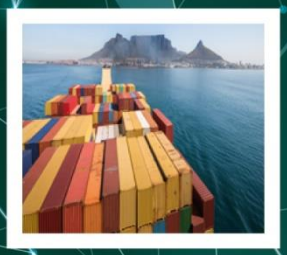
OPPORTUNITIES AND CHALLENGES OF REVISING LEGAL TEXTS OF THE TRADE PREFERENTIAL SYSTEM OF THE ORGANIZATION OF ISLAMIC COOPERATION (TPS-OIC)



Islamic Centre for Development of Trade (ICDT)

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Executive Summary

The OIC Trade Preferential System (TPS-OIC) has been developed since the 1980s to promote the intra-OIC trade, with the goal of establishing an Islamic common market, in accordance with Article 1, Paragraph 9 of the OIC's constitutive charter.

The 1st and 2nd rounds resulted in the establishment of the Agreement framework, the Protocol on the Preferential Tariff Scheme for the TPS-OIC (PRETAS), the Annex on the Rules of Origin, and the internal regulations of the Negotiating Committee (NC). Since July 1, 2022, this system has been operational, with 13 OIC member countries currently applying it. Other countries are in the process of finalizing their internal procedures to join.

However, it has been noted on numerous occasions that the current version of the system no longer meets the ambitions of the Member States. During the 3rd Ministerial Meeting of the TNC, held in June 2024 in Istanbul, Republic of Türkiye, it was recommended to consider revising the legal instruments of this system to broaden its scope to other trade-related areas. A "Negotiation Strategy and Work Program for the Expansion of the TPS-OIC" was proposed by the Republic of Türkiye. This proposal covers the strengthening of tariff preferences, the launch of negotiations on trade facilitation, services, and investment.

This document provides an analysis of the current legal instruments of the TPS-OIC, comparing them with the Agreements of the World Trade Organization (WTO) and the regional arrangements governing trade relations between OIC countries. It also presents avenues for revising the TPS-OIC, highlighting the imperfections of certain legal provisions that have become obsolete in the context of the emergence of numerous new regional integration agreements worldwide.

Based on international good practices, particularly newly negotiated regional integration agreements such as the AfCFTA[1], this document proposes an ambitious approach for the comprehensive revision of the TPS-OIC Framework Agreement. The proposal includes the establishment of a revised TPS-OIC Framework Agreement and the creation of 6 protocols covering Trade in Goods, Trade in Services, Settlement of Trade Disputes, Investment Protection, Intellectual Property, and Competition Policy. In addition to adding 4 annexes to the Trade in Goods Protocol covering: Rules of Origin, Customs Cooperation, Trade Facilitation, Trade Remedies and Sanitary and Phytosanitary Measures.

To facilitate negotiations, it is proposed to adopt a progressive approach structured into 3 phases:

- The 1st phase will focus on negotiating the revision of the TPS-OIC Framework Agreement, establishing a protocol on trade in goods, developing a dispute settlement protocol for trade, and creating a protocol on the promotion and protection of investments;
- The 2nd phase of negotiations will concentrate on establishing a protocol on

[1] The African Continental Free Trade Area "AfCFTA" was used as a reference in the analyzes of this report, given that 27 OIC countries are members.

trade in services;

- The 3rd phase of negotiations will prioritize the protocols on intellectual property and competition policy.

This document proposes an approach to the governance of negotiations, outlining the structures necessary for facilitating smooth negotiations. It also includes ideas for financing the negotiation process, which will involve organizing multiple meetings and providing technical assistance activities.

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Introduction

In the light of difficult international context, the reinforcement of trade among OIC-member states has become one of the alternatives enabling the recovery of the economies of these countries. The implementation of the trade preferential system among OIC countries, designed in the 80s to mark the initiation of an advantageous economic integration for the benefit of the member states, has become a necessity given the importance of trade in economic and social development.

The charter of the OIC mentions, in its first article paragraph 9, that the member states are entitled to work for an economic integration leading to the establishment of an Islamic Common Market. Indeed, the TPS-OIC presents the first step in this process.

The efforts made so far have allowed the implementation of legal tools enabling the effective application of this system, namely: the Framework Agreement, the Protocol on the Preferential Tariff Scheme for TPS-OIC (PRETAS) and the Rules of Origin.

Legally, this should have been entered into force since February 5th, 2010, subsequently after the ratification of PRETAS by ten member states which was designed to complete the framework agreement and specify the practical modalities of implementing tariff preferences.

However, this implementation has been delayed due to the technical inconsistencies noticed in the lists submitted by the 14 countries[2]. As a result, this makes it difficult for customs authorities to apply tariff reductions at imports. The Member States, which have completed the procedures to join the TPS-OIC[3], have been requested to classify their lists of commitments at the 8-digit level of the Harmonized System (HS) and based on the customs tariff applicable in October 2003.

The national processes for finalizing the concession lists were activated following the decision of the 37th COMCEC Ministerial Session (Istanbul, Republic of Türkiye, November 24-25, 2021), which called for the operationalization of the TPS-OIC from July 1, 2022. To this end, all the concerned Member States finalized their concession lists, submitting them to the Secretariat, which then forwarded them to the Trade Negotiations Committee (TNC). Consequently, they have completed all the necessary procedures for the application of this system.

In this context, during the 38th session of the COMCEC and at the 3rd meeting of

[2] The States are: Saudi Arabia, Bahrain, United Arab Emirates, Kuwait, Oman, Qatar, Türkiye, Malaysia, Morocco, Syria, Bangladesh, Iran, Pakistan, and Jordan.

[3] The entry into force of the TPS-OIC requires that 10 Member States must satisfy two conditions simultaneously: ratification of the three Agreements of the TPS-OIC and submission of their concession lists to the Secretariat of the TNC.

the TNC held on June 10-11, 2024, OIC Trade Ministers emphasized the importance of initiating a reflection on a strategy for revising the legal instruments of the TPS-OIC. This revision aims to expand its scope and encourage non-participating countries to join the system.

During this TNC meeting, the Ministers acknowledged a "Negotiation Strategy and Work Program for the possible expansion of the TPS-OIC" proposed by the Republic of Türkiye. This project aims to achieve the following objectives:

- Strengthening tariff preferences offered by PRETAS through a new Protocol on Trade in Goods;
- Launching negotiations on a Protocol on the Facilitation of Services and Investment;
- Launching negotiations on a Trade Facilitation Protocol.

To follow up on this draft strategy, the TNC Secretariat (COMCEC Office and ICDT) has been tasked with conducting a study on the advantages, challenges, and potentials of the TPS-OIC. This study will be carried out in cooperation with interested institutions of the OIC, taking into account international best practices.

This document presents the different provisions of the TPS-OIC and their compatibility with the World Trade Organization (WTO) Agreements as well as the scope of tariff concessions, analyzing their strengths and imperfections and challenges in comparison with other regional arrangements in force in the OIC zone.

Inspired by best international practices in new generation trade agreements, this report proposes avenues for reflecting on the revision or updating of the TPS-OIC system. It also suggests practical steps to facilitate its operationalization, with a focus on implementing new inter-state negotiation mechanisms.

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I. Scope of the legal provisions of the TPS-OIC

The establishment of Trade Preferential System of the OIC (TPS-OIC) was under the General Agreement for Economic, Technical, and Commercial Cooperation among the Member States of the OIC. Particularly, under the Mecca Declaration and the Program of Action for Economic Cooperation among the Member States, which were adopted by the Third OIC Summit Conference in 1981.

The legal texts are regulating the TPS-OIC are: the Framework Agreement on Trade Preferential System among the OIC Member States was submitted in 1990 at the OIC General Secretariat for signature and ratification, the Protocol on the Preferential Tariff Scheme for TPS-OIC "PRETAS" entered into force in February 2010 after the adoption and submission of the lists by the above-mentioned 13 countries, and the Protocol on the Rules of Origin and the Rules of Procedure of the Negotiating Committee.

