

Status report on Trade Negotiations

**Presentation to NEDLAC
by
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Approach to trade negotiations

- Informed by and support to national development objectives set out in NDP, NGP and IPAP.
- Provide opportunities to increase exports of value added products.
- Should not unduly limit development policy space.
- National consultation at intra-governmental level (DAFF, SARS, ITAC), and with business and labour in NEDLAC.
- SACU consultations to protect common external tariff.
- Focus areas: exchange of tariff concessions and related rules of origin; related legal provisions.
- Should support regional integration:
 - SA advocates a developmental integration approach in all African regional economic integration initiative informed by the realization that trade integration alone does not bring sufficient economic benefit, and addresses industrial capacity and infrastructure development.
 - This approach is now adopted on all levels of current regional integration efforts.



SADC Trade Protocol

- 13 SADC MS have established a FTA – priority is the consolidation of the FTA rather than establishment of CU.
- Seychelles is the last member to accede and submitted its Instrument of Ratification in July 2015, with effect from 1 April 2015:
 - 91.2% of tariff lines were fully liberalised upon entry in force
 - Tariffs on a further 6.3% of tariff lines will be phased down over a period of not more than 12 years
 - The remaining 2.5% of tariff lines are excluded from tariff liberalisation
- South Africa published a Government Gazette notice on 18 September 2015, which added Seychelles as a SADC country for the purposes of participating in the Trade Protocol. This took effect retrospectively on 1 April 2015.
- South Africa will extend its current tariff offer to the rest of SADC to the Seychelles with the exception of 32 tariff lines (sugar, used clothing, and certain automotive components if supported by a SADC Certificate of Origin.

SADC Services Negotiations

- The first round of negotiations covers six priority sectors: communication, construction, energy-related, financial, transport and tourism services
- Only 11 Member States submitted their initial offers in four priority sectors (communications, financial, tourism and transport services): Botswana, DRC, Lesotho, Malawi, Mauritius, Mozambique, Seychelles, South Africa, Swaziland, Tanzania and Zambia.
- Negotiations in these four priority sectors have been concluded.
- For the remaining two sectors (Construction and Energy) negotiations are on-going.
- To date only Malawi, Seychelles and Zambia have made offers in construction services.
- South Africa through **the dti** is still consulting with relevant stakeholders in the remaining two sectors.



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TFTA

- TFTA and Phase II negotiations launched in June 2015.
- South Africa, as part of SACU, has exchanged a tariff offer with the EAC and negotiations are underway.
- The SACU tariff offers to Egypt, Ethiopia and other non-SADC TFTA Member States have been finalized.
- The three outstanding annexes to the agreement constitute a built-in agenda:
 - Annex 1 on tariff commitment schedules
 - Annex 2 on Trade Remedies
 - Annex 4 on Rules of Origin
- There is an indicative time frame of 12 months to finalise the outstanding work on the above three annexes.
- Work continuing on cooperation on infrastructure and industrial development.
- Negotiations to facilitate movement of business persons advanced.



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CFTA Negotiations

- The AU Assembly launched the Continental Free Trade Area (CFTA) negotiations during the 25th Ordinary Summit of Head of States and Governments on the 15th of June in Johannesburg, South Africa.
- The Summit also adopted the Objectives and Guiding Principles for the CFTA negotiations, the Terms of Reference for the CFTA Negotiating Forum (CFTA-NF); and Indicative Roadmap/ Provisional Schedule for the Establishment of the CFTA.
- The next milestone in the Indicative Roadmap, entails preparations for the CFTA negotiations (6-12 months period) through exchange of trade information. This milestone is led by the African Union Commission.
- To date, however, the only activity undertaken in this milestone is the Training Workshop on Trade in Services Negotiations for the CFTA (Kenya, Aug 2015).
- The remaining activities planned in the preparatory phase remain to be undertaken and concluded to facilitate effective negotiations.



