can have a positive impact on the employment of low-skilled workers.	<b>Minor</b>
<b>International maritime transport services</b>	International freight and logistics services and domestic agriculture and manufacturing sectors; related services such as port and agency services as well as multimodal transport services; passenger transport services and certain tourism and travel services	Greater participation of foreign suppliers can have a positive impact on market competition and international competitiveness. Lower shipping (cargo) rates may have a positive impact on ESA5 countries commodity exports and imports.	<b>Minor</b>



Provision	Main economic sectors that could be affected	Possible economic impacts	Potential importance
<b>Movement of natural persons for business purposes</b>	All economic sectors	Improved legal certainty, transparency and legal clarity would reduce the deterrent effect on EU companies with respect to managerial decisions to enter ESA countries' markets.	<b>Minor</b> <sup>38</sup>

Source: own compilation.

## 3.2 Digital trade

### 3.2.1 Baseline

In the interim EPA, the parties recognised the importance of ICT frameworks and ICT for economic development. The interim EPA generally aimed at improving cooperation in the development of ICT sectors and the promotion of ICT-enabling services. However, the Interim Agreement does not address issues that are critical for the facilitation of modern digital trade, such as rules and regulations on cross-border data flows, standards, and privacy legislation.

### 3.2.2 Screening: Potential economic impacts

**Table 6: Detailed screening table of potential provisions on digital trade**

Provision	Main economic sectors that could be affected	Possible economic impacts	Potential importance
<b>Free cross-border data flows</b>	All economic sectors	<p>The free cross-border transfer of data (i.e. the ability to exchange data cross-border without unjustified barriers) enables producers to sell and consumers to shop easily abroad.</p> <p>Free cross-border data flows fuel the process of globalisation of production and commerce with significant economic benefits for individual companies, households and the economy at large.</p> <p>The free flow of data is especially important for SMEs. SMEs are enabled to compete with larger businesses and reach customers around the globe in ways that are not possible with bans or restrictions on data flows, such as</p>	<b>Major</b>

<sup>38</sup> It should be noted that visa policy is explicitly carved out from the negotiations. Visa policies are generally not covered by trade agreements negotiated by the EU to date. Because of these carve-outs, the impact of mode 4 commitments in any trade agreement has always been minor. The only material value is in binding current openness of the EU and hence in legal certainty.

Provision	Main economic sectors that could be affected	Possible economic impacts	Potential importance
		local storage and processing obligations≤.	
<b>Customs duties on electronic transmissions</b>	All economic sectors	Like import tariffs, customs duties on electronic transmissions would raise prices and reduce available quantities of goods and services for businesses and consumers, which results in a lower income, reduced employment, and lower economic output across all sectors of the economy, particularly those with high ICT / data intensities. A ban on customs duties on electronic transmissions would maintain/allow for easy access to the foreign market and reduce the deterrent effects to trade internationally, particularly for SMEs.	<b>Major</b>
<b>Conclusion of contracts by electronic means</b>	All economic sectors	Legal certainty and trust is an important facilitator of commerce and international trade and as such contributes to economic activity and employment across all sectors of the economy, particularly sectors with high ICT / data intensities, e.g. e-commerce.	<b>Major</b>
<b>The protection of personal data and privacy</b>	All economic sectors	Significantly divergent data protection laws can impede or entirely prevent digital and non-digital trade across all sectors of the economy. Aligned data protection policies, incl. an EU adequacy decision for individual ESA5 countries has the potential to be a contributing factor to digital and non-digital trade across all sectors of the economy.	<b>Major</b>
<b>Electronic authentication and electronic trust services</b>	All economic sectors	Electronic identification and trust services are key enablers for secure cross-border electronic transactions and central for cross-border e-commerce. Reliable and well-recognised services can be an important facilitator of e-commerce and international trade and as such	<b>Major</b>

Provision	Main economic sectors that could be affected	Possible economic impacts	Potential importance
		contribute to economic activity and employment across all sectors of the economy, particularly sectors with high ICT / data intensities, e.g. e-commerce.	
<b>Online consumer trust</b>	All economic sectors	Adopting or maintaining measures to ensure the effective protection of consumers engaging in e-commerce transactions can contribute to economic activity and employment across all sectors of the economy, particularly sectors with high ICT / data intensities, e.g. e-commerce.	<b>Major</b>
<b>Transfer of or access to source code</b>	ICT and software sectors	Open access to source code undermines economic inventiveness to produce and innovate on the side of the private sector market participants. Legal obligations to transfer or grant access to source code of software owned by a natural or juridical person abroad have a deterrent effect on foreign businesses market entry and therefore undermine the country's access to modern software, technology and technology-enabled business models. Lower access to modern technologies undermine medium- to long term economic growth and structural economic change (economic renewal).	<b>Major</b>
<b>Unsolicited direct marketing communications</b>	All economic sectors	A prohibition of unsolicited direct marketing communications can improve privacy and serve consumer protection. The effect on the overall economy, including production and employment in digital and less digital sectors, is considered limited.	<b>Minor</b>

Source: own compilation.

### 3.3 Investments

#### 3.3.1 Baseline

The interim EPA generally aimed at increasing ESA countries' attractiveness for foreign investors and, more generally, private sector initiative in ESA countries. However, in the Interim EPA, the parties only agreed on the aim to create an environment for the sustainable and equitable economic development of ESA through investment, including foreign direct investment (greenfield or portfolio), including capacity building, institutional support, and invest promotion initiatives. The interim EPA did not address legal discrimination of foreign investors in ESA countries, such as national treatment and most favoured nation treatment etc. It should be noted that individual ESA5 countries have entered into several bilateral investment agreements with individual EU and non-EU countries.<sup>39</sup>

#### 3.3.2 Screening: Potential economic impacts

**Table 7: Detailed screening table of potential investment liberalisation provisions**

Provision	Main economic sectors that could be affected	Possible economic impacts	Potential importance
<b>Ban on limitations on the number of enterprises, the total value and assets, the number of operations, the participation in shareholding, or the total number of natural persons that may be employed</b>	All economic sectors	<p><i>Competition and consumer surplus:</i> EU investment-driven competition would increase competition in ESA countries, leading to lower prices and better-quality goods and services. Improved competition would induce displacement effects in the short and medium-term, particularly in industries that currently enjoy protection by domestic regulation, e.g. in telecommunication and transportation services.</p> <p><i>Economic growth, structural economic change and renewal:</i> increased investment from the EU would improve ESA countries' access to modern technologies and innovative (often technology-enabled) business models. Additional investment would improve the economic growth potential of ESA countries in the medium to long term, creating additional economic opportunities and employment respectively.</p>	<b>Major</b>

<sup>39</sup> A full overview of Bilateral Investment Treaties (BITs) and other treaties with investment provisions is available at UNCTAD's investment policy hub. The following BITs are in place between individual ESA countries and EU27 Member States: Comoros: Belgium Luxembourg Economic Union; Madagascar: Germany, Belgium Luxembourg Economic Union, France, Sweden; Mauritius: France, Finland, Belgium Luxembourg Economic Union, Sweden, Romania, Czech Republic, Portugal, Germany; Seychelles: France, Cyprus; Zimbabwe: France, Austria, Croatia, Czech Republic, Italy, Sweden, Netherlands, Denmark, Germany, Portugal.

Provision	Main economic sectors that could be affected	Possible economic impacts	Potential importance
		<i>Integration in global value chains of goods and services:</i> increased investment from the EU would contribute to an expansion of ESA countries' production capacities for multiple goods and services in the medium to long term, helping domestic industries and industrial clusters to climb the ladder of value-added.	

Source: own compilation.

## 4. Environmental, social, gender and human rights impacts

### 4.1 Screening of possible impacts

The following tables present a screening of the possible environmental, social, gender and human rights impacts arising from the possible measures for investment and trade in services. The tables cover the chapters in the EU's proposed text on these topics.<sup>40</sup>

Section 4.2 then reviews the key impacts that are identified in these tables. EU development cooperation can play a key role in addressing possible negative impacts and in ensuring that positive impacts take form.

**Table 8: Detailed screening table of potential general provisions under Chapter I**

Provision	Possible environmental impacts	Possible social, gender and human rights impacts	Potential importance
<b>Right to regulate in public interest matters:</b>  Parties retain the right to regulate to achieve legitimate policy objectives (e.g., protection of public health, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, privacy and data protection, or the	This provision could act as a safeguard to protect the Parties when taking new measures to achieve the legitimate policy objectives, including the environment in a manner consistent with internationally recognised standards.	The provision would also act as a safeguard however, it does not explicitly include the protection of labour and human rights.	<b>Minor</b>

<sup>40</sup> Please note that the Chapter on potential provisions on entry and temporary stay of natural persons for business purposes is not addressed here as its environmental, social, gender and human rights impacts are expected to be very limited.

Provision	Possible environmental impacts	Possible social, gender and human rights impacts	Potential importance
promotion and protection of cultural diversity)			
<b>Review of measures and appropriate remedies:</b>  Establishment of tribunals or procedures providing review and potential remedies at the request of investor or service supplier for administrative decisions affecting cross-border trade and establishment, operation or the supply of a service	No specific environmental impacts identified for provision on review of measures and appropriate remedies, as long as the tribunals do not endanger the right to regulate the environment.	No specific social or human rights impacts identified for provision on review of measures and appropriate remedies, as long as the tribunals do not endanger the right to regulate on social or human rights issues.	<b>None</b>
<b>Denial of benefits:</b>  Exclusion from the protection afforded by the EPA's investment liberalisation and trade in services provisions of foreign investors, enterprises or services suppliers in certain circumstances to ensure the maintenance of international peace and security, including human rights		The provision on denial of benefits could act as a safeguard to ensure that the Parties can take the necessary measures to protect human rights amongst others.	<b>Minor</b>

Source: EU ESA EPA and own analysis

**Table 9: Detailed screening table of potential investment liberalisation provisions under Chapter II**

Provision	Possible environmental impacts	Possible social, gender and human rights impacts	Potential importance
<b>Market access:</b>  No limitations on the establishment or operation of a foreign investor or enterprise (e.g., number of enterprises in specific economic activity; value of transactions or assets; number of operations, participation of foreign capital, number of employees)  No requirement regarding the legal form through which a foreign investor can perform an economic activity	<p>These provisions put EU investors on the same footing as domestic investors.</p> <p>In doing so, the provisions should increase investment from EU sources.</p> <p>Many EU investors are likely to bring their environmental standards to their operations and their value chain, thus bringing high environmental management and possibly new environmental technologies.</p> <p>Nonetheless, some EU firms may wish to carry out business in ESA countries at lower environmental standards than would be possible in the EU and thus would not bring improvements.</p>	<p>The provisions should increase EU investment. EU investors may bring high social, labour and gender to their operations and their value chain.</p> <p>Some EU investors, however, wish to carry out business in ESA countries at lower social and gender standards than would be possible in the EU, and thus would not bring improvements.</p> <p>To the extent that EU investment brings greater economic activity, overall employment might grow. Nonetheless, there could be some losers where domestic firms face greater competition.</p>	Minor
<b>National treatment:</b>  Treatment of foreign investors and enterprises no less favourable than that of domestic investors and enterprises in like situations	<p>EU investors may lead to an overall increase in economic activity, with resulting scale impacts on the environment, though investments could also change the structure of the economy, with positive or negative results depending on the sectors (with positive effects in terms of environmental pressures per unit of GDP could be</p>	<p>EU investment is likely to vary significantly across sectors and ESA countries, along with resulting social, gender and human rights impacts.</p> <p>There could be an increase in EU investor interest in acquiring land in ESA countries (though this aspect is not regulated in the proposed text). If greater acquisitions include cases where local people's land rights are not recognised, there could be social and human rights impacts.</p>	Minor
<b>Most-favoured nation treatment (MFN):</b>  Treatment of foreign investors and enterprises no less favourable than that of investors and enterprises of third countries			Minor



Provision	Possible environmental impacts	Possible social, gender and human rights impacts	Potential importance
<p><b>Performance requirements:</b></p> <p>No requirements for enterprises to perform certain operations (e.g., export of a given percentage of goods or services; achieving a percentage of domestic content; restricting sales in the host State's territory; etc.)</p> <p>Receipt of an advantage should not be subject to specific requirements</p>	<p>expected with diversification).</p> <p>The provisions could encourage EU investors to finance environmental infrastructure improvements (e.g., water and waste treatment), though their entry in this sector is likely to depend on national government regulation and agreement (and in low-income countries, blended financing from donor entities.)</p> <p>EU investment is likely to vary significantly across sectors and across ESA countries, along with resulting environmental impacts.</p>		Minor

Source: EU ESA EPA and own analysis

**Table 10: Detailed screening table of potential provisions for cross-border trade in services**

Provision	Possible environmental impacts	Possible social, gender and human rights impacts	Potential importance
<p><b>No limits on the number of service suppliers</b> permitted to carry out an economic activity, <b>the total value of service transactions</b>, <b>the total number of service operations or quantity of output</b>, <b>types of legal entity</b></p> <p>Market liberalisation for trade in services will <b>not apply to government procurement or government grants</b></p>	<p>No direct impacts from the provisions; the impacts of increased trade in services are likely to vary greatly across sectors and ESA countries.</p> <p>If greater trade in services leads to growth with more diversified economic structures, positive effects in terms of environmental pressures per unit of GDP.</p>	<p>These provisions should increase EU-ESA trade in services. Impacts are likely to vary greatly across sectors and ESA countries.</p> <p>While an overall increase in economic activity and thus employment can be expected, the effects will vary across sectors. Moreover, existing ESA service providers facing increased competition may cut jobs and wages.</p>	Minor

Provision	Possible environmental impacts	Possible social, gender and human rights impacts	Potential importance
Service suppliers of another party should be treated <b>no less favourably than national service suppliers</b>			

Source: EU ESA EPA and own analysis

**Table 11: Detailed screening table of potential sectoral provisions**

Provision	Possible environmental impacts	Possible social, gender and human rights impacts	Potential importance
Ensure non-discriminatory market access for the Parties' services providers in <b>delivery services</b>	Increased commercial traffic and the presence of delivery services could have negative environmental impacts, for example on air pollution.	Trade facilitation measures in delivery services could lead to the entry of new operators in national markets (both from the EU and possibly from other ESA5 countries). This could lead to repercussions on employment and labour conditions – for example, increases in employment in private delivery services but potentially greater competition for existing postal services and delivery services and risks for their employment.  Investments in delivery services could improve supply chains, increasing overall economic growth and related employment.	<b>Minor</b>
Ensure non-discriminatory market access for the parties' services providers in <b>telecommunication services</b>	Possible environmental impacts when EU investors construct new telecommunications infrastructure.	Increased EU investments in telecommunications could lead to better services offered to local consumers, potentially more affordable services, and higher take-up rates (better consumer choice).  These investments could lead to positive employment impacts, generating jobs in the building and maintenance of infrastructure and more highly skilled jobs in areas such as sales and customer services. Some existing ESA providers	<b>Minor</b>