1.1 Principles and objectives of the TPS-OIC

This system considered as a tool implemented to boost regional integration, is driven by several principles and objectives, including:

- To create a flexible and evolving legal framework for the exchange of trade concessions among the OIC Member States with the aim of developing intra-OIC trade, through the removal, or at least the reduction, of tariff and non-tariff barriers to trade;
- To gradually develop a generalized trade preferential system for all Member States, building on the assets of the regional preferential mechanisms (bilateral and regional trade agreements) applied within the OIC zone. These assets could be harmonized, adapted and, if necessary, merged to form the TPS-OIC;
- To inculcate a trade-based economic dynamic affecting all OIC countries and regions on a balanced and equitable basis, while taking into account the principles of the most favored nation, mutuality of benefits, non-discrimination, and the consideration of the differences in the levels of development among the Members States;
- To ensure the conformity of the system with the current and future commitments of the Member States at the international (particularly the WTO), inter-regional and regional levels.

The texts of the TPS-OIC indicate the periodic evaluation of the TPS/OIC and examination of the possibilities of their revision, in order to widen its scope and improve its functioning.

1.2 Compatibility of the TPS-OIC with the WTO

Since the majority of the OIC countries are members of the World Trade

Organization4(WTO), their commitments under the framework of the TPS-OIC must be consistent with the WTO Agreements.

Even if the legal instruments of this system do not refer to the provisions of the WTO, the TPS-OIC is compatible with the WTO provisions. The latter enable all member countries to conclude regional arrangements, and this, in accordance with the enabling clause resulting from the Tokyo Round Agreements of November 28th, 1979, retaining a "special and differential treatment to developing countries".

Thus, it is stipulated in these agreements that less developed contracting parties may grant each other more favorable and differentiated treatment within the framework of regional or global arrangements, without extending it to other contracting parties and therefore derogating from the general rule of the Most Favored Nation (MFN).

In the same vein, Part IV of the GATT 1947 entitled "Trade and Development" (Articles 36, 37 and 38) stipulates that developed countries members of the WTO may authorize less developed countries to utilize special measures, such as the exchange of preferences, to promote their economic development through trade.

In case OIC Member States decide to deepen the TPS-OIC via the creation of an OIC Free Trade Area or a Customs Union, it is possible to take as a reference Article 24 of the GATT (1994). It authorizes the exchange of tariff concessions within the framework of a free trade area or a customs union, without the obligation to extend them to other WTO contracting parties.

From a procedural standpoint, the amended TPS-OIC Agreement must be submitted to the WTO[5] for notification in order to comply with the principles of transparency and ensure conformity with multilateral trade rules. This notification is required to specify the relevant legal foundation within the framework of WTO agreements. The key provisions are:

- Article XXIV of GATT 1994 (pertaining to agreements on goods)
- Article V of GATS (pertaining to agreements on services)
- The 1979 Enabling Clause (applicable to preferential agreements between developing countries)

1.3 TPS-OIC and Regional Preferential Trade Arrangements

In addition to the TPS-OIC, Member States have signed several bilateral and regional preferential agreements. Other members belong to numerous customs

[4] The countries that are not yet members of the WTO among the 57 OIC countries number 13: Algeria, Azerbaijan, Brunei, Iraq, Kyrgyzstan, Libya, Lebanon, Uzbekistan, Palestine, Somalia, Sudan, Syria, and Turkmenistan.

[5] The WTO Committee on Regional Trade Agreements (CRTA) is tasked with evaluating the compliance of regional trade agreements (RTAs) with WTO regulations and analyzing their potential effects on multilateral trade.

unions and economic and monetary communities.

The TPS/OIC has been designed to preserve the achievements of the arrangements entered into or to be entered into by the Member States at bilateral or regional level or with third parties outside the OIC.

For this purpose, Article 2 (paragraphs 11, 12 and 13) of the TPS-OIC Framework Agreement stipulates that this System does not harm the legal obligations of the participating States towards third parties. It is also clarified that the TPS-OIC is not meant to be a substitute but a complement to the existing and future trade preference arrangements binding on the Member States. The preferences arising from the said bilateral and regional arrangements will not be maintained and cannot, by any means, be extended to other countries concerned by the TPS-OIC (paragraph. 13). Regional Economic Communities which are in the form of customs unions, with a common external tariff (CET), may even participate in the negotiations through a unified representation when the grouping is composed only of OIC Member States (Article 2 paragraph 4), which is the case of the Gulf Cooperation Council (GCC).

1.4 TPS-OIC and the favorable treatment for the benefit of OIC LDCs

Taking into account the vulnerability of the economies of the 22 OIC Least Developed Countries, the TPS-OIC explicitly dedicates the principle of special treatment for these countries. The objective is to fairly distribute the benefits of the system without exposing the LDC economies to the negative impacts of market opening.

Article 1 of PRETAS stipulates that the LDCs are the OIC Member States named as such by the UN unless the COMCEC decides otherwise. The phrase "...unless the COMCEC decides otherwise..." is vague although it suggests that the COMCEC has the right to consider a country as an LDC or not, depending on the evolution of its economic level.

If the Agreement is amended, it is essential to include provisions that commit Member States and the specialized institutions of the OIC (such as ICDT, the COMCEC Office, and IsDB) to provide technical and financial assistance to OIC LDCs. This support aims to enhance the resilience of their national economies within the framework of the Agreement's implementation. The TPS-OIC Secretariat will facilitate the coordination of actions that may be undertaken in this context.

1.5 Tariff Modalities of TPS-OIC

The exchange of trade preferences is applied under the Protocol on the Preferential Tariff Scheme for TPS/OIC (PRETAS), additional to the Framework Agreement of the TPS/OIC. The tariff dismantling scheme is summarized as follows:

- The reduction is to be applied to 7% of all HS lines in the country, the reduction program goes as follows:
  - Tariffs above 25% shall be reduced to 25%;
  - Tariffs above 15% and amounting to 25% shall be reduced to 15%;
  - Tariffs above 10% and amounting to 15% shall be reduced to 10%;
  - Tariffs below 10% are exempt from tariff reduction.
- Countries with more than 90% of their tariff lines at or below 10% must cover only 1% of their total HS tariff lines.

The reduction lasts for 4 years for developing countries (DCs) and 6 years for least developed countries (LDCs), starting from the date of entry into force of PRETAS. The base rate for tariff reductions is the MFN rate in effect in 2003.

The reduction should reach 50% of the applied tariff (in 2003) to be applied over 5 installments (e.g., a 50% tariff must be reduced to 25%, with annual reductions over 5 years for developing countries and 7 years for LDCs).

Under the principle of variable geometry, in accordance with article 4 of PRETAS, countries wishing to offer more concessions can do so among themselves on a voluntary basis (Fast Track).

In order to safeguard certain vulnerable economic sectors, PRETAS offers the possibility for member countries to exclude products from tariff dismantling, within the framework of a negative list that must not exceed:

- 25% of tariff lines, including tariff lines below 10%, for countries with an average tariff rate of 20% or more;
- 20% of tariff lines including the tariff lines below 10%, for countries whose average tariff rate varies between 15 and 20%;
- 15% of tariff lines including tariff lines below 10%, for countries with an average tariff rate below 15%;
- 30% of all tariff lines for LDCs.

The PRETAS provides for the removal of taxes of equivalent effect (called "para-tariffs" in Article 6 of the PRETAS) for products subject to the reduction, upon entry into force.

1.6 Rules of origin

Products eligible for TPS-OIC tariff preferences must meet certain criteria providing them with the origin of the participating countries. The protocol of the rules of origin provides for either the full obtainment or 40% of the local added value for the developing countries and 30% for the LDCs, with the possibility of

cumulation between the participating countries of the system.

Cumulation is valid only if the products used in the manufacture are originated from one of the participating countries (full obtainment or 40% for developing countries and 30% for LDCs of the added value). The protocol provides for the revision of these rates after 5 years of the entry into force of the Agreement.

1.7 Negotiating institutions

In accordance with the rules of procedure of the Negotiating Committee adopted by the 10th Session of the COMCEC held in October 2003, the negotiations are conducted by a committee consisting of the countries that have ratified the agreement and submitted their lists of concessions. Whereas the other OIC countries, regional and sub-regional organizations, and the OIC bodies attend the meetings as observers.