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SACU-India PTA Negotiations

- PTA can boost South-South trade in a targeted manner.
- More focused approach to tariff preferences compared to FTA.
- Also provides legal-institutional framework to manage trade.
- India is now SA 6th largest trade partner.
- Trade in 2014 was almost R50 billion.
- Difficulty in finalising SA/SACU offer - Concerns raised with negotiations include NTBs in the Indian market, and that India's requests are in sensitive sectors.
- Agreement to conclude the PTA on the basis of a reduced level of tariff exchange.
- PTA to be an incremental building block to enhanced trade in future.



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EPA

- EU remains SA's largest trading partner although trade declined in recent years.
- TDCA in place between SA and EU and fully implemented since 2012.
- Total trade between SA and EU increased from R 137 billion in 2000 to R 497 billion in 2014. SA exports to the EU increased from R 64 billion to R 197 billion, while imports from the EU increased from R 72 billion to R300 billion in 2014.
- SA decided to join EPA process to establish a regional agreement with the EU and to secure further market access especially in agriculture.
- The negotiations were concluded and the Agreement was initialled by the Chief Negotiators on 15 July 2014.
- A joint legal scrubbing process started in August 2014 and five legal scrubbing rounds were convened. The last scrubbing meeting took place on 22-23 October 2015 during which the last outstanding issues were finalised.

EPA cont.

- South Africa has achieved improved market access for 32 agricultural products, with a significant improvement in our access to the EU market for wine (110 million litres duty free), sugar (150,000 tons duty free) and ethanol (80,000 tons duty free).
- There is also improved access for our exports of flowers, some dairy, fruit and fruit products.
- EPA rules of origin an improvement on the TDCA as they allow for extended cumulation that can facilitate intra-regional trade and industrialisation across the Southern and Eastern Africa in particular.
- Several other restrictive trade rules under the TDCA, like on export taxes, have been eased under the EPA.
- Agreement was also reached on a Protocol on Geographical Indications (GIs) that will protect the names of many South African wines exported to the EU as well as certain other agriculture products like rooibos and honey bush.

EPA cont.

- EU can provisionally apply the agreement while it is being ratified by all the EU countries but the SACU countries would have to ratify the agreement before it can enter into force.
- The legal scrubbed agreement will now go through the internal processes in the respective SADC EPA Member states and the EU to get authority to sign the agreement.
- The parties agreed to intensify efforts to have the Agreement signed by no later than June 2016. Once the agreement is signed the EU can provisionally apply the agreement but the SADC EPA countries would have to go through ratification processes before the agreement can enter into force.
- The aim is for the agreement to enter into force before the expiry of the EC Duty free Quota Free Market Access regulation on 01 October 2016 to ensure that the BNS states do not lose preferential market access into the EU.



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European Free Trade Association (EFTA)

- EFTA comprises of Iceland, Liechtenstein, Norway and Switzerland.
- The agreement was signed in 2006 and entered into force on the 1st May 2008.
- The SACU - EFTA Free Trade Agreement(FTA) entered into force on 01 May 2008.
- The Agreement comprises of trade in goods including industrial products, processed agricultural products; fish and other marine products; rules of origin and customs duties on imports into SACU
- The main Agreement covers all products falling within HS Chapters 25 to 97.
- Bilateral Agreements on basic agricultural products (within chapters 1 to 24, excluding processed agricultural products) are entered into with individual EFTA States.
- The Agreement is scheduled to be liberalized over a period of ten years (i.e. 2018)
- SACU states received duty free quota free access (DFQF) for all industrial products at entry into force of the agreement

European Free Trade Association (EFTA) cont.

- The Agreement has been due for review since 2013, however, it has been postponed pending the conclusion of the EU-SADC EPA negotiations.
- Now that the EPA negotiations are concluded, the SACU EFTA FTA review will resume and preparation are underway.
- Improvement of SACU's access to EFTA will only be on agricultural products as DFQF treatment is already in place on all NAMA products.
- The first review meeting between EFTA and SACU is anticipated to take place in first semester of 2016.
- Stakeholders are urged to support the review process.