Provision	Possible environmental impacts	Possible social, gender and human rights impacts	Potential importance
		<p>may, however, suffer from competition, leading to job losses.</p> <p>To the extent that EU entry leads to better service and greater competition, there could be positive impacts on economic activity that would increase employment.</p> <p>Potentially, the presence of better telecommunication service could increase media pluralism and thus access to information for citizens.</p>	
Ensure non-discriminatory market access for the parties' services providers in <b>financial services</b>	No impacts expected	<p>Liberalisation measures in financial services could generate better provision of financial services to consumers and have positive implications for ESA entrepreneurs, leading to overall economic growth and increases in employment.</p> <p>The entry of EU players could create employment, including more high-skilled, high-paid jobs. However, there could be job losses in existing financial services facing new competition.</p>	<b>Minor</b>
Ensure non-discriminatory market access for the parties' services providers in <b>international maritime transport services</b>	<p>Allowing EU and ESA ships open access could lead to greater efficiency, as ships travel with fuller cargo, thus reducing the pollution levels per tonne transported.</p> <p>There could be scale effects with increased traffic leading to greater pollution levels. Increased demand could drive further port expansion, with associated environmental impacts on marine and coastal areas.</p>	<p>Trade facilitation measures in maritime transport services could lead to the entry of new operators in national markets (from the EU and other ESA5 countries), which could have positive impacts on employment levels. Some existing operators may face increased competition, however.</p> <p>EU operators may use higher labour standards.</p> <p>The provision could lead to lower cargo rates, an overall increase in trade and shipping,</p>	<b>Minor</b>

Provision	Possible environmental impacts	Possible social, gender and human rights impacts	Potential importance
		with associated growth in ESA employment.	
<p>Address unjustified barriers to <b>digital trade</b>, and guarantee an open, secure and trustworthy online environment for businesses and consumers.</p> <p>No restrictions of <b>cross-border data flow</b> via e.g., data localisation and local storage and processing requirements, conditional data flow regimes</p>	The growth of digital infrastructure and services (such as data centres) in ESA countries could increase demand for electricity and related environmental pressures.	<p>The development of an open, secure online environment could improve the business environment in ESA countries and thus support economic growth and jobs creation.</p> <p>ESA enterprises, including some micro-businesses and SMEs, may find better access to EU markets for both their goods and services, in particular online services, also leading to job creation.</p> <p>The safeguards/measures to mitigate risks related to the protection of buyers and sellers and e--payment are likely to support the proper development and adoption of digital trade in ESA5 countries.</p> <p>ESA citizens with digital skills would have better access to EU markets. And if data centres are created in ESA countries, this would lead to job creation.</p>	<b>Minor</b>

Source: EU ESA EPA and own analysis

## 4.2 Overview of key impacts and issues

In the stakeholder consultation, concerns were raised that for trade in services, investment and digital trade, among other issues, the EU stands to benefit more than the five ESA countries: ESA stakeholders were concerned about the competitiveness of their countries in these areas, linked to a small and weak private sector and the concentration of ESA exports in agricultural and marine resources. Nonetheless, some stakeholders, including some civil society organisations, saw the EPA and greater trade and investment with the EU as a potential mechanism for socio-economic development, including the reduction of poverty and social and economic inequalities as well as the improvement of the standards of living and quality of life.

The screening suggests that increased EU investment in ESA countries and greater trade in services could have both positive and negative indirect consequences.

On the positive side, EU investment flows to the ESA countries, along with greater trade in services, could lead to economic growth overall – and thus to increases in employment. EU investors may bring high environmental, social, labour and human rights standards for their operations and those of their value chains (though this is not necessarily the case for all investors).

EU investment could contribute to the improvement of existing infrastructure if ESA governments provide such opportunities. For example, Comoros, Madagascar, and Zimbabwe have poor transportation infrastructure and suffer from unreliable supplies of electricity and water. This situation not only discourages private investment and business development but also hinders the realisation of people's economic and social rights, such as the right to an adequate standard of living and the right to water and sanitation. Poor public infrastructure also exacerbates poverty, particularly in rural areas.<sup>41</sup> Increased EU investment in those ESA countries could stimulate or be directed towards the improvement and development of transportation, electricity, and water infrastructure.

At the same time, EU investments flow to the ESA countries could have negative environmental, social, or human rights impacts. Potential negative impacts could arise if there is greater EU investor interest in land acquisitions (as noted in section 4.1, the draft text does not address this and would not increase EU investor rights in this area). In Madagascar, the issue of "land grabbing" for the benefit of foreign investors has been a source of concern over the last 15 years.<sup>42</sup> One concern is whether the leasing of land to investors, particularly in the context of large-scale projects, is compatible with traditional land ownership and with the land reform that has taken place in Madagascar in recent years with the aim of improving local land rights. A further risk is that of expropriation to facilitate the creation of Special Economic Zones (SEZs) and Agricultural Investment Zones (ZIAs) to encourage investment. In general, the transfer of land in favour of foreign investors may erase the slow progress made towards securing land rights and negatively impact human rights, such as the right to food, especially in rural areas.<sup>43</sup> According to the Land Matrix, between 2000 and 2017, half of the foreign investors that acquired land on a large scale in Madagascar came from EU countries.<sup>44</sup> These issues are addressed, first and foremost, by national policies. Nonetheless, there could be concerns of social and human rights impacts if these policies are not further strengthened.

Another potentially negative impact is the lowering of labour and environmental standards to attract EU investment. While provisions of the Chapter on Trade and Sustainable Development would prohibit this, concerns have been raised that ESA countries have done so, in particular in special investments zones where derogations are allowed for tax and labour regulation (such as SEZs) and Export Processing Zones (EPZs) in Madagascar).

Ultimately, safeguards must be in place to ensure that investment liberalisation does not lead to a deterioration of labour rights standards and instead contribute to environmental, social, and human rights improvements. The safeguard included in Chapter I regarding the right of Parties to regulate in public interest matters is needed to allow the Parties to take measures to protect the environment.

Chapter II on investment liberalisation, as proposed by the EU, contains provisions that cover market access, national treatment, most favoured nation treatment (MFN), senior management and boards of directors, and performance requirements. While these provisions are expected to have only a limited direct impact on social conditions, human rights or the environment, they may nonetheless have indirect impacts. In particular, Articles 2.1 (market access), 2.3 (national treatment) and 2.4 (MFN) may have positive effects by attracting EU capital and know-how necessary for ESA economies, leading to higher employment. Investment can improve

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<sup>41</sup> For a discussion of the link between poverty and transport, see Paul Starkey and John Hine, 'Poverty and sustainable transport: How transport affects poor people with policy implications for poverty reduction' (2014).

<sup>42</sup> This problem became particularly visible in 2009 when it was revealed that Daewoo, a South Korean company, was planning to lease 1.3 million hectares of land. The project created a lot of controversy and was eventually abandoned. See GTZ, 'Foreign Direct Investment (FDI) in Land in Madagascar' (2009).

<sup>43</sup> Burnod, P. & Andriamanalina, B. (2017). Land reform and investors' land access in Madagascar: The ambivalence of the land policy. *Géographie, économie, société*, 3(3), 357-376. <https://doi.org/10.3166/ges.19.2017.0017>; CETRI et Entraide et Fraternité, 'Land policy in Madagascar. Overview, stakes, challenges and outlooks' (2018).

<sup>44</sup> Land Matrix, 'Profil pays: le Madagascar' (2018) available at <https://landmatrix.org/resources/?category=country-profile>

infrastructure, including in telecommunications, which also can boost ESA economic and employment growth. EU investors can also bring good governance standards.

At the same time, investment liberalisation may have a negative impact by limiting ESA countries' policy space to adopt new legislation and regulation in matters of public interest, such as tax matters. Foreign investors may perceive those changes as violations of non-discriminatory principles when the legislation applies *de facto* or *de jure* differently to all businesses, foreign and domestic.<sup>45</sup> In such cases, the burden of proof that the law is not discriminatory and counters a hazardous impact of the industry falls on the legislating government.<sup>46</sup> The existence of legal safeguards is, therefore, necessary to guarantee the right of ESA countries to regulate environmental, social, and human rights matters.

It should be noted that Chapter II does not contain provisions formerly found in international investment agreements, such as protection against expropriation; fair and equitable treatment; stabilisation clauses).<sup>47</sup> These limited national actions on environmental, social and labour rights and human rights.

Furthermore, the current **Title on investment liberalisation and trade in services**, as proposed by the EU, generally contains potential safeguards to ensure that the Parties are not prevented from adopting laws and regulations to improve domestic social and environmental standards. The first one is Article 1.1(2), which provides that the '*Parties retain the right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, privacy and data protection, or the promotion and protection of cultural diversity*'. While Article 1.1(2) does not explicitly include the protection of labour and human rights as a legitimate policy objective, these important objectives are included in the general right to regulate provisions in the Chapter on TSD (Article X.2 on the right to regulate and levels of protection). The second potential safeguard is Article 56 on general exceptions which also applies to the title on investment liberalisation and trade in services. Finally, in specific circumstances, Article 1.4 (denial of benefits) allows a Party to deny the protection of the EPA to certain investors, enterprises, or service suppliers where that Party adopts or maintains measures related to the maintenance of international peace and security, including the protection of human rights.

Concerning trade in maritime services, access to this sector by EU companies is likely to have the effect of increasing passages within the waters of the ESA parties concerned. There may be an effect of rationalising space and routes of vessels so that they are travelling at high capacity; moreover, there could be direct economic benefits and results increases in employment, for example in ESA ports. In terms of environment, however, a greater presence of EU companies could require greater port space, resulting in port expansion, with possible impacts on coastal and marine areas, as well as on land-use change near to ports. The 2020 oil spill off the coast of Mauritius has demonstrated the potential for the presence of large vessels close to the shore to cause disastrous harm to marine environments.

The uncertainty in the likelihood and the magnitude of the impacts on the EPA provisions on ESA5 countries applies to the sectoral measures. While their direct impacts on social, gender, fundamental rights and environmental aspects are expected to be limited, these could grow over time depending on contextual factors (such as world and ESA economic recovery and the ESA political context) and the related investment decisions taken by individual companies. The more favourable conditions under the proposed Chapters for individual sectors could support economic development, which will have positive repercussions on employment and

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<sup>45</sup> For a general discussion of non-discriminatory treatment and human rights, see Federico Ortino, 'Non-Discriminatory Treatment in Investment Disputes' in Pierre-Marie Dupuy, Ernst-Ulrich Petersmann, and Francesco Francioni (eds.), *Human Rights in International Investment Law and Arbitration* (OUP, 2009).

<sup>46</sup> See V. Kube, 'EU Human Rights, International Investment Law and Participation: Operationalizing the EU Foreign Policy Objective to Global Human Rights Protection' (2019) Springer, pp. 152-182.

<sup>47</sup> See V. Kube, 'EU Human Rights, International Investment Law and Participation: Operationalizing the EU Foreign Policy Objective to Global Human Rights Protection' (2019) Springer, pp. 152-182.



labour conditions, in at least some ESA5 countries: it is likely that greater impacts will be seen in more developed economies and those countries and sectors with strong economic and commercial ties with the EU at present. For example, EU shipping companies already have a presence in Mauritius and Madagascar.<sup>48</sup> More favourable economic conditions – and national economic developments, such as the large mining development project in Ambatovy, Madagascar – could lead to a stronger EU presence in this sector.<sup>49</sup>

## 5. Stakeholder feedback on key issues in the negotiations for the comprehensive EPA

According to the Directorate of Trade in Mauritius, all the issues in the Scoping Paper particularly, trade in services and investment should be atop the agenda of the comprehensive EPA. A similar position is shared by the Ministry of Trade in Zimbabwe, which also noted that comprehensive EPA negotiations with the EU are strategic given the continuing political dialogue between the EU and Zimbabwe.

Civil society organisations noted that their interest in EU-ESA deep EPA negotiations is due to the fact that they are charged with standing for the promotion of people's socio-economic rights, and thus it is critical to ensure that the negotiations promote, rather than erode these rights. Respondents also noted that the EU has adopted a negotiating mandate for a deep EPA which is in line with the push for a Millennium Round in the WTO, i.e. issues including services, investments, government procurement, trade facilitation, competition policy, IPR and e-commerce among others. Concerns were raised on the perceptions that in terms of trade in services, digital trade and Investment, the EU stands to benefit more than the ESA5 countries. Reasons for this include limited levels of competitiveness of ESA5 in these areas, a small and weak ESA5 private sector in these areas, and concentration of ESA5 exports in agricultural and marine resources sectors.

**Private sector respondents revealed that the comprehensive EPA is likely to bolster opportunities in areas such as tourism, health, education, and transport services in ESA5 Countries.** However, while trade in services is a major thrust in the comprehensive EPA, private sector respondents, including SMEs, from Zimbabwe, Seychelles and Madagascar raised concerns over the limited capacity to benefit from trade in services. While ESA governments advance the notion that they have a growing service industry with the potential to improve the efficiency of other sectors (agriculture, mining, and manufacturing), many services sectors are already dominated by foreign supply and most local service providers cannot compete with EU competitors. For instance, it was argued by private sector respondents that providers of private education, banking, insurance, and health in these countries cannot compete with similar providers from the EU. It was thus proposed that policy space should be preserved by ESA5 countries in the negotiations of services liberalisation under the comprehensive EPA, which would, according to their views, enable ESA5 companies to improve their competitiveness.

Regarding priority issues for a deepened agreement, the European Community Shipowners Associations (ECSA) argued that *'it is important that maritime transport services form part of any trade-related discussion the EU has with third parties, including in this case economic partnership arrangements.'* It was stated that *'efficient maritime transport is therefore critical to the region's trade and economic growth, but shipping and ports in this region sometimes lag behind global trends and standards resulting in high trading costs. Looking at the African continent more broadly, European shipping companies have traditionally held a strong position.'*

<sup>48</sup> Currently, the Swiss-Italian Mediterranean Shipping Company (MSC) has a 'Mediterranean Shipping Company Madagascar S.A.' acting as the country's agent for the MSC in both Madagascar and Mauritius, while the French container transportation and shipping company CMA CGM is the only company to offer its services to all seven Malagasy ports and Mauritius (<https://www.cma-cgm.fr/local/madagascar-agencies#:~:text=Le%20Groupe%20CMA%20CGM%2C%20un,depuis%20plus%20de%2030%20ans>)

<sup>49</sup> It is estimated that the mining project in Ambatovy could increase the maritime traffic in Madagascar to 3 million tonnes per annum, compared to an estimated 1.7 million tonnes of global traffic per annum

With regard to policy barrier, ECSA stated that *‘EU shipowners are more and more confronted with market access barriers (in Africa but also around the world) targeting foreign logistics and maritime services. These include i.e. cargo reservations or preferences for national carriers, licensing requirements or rules on vessel flag, crew or construction to carry cargo or call at ports in their territory, all to the detriment of foreign operators. For ECSA, partnership agreements offer an excellent platform for the EU to draw the attention of its trading partners to the importance of free access to maritime services as well as safe and secure frameworks for operation.’* Regarding sustainable development, ECSA argued that *‘by anchoring clear commitments on maritime transport in legally binding instruments, the EU creates the certainty EU businesses need to invest and operate in a sustainable manner. Such trade agreements should at a minimum ensure that third countries provide reciprocal market access to EU operators as third country operators face in the EU and include provisions on maritime transport services to the fullest extent possible, including: commitments towards unrestricted access to the international maritime markets and trades on a commercial and non-discriminatory basis; commitments to abolish and abstain from cargo-sharing agreements or reservations; the ability for EU operators to be granted reciprocal national market access, at minimum feeder services, and all forms of transshipment and movement of empty containers; the ability to perform multimodal operations; the ability for EU operators to establish local representations in third countries.’*

## 6. Key economic impacts

**Overall, a deepened, modern and comprehensive agreement on services, digital trade and investment would result in significant net economic benefits for ESA countries compared to the status quo.** A deepened agreement would eliminate existing barriers to trade and investment, which in their extent vary between ESA5 countries and economic sectors. An updated agreement would also lock-in legal constraints on the creation of arbitrary and disproportionate future barriers to trade by ESA5 governments, thus improving the state of the rule of law in these countries.