The rules governing the work of the Negotiating Committee provide for the election of a bureau composed of a president and three Vice-presidents for each round of negotiations. The appointment of the members of the bureau shall take into consideration, as far as possible, the representativeness by regions of the OIC.

The Negotiating Committee shall meet every 4 months and whenever necessary. The launching of the proceedings is subject to the quorum to be reached by simple majority among the participating countries. The Secretariat (COMEC/ ICDT) informs the member countries of the holding of the Committee meeting 45 days in advance and submits the agenda and documentation thereto.

Decisions are generally made by consensus. In case of major differences, a vote will be taken.

Decisions on substantive matters, which are submitted for a vote, are taken by a two-thirds vote of the participating countries present at the meeting. For voting on procedural matters, decisions are made by simple majority.

The Committee may decide to create thematic subcommittees and working groups to facilitate negotiations.

The recommendations of the negotiating committee shall be submitted for approval to the COMCEC, the latter oversees the implementation of the PRESTAS, in accordance with Article 13 of the Framework Agreement.

Pursuant to Article 17 of the Framework Agreement and Article 12 of PRETAS, the OIC General Secretariat serves as the depositary of the legal texts governing the TPS-OIC. It is responsible for notifying all participating or contracting Member States that have signed the Protocol regarding the deposit of any instrument of ratification, acceptance, or approval, as well as the entry into force or validity of the system texts.

1.8 Trade Remedies

The PRETAS stipulates (Articles 8 and 9) that contracting parties may apply the

appropriate anti-dumping, subsidy, and countervailing measures consistent with the rules of WTO. The necessary information related to this situation should be submitted to the Trade Negotiating Committee.

1.9 The Standing Committee for Economic and Commercial Cooperation (COMCEC): main decision-making body

Under Article 13 of the TPS Framework Agreement, the COMCEC is the main decision-making body. It is in charge of:

- Deciding on the organization of new rounds of trade negotiations and receiving proposals from countries;
- Approving the results of trade negotiations;
- Recommending the cancellation and/or amendment of the Agreement.
- Taking the necessary arrangements for consultation and cooperation with the OIC and its organs, particularly the ICDT and the relevant OIC institutions as well as with economic cooperation groupings among the Members States;
- Establishing the Trade Negotiating Committee and adopting its rules of procedure.

1.10 The Role of the OIC subsidiary organs in the implementation of the TPS-OIC

In accordance with Article 26 of the Rules of Procedure of the Negotiating Committee, the COMCEC Coordination Bureau and the ICDT shall provide the secretariat for the proceedings of the Negotiating Committee.

The same article stipulates that these two bodies should jointly provide the technical support to the countries and the coordination of the work thereto. The Islamic Development Bank (IDB) and other specialized institutions of the OIC are invited to consider, in accordance with their rules and procedures, the possibility of giving priority to the implementation of the Agreement within the framework of trade financing systems.

II. Status of the implementation of the TPS-OIC

In accordance with its article 12, the Protocol on the TPS-OIC Preferential Tariff Scheme (PRETAS) entered into force on February 5, 2010, after its ratification by 10 member states.

This application was delayed due to technical inconsistencies found in the lists submitted by the 14 countries[6], making it challenging for customs authorities to implement tariff reductions on imports. As a result, Member States that have

[6] The states in question are: Saudi Arabia, Bahrain, United Arab Emirates, Kuwait, Oman, Qatar, Türkiye, Malaysia, Morocco, Syria, Bangladesh, Iran, Pakistan and Jordan.

completed the accession procedures to the TPS-OIC have initiated the classification of their 8-digit lists of concessions under the Harmonized System, based on the customs tariff in effect as of October 2003 (Article 2 of PRETAS).

The process of resolving technical issues related to the tariff offers has been completed. The COMCEC noted the submission of tariff offers from the 13 countries during its 38th Session held in December 2023.

Certainly, this number remains below aspirations, representing only 23% of the many OIC member states, with a total absence of sub-Saharan African countries. However, it can serve as a starting point to encourage other states to join the "group of 13."

This situation raises questions about the reasons for the non-application of the TPS-OIC, more than 10 years after its entry into force.

III. Challenges facing the implementation of the PRETAS: comparison with other preferential Arrangements in the OIC-space

The OIC Charter provides for the achievement of economic integration leading to the creation of an Islamic Common Market (Article 1, paragraph 9). Taking into consideration international experiences and considering the legal provisions described in the preceding paragraphs, the Trade Preferential System represents only a first step towards reaching the stage of the Islamic common market.

The TPS-OIC is currently regarded as an agreement establishing fixed tariff preferences among the 57 OIC states. The objective is to evolve this framework into an Islamic Free Trade Area Agreement, followed by progression to an Islamic Customs Union with a common external tariff applied to third parties outside the OIC. Ultimately, the goal is to achieve a final stage of a common market.

The conceptual framework of these stages of regional integration and existing regional arrangements within the OIC region will be detailed in the following paragraphs.

3.1 Conceptual framework of the stages of regional integration

The commitments of OIC Member States, within the framework of regional arrangements, take several forms of economic and commercial integration, namely:

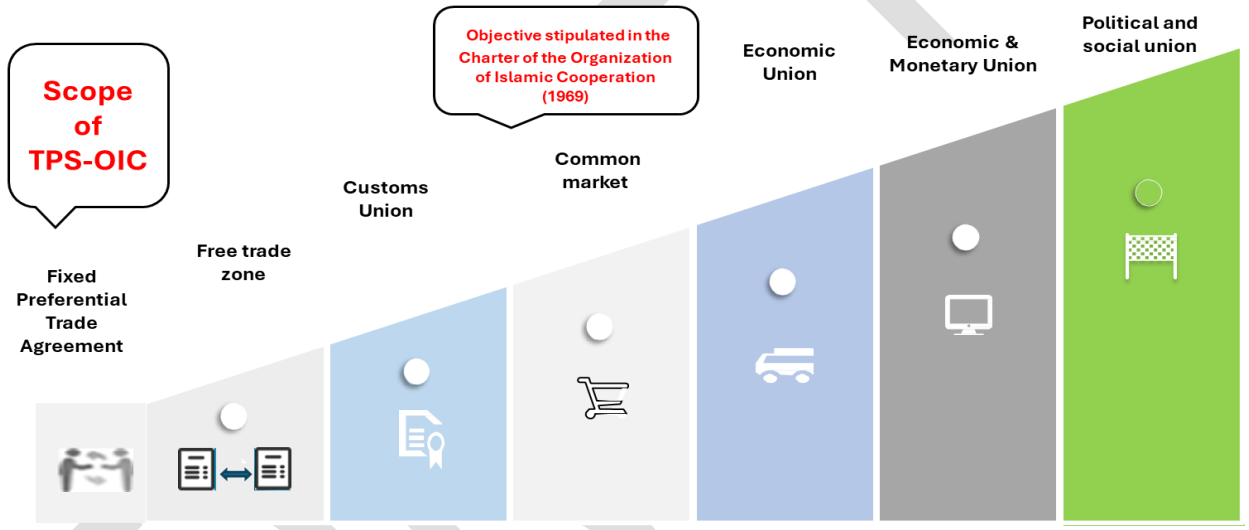
Fixed Preference Trade Agreement (PTA)

The described agreement involves countries granting each other tariff advantages

for negotiated lists of products. If notified under Article 24 of the GATT, signatory countries are expected to progress towards free trade or a Customs Union. Examples of regional agreements within the OIC space include the TPS-OIC, the Global System of Trade Preferences among Developing Countries (GSTP), the Economic Cooperation Organization (ECO) involving Azerbaijan, Georgia, Moldova, Ukraine, and the Asia-Pacific Trade Agreement (APTA) with China.

Free Trade Area (FTA)

The Agreement establishing a free trade zone entails the liberalization of trade in goods and services, leading to the complete elimination of import duties and taxes with equivalent effect on all products. Liberalization typically occurs gradually, with exceptions for sensitive sectors. Within the OIC space, several regional FTAs follow a progression from fixed preference agreements as an initial step towards the ultimate goal of establishing customs unions.