Africa Growth and Opportunities Act (AGOA)

- AGOA is a unilateral US trade preference program towards Sub-Saharan Africa (SSA), including South Africa.
- The Trade Preferences Extension Act of 2015 (TPEA) extending AGOA, with South Africa included, was signed into law by the US President on 29 June 2015 and extends AGOA for a period of 10 years until 2025.
- Further, the Act extended the Generalised System of Preferences (GSP) to 31 December 2017.
- In addition to the annual eligibility review, the Act provides for out-of-cycle reviews:
 - The President may, at any time, initiate an out-of-cycle review whether a SSA country is making continual progress in meeting eligibility requirements;
 - The President is also required to establish a process to allow any interested person, at any time, to file a petition to review eligibility of any SSA beneficiary country.
 - In the case of South Africa, the Act specified that the eligibility review must take place 30 days after the enactment of this Act.



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Conditions under the new AGOA

- If the President determines that a country does not meet the eligibility requirements, the President shall... “terminate the designation of the country as a beneficiary or withdraw, suspend, or limit the application of duty-free treatment ...”. In the previous AGOA legislation, the only option for the President was to terminate the designation for a country as a beneficiary of AGOA.
- The President is required to notify US Congress and the country affected of such a decision 60 days prior to its implementation.
- The US published a Federal Notice informing that it had initiated an out-of-cycle review of the eligibility of South Africa for AGOA benefits on 21 July 2015.
- South Africa provided pre-hearing statements, participated in the public hearing on 07 August 2015 and also provided post-hearing statements responding to the issues of concern raised by other parties during the public hearing.



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30 day Out-of cycle review for RSA

- South Africa has made tremendous progress in addressing issues of concern to the US relating to the three meats, namely, on poultry, pork and beef.
- Given the numerous review processes and the ability of interest groups to challenge at any time the eligibility of Sub-Saharan countries for AGOA preferences, AGOA is no longer certain and predictable for SSA countries.
- In terms of the Act, President Obama is expected to make a decision by 2 November 2015.
- Progress on the three meats:
 - **Beef**
 - On 24 June 2015, Cabinet took a decision to lift a trade restriction on cattle and products of bovine origin from countries that previously report Bovine Spongiform Encephalopathy (BSE) thus facilitating exports of bone-in beef from US to resume. Meanwhile, the South African market remains open to de-boned beef from the US.



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Progress on market access issues linked to AGOA

- **Pork**

- South Africa agreed that a significant number of recognizable pork cuts were categorized as low risk and were now accepted for unrestricted sale conditions.
- Other cuts considered to be high risk cuts, such as shoulder cuts, can be imported for further processing.



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Progress on market access issues linked to AGOA

- **Poultry**

- Agreement reached between US and SA industry (SAPA as original applicant to ADD) to allow 65 000 MT of US bone-in chicken into the SA market on an annual basis, with a growth factor comprising a combination in growth of production and consumption, for which the anti-dumping duty will be waived.
- ITAC directed to investigate and evaluate the creation of a rebate provision to implement the agreement.
- On 30 October 2015, a notice published in the Government Gazette in which ITAC invited interested parties to comment on the creation of a rebate provision and the draft guidelines for the allocation of quota.
- It is envisaged that the quota agreement will be implemented by the end of 2015.
- The two countries have concluded negotiations on a Protocol that will outline how the two countries would trade in poultry should the US experience an outbreak of Avian Influenza in future.
- DAFF and USDA are close to finalising the VHCs for cases when there's an Avian Flue outbreak and for normal trade when there's no outbreak.



SACU – MERCOSUR PTA

- Mercosur comprised of Argentina, Brazil, Paraguay, Uruguay.
- The PTA is aimed at promoting trade between the two sides on a selected number of products;
- Applies to over 1000 tariff lines in the MERCOSUR and SACU tariff book.
- PTA creates a legal basis for further integration and cooperation including through possible further exchanges of tariff preferences, as well as cooperation in a range of other areas.
- Offers preferential margins of between 10% and a 100%.
- It will enter into force once the Parliaments of each country that are Party to the Agreement ratify the agreement.
- All the SACU member states have ratified.
- Ratification of the agreement by Brazil is still awaited.



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