**A deepened agreement between the EU and ESA5 countries would improve domestic regulatory frameworks for services and investment and likely increase the quality of governmental institutions.** As a result of lower barriers to trade and investment, including the liberalisation of domestic (intra-country) restrictions on the provision of certain economic activities (e.g. postal, telecommunications and sea transport services), consumers, households and businesses would benefit from the improved competition (more and better quality product and services; lower prices) and, in the medium to long term, increased international competitiveness of many domestic businesses.

There are differences in ESA5 countries overall state of economic development, including the current degree of restrictiveness of sectoral regulations and the quality of domestic horizontal institutions, e.g. the quality of the legal system, will certainly have an impact on the overall magnitude of the economic benefits and the industries in which these benefits will materialise.

**Mauritius and Seychelles are economically most developed and perform relatively well regarding the quality of their legal systems.** For these countries, the effects from “importing” good legal institutions for the facilitation of international services trade, digital trade and investment will be lower than for Comoros, Madagascar, and Zimbabwe. At the same time, Mauritius and Seychelles have much to gain from intensified efforts to harmonise current and future regulations across sectors or, at least, approximate EU law. Mauritius would benefit from the liberalisation of its maritime services sectors. **Mauritius and Seychelles would also benefit from provisions that guarantee the free flow of data in the future and commitments on rules that guarantee the smooth facilitation of trusted e-commerce.**

For Comoros, Madagascar and Zimbabwe, the benefits from a deepened agreement would stem from the import and lock-in of good legal institutions for the facilitation of international services trade, digital and digitally enabled trade, and foreign investment. **A deepened agreement with the EU would help to eliminate long-**

**standing barriers to domestic commerce in these countries and international trade and investment.** A modern and more comprehensive agreement with the EU would complement efforts in these countries to liberalise domestic commerce and international trade, e.g. recent reforms in Zimbabwe to further liberalise the domestic telecommunications sector.

IT infrastructure and connectivity are key drivers of economic development and structural economic renewal. Due to positive cross-sectoral spill overs, economic benefits and new commercial opportunities can be expected from the liberalisation of telecommunications services, e.g. the elimination of complex licensing requirement in Zimbabwe, the elimination of foreign capital participation caps in Madagascar and, generally, the increase of private sector penetration in the telecommunications market in Comoros and Seychelles. New commitments on legal aspects that are critical for the facilitation of digital and ICT enabled trade, e.g. the prevention of data localisation measures and a ban on levies on all digital transmissions, and the elimination of remaining investment barriers, e.g. unreasonable capital requirements, joint venture requirements and economic needs tests, would allow ESA5 countries to tap into new commercial value chains and benefit from business model and technology spill overs and new economic opportunities respectively. Significant benefits are also expected from the elimination and reduction of trade and investment restrictions in financial services, e.g. the elimination of bans branched set up by foreign banks in Zimbabwe and, generally, increased private sector participation in Comoros and Seychelles. Positive impacts on competition, prices and reliability would arise from the elimination of anti-competitive regulations in postal and courier services.

A deepened agreement would have positive effects on governance and the business and investment environment. The comprehensive agreement would have a disciplining effect on ESA governments, future lawmakers and domestic public institutions, e.g. agencies, surveillance bodies and enforcement bodies, with respect to the imposition and enforcement of disproportionate and discriminatory laws and decrees. The agreement would enshrine the principle of national and most favoured treatment, thus improving the rule of law and with it the domestic business environment and investment climate, which would have a positive impact on investment from abroad. The business and investment environment would be improved if the EPA includes provisions relating to greater legal clarification, transparency, public sector accountability and streamlining of procedures market access for services and inbound investment.

## 7. Effects on regional integration and third parties

**The comprehensive EU-ESA EPA could pave the way for a consolidation of ESA countries rules for international trade and investment.** In addition, ESA5 countries have much to gain from greater levels of harmonisation of laws and regulations that govern domestic commerce and/or international trade and investment. EU law could become a template for many horizontal regulatory measures (e.g. consumer protection and environmental regulations) and approaches to sector-specific regulation (e.g. telecoms, postal services, digital services). In the medium to long-term, improved international competitiveness of ESA businesses, on the supply side, and increased income and purchasing power, on the demand side, would contribute to greater integration in the wider Eastern and Southern African region. From a legal perspective, a modern and more comprehensive EU-ESA agreement could, in the medium-term become a promising template for negotiations involving other ACP regions.

The comprehensive agreement between the EU and ESA countries may face ‘institutional competition’ from third-party trade deals, such as the United Kingdom (UK) – ESA EPA, which has come into force on 1 January 2021. The UK-ESA Agreement is not yet a comprehensive agreement, but it contains a ‘Rendez-vous clause’ regarding future negotiations between ESA countries and the UK on areas not currently covered, which include trade in services trade and the liberalisation of investment.

As concerns the African Continental Free Trade Agreement (AfCFTA), a comprehensive EU-ESA EPA could inform future AfCFTA negotiations and sector working groups and shape the outcomes of ongoing work on

cooperation between AfCFTA countries, respectively. Services sector and investment liberalisation in AfCFTA aim to improve cooperation over time, while State Parties will retain control over essential aspects of policymaking and implementation in the future. Clear and enforceable EU-ESA EPA commitments and lessons from successful implementation at individual ESA5 country level could have a positive impact on AfCFTA partners, incentivise AfCFTA partners to commit to non-discriminatory rules for intra-African and international services trade and investment, and strengthen economic relationships with the EU.

## 8. Development cooperation

Concerns were raised by some stakeholders about the comprehensive nature of the EPA. It is generally argued to form a challenge for the ESA5 countries' economic development. ESA5 private sector companies, including SMEs, argued that for them it would be difficult to take advantage of the EPA. While these concerns should be taken into consideration by all parties, negotiators should also consider potential medium to long-term effects, particularly spill-over effects and leap-frogging due to improved access to modern technologies and innovative business models, including digital trade and (disruptive) technology-enabled business models, and their positive impacts with regard to the creation of new economic opportunities and consumer welfare.

The screening of possible measures shows that EU development cooperation can be valuable both in mitigating potential negative effects as well as ensuring that positive effects are seen, in particular in terms of the environment. The focus should generally be on quality foreign investment in productive sectors that bring spill over effect to the local economies of both source and destination countries. Key areas for cooperation include the following:

- Lower-income ESA countries suffer from poor infrastructure, which is a barrier to investment as well as to social development and economic and social rights. This is a key area for development cooperation. In lower-income ESA countries where public funds may be limited for such projects, blended finance could play a significant role to improve and develop public infrastructure, especially in the context of the COVID-19 recovery: consequently, there could be a role for private investors. However, the advantages of blended finance should be carefully balanced with potential negative environmental, social, and human rights consequences, and blended finance should not interfere with the right of ESA countries to regulate for the public interest.
- Foreign direct investment may threaten land ownership. EU development cooperation could support the current land reform in countries such as Madagascar, to help improve local land rights.
- Civil society organisations (CSOs) in ESA countries see opportunities from greater trade and investment under a revised EPA. Their participation will be valuable in terms of monitoring the impacts of greater investment as well as trade in services, including the benefits across all stakeholders including the most vulnerable groups. Therefore, improving the capacity of CSOs to fully undertake this monitoring could be a valuable facet of EU development cooperation.

## 9. Policy recommendations

### *Services trade*

**EU and individual ESA countries should aim for ambitious provisions on the elimination of existing barriers to services trade.** Generally, the liberalisation of services trade between the EU and ESA5 countries would result in higher levels of trade and investment in all services categories.

The EU and individual ESA countries should generally aim to eliminate all remaining barriers to telecommunications trade including market entry barriers for investors. **Liberalisation efforts should generally aim to tackle or prevent market concentration in ESA countries telecommunications markets.** Modern telecommunications services provide cross-sectoral technologies that help to facilitate trade and, increasingly, digital trade. Improved competition in ESA countries telecommunications market would contribute to network stability and resilience, the number of available services in fixed-line and mobile offers and make telecommunications services more affordable for businesses and households in ESA countries.

Policymakers in the EU and individual ESA countries should also aim to further liberalise financial services trade in all modes of supply. An EU-ESA agreement that further liberalises trade and investment in financial services can lead to increased competition, improved access to innovative products (e.g. FinTech services) and improved efficiency in deposit banking, payments services, (insured) risk allocation and the management of capital, with broader benefits for the economy as a whole.

The EU and individual ESA countries should generally aim to eliminate all existing barriers to postal and courier services in ESA countries. Liberalisation efforts should generally aim to tackle or prevent market concentration, i.e. remaining government-protected monopolies and oligopolies in delivery services markets. Affordable and reliable cargo/freight transport services would likely reduce transport costs and have a positive effect on supply reliability.

**The EU and individual ESA countries should generally aim for the elimination of disproportionate and discriminatory restrictions on international sea transport services for freight (cargo handling) and passengers.** Due to their trade-distorting effect, the provisions should also effectively address trade facilitation issues, such as clearance, agency services and storage and depot services, to allow for trade facilitation and low costs.

Although EU FTAs generally allow public measures on entry into territory, the EU and ESA countries should effectively reduce visa restrictions that affect exporters and investors in the EU and individual ESA countries. Visa restrictions prevent foreign companies to supply goods and services, particularly in modes 3 and 4, and the realisation and leverage of the positive economic gains from the agreement, respectively.

#### *Digital trade*

The EU and ESA countries should aim for a regulatory landscape that allows for the free cross-border trade of data as well as the free cross-border trade of digital and digitally enabled services. **Digital services often play an enabling and facilitating role for domestic commerce and international trade.** Barriers to data and customs-like levies on digital transmissions would significantly distort access to digital and non-digital goods and services. Like other services sectors such as financial services and telecommunications services, data and digital services provide direct inputs that are crucial for all sectors of the economy, generating productivity growth and improving competitiveness in primary, secondary and tertiary sectors.

#### *Investment*

The EU and individual ESA countries should aim for ambitious provisions on investment liberalisation for all sectors of the economy, except those that should remain closed because of a legitimate national or European public interest, e.g. public health and security and national defence. ESA countries would derive significant medium- to long-term economic benefits from improved investment conditions due to greater legal certainty and improvements in the rule of law. **Increased investment from the EU will likely trigger intensified domestic competition and allow ESA businesses and consumers to benefit from greater and more affordable access to goods and services.** Business in ESA countries could benefit from and the adoption of innovative goods and services by domestic up and downstream sectors. Investment liberalisation would over the medium to long term also result in increases in the productivity of companies operating in primary, secondary and tertiary sectors.



*Private sector involvement in trade agreements*

Comoros, Mauritius and Seychelles have a relatively small domestic market. Some private sector companies in these countries will likely push for maintaining protection by national laws, including large incumbent firms in telecoms, financial services, and delivery (postal) services. Negotiators should therefore point to existing underperformances on an industry-by-industry basis, positive economic spillovers to up- and downstream sectors after liberalisation and the positive impacts for final consumers in ESA countries in terms of lower prices and quality improvements.

In the negotiations process, it is critical to have non-state actors play a critical role in monitoring EPAs. Social partners as well as the business sector should be involved in monitoring the implementation of the EPA. The monitoring exercise has to entail a systematic collection of data and experiences and processing these experiences to inform policies and negotiations. They also should be partners in implementing and evaluating the National Indicative Programme.

Moreover, each ESA5 country could develop a National EPA Committee which could develop the trade and development components of the National EPA Plan, based on the commitments made in the comprehensive EPA, and monitor implementation continuously, with a regional coordinating mechanism in place. The National EPA Committee (NEPAC) could increasingly comprise government (Ministries of Finance, Trade, Infrastructure, Economic Development and Industry), the Chambers of Commerce, Manufacturers Associations, a representative of MSMEs and a representative of civil society organisations and a representative from academia and would meet monthly, or more often if necessary. It would be responsible for drawing up a National EPA Plan that would finalise the country's inputs into the EPA negotiating agenda, to be coordinated at the regional level so that the ESA5 had a common negotiating position. The NEPAC would also be responsible for monitoring the implementation of the EPA – both the trade and development agendas.

*Capacity building*

ESA5 countries need improved coordination of capacity building activities. The NEPACs, already outlined in the trade in goods report, or another body could coordinate the capacity building activities required to allow CSOs, government departments and industry to actively participate not only in the negotiations (which would also benefit the country in all other trade and investment negotiations, including the African Continental Free Trade Area (AfCFTA) negotiations) but also in benefiting from the EPAs themselves.

ESA5 countries need to improve the visibility and flow of information. The NEPAC could also be responsible for improving the visibility and flow of information on EPAs, outlining potential benefits as well as explaining what mitigation is being done to address the negative aspects of EPAs. This improvement in visibility and information flows could take advantage of social media platforms, websites, public meetings, radio programmes and television programmes. The communication strategy could be a part of the National EPA Plan.

The EU can support the capacity building process by identifying weakness and using its own experiences in the liberalisation of investment and trade in services, and the enforcement of implementation measures. In addition, part of the development budget could be spent on the facilitation of investment and of trade in services in all ESA5 countries, as well as improving general transport network infrastructure. For example, stakeholders in Zimbabwe identified the domestic infrastructure as a serious obstacle to trade, and also the business environment in Comoros is impeded by infrastructure issues.

*Ensure mitigation of negative aspects of the EPAs*

The following amendments are proposed to address potential concerns related to environmental, social and human rights issues.



- Article 1.1(2) could balance investor's rights by noting also their obligations towards individuals and communities, including the provisions set out in the Chapter on Trade and Sustainable Development.
- The Chapter on Trade and Sustainable Development, moreover, contains provisions related to responsible supply chain management. It would be valuable to provide a reference to those provisions in the Chapters on investment liberalisation, to reinforce the objective that investors should operate following standards for corporate social responsibility and responsible business conduct.

## Appendix I. Overview of the five ESA countries

The five ESA countries vary greatly in terms of their economic and human development and their environmental context. The table below provides an overview of key indicators across these dimensions.

**Table 12: Key economic, environmental, social, gender and human rights indicators (2019 or latest year available)**

	Comoros	Madagascar	Mauritius	Seychelles	Zimbabwe
GDP/Capita in US\$ (2019) <sup>50</sup>	1,370	523	11,099	17,448	1,464
Surface area (km <sup>2</sup> ) <sup>51</sup>	1,861	587,295	2,040	460	390,760
Total Population (2019) <sup>52</sup>	850,886	26,969,307	1,265,711	97,625	14,645,468
Human Development Index (2018) <sup>53</sup>	0.538	0.521	0.796	0.801	0.563
Poverty rate (dates vary) <sup>54</sup>	18.1%	77.6%	0.1%	..	34%
Female employment (2019) <sup>55</sup>	34.9%	81.8%	40.6%	61.6%	73.8%
Yale EPI (Env. Perf. Index, 2020) <sup>56</sup>	32.1	26.5	45.1	58.2	37
ND-GAIN score (2017) <sup>57</sup>	39.2	32.9	55.6	48.4	33.1

Source: World Bank

The data for these indicators predate the Covid-19 pandemic, whose impact on the region and individual countries is not yet clear, but it is expected to have far-reaching health and economic consequences. Nonetheless, these indicators show that the five ESA countries vary greatly in terms of economic, environmental, social and human rights conditions.