Regional integration stages

Customs Unions (CU)

A customs union is a treaty signed by two or more countries aimed at creating a single customs area where goods and services can circulate without tariff barriers. Customs unions represent an advanced stage of regional integration. Member countries are obligated to replace their national trade policies with a common policy specific to the union. Additionally, country-specific customs tariffs are replaced by a common external tariff (CET), which member countries apply to imports from outside the union.

OIC countries belong to several customs unions, including the Gulf Cooperation Council (GCC), ECOWAS (Economic Community of West African States), CEMAC (Central African Economic and Monetary Community), East African Community (EAC), and the Eurasian Economic Union (EAEU). Other customs unions are under construction, particularly at the Arab and Central Asian levels.

Common market

The Common Market represents a more advanced form of integration compared to the Customs Union. In addition to implementing a Common External Tariff for trade with foreign countries, a common market involves liberalizing trade in services among member countries and typically adopting a unified economic and monetary policy towards the outside world.

Several groups within the OIC have embarked on integration processes aimed at establishing common markets.

3.2 Regional Arrangements Applicable in the OIC Zone

In addition to the Free Trade Agreements contracted by each member country with others and with third parties, the OIC space has several regional arrangements that are more ambitious and deeper than the TPS-OIC. The total number of bilateral or regional preferential trade agreements involving two or more OIC members is 33 agreements including 17 Regional Trade Agreements (RTAs). the OIC zone encompasses:

- 4 operative customs unions and others are under establishment such as the Arab Customs Union.
- 13 regional free trade areas.
- Fixed Preferential Agreements including the Global System of Trade Preferences (GSTP) which concerns the Group of 77 along with China, member of the UNCTAD. This system is similar to the TPS-OIC; it actually presents an exchange system of a total exemption of import duties for a reduced list of products, including 16 member countries of the Organization.

The table below gives an idea on the multi-membership of the Member States in the different regional arrangements either within the OIC space or with partners outside the organization.

Table of Regional Trade Agreements

Name of the grouping	Nature of preferential treatment	Date of entry into force	Member States of the Grouping	Member States of the OIC
Transregional agreements				
Global System of Trade Preferences among Developing Countries (GSTP)	Fixed preferential agreement	April 19th, 1989	Algeria; Argentina; Bangladesh; Benin; Bolivia, Brazil; Cameroon; Chile; Colombia; Cuba; Ecuador; Egypt; Ghana; Guinea;	Algeria; Bangladesh; Benin; Cameroon; Egypt; Guinea; Guyana; Indonesia; Iran; Iraq; Libya; Malaysia;

			Guyana; India; Indonesia; Iran; Iraq; Korea, Democratic People's Republic of; Libya; Malaysia; Mexico; Morocco; Mozambique; Myanmar; Nicaragua; Nigeria; Pakistan; Peru; Philippines; Singapore; South Africa; Sri Lanka; Sudan; Tanzania; Thailand; Trinidad and Tobago; Thailand; Tunisia; Venezuela, Bolivarian Republic, Vietnam, Zimbabwe.	Morocco; Mozambique; Sudan; Tunisia, Nigeria, Pakistan.
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)	Free Trade Agreement And Economic integration	December 30th, 2018,	Australia; Brunei Darussalam; Canada; Chile; Japan; Malaysia; Mexico; New Zealand; Peru; Singapore; Vietnam	Brunei Darussalam; Malaysia
Africa Region				
Central African Economic and Monetary Community (CEMAC)	customs union	June 24th, 1999,	Cameroon, Central African Republic, Republic of Congo, Gabon, Equatorial Guinea, Chad.	Cameroon, Gabon, Chad
Economic Community of West African States (ECOWAS)	customs union	August 23rd 1995	Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone, Senegal, and Togo	Benin, Burkina Faso, Côte d'Ivoire, Gambia, Guinea, Guinea-Bissau, Mali, Niger, Nigeria, Sierra Leone, Senegal, Togo
Community of Eastern Africa (EAC)	customs union	July 7th 2000	Burundi, Kenya, Uganda, Rwanda, South Sudan, and Tanzania	Uganda
Southern African Development Community (SADC)	Free Trade Area	September 1st, 2000,	Angola Botswana Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe	Mozambique
African Continental Free Trade Area (AfCFTA)	Free Trade Area	January 1st, 2021,	53 / African countries	27 countries / Algeria, Benin, Burkina Faso, Cameroon, Comoros, Cote d'Ivoire, Djibouti, Egypt, Gabon, Gambia, Guinea, Guinea-Bissau, Libya, Mali, Morocco, Mauritania, Mozambique, Niger, Nigeria, Uganda, Senegal, Sierra Leone, Somalia, Sudan, Chad, Togo, Tunisia.
Name of the grouping	**Nature of preferential treatment Reference**	**Date of entry into force**	**Member States of the Grouping**	**Member States of the OIC**
Asia and America Region				
Association of South-East Asian Nations (ASEAN)	Free Trade Area	January 1st, 1993,	Brunei Darussalam; Cambodia; Indonesia; Malaysia; Myanmar; Philippines; Lao PDR; Singapore; Thailand; Vietnam	Brunei Darussalam; Indonesia; Malaysia
Caribbean Community and Common Market	Free Trade Area	July 4th, 2002,	Antigua and Barbuda; Bahamas; Barbados; Belize; Dominica; Grenada; Guyana;	Guyana, Suriname

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(CARICOM)			Haiti; Jamaica; Montserrat; Saint Lucia; Saint Kitts and Nevis; Saint Vincent and the Grenadines; Suriname; Trinidad and Tobago.	
Eurasian Economic Union (EAEU)	Free Trade Area	October 27th, 2019,	Armenia; Belarus; Kazakhstan; Kyrgyz Republic; Russian Federation; Iran	Kazakhstan; Kyrgyz Republic; Iran
Organization for Democracy and Development (GUAM)	Free Trade Area	December 10th, 2003,	Azerbaijan; Georgia; Moldova, Ukraine	Azerbaijan
Asia-Pacific Trade Agreement (APTA) plus China	Fixed preferences agreement	September 17th, 2013,	Bangladesh; China; Korea; India; Lao People's Democratic Republic; Sri Lanka	Bangladesh
South-Asian Association for Regional Cooperation (SAARC)	Free Trade Area	December 7th, 1995,	Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka	Bangladesh, Pakistan, Maldives
Economic Cooperation Organization (ECO)	Preferential Tariff Agreement	February 17th, 1992,	Iran, Pakistan, Türkiye	All
The Regional Comprehensive Economic Partnership (RCEP)	Free Trade Area	November 2020	Vietnam, Malaysia, Singapore, Brunei, Indonesia, Philippines, Thailand, Laos, Myanmar, Cambodia, China, Japan, South Korea, Australia, and New Zealand.	Malaysia, Brunei, Indonesia
Arab region				
Trade Facilitation Agreement between Arab Countries (GAFTA)	Free Trade Area	January 1st, 1998	Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, Algeria, Libya, Mauritania Morocco, Tunisia, Iraq, Lebanon, Palestine, Syria (Suspended),	All countries
Arab-Mediterranean Free Trade Agreement (Agadir Agreement)	Free Trade Area	March 27th, 2007,	Morocco, Tunisia, Egypt, Jordan	All countries
Gulf Cooperation Council (GCC)	Customs Union	January 1st, 2003,	Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates	All countries

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3.3 Comparison of preferential treatment between the TPS-OIC and the regional arrangements of the OIC zone

Like the TPS-OIC, the Regional Trade Arrangements mentioned in the previous paragraphs allow the lifting of tariff and non-tariff barriers between the signatory countries and the establishment of several provisions promoting commercial integration covering the areas of trade rules. origins, trade facilitation, customs cooperation, sanitary and phytosanitary measures, trade remedies.

Comparison between the provisions of the OIC Commercial Face-to-face System and those of the Regional Agreements reveal that the preferential treatment between the OIC Member States under the TPS- OIC remains below the preferences provided for by the Regional Arrangements, at several levels. The following should be cited:

Tariff preferences:

Mutually granted tariff preferences among OIC Member States enable exporters to access new markets within the OIC area preferentially, facilitating export diversification and enhancing competitiveness.

