

## Contents

India-Mauritius trade pact put on hold .....	2
Mauritius offers zero customs duty regime for Indian companies setting up shop in the island nation .....	4

## India-Mauritius trade pact put on hold

Nayanima Basu, Business Standard

New Delhi, 14 January 2013: India has decided to formally suspend negotiations to finalise a trade liberalisation pact with Mauritius. It has cautioned Mauritius the negotiations will not resume till the island nation expedites revision of its double-taxation avoidance agreement (DTAA) with India.

The two sides have failed to amend DTAA due to differences over capital gains tax, especially the definition of ‘enterprise’ and the treatment of ‘shell companies’.

However, Mauritius has been insisting on separating the two issues — of trade liberalisation through the comprehensive economic cooperation and partnership agreement (CECPA); and revision in DTAA. Mauritius is also keen to act to position itself as a preferred route for channeling outward Indian FDI to Africa.

At a meeting in New Delhi recently, Arvin Boolell, Mauritius’ Minister for foreign affairs, regional integration and international trade, had urged Commerce Minister Anand Sharma to separate the talks on CECPA and DTAA revision.

However, the Department of Revenue (DoR) under the finance ministry, is of the view conclusion of the trade deal would entail monetary concessions to Mauritius, impacting the talks of modifying DTAA. Also, the definition of enterprise and treatment to shell companies cannot be different in DTAA and CECPA.

So it has been decided the trade deal, which Mauritius is extremely eager to sign, will not be concluded till Mauritius speeds up revisiting the India-Mauritius DTAA.

Though it has been decided the joint working group on DTAA between the two sides would hold the much-awaited meeting next month in India, the decision to put off all talks on a trade deal has been taken by DoR. It has asked the external affairs ministry to communicate the decision to Mauritius.

“Till now, ten rounds of negotiations on the India-Mauritius CECPA have been held. On account of divergence in perception between DoR and Mauritius on the definition of ‘enterprise’ and the treatment to ‘shell companies’, it has not been possible to finalise the chapters on trade in services and trade in investment (under CECPA),” a senior official involved in the negotiations told Business Standard.

The revision of India-Mauritius DTAA is a long-pending issue between the two countries. Article 13 on ‘capital gains’ of the India-Mauritius DTAA provides for taxation of capital gains only in the country of residence of the investor. The Indian side proposed to amend the treaty to provide the source-based taxation of such capital gains (in this case India) to plug the misuse of the treaty by shell companies formed by third countries’ corporate entities.

The Mauritius government issues tax residency certificate (TRC) to companies investing from that country into India and those companies could take the benefit of the treaty — by not paying capital gains tax in India. But, India alleges shell companies or post-box companies in Mauritius have mushroomed because of leniency in issuing these TRCs.

Earlier, India’s draft guidelines on the General Anti-Avoidance Rules (GAAR) had said these norms could override even DTAA. Mauritius had strongly objected to this, but had agreed to have a clause of Limitation of Benefit (LoB) under DTAA to allow only genuine companies to take benefit of the agreement.

Later, the Prime Minister's Office appointed the Parthasarathi Shome committee to review GAAR. The committee, in its draft report, recommended the GAAR provisions would not override the treaty if anti-avoidance rules were provided in a tax treaty in the form of LoB.

The committee's final report is with the PMO. According to commerce department officials, the Mauritian government and the offshore financial services industry are awaiting the results of the examination of the Shome panel recommendations.

According external affairs ministry officials, the last two meetings of the joint working group on DTAA had shown "some movement" towards commercial substance. GAAR is applied where there is no commercial substance between an arrangement and it is mainly done to avoid tax.

"Mauritius has, to a certain extent, understood our genuine concerns on the matter and is willing to act to address those," said a ministry official. However, he also added the issues concerning Article 13 remained. Mauritius also indicated in its recent Budget pronouncements that it intended to sign the finalised tax information exchange agreement with India by June 2013.

Foreign direct investment from Mauritius to India from April 2000 to October 2012 stood at \$71 billion, the most from any country. In 2011-12, FDI from Mauritius stood at \$9.942 billion, 27.25 per cent of the total FDI into the country, according to data provided by the Department of Industrial Policy and Promotion.

[\[Back to top\]](#)

## **Mauritius offers zero customs duty regime for Indian companies setting up shop in the island nation**

The Economic Times

New Delhi, 16 February 2013: Mauritius has offered a zero customs duty regime for Indian firms to gain easier access to European Union and Africa. Mauritian minister for trade and industry Sayyad Abd-Al-Cader Sayed Hossen discussed the country's free port policy with commerce and industry minister Anand Sharma on Friday.

The minister's visit comes ahead of the India-Mauritius joint working group meeting later this month to review the bilateral tax treaty. Mauritius has agreed to incorporate a limitation of benefit clause in the tax treaty to assuage India's concerns on the abuse of tax treaty by investors from third countries without making substantial investment in the island nation by operating through post box companies.

Mauritius enjoys duty-free access for its goods in European Union and Africa through its trade agreements. Indian companies setting up shop in the island nation will not only enjoy duty-free regime in Mauritius but also gain preferential access in these markets. The special arrangement of Mauritius with Common market for Eastern and Southern Africa (COMESA) and the Duty Free Quota Free (DFQF) regime with EU will come into effect in this policy.

The Mauritius Freeport is a dutyfree logistics, distribution and marketing hub for the Eastern and Southern African region. Logistics and warehousing facilities are readily available for the transshipment, consolidation, storage and minor processing of goods. Sharma said that both the countries should look at the possibility of establishing Integrated Textile Park in Mauritius and asked the officials to give a concept paper on this within two weeks. Sharma said India and Mauritius have initiated steps towards setting up Mauritius-India Joint Business Council and a Joint Working Group (JWG) on trade and investment.

"The Joint Business Council will be a robust institutional mechanism for giving a boost to trade and investment ties by identifying the priority sectors and sectors of engagement," Sharma said in a statement.

"The JWG would further work out the modalities for broadening and deepening the economic engagement between the two countries," Sharma added. In 2011-12, the bilateral trade between India and Mauritius grew by 68%.

[\[Back to top\]](#)