**Comoros is a small lower-middle income island economy, with a comparatively low level of human development.** Poverty affects nearly one-fifth of the population. It faces multiple challenges in terms of adequate health, housing and food. Biodiversity is severely degraded and its islands are prone to natural disasters and vulnerable to climate change impacts. Comoros faces challenges in providing adequate drinking water and sanitation.

<sup>50</sup> GDP per capita (current US\$) – 2019 data for Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe. World Bank Data: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=KM-MG-MU-SC-ZW>

<sup>51</sup> Surface area in square kilometres – 2018 data for Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe. World Bank Data: <https://data.worldbank.org/indicator/AG.SRF.TOTL.K2?locations=KM-MG-MU-SC-ZW>

<sup>52</sup> Population, total – 2019 data for Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe. World Bank Data: <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=KM-MG-MU-SC-ZW>

<sup>53</sup> A summary measure of average achievement in key dimensions of human development on a scale of 0 (low) to 1 (high). UNDP data: <http://hdr.undp.org/en/data>

<sup>54</sup> Share of population below international poverty line. 2019 data for Mauritius and Zimbabwe, 2012 for Comoros, 2013 for Madagascar. World Bank data from <https://sdg-tracker.org/no-poverty#targets>

<sup>55</sup> Employment of female population, 15+. ILO Data: [https://www.ilo.org/shinyapps/bulkexplorer54/?lang=en&segment=indicator&id=EMP\\_2WAP\\_SEX\\_AGE\\_RT\\_A](https://www.ilo.org/shinyapps/bulkexplorer54/?lang=en&segment=indicator&id=EMP_2WAP_SEX_AGE_RT_A)

<sup>56</sup> The Environmental Performance Index (EPI) provides a quantified summary of the environmental performance of countries around the world. It uses 32 performance indicators across 11 issue categories. The EPI uses a score of 0 to 100 (the maximum value). 2020 EPI Results: <https://epi.envirocenter.yale.edu/epi-topline>

<sup>57</sup> The Notre Dame Global Adaptation Initiative (ND-GAIN) score is an index assessing a country's vulnerability to climate change and its resilience and readiness vis-à-vis climate impacts. Overall, 45 indicators contribute to developing the country index, with 36 indicators assessing vulnerability and 9 assessing readiness. Scores range from 0 to 100. Notre Dame Global Adaptation Initiative : <https://gain.nd.edu/our-work/country-index/rankings/>

**Madagascar is a low-income economy. It is a large island and has the highest population of the five ESA countries.** Poverty levels are extremely high despite an abundance of natural resources. Poverty negatively affects its social conditions, with rights to health, food, education and housing is limited. Biodiversity is severely degraded, and deforestation is a major challenge. Moreover, Madagascar is highly vulnerable to climate change impacts.

**Mauritius is a small upper-middle-income country whose service industry has grown considerably in the past ten years.** Rights to food, housing and health care are at comparatively high levels, as is human development. The country's biodiversity is highly threatened, and despite high readiness, Mauritius remains vulnerable to climate impacts.

**Seychelles is a small high-income country island with a comparatively high level of human development,<sup>58</sup> including a high literacy level,<sup>59</sup> and a well-developed housing market.** The right to health and food has improved in recent years. Though it has a relatively high readiness level, Seychelles is highly vulnerable to climate change impacts.

**Zimbabwe is a lower-middle income, landlocked country whose economy, social conditions and environment have suffered from the political crisis.** Rights to food, housing and health are extremely poor. Although about one-quarter of the country has been protected, biodiversity is threatened, and deforestation continues. The country is highly vulnerable to climate change and has a low readiness score.

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<sup>58</sup> Central Bank of Seychelles, *Annual Report 2018*, available at: <https://www.cbs.sc/Downloads/publications/Annual%20Report%202018.pdf>.

<sup>59</sup> World Bank, 'Literacy rate, youth total (% of people ages 15-24) - Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe, World', available at <https://data.worldbank.org/indicator/SE.ADT.1524.LT.ZS?end=2019&locations=KM-MG-MU-SC-ZW-1W&start=2013&view=chart>

## Appendix II. Barriers to trade and investment

Table 13: Overall state of Economic Freedom, Madagascar

	2013	2014	2015	2016	2017	2018
Economic Freedom Summary Index	6,64	6,43	6,40	6,25	6,14	6,20
Rank	100	111	111	118	126	125
Quartile	3	3	3	3	4	4

Source: Fraser Institute Index of Economic Freedom

Table 14: Size of Government, Legal System and Property Rights, Madagascar

	2013	2014	2015	2016	2017	2018
Size of Government	8,74	8,14	8,31	7,90	7,63	7,51
Judicial independence	3,35	3,47	3,68	3,59	3,52	3,48
Impartial courts	3,33	3,32	3,36	3,31	3,69	3,49
Protection of property rights	4,28	4,28	4,35	4,33	4,48	4,70
Integrity of the legal system	4,50	4,63	4,65	4,65	4,67	4,57
Legal enforcement of contracts	2,42	2,96	2,96	2,96	2,96	2,96
Legal System & Property Rights	2,99	3,05	3,09	3,06	3,21	2,92

Source: Fraser Institute Index of Economic Freedom

Table 15: Sound Money and Freedom to Trade Internationally, Madagascar

	2013	2014	2015	2016	2017	2018
Sound Money	8,06	8,04	8,05	7,90	7,63	7,65
Non-tariff trade barriers	5,02	5,42	3,52	4,12	1,95	4,83
Compliance costs of importing and exporting	7,01	4,62	5,07	5,07	5,07	5,09
Regulatory trade barriers	6,02	5,02	4,29	4,59	3,51	4,96
Financial Openness	4,16	4,16	4,16	1,66	1,66	1,66
Capital controls	0,00	0,77	0,77	0,77	0,77	0,77
Freedom of foreigners to visit	10,00	10,00	10,00	10,00	10,00	10,00
Controls of the movement of capital and people	4,72	4,98	4,98	4,14	4,14	4,14
Freedom to Trade Internationally	7,16	6,97	6,76	6,62	6,36	6,71

Source: Fraser Institute Index of Economic Freedom

Table 16: Regulation, Madagascar

	2013	2014	2015	2016	2017	2018
Credit market regulations	8,07	7,71	7,51	7,39	7,39	8,14
Labour market regulations	4,94	4,74	4,49	4,50	4,36	4,64
Administrative requirements	4,16	3,74	3,60	3,57	3,41	3,13
Regulatory Burden	2,44	2,44	2,44	2,44	3,33	3,56
Starting a business	9,60	9,12	9,22	9,37	9,40	9,43
Impartial Public Administration	1,11	1,11	1,35	1,35	3,07	3,07
Licensing restrictions	8,88	7,85	7,85	7,80	7,84	7,69
Tax compliance	7,95	7,95	7,95	7,95	7,95	7,95
Business regulations	5,69	5,37	5,40	5,41	5,83	5,80
Regulation	6,23	5,94	5,80	5,77	5,86	6,19

Source: Fraser Institute Index of Economic Freedom

Table 17: Overall state of Economic Freedom, Mauritius

	2013	2014	2015	2016	2017	2018
Economic Freedom Summary Index	7,88	7,82	7,99	7,98	7,99	8,21
Rank	16	24	14	16	13	7
Quartile	1	1	1	1	1	1

Source: Fraser Institute Index of Economic Freedom

Table 18: Size of Government, Legal System and Property Rights, Mauritius

	2013	2014	2015	2016	2017	2018
Size of Government	7,81	7,68	7,98	7,88	8,15	8,15
Judicial independence	5,70	5,67	5,69	5,67	6,04	5,95
Impartial courts	5,67	5,70	5,56	5,43	5,54	5,47
Protection of property rights	6,34	6,33	6,26	6,18	6,22	6,74
Integrity of the legal system	4,69	4,69	6,95	6,96	6,79	6,77
Legal enforcement of contracts	4,64	4,64	5,03	5,03	5,25	5,25
Legal System & Property Rights	5,45	5,45	5,92	6,31	6,40	6,46

Source: Fraser Institute Index of Economic Freedom

**Table 19: Sound Money and Freedom to Trade Internationally, Mauritius**

	2013	2014	2015	2016	2017	2018
<b>Sound Money</b>	9,67	9,58	9,59	9,59	9,30	9,52
<b>Non-tariff trade barriers</b>	6,08	6,83	6,14	6,26	6,20	6,50
<b>Compliance costs of importing and exporting</b>	8,76	7,91	7,86	8,23	8,54	8,54
<b>Regulatory trade barriers</b>	7,42	7,37	7,00	7,25	7,37	7,52
<b>Financial Openness</b>	6,99	6,99	6,99	6,99	6,99	6,99
<b>Capital controls</b>	4,62	4,62	4,62	4,62	4,62	4,62
<b>Freedom of foreigners to visit</b>	10,00	10,00	10,00	10,00	10,00	10,00
<b>Controls of the movement of capital and people</b>	7,20	7,20	7,20	7,20	7,20	7,20
<b>Freedom to Trade Internationally</b>	8,50	8,50	8,42	8,47	8,52	8,53

Source: Fraser Institute Index of Economic Freedom

**Table 20: Regulation, Mauritius**

	2013	2014	2015	2016	2017	2018
<b>Credit market regulations</b>	8,50	8,55	8,78	8,63	8,51	8,95
<b>Labour market regulations</b>	7,60	7,16	7,38	6,36	6,41	7,90
<b>Administrative requirements</b>	4,83	4,90	4,67	4,38	4,42	5,02
<b>Regulatory Burden</b>	9,78	9,78	9,78	8,89	8,89	8,44
<b>Starting a business</b>	9,79	9,79	9,77	9,81	9,83	9,85
<b>Impartial Public Administration</b>	7,00	6,94	7,10	7,10	6,89	8,36
<b>Licensing restrictions</b>	6,92	8,37	8,37	9,32	9,32	9,36
<b>Tax compliance</b>	8,30	8,30	8,30	8,30	8,30	8,43
<b>Business regulations</b>	7,77	8,01	8,00	7,97	7,94	8,25
<b>Regulation</b>	7,96	7,91	8,05	7,65	7,62	8,36

Source: Fraser Institute Index of Economic Freedom



**Table 21: Overall state of Economic Freedom, Seychelles**

	2013	2014	2015	2016	2017	2018
<b>Economic Freedom Summary Index</b>	7,29	7,48	7,43	7,44	7,37	7,49
<b>Rank</b>	57	49	52	52	57	52
<b>Quartile</b>	2	2	2	2	2	2

Source: Fraser Institute Index of Economic Freedom

**Table 22: Size of Government, Legal System and Property Rights, Seychelles**

	2013	2014	2015	2016	2017	2018
<b>Size of Government</b>	6,86	7,16	6,87	7,00	7,01	6,71
<b>Judicial independence</b>	5,03	5,04	4,98	4,93	5,09	5,27
<b>Impartial courts</b>	5,03	5,06	5,11	5,06	5,15	5,46
<b>Protection of property rights</b>	4,86	4,86	5,12	5,35	5,35	5,53
<b>Integrity of the legal system</b>	6,33	6,33	6,86	6,97	6,93	6,98
<b>Legal enforcement of contracts</b>	4,06	4,06	4,06	4,06	4,06	4,06
<b>Legal System &amp; Property Rights</b>	5,16	5,16	5,42	5,54	5,59	5,54

Source: Fraser Institute Index of Economic Freedom

**Table 23: Sound Money and Freedom to Trade Internationally, Seychelles**

	2013	2014	2015	2016	2017	2018
<b>Sound Money</b>	8,26	9,10	9,33	9,00	9,07	9,26
<b>Non-tariff trade barriers</b>	5,70	5,70	5,70	6,05	6,04	5,87
<b>Compliance costs of importing and exporting</b>	7,76	5,24	5,32	5,32	5,32	5,33
<b>Regulatory trade barriers</b>	6,73	5,47	5,51	5,68	5,68	5,60
<b>Financial Openness</b>	10,00	10,00	10,00	10,00	10,00	10,00
<b>Capital controls</b>	8,46	8,46	8,46	8,46	8,46	8,46
<b>Freedom of foreigners to visit</b>	10,00	10,00	10,00	10,00	10,00	10,00

<b>Controls of the movement of capital and people</b>	9,49	9,49	9,49	9,49	9,49	9,49
<b>Freedom to Trade Internationally</b>	8,82	8,55	8,06	8,10	7,65	8,27

Source: Fraser Institute Index of Economic Freedom

**Table 24: Regulation, Seychelles**

	2013	2014	2015	2016	2017	2018
<b>Credit market regulations</b>	7,67	8,00	8,00	8,00	7,88	7,88
<b>Labour market regulations</b>	6,99	6,99	7,17	7,36	7,40	7,56
<b>Administrative requirements</b>	5,33	5,33	5,33	5,04	5,03	5,17
<b>Regulatory Burden</b>	6,00	6,00	6,00	6,00	6,00	5,78
<b>Starting a business</b>	8,67	8,83	8,83	8,84	8,83	8,84
<b>Impartial Public Administration</b>	6,22	6,22	6,22	6,64	6,64	7,89
<b>Licensing restrictions</b>	8,98	8,46	8,46	8,46	8,67	9,08
<b>Tax compliance</b>	9,01	9,05	9,05	9,05	9,05	9,05
<b>Business regulations</b>	7,37	7,31	7,31	7,34	7,37	7,63
<b>Regulation</b>	7,34	7,43	7,50	7,56	7,55	7,69

Source: Fraser Institute Index of Economic Freedom

**Table 25: Overall state of Economic Freedom, Zimbabwe**

	2013	2014	2015	2016	2017	2018
<b>Economic Freedom Summary Index</b>	5,46	5,80	6,24	5,72	5,16	5,12
<b>Rank</b>	144	138	118	144	152	155
<b>Quartile</b>	4	4	3	4	4	4

Source: Fraser Institute Index of Economic Freedom

Table 26: Size of Government, Legal System and Property Rights, Zimbabwe

	2013	2014	2015	2016	2017	2018
Size of Government	6,51	6,58	6,78	5,14	4,29	4,51
Judicial independence	3,42	3,60	3,85	3,91	3,94	3,79
Impartial courts	3,40	3,50	3,61	3,49	3,48	3,36
Protection of property rights	3,08	3,30	3,41	3,37	3,67	3,86
Integrity of the legal system	5,15	5,16	5,16	5,05	5,23	4,94
Legal enforcement of contracts	2,37	2,37	2,37	2,37	2,37	2,37
Legal System & Property Rights	3,54	3,60	3,78	3,74	4,11	4,07