However, the attractiveness of the TPS-OIC framework may be limited for operators due to its partial tariff reduction scheme, which applies a gradual reduction grid to only 7% of tariff lines. In contrast, many OIC member countries do not impose customs tariffs on more than 80% of tariff lines under their Free Trade Agreements.

Furthermore, the TPS-OIC tariff reduction system, which is based on bands of import duties, may be regarded as more complex than the systems employed in new-generation agreements. Such agreements commonly utilize a limited negative list approach with a progressive linear reduction that applies uniformly across all products.

Additionally, unlike the TPS-OIC, Fixed Preference Agreements signed by most member states involve predefined lists of products eligible for tariff preferences, which are periodically updated according to specified terms.

The rules of origin:

Rules of origin play a crucial role in economic integration among OIC Member States by defining the criteria used to determine the origin of products. Preferential Trade Agreements provide companies with the opportunity to source inputs from other countries within the region, undergo substantial transformations, and export to external markets while benefiting from tariff reductions. This framework fosters the development of regional value chains, spurring economic activity and integration on a regional scale.

The TPS-OIC provides for the general rule aiming at achieving 40% of the local added value or its entire obtainment, so the product can be eligible for tariff preferences. However, other regional arrangements, including free trade areas and customs unions, provide for specific rules adapted to each product, while taking into account the sector of activity.

Adopting product-specific rules of origin offers a focused and customized approach to promoting trade, safeguarding local industries, facilitating regional economic integration, and streamlining certification and compliance with necessary standards.

To illustrate, through comparative analysis, the main rules stipulated in the protocols of the rules of origin annexed to regional preferential trade arrangements concluded among OIC Member States, several key agreements were analyzed, including those involving OIC countries that are part of recently concluded agreements:

- The Regional Convention on Pan-Euro-Mediterranean Preferential Rules of Origin (PEM Convention);
- The African Continental Free Trade Area (AfCFTA);
- The Economic Cooperation Organization (ECO), which brings together countries from Central Asia, the Middle East, and South Asia;
- The Common Market for Eastern and Southern Africa (COMESA);
- The Economic Community of West African States (ECOWAS).

The texts related to the rules of origin of these arrangements highlight the following rules:

Objectives:

These rules are designed to facilitate trade between countries within the same arrangement and promote regional value chains, while ensuring that products benefiting from tariff preferences truly originate from member countries. The objectives also include protecting local industries from unfair competition and mitigating the negative effects of trade diversion.

Definition of Origin of Products:

- Products are considered originating if they are entirely obtained or sufficiently processed in one of the member countries of the arrangement.
- Fully obtained products include agricultural products harvested, animals born and raised, minerals mined, etc.

Sufficient Transformation:

- Products must undergo sufficient processing to acquire originating status. This typically involves a change in tariff classification, meeting a specified percentage of value-added criteria, or undertaking specific operations defined in the list of operations.
- For example, a product may qualify as originating if the value of non-originating materials used does not exceed a certain percentage of the ex-factory price of the finished product. This percentage can vary from 70% to 30%, depending on the sensitivity of the sector.

Cumulation of Origin:

- The analyzed arrangements allow for accumulation of origin among member countries. This means materials originating in any participating country can be used in another participating country without losing their originating status.

- This provision enables combining the value added from different participating countries to meet sufficient processing criteria.

Proof of Origin:

- To benefit from preferential tariffs, products must be accompanied by proof of origin. This could be in the form of a certificate in an approved format or a declaration of origin on the invoice by an authorized exporter.
- Proof of origin must be presented to the customs authorities of the importing country to avail preferential tariffs.

Insufficient Operations:

- Certain operations such as packaging, labeling, or simple mixing of products are insufficient to confer originating status. These are specifically listed in protocols annexed to the arrangements to avoid ambiguity.

Tolerance (De Minimis):

- A tolerance is provided for non-originating materials that do not fully comply with sufficient processing criteria. This allows for flexibility, typically set at a specific percentage of the ex-factory price of the finished product.
- For instance, within ECOWAS and ECO, this tolerance is generally set at 10% of the FOB value of the finished product, while within COMESA, it is typically set at 15% of the value of the finished product.

Administrative Cooperation:

- Customs authorities of participating countries cooperate to verify origin declarations and ensure compliance within the arrangements. This includes verification procedures and information exchange to prevent fraud and maintain integrity.

Other provisions for greater fluidity of trade, through the legal framework:

The TPS-OIC primarily focuses on promoting trade in goods, yet there are additional areas that could enhance trade development and generate income by creating jobs. These areas include services, investments, trade facilitation, customs cooperation, standards, among others.

In contrast, next-generation regional arrangements encompass detailed annexes covering all these disciplines. The objective is to establish comprehensive legal rules that impact various aspects related to trade, such as trade in services, customs cooperation and mutual administrative assistance, trade facilitation, transit, trade remedies, and sanitary and phytosanitary measures.

For example, the African Continental Free Trade Area (AfCFTA), established in 2018 as a new generation arrangement, includes annexes and protocols addressing these disciplines comprehensively.

Compared to the TPS-OIC, the provisions of PRETAS simply stipulate (Articles 8

and 9) that the contracting parties may apply, where necessary, appropriate anti-dumping, subsidy and compensatory measures in accordance with the rules of the Organization. World Trade. Yet the other issues are not covered by the TPS-OIC.

In the light of the foregoing, it is evident that the contribution of the TPS-OIC, in terms of preferential trade and as a legal instrument of intra-OIC trade integration, is considered largely inferior to the level conferred by the various trade and economic arrangements in force or planned in the OIC area.

The legal provisions of the TPS-OIC are increasingly seen as outdated and inadequate to meet the evolving demands of the international context. There is a growing recognition that new legal instruments are necessary to foster economic competitiveness.

The current legal provisions of the TPS-OIC system do not adequately address the interests of member countries, and there appears to be varying levels of commitment among them towards its application. The fact that only 13 countries have ratified it to date serves as clear evidence of this situation.

This situation requires the creation of an action plan aiming at updating this system. The goal is to comply with the new generation of integration agreements. The latter will be able to satisfy the requirements of the international economic situation along with leveling up to the advantages offered by the trade arrangements in force in the OIC zone. Most importantly, it should be retained that the objective is to reach the share of 25% of intra-OIC trade in the foreign trade of the countries by 2025.

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IV. Opportunities for Reflection to improve the Provisions Governing the TPS-OIC

Considering the issues raised and aiming to address concerns regarding the implementation of the TPS-OIC, as discussed during the 3rd Ministerial Meeting of the Trade Negotiations Committee (TNC) held in June 2024 in Istanbul, Republic of Türkiye, this report proposes avenues for reflecting on the feasibility of revising the legal instruments of this system. The objective is to broaden its scope and encourage non-participating countries to join. The following observations are intended to provide Member States with informed insights into national positions on this matter.

In this regard, it should be noted that the negotiations of the texts governing the TPS-OIC took place before the completion of WTO Agreements (before 1994). Indeed, the PRETAS protocol was established after the creation of the World Trade Organization (1994), with the intention of overcoming the legal imperfections of the TPS-OIC Framework Agreement. Nevertheless, all the texts of the system need to be revised in order to comply with the WTO Agreements and the Regional Trade Agreements (RTA).

The Provisions offering the possibility to amend the texts governing the TPS-OIC are:

- Article 20 of the framework agreement which stipulates that "*this Agreement is concluded for an undermined period and its articles cannot be amended before five years after the date of its entry into force. Amendments to the Agreement shall be made with the acceptance of two thirds of the Participating States. They shall become effective 3 months following the date on which five Participating States have deposited their instruments of ratification*".
- In the same vein, Article10 of the PRETAS stipulates that "*the Protocol shall be reviewed periodically*", without precising the period.

These two articles legally justify the initiatives that could be taken by the Member States to amend the TPS-OIC texts. These initiatives can address the problem of the non-adherence of most Member States to this system, until now; knowing that it has come into force since 2010.

