

TRADE NEGOTIATIONS, IMPLEMENTATION AND RELATIONS

PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY

**Ambassador X Carim, DDG
Trade Policy, Negotiations and Cooperation
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Department
Trade, Industry and Competition
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Delegation

Ambassador Xavier Carim

Deputy Director General

Trade Policy, Negotiations and Cooperation Branch

DTIC

Tel: 012.394.3064

Email: Xcarim@thedtic.gov.za

Acronyms

AfCFTA	Africa Continental Free Trade Agreement
AGOA	Africa Growth and Opportunity Act
AU	African Union
BELN	Botswana, Eswatini, Lesotho, Namibia
BRICS	Brazil, Russia, India, China, South Africa
CET	Common External Tariff
COMESA	Common Market of Eastern and Southern Africa
DFQF	Duty Free Quota Free
EAC	East African Community
EFTA	European Free Trade Association
EU	European Union
FTA	Free trade agreement / area
GSP	Generalised System of Preferences
MFN	Most Favoured Nation
NEDLAC	National Economic Development and Labour Council
PTA	Preferential Trade Agreement
REC	Regional Economic Community
SACU	Southern African Customs Union
SADC	Southern African Development Community
SDT	Special and Differential Treatment
TFTA	Tripartite Free Trade Agreement
WTO	World Trade Organization

Outline of the Presentation

- Guiding Principles
- African Economic Integration
- SACU, SADC, TFTA, AfCFTA
- Trade Relations with the EU: SADC-EU EPA
- Trade Relations with the UK: SACUM-UK EPA
- SACU-EFTA FTA
- SA-US Trade Relations
- BRICS
- SA Approach to MTS/WTO

Scope and Guiding Principles

- Trade policy must support industrial development
- Negotiations to enhance market access for SA exports without undermining domestic industry and employment, while preserving development policy options
- Our work is primarily about negotiating and implementing rules for trade at bilateral, regional and multilateral levels
- Rule-making traditionally covered trade in agricultural and industrial goods but increasingly expanding to measures that affect services, investment, intellectual property rights, amongst others
- African integration is a major priority and we advance a “development integration” approach that combines opening markets with industrial and infrastructure development initiatives

African Economic Integration

- African integration is a longstanding continental objective – beginning in the immediate post-colonial era
- Seen as essential to overcome the limitations of small fragmented economies established under colonialism
- Most progress (while uneven) is registered at sub-continental levels: Arab Maghreb Union, ECOWAS, COMESA, EAC, SADC, SACU etc.
- Major shift is recent effort to continental integration under the AfCFTA

African Economic Integration

- Africa's share of world trade is small - estimated at 2.6% in 2018
- Intra-Africa trade grew to 16.1% of Africa's total trade in 2018; but low compared to intra-Asian trade (59%), intra-North American trade (48%), and intra-EU trade (67%)
- Although intra-Africa trade low:
 - Africa is by far the second most important export market for most African countries, behind EU
 - 7 African countries count Africa as their main export market
 - 25 count it as their second most important market
 - Over three quarters of intra-African trade takes place within regional trading blocs
 - Intra-Africa trade largely in value-added manufactured products

African Economic Integration

- SA accounts for 23% of total intra-African trade (imports and exports)
- African countries were the destination of 26.5% of all SA's exports in 2019
- SADC is important to SA, accounting for more than 87% of all SA's exports to Africa
- Key SADC markets are Botswana, Namibia, Mozambique, Zambia, Zimbabwe
- In 2019, 83.5% of SA exports to Africa were manufactured products (compared to 55.3% in its global export basket)

Southern African Customs Union (SACU)

- SA's negotiation and implementation on trade in goods is framed in 2002 SACU Agreement
- The essential features of the Agreement is the common external tariff for all Members, alongside a revenue sharing formula that divides a common revenue pool amongst the Members
- Agreement foresees the development of common policies and institutions to advance integration
- For negotiations with third parties on trade in goods, it requires that SACU adopt common positions to preserve the common external tariff
- This in turn requires common approaches to related rules: standards, rules of origin and trade remedies

Southern African Customs Union (SACU)

- For SA, NT addresses all revenue and finance related work in SACU
 - SARS participates in work to improve intra-SACU border efficiencies
 - DTIC addresses matters related to tariffs, rebates and trade remedies
 - DTIC participates in processes to develop common SACU positions for negotiations (e.g. AfCFTA) and implementation (e.g. EPA and EFTA reviews)
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- SA took over Chair of SACU on 15 July 2020 - for one year
 - Recent Ministerial meetings have agreed to a new work program prioritising regional industrial cooperation, and investment and export promotion in the context of the wider African integration agenda