Source: Fraser Institute Index of Economic Freedom

Table 27: Sound Money and Freedom to Trade Internationally, Zimbabwe

	2013	2014	2015	2016	2017	2018
Sound Money	6,90	7,97	8,18	7,38	6,72	5,03
Non-tariff trade barriers	6,48	4,74	5,63	4,99	4,85	5,20
Compliance costs of importing and exporting	1,29	4,17	1,69	1,64	1,33	1,33
Regulatory trade barriers	3,89	4,45	3,66	3,32	3,09	3,26
Financial Openness	1,66	1,66	4,16	4,16	4,16	4,16
Capital controls	0,00	0,00	0,00	0,00	0,00	0,00
Freedom of foreigners to visit	8,85	8,85	8,85	8,85	8,85	8,85
Controls of the movement of capital and people	3,50	3,50	4,34	4,34	4,34	4,34
Freedom to Trade Internationally	5,46	5,78	5,88	5,79	3,97	5,73

Source: Fraser Institute Index of Economic Freedom

Table 28: Regulation, Zimbabwe

	2013	2014	2015	2016	2017	2018
Credit market regulations	6,00	6,00	9,33	9,10	9,10	7,44
Labour market regulations	4,55	5,09	6,05	6,12	6,12	6,24
Administrative requirements	3,07	2,63	2,26	1,82	1,92	2,41
Regulatory Burden	0,67	0,67	0,67	0,89	2,67	2,67
Starting a business	5,91	5,94	5,83	6,89	7,81	8,33
Impartial Public Administration	2,61	2,78	2,78	2,17	1,97	2,21
Licensing restrictions	4,99	4,95	6,99	7,00	7,49	7,99
Tax compliance	7,29	7,29	7,29	7,29	7,29	7,29
Business regulations	4,09	4,04	4,30	4,34	4,86	5,15
Regulation	4,88	5,04	6,56	6,52	6,69	6,28

Source: Fraser Institute Index of Economic Freedom

Table 29: Obstacles relating to the business environment in Comoros<sup>60</sup>

Specific type of obstacle	Share (%) of businesses affected by obstacle
Problems with the electricity supply	92
Ineffective law enforcement	64
Corruption, for example, bribes	62
Delays	58
Poor condition of road infrastructure	58
Air transport limited	57
Arbitrary or inconsistent behaviour of agents	53
Lack of access to information	45
Lack of (qualified) HR in the agencies	43
Lack of accredited testing laboratories	42
Lack of legal support	40
Limited or lack of access to relevant services	40
Lack of storage facilities	36
Productive elements (inputs) not available	32
Limited access to information and communication technologies (ICT)	25
Other issues	8

Source: ITC

<sup>60</sup> ITC, 2018. *The Comoros: Company Perspectives – An ITC Series on Non-Tariff Measures*. See: <https://www.intracen.org/publication/ntm-comoros/>

**Table 30: Madagascar's Services Trade Restrictiveness in selected sub-sectors, World Bank STRI**

Economy Name	Industry	Sector	Mode	Score
Madagascar	Professional Services	Accountancy	1	50
Madagascar	Professional Services	Accountancy	3	37.5
Madagascar	Professional Services	Accountancy	4	37.5
Madagascar	Professional Services	Accountancy	All	40
Madagascar	Transportation	Air Passenger International	All	35
Madagascar	Financial Services	Banking	1	100
Madagascar	Financial Services	Banking	3	25
Madagascar	Financial Services	Banking	All	36.25
Madagascar	Financial Services	Insurance	1	66.66666
Madagascar	Financial Services	Insurance	3	25
Madagascar	Financial Services	Insurance	All	23.33333
Madagascar	Professional Services	Legal	1	0
Madagascar	Professional Services	Legal	3	33.33333
Madagascar	Professional Services	Legal	4	41.66667
Madagascar	Professional Services	Legal	All	35.83333
Madagascar	Transportation	Maritime Auxiliary Services	All	0
Madagascar	Transportation	Maritime Shipping International	All	0
Madagascar	Transportation	Rail Freight Domestic	All	0
Madagascar	Transportation	Road Freight Domestic	All	0
Madagascar	Telecommunications	Telecom Fixed	All	25
Madagascar	Telecommunications	Telecom Mobile	All	25

Source: World Bank. Note: The STRI ranges from 0 to 100, where 0 indicates that none of the restrictions underlying the index is applied, and 100 means that the sector/mode is completely closed to foreign services and service suppliers.

**Table 31: Mauritius' Services Trade Restrictiveness in selected sub-sectors, World Bank STRI**

Economy Name	Industry	Sector	Mode	Score
Mauritius	Professional Services	Accountancy	1	50
Mauritius	Professional Services	Accountancy	3	37.5
Mauritius	Professional Services	Accountancy	4	0
Mauritius	Professional Services	Accountancy	All	25
Mauritius	Transportation	Air Passenger International	All	52.5
Mauritius	Financial Services	Banking	1	0
Mauritius	Financial Services	Banking	3	0
Mauritius	Financial Services	Banking	All	0
Mauritius	Financial Services	Insurance	1	66.66666
Mauritius	Financial Services	Insurance	3	25
Mauritius	Financial Services	Insurance	All	23.33333

<b>Mauritius</b>	Professional Services	Legal	1	0
<b>Mauritius</b>	Professional Services	Legal	3	41.66667
<b>Mauritius</b>	Professional Services	Legal	4	66.66666
<b>Mauritius</b>	Professional Services	Legal	All	53.33333
<b>Mauritius</b>	Transportation	Maritime Auxiliary Services	All	75
<b>Mauritius</b>	Transportation	Maritime Shipping International	All	0
<b>Mauritius</b>	Transportation	Road Freight Domestic	All	0
<b>Mauritius</b>	Telecommunications	Telecom Fixed	All	0
<b>Mauritius</b>	Telecommunications	Telecom Mobile	All	0

Source: World Bank. Note: The STRI ranges from 0 to 100, where 0 indicates that none of the restrictions underlying the index is applied, and 100 means that the sector/mode is completely closed to foreign services and service suppliers.

**Table 32: Zimbabwe's Services Trade Restrictiveness in selected sub-sectors, World Bank STRI**

<b>Economy Name</b>	<b>Industry</b>	<b>Sector</b>	<b>Mode</b>	<b>Score</b>
<b>Zimbabwe</b>	Professional Services	Accountancy	1	75
<b>Zimbabwe</b>	Professional Services	Accountancy	3	50
<b>Zimbabwe</b>	Professional Services	Accountancy	4	50
<b>Zimbabwe</b>	Professional Services	Accountancy	All	55
<b>Zimbabwe</b>	Transportation	Air Passenger International	All	50
<b>Zimbabwe</b>	Financial Services	Banking	1	75
<b>Zimbabwe</b>	Financial Services	Banking	3	50
<b>Zimbabwe</b>	Financial Services	Banking	All	53.75
<b>Zimbabwe</b>	Financial Services	Insurance	1	75
<b>Zimbabwe</b>	Financial Services	Insurance	3	50
<b>Zimbabwe</b>	Financial Services	Insurance	All	58.33333
<b>Zimbabwe</b>	Professional Services	Legal	1	75
<b>Zimbabwe</b>	Professional Services	Legal	3	50
<b>Zimbabwe</b>	Professional Services	Legal	4	75
<b>Zimbabwe</b>	Professional Services	Legal	All	63.33333
<b>Zimbabwe</b>	Transportation	Rail Freight Domestic	All	75
<b>Zimbabwe</b>	Transportation	Road Freight Domestic	All	75
<b>Zimbabwe</b>	Telecommunications	Telecom Fixed	All	75
<b>Zimbabwe</b>	Telecommunications	Telecom Mobile	All	50

Source: World Bank. Note: The STRI ranges from 0 to 100, where 0 indicates that none of the restrictions underlying the index is applied, and 100 means that the sector/mode is completely closed to foreign services and service suppliers.



Table 33: Key restrictions identifies in WTO's Trade Policy Reviews, Madagascar

Policy areas	Key identified restrictions
Regulations/ restrictions on services addressed by the deepened EPA	<p><b>Telecommunications services:</b></p> <ul style="list-style-type: none"> <li>Telma SA, the historical operator, is the only one with a licence for fixed telephony.</li> <li>The mobile telephony market is shared by several companies. Licences are granted by means of competitive bidding, which may be organized by OMERT, by the Ministry responsible for telecommunications or at the request of an applicant. Decree No. 1650 specifies the cost of obtaining the various licences.</li> </ul> <p><b>Financial services:</b></p> <p><u>Insurance services:</u></p> <ul style="list-style-type: none"> <li>There is a strong foreign and government presence in the insurance subsector.</li> <li>The requirements for establishing a company are the same for foreign and Malagasy insurers. Persons wishing to offer insurance services must be set up as public limited companies and comply with corporate law. They must obtain approval for each branch of activity – property-casualty, life, and capitalization – but the same company may offer services in all branches.</li> <li>A company established in Madagascar may not cover risks outside the country. Likewise, risks in Madagascar may not be covered by non-resident companies; residents may not take out direct insurance abroad to cover a risk situated in Madagascar. In practice, however, most insurance is reinsured abroad.</li> </ul> <p><u>Banking services:</u></p> <ul style="list-style-type: none"> <li>Banking is the backbone of financial activities in Madagascar. Although the country did not undertake any commitments on financial services under the GATS in 1994, the latter is open to foreign presence and foreign companies entirely dominate Madagascar's highly concentrated banking subsector, with three foreign banks sharing two-thirds of the market.</li> </ul> <p><b>Delivery services:</b></p> <ul style="list-style-type: none"> <li>The public postal operator, Paositra Malagasy (PAOMA), is responsible for managing postal services.</li> <li>PAOMA has the monopoly of reserved postal services (letters and packages weighing less than 2 kg and postal accounts) and proposes various financial services including postal savings accounts to around 500,000 savers. It has a network comprising 250 post offices and rural postal agencies.</li> </ul> <p><b>International maritime transport services:</b></p> <ul style="list-style-type: none"> <li>There is no national fleet providing international transport, for either cargo or passengers. National cabotage, "bornage" (i.e. domestic transport limited geographically to around the ship's home port) and internal</li> </ul>

Policy areas	Key identified restrictions
	<p>waterway transport are reserved for Malagasy flag vessels, except in the event of exemptions granted by the maritime administrative authority.</p> <ul style="list-style-type: none"> <li>Exemptions are almost systematically granted to three shipping companies (CMA-CGM, Mediterranean Shipping Company and SAFMARINE (Maersk)) for container traffic. Bulk transport (cotton, raffia) is reserved for national carriers.</li> <li>Port services may be operated by foreign companies but require concessions from local authorities.</li> </ul> <p><b>Movement of natural and businesspersons:</b></p> <ul style="list-style-type: none"> <li>In order to facilitate foreign investors' work arrangements, the Law on Investment in Madagascar allows their entry and short-stay visa to be extended and converted into a "professional category resident visa", whether they have a contract of employment with a Malagasy enterprise or are occupying a senior management or executive position in that enterprise. This professional visa authorizes holders and their families to reside in Madagascar. The provisions of the Malagasy Labour Code apply.</li> <li>Expatriate staff can receive a professional resident visa, valid for the duration of their employment contract.</li> </ul>
<b>Regulations/ restrictions to digital trade</b>	<ul style="list-style-type: none"> <li>No consideration in 2015 TPR.</li> </ul>
<b>Regulations/ restrictions on investment</b>	<ul style="list-style-type: none"> <li>Relevant legislation applies identically to Malagasy citizens and foreigners and domestic and foreign (direct or portfolio) investment.</li> <li>Both Malagasy and foreign legal and natural persons may establish businesses in all areas of activity and hold 100% of an enterprise's capital, subject to the provisions applicable to certain sectors which are specifically regulated, including banking, insurance, mining, petroleum, telecommunications, and medical, paramedical and pharmaceutical activities.</li> <li>There are several agreements that include measures for the protection of foreign investment in Madagascar. The 11 bilateral agreements on investment promotion and protection signed by Madagascar.</li> </ul>

Source: WTO Trade Policy Body. Report by the secretariat. November 2015.

Table 34: Key restrictions identifies in WTO's Trade Policy Reviews, Mauritius

Policy areas	Key identified restrictions
Regulations/ restrictions on services addressed by the deepened EPA	<p><b>Telecommunications services:</b></p> <ul style="list-style-type: none"> <li>▪ Telecommunications policy in Mauritius may be understood in the broader context of Mauritius' objective to make the information and communications technology (ICT) sector a main pillar of the economy and to transform Mauritius into a regional ICT hub.</li> <li>▪ The telecommunications sector was liberalized in 2001 because of the ICT Act.</li> <li>▪ In the first quarter of 2014, there were two licensed providers of fixed telephone services: the former incumbent, Mauritius Telecom, which has a 97.24% market share. In the same year, there were only three providers of mobile telephone services.</li> <li>▪ In 2015, the government and its related agencies maintained a 59% equity stake in Mauritius Telecom.</li> </ul> <p><b>Financial services:</b></p> <ul style="list-style-type: none"> <li>▪ Mauritius participated in the WTO financial services negotiations and undertook commitments under the Fifth Protocol.</li> </ul> <p><u>Insurance services:</u></p> <ul style="list-style-type: none"> <li>▪ Any person may carry on insurance business in Mauritius provided they hold a licence from the FSC. There are no limitations on commercial presence for foreign insurers.</li> <li>▪ Insurance companies may be licensed to provide long-term or general insurance, but not both, unless they are a reinsurance company, or if one class of insurance is incidental, in terms of premium income, to the principal insurance business.</li> <li>▪ The Insurance Regulations 2007 prohibit the insurance of local assets with insurance companies based in a foreign country. However, since 2013, this restriction does not apply to insurance contracts providing for export credit insurance.</li> </ul> <p><u>Banking services:</u></p> <ul style="list-style-type: none"> <li>▪ Foreign banks are allowed to establish either as wholly owned subsidiaries or branches or to form joint ventures with local banks.</li> </ul> <p><b>International maritime transport services:</b></p> <ul style="list-style-type: none"> <li>▪ The state-owned CHCL is the sole provider of general cargo, certain dry bulk, and container handling services. However, cement, wheat, petroleum products, molasses, and bitumen are handled by private operators.</li> <li>▪ The Mauritius Ports Authority (MPA), a parastatal body, is the sole national port authority. It is responsible for the regulation, control, administration, development, and operation of seaports and port services (including marine services, such as pilotage).</li> <li>▪ The MPA levies port fees for services rendered as per the port tariffs, which are revised by international consultants and benchmarked on other</li> </ul>

Policy areas	Key identified restrictions
	<p>ports, with the main objective of ensuring that the tariffs for both MPA and the CHCL remain regionally competitive.</p> <ul style="list-style-type: none"> <li>▪ The Merchant Shipping Act (2007), promulgated in 2009, contains registration requirements for the owners of Mauritian ships. To own a Mauritian ship, persons must be a citizen of Mauritius; a body corporate incorporated in Mauritius (with its directors' meetings held regularly in Mauritius), or a maritime entity. Where the holders of a majority interest in a ship are not resident in Mauritius, a representative who is resident in Mauritius must be appointed as the managing owner of the vessel. Mauritius does not operate an international ship registry.</li> <li>▪ Most shipping services, including liner trade, are under the control of foreign shipping companies. A state-owned shipping company caters for freight and passenger traffic to and from Rodrigues and is also engaged in regional feeder services. Vessels registered locally are granted a 50% discount on pilotage, tug services, and dockage. Locally registered vessels may benefit from a 20% discount on other chargeable items.</li> </ul>
<b>Regulations/ restrictions to digital trade</b>	<ul style="list-style-type: none"> <li>▪ Telecommunications policy in Mauritius may be understood in the broader context of Mauritius' objective to make the ICT sector a main pillar of the economy and to transform Mauritius into a regional ICT hub.</li> <li>▪ A well-developed ICT sector is seen as key to generating wealth and employment both in itself and in terms of its beneficial spill-over effects on other sectors of the economy, particularly the services sector.</li> </ul>
<b>Regulations/ restrictions on investment</b>	<ul style="list-style-type: none"> <li>▪ Mauritius has several investment-related laws: The Investment Promotion Act (2000) established the Board of Investment (BOI) as Mauritius' national investment promotion agency. The BOI is the first point of contact for businesses wishing to establish operations in Mauritius and coordinates with other public agencies to facilitate the implementation of investment projects.</li> <li>▪ Mauritius maintains a transparent and open investment regime; restrictions to foreign investment are maintained in only a few sectors: television broadcasting real estate property, Banks holding immovable property in Mauritius, diving centres, legal services, fisheries.</li> <li>▪ There is no general government approval requirement for investment projects. However, BOI approval is required for investment projects submitted under the Real Estate Development Scheme and Freeport. Permits may be required from different government agencies.</li> </ul>

Source: WTO Trade Policy Body. Report by the secretariat. January 2015.