Taking into account the benefits provided by existing Regional Trade Agreements within the OIC region, it is worthwhile to explore the potential for revising and/or updating the texts of the TPS-OIC, particularly focusing on the following aspects:

4.1 Amendment of the TPS-OIC Framework Agreement

To enhance the tariff preferences and expand the scope of the TPS-OIC to include services and investments, aiming to significantly influence trade and investment among OIC member states in a fair and equitable manner, it is proposed to amend the TPS-OIC Framework Agreement, the foundational document of this system.

Specific articles and chapters can be incorporated into the original text already

adopted by most member states. These provisions would focus on the following areas:

- In the preamble, it is essential to include the following considerations:
    - Committed to enhancing economic relations among participating States, based on their rights and obligations under the constitutive charter of the Organization of Islamic Cooperation, particularly Article 1-§9, and where applicable, the 1994 Marrakesh Agreement establishing the World Trade Organization (WTO).
    - Recognizing the imperative to foster trade in goods, trade in services, and investments among participating States.
    - Acknowledging the necessity of establishing clear, transparent, predictable, and mutually beneficial rules governing trade in goods, services, and investment among the Parties.
    - Resolve to amend the Framework Agreement of the OIC Trade Preference System and agree accordingly to the following provisions.
- Include definitions of new terms added to the text of the Agreement at the Article 1 level, to be agreed upon by Member States during negotiations. Noteworthy examples include:
    - "GATT": Refers to the WTO's General Agreement on Tariffs and Trade 1994.
    - "Instrument": Encompasses the Protocol, Annex, and Appendix.
- Include an Article titled "Rendez-vous Clause" that commits Member States to conduct negotiations in the areas of trade in goods, trade in services, investments, intellectual property, and competition policy, organized in successive cycles.
- Also, include more detailed provisions on the settlement of disputes that may arise following the application of the Agreement.
- Introduce an Article specifying the status of protocols, annexes, and appendices, stipulating that these will form an integral part of the revised TPS-OIC Framework Agreement.
- Introduce an Article stating that the revised TPS-OIC Framework Agreement, along with its protocols on trade in goods, trade in services, and investment protection, will enter into force and replace the Framework Agreement that came into effect in 2002, 30 days after the nineteenth (19th) instrument of ratification by OIC Member States has been deposited.

4.2 Revision of tariff preferences

To enhance the effectiveness of the revised TPS-OIC and maximize its impact on

trade and investments, it is imperative to expand the scope of tariff preferences offered by PRETAS. This revision is essential to align with the evolving demands of the international market, characterized by disruptions in supply and demand, especially for critical products.

The current plan for tariff dismantling is outdated, as it relies on the "MFN" import duty rates from 2003. Tariff reforms implemented over the past 10 years by most of the participating countries have resulted in a considerable reduction in the tariffs of the MFN, that is to say, they resulted in rates lower than those applied in 2003. Hence, there is a need to review the base year for tariff reductions as well as the composition of lists and the scope of tariff preferences.

Similarly, the tariff reduction which reaches only 7% of the total tariff lines of the Harmonized System, according to a reduction program over 4 years for developing countries and 6 years for LDCs, remain below ambitions in comparison with the preferential arrangements in the OIC zone. It is worth mentioning that free trade is mutually applied by the vast majority of the Member States on at least 90% of tariff lines.

The tariff dismantling scheme is built on tariff installments. On this basis, it is appropriate to note that most of the member countries have opted for the unification of the applied rates and the reduction of the number of tariff quotas, a fact that makes the application of reductions via installment complicated. Thus, this requires the simplification of the dismantling scheme to cover a wide range of products and consequently have a positive effect on intra-OIC trade.

The "fast-track" tariff dismantling mechanism, as outlined in Article 4 of PRETAS, which allows countries to offer more concessions on all products with the establishment of a negative list, could serve as a foundation for negotiations to simplify this system.

Drawing on international good practices, particularly those observed in recently negotiated preferential agreements, various options could be explored in this regard :

- Establishing a unified positive list of products subject to tariff dismantling, aiming for a 0% tariff rate over a negotiated period. Products not included in this list will not benefit from tariff preferences. The exact percentage of tariff lines to be included in the positive list will be determined through negotiations between participating countries;
- Implementing complete exemption from customs duties and taxes with equivalent effect for all products, except those specified in a negative list that excludes sensitive sectors such as agriculture, agri-food products, and emerging industries.
- Conducting studies that simulate the impact of tariff reductions on intra-

OIC trade development. These studies will inform the setting of tariff rates for products eligible for tariff preferences.

Moreover, it is essential to seek appropriate solutions for integrating OIC countries into diverse Regional Economic Groupings (REGs) that include non-OIC member countries.

4.3 Treatment of membership of OIC Member States to Regional Economic Communities

Certain OIC Member States, belonging to specific Regional Economic Groupings (REGs) and/or Customs Unions, adopt a unified commercial policy and common customs regulations, enforcing a Common External Tariff (CET) within these REGs.

The regional commitments of these countries, particularly in Africa, may prompt considerations regarding their membership in the TPS-OIC. It is understood that they will need to consult with other countries in the REGs, which are not members of the OIC, and obtain their approval in accordance with the Community Treaties. Where applicable, they must also seek waivers for provisions in these Treaties that restrict countries from entering into bilateral Preferential Trade Agreements on an individual basis.

Regarding the participation of GCC member countries in the TPS-OIC, this is unproblematic since all GCC countries are OIC members. However, the membership of OIC countries in existing customs unions within the African OIC space raises significant concerns due to the inclusion of non-OIC member states.

In addressing this situation, OIC states and members of these two groupings must adhere to the provisions of their respective Community Treaties. Specific instances requiring consideration include:

- Revised ECOWAS Treaty (ECOWAS)7: Article 85 of the Revised ECOWAS Treaty states: "*With a view to promoting and safeguarding the interests of the Region, Member States undertake to formulate and adopt common positions within the Community on questions relating to international negotiations with third parties.*";
- Similarly, this applies to CEMAC[8], whose treaty specifies in Article 13 that member states of this grouping must establish a common commercial policy towards third States;
- Regarding the Common Market for Eastern and Southern Africa

[7] Among the 15 ECOWAS member countries, 12 countries are members of the OIC. These countries include Benin, Burkina Faso, Cote d'Ivoire, the Gambia, Guinea, Guinea-Bissau, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo. It's noteworthy that as of January 2024, Niger, Mali, and Burkina Faso have announced their withdrawal from ECOWAS.

8 .Among the 6 member states of CEMAC, three countries are members of the OIC: Cameroon, Chad, and Gabon.

(COMESA)[9], which forms a free trade zone with plans to establish a customs union, the regional commitments of OIC Member States within these communities are not overly restrictive. Article 17 of the COMESA Treaty encourages the adoption of unified positions;

- Regarding the East African Economic Community (EAC)[10], Article 37 of its Treaty mandates Member States to adopt a unified commercial policy towards third countries. This requires EAC member states to negotiate and finalize trade agreements with third countries collectively as a regional bloc, rather than individually. This approach is designed to enhance regional economic integration and bolster a unified stance in international trade negotiations.

Based on the examples of membership in existing customs unions within the OIC area, which pose legal challenges regarding individual participation of OIC States in the TPS-OIC, political consultations among member states are necessary to explore potential solutions within their respective communities. Three viable options could be considered:

- Admitting communities, some of whose members are OIC States, as participating parties to the TPS/OIC implies opening this system to non-OIC member countries. This would necessitate adopting a political decision at the relevant OIC institutions[11] to exempt non-OIC member countries from contributing to the Organization's integration projects.
- Encouraging OIC States to negotiate within their respective groupings for individual adherence to the TPS-OIC would necessitate establishing appropriate national procedures for applying tariff reductions based on the CET, while respecting Community commercial policies. The national approach should prioritize the enhancement of customs controls concerning the origin of products eligible for TPS-OIC tariff preferences, as well as the inputs employed in their manufacture. The aim is to mitigate the challenges associated with trade diversion that may result in unfair competition.