Southern African Development Community (SADC)

- Intra-SADC trade accounts for 24% of SADC's total trade, the highest amongst African regional economic communities (RECs)
- More than 40% of intra-SADC trade is accounted for by SA
- Implementation of the FTA (SADC Protocol on Trade) started in 2000, and 98% of tariff lines were fully liberalized by 2012
- 13 of 16 SADC Members are party to the Trade Protocol (except Angola, DRC, Comoros)
- Protocol on Trade in Services sets common framework and rules for services trade in 6 sectors: Communication, Construction, Energy, Financial services, Tourism, Transport;
- Services negotiations concluded in four sectors and 7 countries have ratified, with 10 required for entry into force

Southern African Development Community (SADC)

- Angola seeks accession, proposing a tariff phase down on 90% of its tariff lines over 10 years
- National and SACU consultations underway to assess Angola's offer
- SA continues to monitor non-compliant restrictions imposed on exports under the Trade Protocol
- Hampered by absence of an effective dispute settlement mechanism:
 - Suspension of the SADC Tribunal impacts on enforcement of trade rules
 - A new Protocol on the Tribunal was negotiated and signed, but not in force – still to be ratified by Members

COMESA-EAC-SADC Tripartite FTA (TFTA)

- Framework agreement linking SADC, COMESA and EAC agreed in June 2015
- 22 out of 29 Members have signed the TFTA (except Mozambique, Eritrea, Ethiopia, Lesotho, South Sudan, Somalia and Tunisia)
- 8 Members have ratified (Egypt, Kenya, Uganda, South Africa, Rwanda, Burundi, Botswana and Namibia)
- 14 ratifications are required for entry into force

COMESA-EAC-SADC Tripartite FTA (TFTA)

- Liberalizing trade requires negotiations between Members without existing preferential trade relations – building on what is in place
- For SA/SACU, as we are part of SADC, this means negotiations and agreement are required with East African Community (EAC) and Egypt
- SACU and EAC concluded tariff negotiations in 2019
- SACU negotiations with Egypt may be subsumed under the AfCFTA
- Outstanding issues include rules of origin for textiles and clothing, and autos

- Phase II: negotiations on Trade in Services and a framework for cooperation on Competition Policy are underway

African Continental Free Trade Area

- AfCFTA negotiations launched at AU Summit on 15 June 2015 in Johannesburg
- AU Summit adopted the legal instruments establishing the AfCFTA on 21 March 2018 in Kigali
- 54 out of the 55 AU members have signed (not Eritrea)
- 28 AU Members have ratified the AfCFTA - the Agreement is in force
- AU Summit in Niger launched the operational phase in July 2019

African Continental Free Trade Area

The overall legal framework is agreed:

- Agreement establishing the AfCFTA
- Protocol on Trade in Goods and its Annexes
- Protocol on Trade in Services
- Protocol on the Rules and Procedures for the Settlement of Disputes

African Continental Free Trade Area

Modalities for Tariff Liberalization adopted

- 90% of the tariffs liberalised over 5 years (LDCs - 10 years)
- 7% additional tariff lines liberalised over 10 years (LDCs - 13 years)
- 3% of tariff lines may be excluded
- Tariff phase down in equal installments (20% cut per annum on 90% of lines, over 5 years)

Modalities for Trade in Services adopted

- 5 services sectors agreed for negotiation: Financial, Tourism, Transport, Communication, Professional services

African Continental Free Trade Area

Unfinished Business to operationalize the AfCFTA:

- Tariff Negotiations: 12 Members have submitted tariff offers
- Rules of Origin are integral to tariff offers: they define the required level of African content for traded products to benefit from tariff preferences
- Currently agreed RoO cover around 73.1% of tariff lines
- Negotiations still required for other RoO (sugar, autos, clothing and textiles)
- 6 members, including SA, have submitted offers for trade in services
- The 1 July 2020 deadline for operationalizing the AfCFTA was delayed due to suspension of meetings following the Covid-19 pandemic.
- In May 2020, Heads of State agreed that a Summit be held in December 2020 to finalise outstanding issues and that AfCFTA be operationalised by 1 January 2021 - contingent on the evolution of the pandemic