Table 35: Key restrictions identifies in WTO's Trade Policy Reviews, Zimbabwe

Policy areas	Key identified restrictions
Regulations/ restrictions on services addressed by the deepened EPA	<b>Telecommunications services:</b> <ul style="list-style-type: none"> <li>▪ Zimbabwe made specific commitments on telecommunications under the GATS.</li> <li>▪ Restrictions on foreign investment applied to data transmission, including packet-switched data transmission and circuit-switched data transmission were lifted in 2019, according to the authorities</li> <li>▪ One national backbone company (operated by Liquid) controlled nearly 70% of the country's bandwidth capacity (in 2019) and nearly 53% of Internet revenues (2017); TelOne controls another 24% of that capacity, and 23% of revenues (2017); 68 Powertel, 4.3%, and Dandemutande (a new Internet services provider), 2.4%.</li> <li>▪ International roaming is very expensive, about USD 100 for 10 megabytes (Swisscom). International calls were priced at USD 4 per minute for Switzerland, USD 0.5 for the United States, and USD 0.3 for regional destinations, from a fixed line.</li> </ul>
	<b>Financial services:</b>
	<u>Insurance services:</u> <ul style="list-style-type: none"> <li>▪ Zimbabwe made commitments on some banking services but is not a party to either the Second or Fifth Protocols to the GATS</li> <li>▪ Zimbabwe has a long insurance tradition and is host to some of the world's oldest multinational insurance companies.</li> <li>▪ Conditions of establishment are spelt out in the Insurance Act and the respective principal regulations.</li> <li>▪ Reinsurers are required to register in Zimbabwe to conduct business.</li> <li>▪ Insurers and reinsurers are required to register for a specific class or classes of business.</li> <li>▪ In 2017, new regulations substantially increased the minimum capital requirements for insurers and insurance brokers.</li> <li>▪ The Insurance Act states that no registered insurer or insurance broker shall place Zimbabwean insurance business with an insurer who carries on business outside Zimbabwe and who is not registered in Zimbabwe.</li> <li>▪ The Insurance act limits the composition of foreign directors sitting on the board of an insurer.</li> </ul>
	<u>Banking services:</u> <ul style="list-style-type: none"> <li>▪ Concerning securities legislation, foreigners cannot collectively own more than 49% of a publicly listed company, according to the Monetary Policy Statement of 2016. 30% of shares must be sold to the public when a company goes public on the Stock Exchange.</li> <li>▪ Foreign participation in key banking services generally allowed, but minimum capital requirements apply.</li> </ul>

Policy areas	Key identified restrictions
	<ul style="list-style-type: none"> <li>Foreign-owned banks may operate in Zimbabwe as locally incorporated subsidiaries of their foreign parent institutions and are subject to the same supervisory requirements as domestic banks.</li> <li>Foreign branches and foreign representative offices are not allowed.</li> </ul> <p><b>Delivery services:</b></p> <ul style="list-style-type: none"> <li>The Postal and Telecommunications Regulatory Authority of Zimbabwe is the regulator of postal and courier services.</li> <li>ZIMPOST, a state-owned company, is the designated postal operator, with the mandate of providing universal postal, courier, real estate, and financial services within Zimbabwe.</li> <li>The provision of the following services is reserved exclusively for ZIMPOST: the conveyance of letters of less than 500 g, other than such letters are conveyed by a commercial courier service, "provided that the operator of a commercial courier service shall not charge less than the prescribed rate for the conveyance of such letters by ZIMPOST. ZIMPOST wholly owns Courier Connect, one of seven courier companies.</li> </ul>
<b>Regulations/ restrictions to digital trade</b>	<ul style="list-style-type: none"> <li>Telecommunications equipment and computers are currently subject to relatively high MFN customs duties plus 15% VAT, which does not facilitate access to information technologies and the Internet. All telecommunications equipment is type-approved before use in the country by the POTRAZ, the Postal and Telecommunications Regulatory Authority of Zimbabwe.</li> </ul>
<b>Regulations/ restrictions on investment</b>	<ul style="list-style-type: none"> <li>Until 2018, the "indigenization" provisions, put in place in 2012 under the Indigenisation and Economic Empowerment Act of 2010, required companies operating in Zimbabwe to provide an indigenization implementation plan for foreign-owned companies. This involved reducing foreign ownership to a maximum of 49% of shares or interests, in every business with a net assets value of USD 500,000 or more.</li> <li>In 2019, the 51%/49% indigenization rule was removed.</li> <li>Foreign investment restrictions on diamonds and platinum group metals remain in place.</li> <li>Frequent policy changes have not provided for a stable and predictable investment climate.</li> <li>Concerning portfolio investment, in 2016 the Reserve Bank of Zimbabwe (RBZ) authorized foreign investors to own up to 49% of most companies listed on the Zimbabwe Stock Exchange (ZSE), up from 40% previously.</li> <li>Greenfield investment is difficult. A One-Stop Investment Centre has been established. The process involves several steps, which could be simplified.</li> </ul>

Source: WTO Trade Policy Body. Report by the secretariat. November 2020.

**Table 36: Overview of GATS commitments by sector of Madagascar, Mauritius, Seychelles and Zimbabwe, WTO I-TIP Goods database <sup>61</sup>**

Signatory	1	2	3	4	5	6	7	8	9	10	11	12	TOTAL
Madagascar	X												1
Mauritius		X					X		X				3
Seychelles	X	X	X	X	X	X	X	X	X	X	X		11
Zimbabwe		X					X		X				3

Source: WTO. Note: sectors potentially affected by the liberalisation measures envisaged for the deepened EPA are (2) communications services, (4) distribution services, (7) financial services incl. insurance services, and (11) (sea) transport services.

**Table 37: Overview of GATS most favoured nations exceptions by sector of Madagascar, Mauritius, Seychelles and Zimbabwe, WTO I-TIP Goods database <sup>62</sup>**

Signatory	Horizontal	1	2	3	4	5	6	7	8	9	10	11	12	TOTAL Sectors	TOTAL Exemptions
Madagascar	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mauritius	0	0	0	0	0	0	0	1	0	0	0	0	0	1	1
Seychelles	1	0	3	0	0	0	0	0	0	0	0	0	0	2	4
Zimbabwe	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Source: WTO. Note: sectors potentially affected by the liberalisation measures envisaged for the deepened EPA are (2) communications services, (4) distribution services, (7) financial services incl. insurance services, and (11) (sea) transport services.

**Table 38: Services (sub-)sectors in which ESA countries made specific GATS commitments (Madagascar, Mauritius, Seychelles and Zimbabwe)**

Code	Sector	Madagascar	Mauritius	Seychelle	Zimbabwe	TOTAL of ESA4 countries
1.A.a	Legal Services			X		1
1.A.b	Accounting, auditing and bookkeeping services			X		1
1.A.c	Taxation Services			X		1
1.A.d	Architectural services			X		1
1.A.e	Engineering services			X		1
1.A.f	Integrated engineering services			X		1

<sup>61</sup> List of specific sectors: 1 business services; 2 communication services; 3 construction and related engineering services; 4 distribution services; 5 educational services; 6 environmental services; 7 financial services; 8 health related and social services (other than those listed under 1.A.h-j.); 9 tourism and travel related services; 10 recreational, cultural and sporting services (other than audio-visual services); 11 transport services; 12 other services not included elsewhere.

<sup>62</sup> List of specific sectors: 1 business services; 2 communication services; 3 construction and related engineering services; 4 distribution services; 5 educational services; 6 environmental services; 7 financial services; 8 health related and social services (other than those listed under 1.A.h-j.); 9 tourism and travel related services; 10 recreational, cultural and sporting services (other than audio-visual services); 11 transport services; 12 other services not included elsewhere.



1.A.g	Urban planning and landscape architectural services			X		1
1.A.h	Medical and dental services			X		1
1.A.i	Veterinary services			X		1
1.A.j	Services provided by midwives, nurses, physiotherapists and paramedical personnel			X		1
1.B.a	Consultancy services related to the installation of computer hardware			X		1
1.B.b	Software implementation services			X		1
1.B.c	Data processing services			X		1
1.B.d	Database services			X		1
1.B.e	Other			X		1
1.C.a	R&D services on natural sciences			X		1
1.C.b	R&D services on social sciences and humanities			X		1
1.E.a	Relating to ships			X		1
1.E.b	Relating to aircraft			X		1
1.E.e	Other			X		1
1.F.a	Advertising services			X		1
1.F.c	Management consulting service			X		1
1.F.d	Services related to man. consulting			X		1
1.F.e	Technical testing and analysis serv.	X		X		2
1.F.h	Services incidental to mining			X		1
1.F.m	Related scientific and technical consulting services			X		1
1.F.n	Maintenance and repair of equipment (not including maritime vessels, aircraft	X		X		2
1.F.q	Packaging services			X		1
<b>2.A</b>	<b>Postal services</b>			<b>X</b>		<b>1</b>
<b>2.B</b>	<b>Courier services</b>			<b>X</b>		<b>1</b>
<b>2.C.a</b>	<b>Voice telephone services</b>		<b>X</b>	<b>X</b>		<b>2</b>

2.C.b	Packet-switched data transmission services		X	X	X	3
2.C.c	Circuit-switched data transmission services		X	X	X	3
2.C.d	Telex services		X	X		2
2.C.e	Telegraph services		X	X		2
2.C.f	Facsimile services		X	X	X	3
2.C.g	Private leased circuit services		X	X		2
2.C.h	Electronic mail			X	X	2
2.C.i	Voice mail			X	X	2
2.C.j	On-line information and database retrieval			X	X	2
2.C.k	electronic data interchange (EDI)			X	X	2
2.C.l	enhanced/value-added facsimile services, incl. store and forward, store and retrieve			X	X	2
2.C.m	code and protocol conversion			X	X	2
2.C.n	on-line information and/or data processing (Inc. Transaction processing)			X	X	2
2.C.o	other		X	X	X	3
2.D.a	Motion picture and videotape production and distribution services			X		1
2.D.b	Motion picture projection service			X		1
3.A	General construction work for buildings			X		1
3.B	General construction work for civil engineering			X		1
3.E	Other			X		1
4.A	Commission agents' services			X		1
4.B	Wholesale trade services			X		1
4.C	Retailing services			X		1
4.D	Franchising			X		1
5.A	Primary education services			X		1
5.B	Secondary education			X		1

	services					
5.C	Higher education services			X		1
5.D	Adult education			X		1
5.E	Other education services			X		1
6.A	Sewage services			X		1
6.B	Refuse disposal services			X		1
6.D	Other			X		1
7.A.a.01	Life insurance		X	X		2
7.A.a.02	Non-life insurance		X	X		2
7.A.b	Reinsurance and retrocession		X	X		2
7.A.c	Insurance intermediation, such as brokerage and agency		X	X		2
7.A.d	Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services		X	X		2
7.B.a	Acceptance of deposits and other repayable funds from the public		X	X	X	3
7.B.b	Lending of all types, incl., inter alia, consumer credit, mortgage credit, factoring and financing of		X	X	X	3
7.B.c	Financial leasing			X	X	2
7.B.d	All payment and money transmission services		X	X	X	3
7.B.e	Guarantees and commitments		X	X	X	3
7.B.f.01	Money Market Instruments		X	X		2
7.B.f.02	Foreign Exchange		X	X		2
7.B.f.03	Derivative Products			X		1
7.B.f.04	Exchange Rate and Interest Rate Instruments			X		1
7.B.f.05	Transferable Securities		X	X		2
7.B.f.06	Other negotiable instruments and financial assets			X		1
7.B.g	Participation in issues of all kinds of securities, incl. under-writing and		X	X	X	3

	placement					
7.B.h	Money broking			X		1
7.B.i	Asset management, such as cash or portfolio management, all forms of collective			X	X	2
7.B.j	Settlement and clearing services for financial assets, incl. securities, derivative products,		X	X		2
7.B.k	Advisory and other auxiliary financial services on all the activities listed in			X	X	2
7.B.l	Provision and transfer of financial information, and financial data processing and related		X	X		2
8.A	Hospital services			X		1
8.B	Other Human Health Services			X		1
8.C	Social Services			X		1
9.A	Hotels and restaurants (incl. catering)		X	X	X	3
9.B	Travel agencies and tour operators services		X	X	X	3
9.C	Tourist guides services		X		X	2
9.D	Other		X			1
10.A	Entertainment services (including theatre, live bands and circus services)			X		1
10.B	News agency services			X		1
10.C	Libraries, archives, museums and other cultural services			X		1
11.A.a	Maritime: Passenger transportation			X		1
11.A.b	Maritime: Freight transportation			X		1
11.A.d	Maritime: Maintenance and repair of vessels			X		1
11.A.f	Supporting services for maritime transport			X		1
11.H.a	Cargo-handling services			X		1
11.H.b	Storage and warehouse			X		1

	<b>services</b>					
<b>11.H.c</b>	<b>Freight transport agency services</b>			<b>X</b>		<b>1</b>

Source: WTO. Note: sectors potentially affected by the liberalisation measures envisaged for the deepened EPA are (2) communications services, (4) distribution services, (7) financial services incl. insurance services, and (11) transport services.

**Table 39: Madagascar's current commitments under the WTO GATS agreement in business services<sup>63</sup>**

Madagascar	Market Access				National Treatment			
	M1	M2	M3	M4	M1	M2	M3	M4
1.Business services								
F Other business services								
Technical testing and analysis services	U	F	P	U	U	F	F	U
Maintenance and repair of equipment	U	F	P	U	U	F	F	U

Source: WTO.