Any decision should carefully consider the foundational commitment of OIC membership. Article 1, paragraph 9 of the OIC's charter mandates Member States to work towards economic integration leading to the establishment of an Islamic Common Market. The TPS-OIC represents an initial step in this broader integration process.

4.4 Updating the Protocol on Rules of Origins

With reference to the annex on rules of origin, which provides for general rules

9 Among the 21 member countries of COMESA, 9 countries are members of the OIC. These countries are Comoros, Djibouti, Egypt, Libya, Somalia, Sudan, Eswatini, Tunisia, and Uganda.

10. The member countries of the East African Economic Community (EAC) include five countries: Kenya, Uganda, Tanzania, Rwanda, and Burundi. Among these, Uganda is the only member of the OIC.

11 COMCEC and the OIC Council of Foreign Ministers

(40% for developing countries and 30% for LDCs as local value added and its entire obtainment), the protocol permits the possibility to revise these rates after 5 years of the entry into force of the Agreement. To this end, it is recommended to launch the negotiations for the establishment of specific rules compatible with the new economic realities of the OIC countries.

The said rules will be different from one product to another to fulfil the ambitions of ensuring complementarity and development in the regional value chains.

The other provisions of the Rules of Origin Protocol, such as administrative cooperation, should be updated according to the new rules imposed by the new international context.

Article 32 of the rules of origin protocol permits the revision of the provisions of the rules of origin upon request of 1/3 of the participating countries. In lack of consensus, 2/3 of the participating countries can decide to amend the protocol.

4.5 Establishment of protocols, annexes and thematic appendices

The system, which currently includes only 3 texts annexed to the Framework Agreement (the Protocol on the Preferential Tariff Scheme (PRETAS), the Annex on Rules of Origin, and the Status of the Internal Regulations of the Negotiations Committee), warrants enrichment in accordance with the provisions of the revised Framework Agreement.

In this regard, it is proposed to establish 3 Protocols concerning trade in goods, trade in services, and protection of investments. The objective is to formalize, through legally binding texts, the various decisions made by relevant OIC institutions in trade and investment-related areas.

Additional annexes are also planned as follows:

- Annexes to the Trade in Goods Protocol, encompassing: Lists detailing products eligible for tariff preferences, Revised rules of origin (an updated version of the current annex), Customs cooperation and mutual administrative assistance, Trade facilitation measures, Transit arrangements, Trade remedies, Sanitary and phytosanitary measures.
- Annexes to the Trade in Services Protocol, covering: Lists specifying particular commitments, Exemptions from Most-Favored-Nation (MFN) treatment, Framework document addressing regulatory cooperation.
- Annexes to the Investment Protocols, which will address: Establishment of the Dispute Settlement Center, other procedural texts for implementing the Protocol.

Similarly, the annexes may include Appendices detailing procedures for implementing specific annexes across various domains. These Appendices could encompass formats such as certificates, declaration models, and other necessary

documents.

The protocols including their annexes and appendix will include detailed provisions allowing the strengthening of the regulation of trade flows and investments, by simplifying and harmonizing the procedures in force in the OIC Member States. They will take the relevant WTO Agreements as a reference.

In this vein, the annex on customs cooperation and mutual administrative assistance will urge Member States to harmonize their customs procedures, by adopting international standards, within the framework of in-depth cooperation between customs authorities. The provisions in question will lead to a simplification of procedures in the international logistics chain to accelerate the process of import, export and transit.

Regarding trade facilitation, the annexes will focus on establishing a mechanism for identifying, categorizing, and gradually eliminating non-tariff barriers, in accordance with the provisions of the WTO Trade Facilitation Agreement.

As far as trade remedies is concerned, the annex in question will deal with anti-dumping, countervailing and safeguard measures in accordance with the obligations of the Member States under Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

The annex on sanitary and phytosanitary measures aims at facilitating trade while protecting human, animal and plant life and health on the territory of the States Parties. Additionally, these measures attempt to strengthen cooperation and transparency in the development and implementation of SPS measures, so they do not convert to unjustifiable barriers to trade. Besides, this Annex aims at improving the technical capacities of States Parties to implement SPS measures along with encouraging the adoption of international standards for the removal of barriers to trade.

These annexes will ensure the comprehensive coverage of the TPSOIC, thereby preventing potential legal gaps. They also include provisions for empowering sectoral administrations of Member States in managing system implementation through specialized technical subcommittees.

V. Negotiation Strategy for the revision of the TPS-OIC

To ensure the revision of TPS-OIC texts and make the system appealing to

economic operators of OIC Member States, it is crucial to build upon the successes of the 1st and 2nd negotiation rounds. This requires adopting a new approach to negotiations that adheres to the following principles:

- Inclusivity: Ensuring the participation of all OIC Member States and the secretariats of existing Regional Economic Communities (RECs) within the organization's framework;
- Progressiveness: Developing a roadmap that delineates the stages of negotiating legal instruments to guide the negotiation process effectively;
- Alignment with International Best Practices: Ensuring adherence to international best practices, drawing from recent trade agreements like the AfCFTA;
- Stakeholder Representation: Establishing specialized working groups to ensure comprehensive representation of all stakeholders at the Member State level.

To achieve this goal, the new internal regulations of the Negotiations Committee must incorporate the following elements described in the paragraphs below.

5.1 Improving the Governance of the Negotiation Committee

Concerning the institutions of negotiations, the rules of procedure of the Committee of negotiations stipulate that chairing of the work should be administrated by a Bureau composed of a President and 3 Vice-Presidents. It would be interesting to amend these rules by changing the composition of the Bureau by adding the position of a rapporteur.

The election of the Bureau should be representative as much as possible among all the member countries. The selection of the Bureau members should be based on representatives of each OIC region (African, Arab and Asia-America) respectively, in the light of the principle of rotation by region and by members within the region. Consultations within each group will determine the candidate country.

This new mode of governance will allow for the involvement of all countries in the conduct of the discussion process by sharing responsibilities to break the deadlock. The renewal of the Bureau will occur during sessions aimed at ensuring representation from all OIC member countries.

Similarly, it is recommended to revise the internal regulations of the Negotiating Committee to establish thematic Technical Working Groups (GTT). These groups will act as forums for reflection and discussion among specialist experts from each member country, focusing on improving the texts of the TPSOIC. This will make the texts more practical and add value to intra-OIC trade.

The terms of reference for these Technical Working Groups (TWGs) will outline their specific tasks, open to participation by technicians from all 57 OIC countries within their respective fields. These groups will focus on enhancing and

introducing necessary provisions to improve the texts of the TPSOIC. Their work will be documented in minutes submitted to the Negotiations Committee (NC) for approval, and subsequently forwarded to COMCEC to issue relevant resolutions.

In terms of representation, all OIC member countries will have the opportunity to participate in the negotiation process. The secretariats of RECs, of which OIC states are members, may attend as observers and negotiate on behalf of member countries in cases where the grouping exclusively comprises OIC member states (Article 2, Paragraph 4), as seen in the Gulf Cooperation Council (GCC).

5.2 Progress of the negotiation process

The African Continental Free Trade Area (AfCFTA) represents a model of new-generation economic integration agreements, where successful negotiations have been achieved[12]. The principle of progressiveness played a crucial role in enabling African states to manage the challenging task of negotiating agreements with significant impacts on local economies. Negotiations for the AfCFTA commenced in 2015, and the first phase concluded in March 2018 with the signing of the Framework Agreement and its protocols. The second phase of negotiations is ongoing.

Taking inspiration from this model agreement and to facilitate OIC Member States in preparing for a complex negotiation process, it is proposed to proceed in phases as follows:

- 1st phase of negotiation will focus on:
    - Revision of the TPS-OIC Framework Agreement;
    - Establishment of a protocol on trade in goods and its annexes and appendices;
    - Establishment of a trade dispute settlement protocol;
    - Establishment of a protocol on the promotion and protection of investments and its annexes.
- 2nd phase of negotiation will concentrate on:
    - Establishment of a protocol on trade in services and its annexes;
- 3rd phase of negotiation will center on:
    - Intellectual Property Protocol;
    - Protocol on competition policy.