African Continental Free Trade Area

- National consultations set mandate for SA's tariff offer and RoO positions – at NEDLAC and the Agricultural Trade Forum
- NEDLAC agreed to an offer covering 90% of tariff lines contingent on rules of origin for autos, textiles and clothing that do not undermine existing industrial capacity in SA
- Ongoing consultation in SACU for a common SACU tariff offer to the AU
- SA assumed Chair of AU Ministers of Trade meetings (AMOT) on 30 September, for one year, that oversees the negotiations.
- A work program was agreed to focus on submission of tariff offers with agreed rules of origin in time for AU Summit scheduled for 5 December 2020

African Continental Free Trade Area

Challenges

- Ensure effective RoO and customs controls to avoid transshipment and to maximize benefits of preferences accrue to African producers
- Ensure AfCFTA build on existing sub-regional arrangements
- Ensure benefits of more open markets shared across participating members – for legitimacy and sustainability
- Vulnerabilities of external dependence on health products and basic food exposed by the C-19 pandemic
- Heightened importance of African cooperation and particularly for industrialization

Trade Relations with the EU: SADC-EU EPA

- The EU is SA's largest trading partner: 24.5% of SA total exports, 29.7% of SA's total imports in 2019
- Between 2013 and 2019 total trade between SA and EU grew from R449bn to R697bn
- SA exports to EU increased from R161bn to R319bn
- SA imports from EU increased from R282bn to R378bn
- Overall trade balance favours the EU, though it declined from R121bn in 2013 to R59bn in 2019
- The EU runs a large trade surplus in manufactured goods (R140bn)
- SA has a surplus in agriculture and agro-processed goods (R4bn) and commodities (R76bn)



Trade Relations with the EU: SADC-EU EPA

- SADC-EU EPA in force since Oct 2016 between EU, Botswana, Lesotho, Namibia, Mozambique, SA and Eswatini
- For SA, the EPA replaced the trade chapter of 1999 Trade, Development and Cooperation Agreement (TDCA) with the EU
- SA achieved its objectives under the EPA: preserve the SACU CET; improve access to EU market (in fish exports, 32 agricultural products; and improved rules of origin); and some additional policy space (allowances for export taxes, special agricultural safeguard)
- Protocol on Geographical Indications protects 102 SA wine names and 3 agricultural product names (rooibos, honey bush and Karoo lamb)

Trade Relations with the EU: SADC-EU EPA

- In Sept 2018, following due legal processes, SACU introduced a bilateral safeguard duty of 35.5% on bone-in EU chicken imports to be phased down over 4 years
- EU has lodged a dispute against the measure but in March 2020 delayed establishing an arbitration panel until the C-19 pandemic passes
- SA/SACU believes the measure is legally sound, and is prepared to defend the case should it proceed
- Ongoing engagement on other issues of SA interest: exports of cooked poultry, horses, wine certification
- Formal review of EPA implementation due to start in 2021

Trade Relations with the UK: SACUM-UK EPA

- UK is SA's 6th largest trade partner with trade conducted under the SADC-EU EPA
- In June 2016 the UK voted to leave the EU
- SACU+Mozambique concluded agreement with the UK in Oct 2019 to avoid trade disruption when the UK leaves the EU customs union
- The terms of the SADC-EU EPA are rolled-over into new SACU+M-UK EPA
- SA Parliament ratified the agreement in December 2019
- Botswana and the UK have also ratified the SACUM-UK EPA
- Others are in the process of ratification
- Expect to complete all processes, and deposit Instruments of Ratification before end of Nov 2020 for implementation on 1 January 2021 when the UK is expected to leave the EU

SACU-EFTA FTA

- SACU FTA with the European Free Trade Area (EFTA) (Iceland, Liechtenstein, Norway and Switzerland) in force since 1 May 2008
- Provides SACU with duty, quota free access for industrial products to EFTA but more limited access in agricultural goods

EFTA Review underway:

- SACU priorities include meat, vegetables, nuts, sugar, fruits, fruit juices, honey, chocolates and pasta products
- EFTA seeking access in chocolates, cheese, sheep and goat meat, and industrial products such as plastics, textiles and clothing and autos
- Engagement continues

SA-US Trade Relations

- The US is SA's 3rd largest trading partner
- SA benefits from 2 non-reciprocal US preferential schemes: AGOA, GSP
- Total SA-US trade peaked at \$16.3bn in 2011; declining to \$12.3bn in 2019
- SA exports peaked at \$10bn in 2008; declining to \$7.6bn in 2019
- Share of SA exports under AGOA peaked at 31% in 2013; declining to 16% in 2019
- Declines due to poor trade conditions over last 10 years and new measures restricting SA exports
- In 2018, the US imposed high tariffs on imports of steel (25%) and aluminum (10%) that negatively impacted SA exports
- Threat of a similar action on autos prompted firm-level sourcing decisions that saw SA auto exports to the US decline by over 50% in 2019