**Table 40: Mauritius' current commitments under the WTO GATS agreement in business services<sup>64</sup>**

Mauritius	Market Access				National Treatment			
	M1	M2	M3	M4	M1	M2	M3	M4
Horizontal commitments	-	-	P	P	-	-	P	P
Telecommunications								
Voice telephone services								
Packet switched data transmission services								
Circuit switched data transmission services	P	F	P	U	F	F	P	U
Telex services								
Telegraph services								
Private leased circuit services								
Facsimile services	F	F	F	U	F	F	P	U
Tourism services								
Hotel Operators	P	F	P	U	P	F	P	U
Restaurant Operators	P	F	P	U	P	F	P	U
Travel Agencies	P	F	P	U	F	F	F	U
Tour Operators	P	F	P	U	P	F	P	U
Tourist guides	P	F	P	U	P	F	P	U
Tourist Transport Operation	P	F	P	U	P	F	P	U

<sup>63</sup> M1-M4 illustrate different modes of services supply (M1: cross-border supply, M2: consumption abroad, M3: commercial presence, M4: presence of natural persons for business purposes). F, P, and U illustrate the type of commitments (F: full commitment, P: partial commitment, U: unbound), – illustrates that the sub-sector is not included in the schedule. See: WTO, 1994. GATS/SC/51. Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/SCHD/GATS-SC/SC51.pdf&Open=True>

<sup>64</sup> M1-M4 illustrate different modes of services supply (M1: cross-border supply, M2: consumption abroad, M3: commercial presence, M4: presence of natural persons). F, P, and U illustrate the type of commitments (F: full commitment, P: partial commitment, U: unbound), – illustrates that the sub-sector is not included in the schedule. See: WTO, 1994. GATS/SC/51. Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/SCHD/GATS-SC/SC51.pdf&Open=True>

Mauritius	Market Access				National Treatment			
	M1	M2	M3	M4	M1	M2	M3	M4
Yacht Chartering & Cruising Services	P	F	P	U	P	F	P	U
Tourist Duty-Free Shops	P	F	P	U	P	F	P	U
<b>Insurance and Insurance-Related Services</b>								
Direct Insurance Life and non-life	U	P	F	U	F	F	F	U
Re-insurance and retrocession	P	P	P	U	F	F	F	U
Insurance Intermediation comprising Agents and Brokers	P	P	P	U	F	F	F	U
Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services	F	F	F	U	F	F	F	U
<b>Banking and other financial services (excluding insurance)</b>								
Acceptance of deposits	U	F	P	U	F	F	F	U
Lending of all types (excluding factoring and specialized and structured products)	F	F	P	U	F	F	F	U
All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts	F	F	F	U	F	F	F	U
Guarantees and commitments	F	F	F	U	F	F	F	U
Trading for own account or for account of customers (multiple types of transactions)	F	F	P	U	F	F	F	U
Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues	F	F	P	U	F	F	F	U
Settlement and clearing services	P	F	P	U	F	F	F	U
Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services	P	F	P	U	F	F	F	U

Source: WTO.

**Table 41: Seychelles' current commitments under the WTO GATS agreement in business services<sup>65</sup>**

Seychelles	Market Access				National Treatment			
	M1	M2	M3	M4	M1	M2	M3	M4
<b>Horizontal</b>				P	P	P	P	U
<b>Business services</b>								
Legal services	F	F	F	U	F	F	F	U
Accounting and bookkeeping services	F	F	F	U	F	F	F	U

<sup>65</sup> M1-M4 illustrate different modes of services supply (M1: cross-border supply, M2: consumption abroad, M3: commercial presence, M4: presence of natural persons for business purposes). F, P, and U illustrate the type of commitments (F: full commitment, P: partial commitment, U: unbound), – illustrates that the sub-sector is not included in the schedule. See: WTO, 1994. GATS/SC/51. Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/SCHD/GATS-SC/SC51.pdf&Open=True>

Seychelles	Market Access				National Treatment			
	M1	M2	M3	M4	M1	M2	M3	M4
Architectural services	F	F	F	U	F	F	F	U
Engineering services	F	F	F	U	F	F	F	U
Integrated Engineering services	F	F	F	U	F	F	F	U
Urban planning services	F	F	F	U	F	F	F	U
Medical and dental services	F	F	F	U	F	F	F	U
Veterinary services	F	F	F	U	F	F	F	U
Services provided by midwives, nurses, physiotherapists and Para-medical personnel	F	F	F	U	F	F	F	U
<b>Computer and computer-related services</b>								
Computer and computer-related services	F	F	P	U	F	F	F	U
<b>Research and development services</b>								
Research and experimental development services on agriculture sciences	F	F	F	U	F	F	F	U
Research and development for crude oil, natural gas and condensate (analysis of petroleum)	F	F	F	U	F	F	F	U
Research and experimental development services on cultural sciences, sociology and psychology	F	F	P	U	F	F	F	U
Research and experimental development services on medical sciences and pharmacy	F	F	F	U	F	F	F	U
<b>Rental and leasing services</b>								
Relating to ships	F	F	P	U	U	F	F	U
Leasing or rental services concerning aircraft without operator	F	F	F	U	F	F	F	U
Leasing and rental of household goods	F	F	F	U	F	F	F	U
<b>Other business services</b>								
Advertising services	F	F	F	U	F	F	F	U
Management consulting services	F	F	F	U	F	F	F	U
Management consulting services related to energy sector	F	F	F	U	F	F	F	U
Technical testing and analysis services only for gas, mining and oil industry	F	F	F	U	F	F	F	U
Services incidental to mining	F	F	F	U	F	F	F	U
Related scientific and technical consulting services only for gas, mining and oil industry	F	F	F	U	F	F	F	U
Maintenance and repair of equipment	F	F	F	U	F	F	F	U
Packaging services	F	F	F	U	F	F	F	U
<b>Communication services</b>								
Postal and Courier Services (including express delivery services)	F	F	F	U	F	F	F	U
Basic Telecommunication Services	F	F	F	U	F	F	F	U
Value Added Services such as electronic email, voice mail, electronic data exchange etc.	F	F	F	U	F	F	F	U



Seychelles	Market Access				National Treatment			
	M1	M2	M3	M4	M1	M2	M3	M4
Audio-visual services such as motion picture and broadcasting services	F	F	F	U	F	F	F	U
Construction and related engineering services								
Construction and related engineering services (multiple types of related services)	F	F	F	U	F	F	F	U
<b>Distribution services</b>								
Commission agents	U	U	F	U	U	U	F	U
Wholesale trade services	F	F	F	U	F	F	F	U
Retailing services	F	F	P	U	F	F	F	U
Wholesale trade of motor vehicles	F	F	F	U	F	F	F	U
<b>Educational services</b>								
Educational services (multiple types of services)	F	F	F	U	F	F	F	U
Environmental services								
Environmental services (multiple types of services)	U	F	P	U	U	P	F	U
<b>Financial and insurance services</b>								
<b>Insurance services</b>								
Life insurance	F	F	F	U	F	F	F	U
Non-life (multiple types of services)	F	F	F	U	F	F	F	U
Reinsurance and retrocession	F	F	F	U	F	F	F	U
Services auxiliary to insurance (including broking and agency services)	F	F	F	U	F	F	F	U
Banking services (multiple services, such as acceptance of deposits and other repayable funds from the public, lending of all types, payment services etc.)	P	F	F	U	U	F	F	U
<b>Health-related and social services</b>								
Health-related and social services (multiple types of services)	F	F	F	U	F	F	F	U
Social services	F	F	F	U	F	F	F	U
<b>Tourism and travel-related services</b>								
Hotels and other lodging services	F	F	P	U	F	F	F	U
Letting services of furnished accommodation (excluding rooming and boarding houses and cabins)	F	F	P	U	F	F	F	U
Restaurants	F	F	P	U	F	F	F	U
Motel lodging services	F	F	F	U	F	F	F	U
Travel agencies and tour operators	F	F	P	U	F	F	F	U
<b>Recreational, cultural and sporting services</b>								
Recreational, cultural and sporting services (multiple types of services)	U	F	F	U	U	F	F	U
News agency services (multiple types of services)	F	F	F	U	F	F	F	U
Libraries, archives, museums etc.	F	F	F	U	F	F	F	U
<b>Transport services</b>								
Transport (freight and passengers)	F	F	F	U	F	F	F	U

Seychelles	Market Access				National Treatment			
	M1	M2	M3	M4	M1	M2	M3	M4
Maintenance and repair of vessel	F	F	P	U	F	F	F	U
Vessel salvage and refloating	F	F	P	U	F	F	F	U
Cargo-handling services	F	F	F	U	F	F	F	U
Storage and warehouse services	F	F	F	U	F	F	F	U
Freight transport agency services	F	F	F	U	F	F	F	U

Source: WTO.

**Table 42: Zimbabwe's current commitments under the WTO GATS agreement in business services<sup>66</sup>**

Zimbabwe	Market Access				National Treatment			
	M1	M2	M3	M4	M1	M2	M3	M4
<b>Horizontal commitments</b>	-	-	P	P	-	-	-	P
<b>Communication services</b>								
<b>Telecommunication services</b>								
Public telecommunications transport networks and services	F	F	P	U	F	F	F	U
Value-added/Enhanced services	F	F	F	U	F	F	F	U
<b>Financial services</b>								
<b>Banking services</b>								
Acceptance of deposits and other repayable funds from the public	F	F	P	U	F	F	F	U
Lending of all types	F	F	P	U	F	F	F	U
Financial leasing	F	F	P	U	F	F	F	U
All payment and money transmission services	F	F	P	U	F	F	F	U
Guarantees and commitments	F	F	P	U	F	F	F	U
<b>Tourism and traffic-related services</b>								
Hotels and restaurants	F	F	F	U	F	F	F	U
Travel agencies and tour operators	F	F	P	U	F	F	P	U
Tourist guide services	F	F	P	U	F	F	P	U

Source: WTO.

**Table 43: Investment restrictiveness in services sectors, Madagascar**

Industry	Sector	Subsector	Mode	Score
Financial Services	Banking	Retail Banking Loans	3	25
Financial Services	Banking	Retail Banking Loans	All	36.25
Financial Services	Banking	Retail Banking Deposits	3	25

<sup>66</sup> M1-M4 illustrate different modes of services supply (M1: cross-border supply, M2: consumption abroad, M3: commercial presence, M4: presence of natural persons for business purposes). F, P, and U illustrate the type of commitments (F: full commitment, P: partial commitment, U: unbound), – illustrates that the sub-sector is not included in the schedule. See: WTO, 1994. GATS/SC/51. Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/SCHD/GATS-SC/SC51.pdf&Open=True>

Financial Services	Banking	Retail Banking Deposits	All	36.25
Financial Services	Insurance	Insurance Automobile	3	25
Financial Services	Insurance	Insurance Automobile	All	32.5
Financial Services	Insurance	Insurance Life	3	25
Financial Services	Insurance	Insurance Life	All	32.5
Financial Services	Insurance	Reinsurance	3	25
Financial Services	Insurance	Reinsurance	All	5
Telecommunications	Telecom Fixed	Telecom Fixed	3	25
Telecommunications	Telecom Mobile	Telecom Mobile	3	25
Retailing	Retailing	Retailing	3	0
Transportation	Air Passenger Domestic	Air Passenger Domestic	3	0
Transportation	Air Passenger International	Air Passenger International	3	0
Transportation	Maritime Shipping International	Maritime Shipping International	3	0
Transportation	Maritime Auxiliary Services	Maritime Auxiliary Services	3	0
Transportation	Road Freight Domestic	Road Freight Domestic	3	0
Transportation	Rail Freight Domestic	Rail Freight Domestic	3	0
Professional Services	Accountancy	Accounting	3	25
Professional Services	Accountancy	Accounting	All	20
Professional Services	Accountancy	Auditing	3	50
Professional Services	Accountancy	Auditing	All	60
Professional Services	Legal	Legal Advice Foreign Law	3	25
Professional Services	Legal	Legal Advice Foreign Law	All	20
Professional Services	Legal	Legal Advice Domestic Law	3	25
Professional Services	Legal	Legal Advice Domestic Law	All	25
Professional Services	Legal	Legal Representation in Court	3	50
Professional Services	Legal	Legal Representation in Court	All	62.5

Source: World Bank. Note: The STRI ranges from 0 to 100, where 0 indicates that none of the restrictions underlying the index is applied, and 100 means that the sector/mode is completely closed to foreign services and service suppliers.

**Table 44: Investment policy summaries in services sectors, Madagascar**

Industry	Sector	Subsector	Mode	Policy Summary
Financial Services	Banking	Retail Banking Loans	3	Entry through a branch is not allowed.
Financial Services	Banking	Retail Banking Deposits	3	Entry through a branch not allowed.
Financial Services	Insurance	Insurance Automobile	3	Entry through a branch is not allowed for automobile insurance. Maximum ownership of a state-owned insurer is 70 percent.
Financial Services	Insurance	Insurance Life	3	Entry through a branch is not allowed for automobile insurance. Maximum

				ownership of a state-owned insurer is 70 percent.
Financial Services	Insurance	Reinsurance	3	Entry through a branch is not allowed for automobile insurance. Maximum ownership of a state-owned insurer is 70 percent.
Telecommunications	Telecom Fixed	Telecom Fixed	3	The limit on foreign ownership is 66 percent. The IG license fee is determined by the Ministry of Telecommunications.
Telecommunications	Telecom Mobile	Telecom Mobile	3	The limit on foreign ownership is 66 percent. The IG license fee is determined by the Ministry of Telecommunications.
Retailing	Retailing	Retailing	3	There are no restrictions.
Transportation	Air Passenger Domestic	Air Passenger Domestic	3	There are no restrictions, except for certain requirements to hire nationals.
Transportation	Air Passenger International	Air Passenger International	3	There are no restrictions, except for certain requirements to hire nationals.
Transportation	Maritime Shipping International	Maritime Shipping International	3	There are no restrictions, except that they must be staffed with Malagasy crew.
Transportation	Maritime Auxiliary Services	Maritime Auxiliary Services	3	There are no restrictions.
Transportation	Road Freight Domestic	Road Freight Domestic	3	There are no restrictions.
Transportation	Rail Freight Domestic	Rail Freight Domestic	3	There are no restrictions.
Professional Services	Accountancy	Accounting	3	Allowed, but a local member of an international network or association can use the international brand name only with a name or word added that enables identification of the firm as being in Madagascar.
Professional Services	Accountancy	Auditing	3	A branch is not allowed. Ownership by non-locally-licensed professionals is limited to 25 percent. A local member of an international network or association can use the international brand name, but only with a name or word added that enables identification of the firm as being in Madagascar.

Professional Services	Legal	Legal Advice Foreign Law	3	Allowed, but a local member of an international network or association can use the international brand name only with a name or word added that enables identification of the firm as being in Madagascar.
Professional Services	Legal	Legal Advice Domestic Law	3	Allowed, but a local member of an international network or association can use the international brand name only with a name or word added that enables identification of the firm as being in Madagascar.
Professional Services	Legal	Legal Representation in Court	3	A branch is not allowed. Ownership or control by foreign nationals is limited to 49 percent.

Source: World Bank.