The commencement dates of negotiations and the deadlines for concluding the work of the institutional structures established for this purpose will be topics for discussion within COMCEC. These discussions will be based on proposals put

[12] The AfCFTA can serve as a reference in the negotiation process for the revision of the TPS-OIC, considering that 27 OIC countries are members of this zone.

forth by the negotiating committee.

5.3 Institutional structure of negotiations

Discussions will involve specialists in each subject area of the legal instruments to be revised or re-established. To this end, it is proposed to set up 11 technical working groups (TWGs) as follows:

Technical Working Group (TWG)	Discussion area	Representativeness according to Ministerial Departments by OIC Member States
Legal issues	Revision of the TPS-OIC Framework Agreement and harmonization of the legal provisions of the protocols, annexes and appendices	Responsible for legal matters at the Ministries of Commerce, Foreign Affairs and Ministries of Justice
Trade in goods	Revision of the PRETAS text and its transformation into a protocol on trade in goods	Ministries of Commerce,
Trade in services	Provisions of the draft protocol on trade in services	Ministries responsible for trade and other specialized institutions
Dispute settlement	Provisions of the draft dispute resolution protocol	Responsible for legal matters at the Ministries of Commerce, Foreign Affairs and Ministries of Justice
Intellectual properties	Provisions of the draft protocol on intellectual property	Ministries of commerce and other specialized institutions
Competition policy	Provisions of the draft protocol on competition standards	Ministries of commerce and other specialized institutions
Investment Protection	Provisions of the draft protocol on the promotion and protection of investments	Ministries responsible for investment and trade
Trade facilitation	Provisions of the draft annex relating to trade facilitation and the removal of tariff and non-tariff barriers	Trade ministries and customs authorities
Rules of origin and customs cooperation	Revision of the annex on rules of origin and customs cooperation	Trade ministries and customs authorities
Trade remedies	Provisions of the draft annex on anti-dumping measures, subsidies and other unfair practices	Department of Commerce
Sanitary and phytosanitary measures	Provisions of the draft annex on sanitary and phytosanitary measures	Ministries responsible for Agriculture and other specialized institutions

The Technical Working Groups (TWGs) will discuss the protocols, annexes, and appendices, and will present their minutes to the Negotiations Committee (NC), which will decide on the results of the TWGs' work. The texts validated by the NC will be presented to COMCEC for examination and adoption. The Council of Foreign Ministers and the OIC Summit will issue appropriate decisions on this matter.

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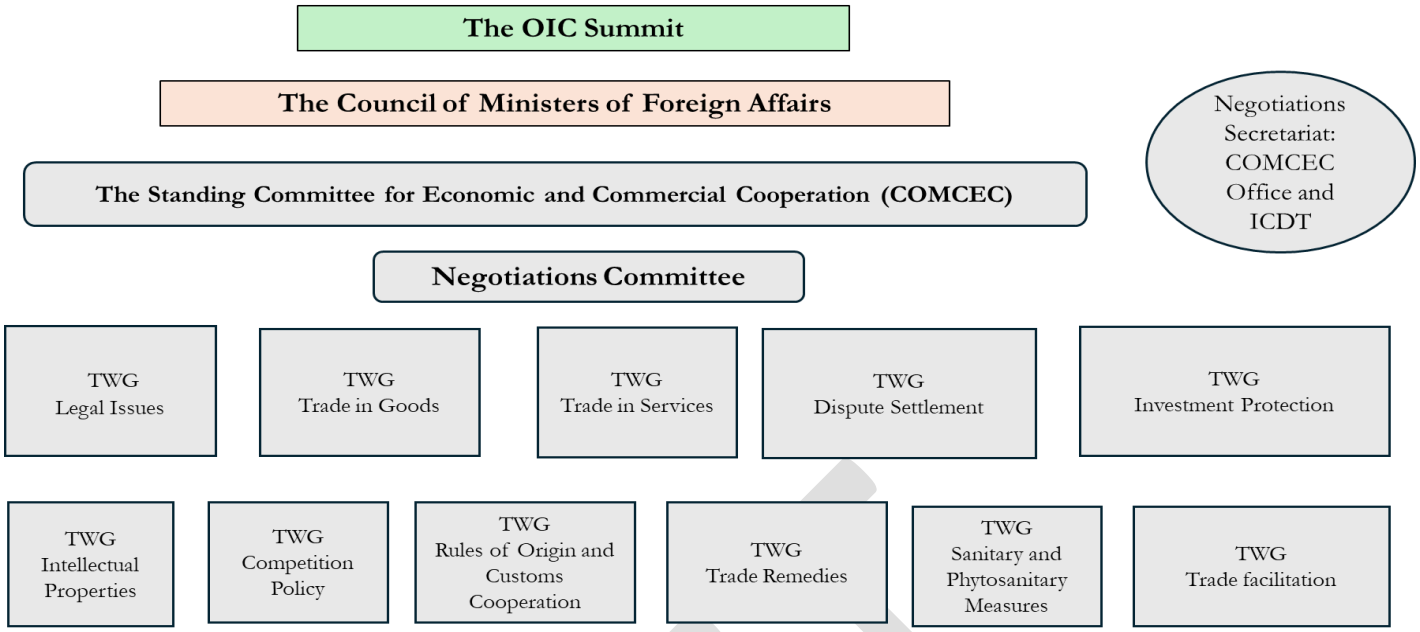

Negotiation and decision structures of the TPS-OIC

5.4 Governance of the negotiation process:

Concerning the management of the negotiation process, it is suggested to encourage member states to actively participate in the various meetings while adhering to the principles of good governance of financial and human resources. The following guidelines can contribute to the successful conduct of negotiations:

- COMCEC and ICDT will serve as the secretariat for this process, responsible for preparing working documents for the Negotiating Committee and TWG meetings, including the agenda and explanatory notes on the topics to be examined;
- The schedule of meetings will be determined by the Negotiating Committee and adopted by COMCEC;
- Member States will take turns hosting the scheduled meetings. If this is not possible, the meetings will be held alternately in Casablanca and/or Istanbul or Ankara, with these countries covering part of the organizational costs;
- In addition to face-to-face meetings, online meetings and webinars can be held on technical issues that do not require direct bilateral consultations between participating delegations;
- Establish a portal providing access to commercial information, trade statistics, and respective country tariffs.

5.5 Reframing the technical support and awareness-raising approach

The seminars organized so far, for the benefit of all the countries and regions of the OIC zone, focus on the following aspects:

- The presentation of the results of the 1st and 2nd round of trade negotiations along with a demonstration of the expected positive impact of this system on

the economies of the participating countries.

- The explication of the fundamental provisions of the TPS-OIC, with regard to the international obligations of the Member States.

The awareness raising of the OIC Member States on the importance of the TPS/OIC Agreement as a legal tool for regional integration.

Despite of the importance of the topics discussed in these seminars, it should be admitted that their impact is not tangible, since the number of countries having entered the TPS-OIC is still limited. For this reason, it is suggested to pursue the awareness campaign, while focusing more on:

- The compatibility of TPS-OIC with the commitments of the OIC Member States at the regional level, especially for those who are members of Customs Unions.
- The points of view of the member countries on the ways and means to advance the operationalization of the TPS-OIC.

It is also important to hold workshops on international best practices in negotiating Regional Integration Agreements. Additionally, it is suggested to invite experts from the WTO, UNCTAD, ITC, WCO and ICC, as well as other regional institutions, to participate in the TWGs. Their involvement will help frame the discussions and provide support to member countries on specialized technical subjects, such as rules of origin, trade barriers, and TPS measures, and reverse linkage programs among others.

5.6 Financing the negotiation process and technical support

The implementation of the negotiation process requires regular, extended meetings (3 to 10 days). To ensure the participation of all 57 member countries and cover the costs of technical consultations, it is recommended to:

- Establish a fund or cooperation framework to finance this process, with contributors designated by the OIC decision-making institutions.
- Define the terms for cost share the financing the logistical and technical aspects of holding meetings, workshops, and the participation of delegations in the work of the various negotiation structures.

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