**Table 45: Investment restrictiveness in services sectors, Mauritius**

Industry	Sector	Subsector	Mode	Score
Financial Services	Banking	Retail Banking Loans	3	0
Financial Services	Banking	Retail Banking Loans	All	0
Financial Services	Banking	Retail Banking Deposits	3	0
Financial Services	Banking	Retail Banking Deposits	All	0
Financial Services	Insurance	Insurance Automobile	3	25
Financial Services	Insurance	Insurance Automobile	All	32.5
Financial Services	Insurance	Insurance Life	3	25
Financial Services	Insurance	Insurance Life	All	32.5
Financial Services	Insurance	Reinsurance	3	25
Financial Services	Insurance	Reinsurance	All	5
Telecommunications	Telecom Fixed	Telecom Fixed	3	0
Telecommunications	Telecom Mobile	Telecom Mobile	3	0
Retailing	Retailing	Retailing	3	0
Transportation	Air Passenger Domestic	Air Passenger Domestic	3	0
Transportation	Air Passenger International	Air Passenger International	3	0
Transportation	Maritime Shipping International	Maritime Shipping International	3	0
Transportation	Maritime Auxiliary Services	Maritime Auxiliary Services	3	75
Transportation	Road Freight Domestic	Road Freight Domestic	3	0
Professional Services	Accountancy	Accounting	3	50
Professional Services	Accountancy	Accounting	All	30
Professional Services	Accountancy	Auditing	3	25
Professional Services	Accountancy	Auditing	All	20
Professional Services	Legal	Legal Advice Foreign Law	3	25
Professional Services	Legal	Legal Advice Foreign Law	All	10
Professional Services	Legal	Legal Advice Domestic Law	3	50
Professional Services	Legal	Legal Advice Domestic Law	All	75
Professional Services	Legal	Legal Representation in Court	3	50
Professional Services	Legal	Legal Representation in Court	All	75

Source: World Bank. Note: The STRI ranges from 0 to 100, where 0 indicates that none of the restrictions underlying the index is applied, and 100 means that the sector/mode is completely closed to foreign services and service suppliers.

**Table 46: Investment policy summaries in services sectors, Mauritius**

Industry	Sector	Subsector	Mode	Policy Summary
Financial Services	Banking	Retail Banking Loans	3	Approval of the Bank of Mauritius is required in order to hold a significant share.
Financial Services	Banking	Retail Banking Deposits	3	Approval of the Bank of Mauritius is required in order to hold a significant share.
Financial Services	Insurance	Insurance Automobile	3	Approval is required in order to acquire or hold a significant number of shares. Applicable licenses must be renewed annually. Five percent of insurance has to be ceded to a domestic re-insurer.
Financial Services	Insurance	Insurance Life	3	Approval is required in order to acquire or hold a significant number of shares. Applicable licenses must be renewed annually. Five percent of insurance has to be ceded to a domestic re-insurer.
Financial Services	Insurance	Reinsurance	3	Approval is required in order to acquire or hold a significant number of shares. Applicable licenses must be renewed annually. Five percent of insurance has to be ceded to a domestic re-insurer.
Telecommunications	Telecom Fixed	Telecom Fixed	3	Acquisition of a state-owned provider is subject to government approval.
Telecommunications	Telecom Mobile	Telecom Mobile	3	Acquisition of a state-owned provider is subject to government approval.
Retailing	Retailing	Retailing	3	There are no restrictions, but applicable licenses must be renewed annually upon payment of fees.
Transportation	Air Passenger Domestic	Air Passenger Domestic	3	There are no restrictions on the entry of foreign suppliers. Currently, Air Mauritius is the only state-owned provider.
Transportation	Air Passenger International	Air Passenger International	3	There are no restrictions on the entry of foreign suppliers. Currently, Air Mauritius is the only state-owned provider.
Transportation	Maritime Shipping International	Maritime Shipping International	3	There are no restrictions.
Transportation	Maritime Auxiliary Services	Maritime Auxiliary Services	3	This is closed at the main port, but foreign investment may be allowed at the Freeport.
Transportation	Road Freight Domestic	Road Freight Domestic	3	Open to foreign investment.



Transportation	Rail Freight Domestic	Rail Freight Domestic	3	N/A. No railway system.
Professional Services	Accountancy	Accounting	3	Ownership by non-locally-licensed professionals is limited to 50 percent. Approval for licenses is not automatic. Foreign firms cannot provide services to state-owned firms, where public money is concerned.
Professional Services	Accountancy	Auditing	3	Approval for licenses is not automatic. There are no restrictions on a firm's name, but it must first be approved by the Financial Reporting Council. Such firms cannot provide services to state-owned firms, where public money is concerned.
Professional Services	Legal	Legal Advice Foreign Law	3	Interested parties must be qualified, licensed, or regulated in the home jurisdiction. They cannot provide advice or legal services on, or in relation to, Mauritian law. They must also have a physical establishment in Mauritius. They must register as a foreign firm, for which approval is not automatic, and there is a difference in the criteria for foreign and domestic applicants. They must have at least two lawyers licensed in the home jurisdiction.
Professional Services	Legal	Legal Advice Domestic Law	3	Allowed only if the foreign firm sets up a joint law venture with a local firm; this joint venture cannot provide legal services in foreign and international law. A branch is not allowed. There are limits on ownership by foreign nationals and non-locally-licensed professionals, but no specific cap. Registration is required.
Professional Services	Legal	Legal Representation in Court	3	Allowed only if the foreign firm sets up a joint law venture with a local firm; this joint venture cannot provide legal services in foreign and international law. A branch is not allowed. There are limits on ownership by foreign nationals and non-locally-licensed professionals, but no specific cap. Registration is required.

Source: World Bank.

**Table 47: Investment restrictiveness in services sectors, Zimbabwe**

Industry	Sector	Subsector	Mode	Score
Financial Services	Banking	Retail Banking Loans	3	50
Financial Services	Banking	Retail Banking Loans	All	53.75
Financial Services	Banking	Retail Banking Deposits	3	50
Financial Services	Banking	Retail Banking Deposits	All	53.75
Financial Services	Insurance	Insurance Automobile	3	50
Financial Services	Insurance	Insurance Automobile	All	52.5
Financial Services	Insurance	Insurance Life	3	50
Financial Services	Insurance	Insurance Life	All	52.5
Financial Services	Insurance	Reinsurance	3	50
Financial Services	Insurance	Reinsurance	All	70
Telecommunications	Telecom Fixed	Telecom Fixed	3	75
Telecommunications	Telecom Mobile	Telecom Mobile	3	50
Retailing	Retailing	Retailing	3	75
Transportation	Air Passenger Domestic	Air Passenger Domestic	3	50
Transportation	Air Passenger International	Air Passenger International	3	50
Transportation	Road Freight Domestic	Road Freight Domestic	3	75
Transportation	Rail Freight Domestic	Rail Freight Domestic	3	75
Professional Services	Accountancy	Accounting	3	50
Professional Services	Accountancy	Accounting	All	55
Professional Services	Accountancy	Auditing	3	50
Professional Services	Accountancy	Auditing	All	55
Professional Services	Legal	Legal Advice Foreign Law	3	50
Professional Services	Legal	Legal Advice Foreign Law	All	65
Professional Services	Legal	Legal Advice Domestic Law	3	50
Professional Services	Legal	Legal Advice Domestic Law	All	62.5
Professional Services	Legal	Legal Representation in Court	3	50
Professional Services	Legal	Legal Representation in Court	All	62.5

Source: World Bank. Note: The STRI ranges from 0 to 100, where 0 indicates that none of the restrictions underlying the index is applied, and 100 means that the sector/mode is completely closed to foreign services and service suppliers.

**Table 48: Investment policy summaries in services sectors, Zimbabwe**

Industry	Sector	Subsector	Mode	Policy Summary
Financial Services	Banking	Retail Banking Loans	3	Entry through a branch is not allowed. Licenses must be renewed annually. All companies in Zimbabwe must be fifty-one percent owned or controlled by indigenous Zimbabweans. Employment of foreign workers is subject to LMT. For repatriation of earnings, approval of the Reserve Bank is required and repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency).
Financial Services	Banking	Retail Banking Deposits	3	Entry through a branch is not allowed. Licenses must be renewed annually. Employment of foreign workers is subject to LMT. All companies in Zimbabwe must be fifty-one percent owned or controlled by indigenous Zimbabweans. For repatriation of earnings, approval of the Reserve Bank is required and repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency).
Financial Services	Insurance	Insurance Automobile	3	Entry through a branch is not allowed. The foreign ownership limit is 49 percent for aggregate foreign investment, 40 percent for a single foreign investor. All companies in Zimbabwe must be fifty-one percent owned or controlled by indigenous Zimbabweans. Employment of foreign workers is subject to LMT. For repatriation of earnings, approval of the Reserve Bank is required and repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency).
Financial Services	Insurance	Insurance Life	3	Entry through a branch is not allowed. The foreign ownership limit is 49 percent for aggregate foreign investment, 40 percent for a single foreign investor. All companies in Zimbabwe must be fifty-one percent owned or controlled by indigenous Zimbabweans. Employment of foreign workers is subject to LMT. For repatriation of earnings, approval of the Reserve Bank is required and

				repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency).
Financial Services	Insurance	Reinsurance	3	Entry through a branch is not allowed. All companies in Zimbabwe must be fifty-one percent owned or controlled by indigenous Zimbabweans. The foreign ownership limit is 49 percent; however, exceptions are made by the authority. Employment of foreign workers is subject to LMT. Local insurers are obliged to cede 100 percent of insurance to a domestic reinsurer. Reinsurance with non-domestic companies may be allowed if the capacity of the domestic reinsurance market is not sufficient to meet the needs of the domestic insurance companies. At least 51 percent of the Board of Directors must be nationals. Repatriation of earnings is subject to approval and availability of foreign currency.
Telecommunications	Telecom Fixed	Telecom Fixed	3	The limit on foreign ownership is 49 percent. The number of fixed-line licenses is limited to two. All companies in Zimbabwe must be fifty-one percent owned or controlled by indigenous Zimbabweans. Restrictions on foreign staff apply. The majority of the Board of Directors must be nationals. There is no sector-specific regulator. For repatriation of earnings, approval of the Reserve Bank is required and repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency).
Telecommunications	Telecom Mobile	Telecom Mobile	3	The limit on foreign ownership is 49 percent. All companies in Zimbabwe must be fifty-one percent owned or controlled by indigenous Zimbabweans. Restrictions on foreign staff apply. The majority of the Board of Directors must be nationals. There is no sector-specific regulator. For repatriation of earnings, approval of the Reserve Bank is required and repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency).

Retailing	Retailing	Retailing	3	Generally, retailing is reserved for nationals. As a matter of policy, the Zimbabwe Investment Authority limits foreign ownership to 35% in reserved sectors. Moreover, investment is possible only through a joint venture with local individuals or firms. However, the Minister of Industry and International Trade may grant exceptions. Licenses must be renewed annually. The hiring of foreign nationals is subject to LMT. For repatriation of earnings, approval of the Reserve Bank is required and repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency).
Transportation	Air Passenger Domestic	Air Passenger Domestic	3	The limit on foreign ownership is 49 percent. The Minister of State for Indigenisation and Empowerment can grant higher foreign equity participation; 51 percent of the Board of Directors must be nationals. For repatriation of earnings, approval of the Reserve Bank is required and repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency).
Transportation	Air Passenger International	Air Passenger International	3	The limit on foreign ownership is 49 percent. The Minister of State for Indigenization and Empowerment can grant higher foreign equity participation. 51 percent of the Board of Directors must be nationals. For repatriation of earnings, approval of the Reserve Bank is required and repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency).
Transportation	Maritime Shipping International	Maritime Shipping International	3	N/A. Landlocked.
Transportation	Maritime Auxiliary Services	Maritime Auxiliary Services	3	N/A. Landlocked.
Transportation	Road Freight Domestic	Road Freight Domestic	3	Road trucking services is one of the sectors expressly reserved for investment by domestic investors, as per Investment Regulations 1993. As a matter of policy, the Zimbabwe

				Investment Authority limits foreign ownership to 35% in reserved sectors. Moreover, investment is possible only through a joint venture with local individuals or firms. However, the Minister of Industry and International Trade may grant exceptions.
Transportation	Rail Freight Domestic	Rail Freight Domestic	3	The national state-owned railway operator is a de facto monopoly. Entry is allowed only through a JV, with a foreign ownership limit of 35 percent. For repatriation of earnings, approval of the Reserve Bank required and repatriation is subject to availability of foreign currency (which may be difficult due to the severe shortage of foreign currency). All companies in Zimbabwe must be fifty-one percent owned or controlled by indigenous Zimbabweans.
Professional Services	Accountancy	Accounting	3	Members, partners or shareholders of a foreign firm that seeks to provide accounting services in Zimbabwe must be registered locally and hold a valid practising certificate. The conditions differ, depending on whether the accountant is a member of an approved professional Board of Directors of accountants or not. There is an education requirement; a foreign degree will be recognized if deemed equivalent to a local degree. Training or work experience is also required; foreign training/experience is recognized. Applicants must also pass examinations. Foreign-licensed professionals are subject to LMT & ENT. There is no automatic recognition for foreign licenses, but a license is not necessary to act purely in an advisory capacity.
Professional Services	Accountancy	Auditing	3	Members, partners or shareholders of a foreign firm that seeks to provide accounting services in Zimbabwe must be registered locally and hold a valid practising certificate. The conditions differ, depending on whether the auditor is a member of an approved professional Board of Directors of accountants or not. There is an education requirement; a foreign degree will be recognized if deemed equivalent to a local degree.

				<p>Training or work experience is also required. Training must be conducted by a person approved by the Council. Applicants must also pass examinations. Foreign-licensed professionals are subject to LMT &amp; ENT. There is a minimum wage requirement, which is applied generally in Zimbabwe regardless of nationality.</p>
Professional Services	Legal	Legal Advice Foreign Law	3	<p>A branch is not allowed. Ownership by foreign nationals is limited to 49 percent, but the Minister of State for Indigenisation and Empowerment may temporarily approve a higher percentage conditional on the sector, size of the firm, transferability of the shareholding, etc. Ownership by non-locally-licensed professionals is not permitted, since sharing of fees of registered professionals with persons not registered to practice in Zimbabwe is prohibited. There are no restrictions on clientele, but the Indigenisation and Economic Empowerment Act requires procuring at least 50 percent of goods and services from businesses with a controlling interest held by indigenous Zimbabweans.</p>
Professional Services	Legal	Legal Advice Domestic Law	3	<p>A branch is not allowed. Ownership by foreign nationals is limited to 49 percent, but exceptions may be granted by the Minister of State for Indigenisation and Empowerment. Ownership by non-locally-licensed professionals is not permitted. At least 50 percent of goods and services are required to be procured from businesses with a controlling interest held by indigenous Zimbabweans.</p>
Professional Services	Legal	Legal Representation in Court	3	<p>A branch is not allowed. Ownership by foreign nationals is limited to 49 percent, but the Minister of State for Indigenisation and Empowerment may temporarily approve a higher percentage conditional on the sector, size of the firm, transferability of the shareholding, etc. Ownership by non-locally-licensed professionals is not permitted, since sharing of fees of registered professionals with persons not registered to practice in Zimbabwe is</p>



				prohibited. There are no restrictions on clientele, but the Indigenisation and Economic Empowerment Act requires procuring at least 50 percent of goods and services from businesses with a controlling interest held by indigenous Zimbabweans.
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Source: World Bank.