SA-US Trade Relations

- Regular reviews of SA's eligibility for AGOA and GSP has created degrees of uncertainty for SA exporters
- AGOA will expire in 2025
- US proposes that, post-AGO, it will seek FTAs with individual countries, using recent US-Mexico-Canada Agreement as the model
- US FTAs are extensive and demanding, and scope for flexibility is narrow:
 - Close to full tariff liberalisation in industrial and agricultural goods
 - Extensive commitments and market opening demanded in services, investment, government procurement, finance, intellectual property and digital trade
- SA will need to carefully consider its post-AGO trade relations with US

BRICS

- BRIC was formed in 2008, as a grouping of leading emerging economies: Brazil, Russia, India and China – SA joined in 2010
- BRICS is a forum for dialogue and cooperation on matters of common interest - including economy, trade, finance, business, agriculture, education, health, science and technology
- On trade, engagement is on practical cooperation, rather than rule-making for market access
- SA has sought to encourage inward investment in productive sectors and exports of higher value added products
- SA has proposed cooperation to address under-invoicing
- BRICS also provides opportunities to coordinate approaches to the WTO

BRICS

- Total intra-BRICS trade (2019): \$354.5 bn
- SA exports (X) to and imports (M) from BRIC – Trade Balance

Brazil:	X \$425.6 mn;	M \$1.1 bn;	(-) \$697.4mn
Russia:	X \$380.2 mn;	M \$280.7mn	(+) \$99.5mn
India:	X \$4.1 bn;	M \$4.0 bn;	(+) \$143.7mn
China:	X \$9.7 bn;	M \$16.6 bn;	(-) \$6.9 bn
Total BRICs:			X \$14.6 bn; M \$21.9 bn; (-) \$7.4 bn
- China and India account for 94% of SA trade with BRICs
- Major concern is the content of SA trade with BRICs
- SA manufactured goods account for 24% of our exports while 94% of our imports are manufactured products

Trade Agreements: Other Developing Countries

SACU-MERCOSUR Preferential Trade Agreement (PTA)

- Entered into force on 1 April 2016
- The PTA is limited - provides preferential tariff access on around 1000 tariff lines

SACU-India PTA

- Difficulty in finalising negotiations - concerns about extensive non-tariff barriers in India and demands for access to our sensitive sectors like textiles and clothing.
- Some attempts to relook at the negotiations
- Exchange of updated trade data at this stage

SA Approach to MTS/WTO

- SA supports multilateral cooperation to manage interdependence amongst economies and, in principle, supports the rules-based trading system as embodied in the WTO
- However, WTO rules exhibit a range of imbalances and inequities that prejudice the trade and development interests of developing countries
- Imbalances in agriculture: developed countries continue to provide massive distorting support to their farmers, with constraints on developing countries for food security
- Rules on industrial subsidies constrain policy space to support industries in sectors of interest to developing countries but allow advanced economies to provide substantial support in high-tech, knowledge-intensive industries

SA Approach to MTS/WTO

- IPRs that provide incentives for innovation also facilitate monopoly rents and diminish possibilities for technology transfer that spread growth and development more widely
- The promise of the Doha Round to correct the imbalances has been frustrated but the agenda remains relevant and legitimate

New challenges:

- Disabled dispute settlement mechanism – enforcement by bilateralism
- Risk to principles (MFN, special and differential treatment for developing countries and existing rules (tariff bindings)
- Risk that plurilateral negotiations will undermine multilateralism and consensus decision making
- Proposed new rules may further constrain industrial policy and technology transfer

SA Approach to MTS/WTO

SA approach to WTO Reform:

- Defend rules based system but address existing imbalances
- No new rules that worsen imbalances
- Ensure better balance between global rules and policy space for development, industrialisation and technology transfer
- Advocate an inclusive and development centred multilateralism to promote sustainable integration of developing countries in global trade
- Preserve SDT and the right to regulate in the public interest
- Many ideas embedded in the developmental agenda of the Doha mandate remain relevant
- In e-commerce, focus on cooperation, overcoming the digital divide, options for digital industrial policy, not rules that would 'lock in' current situation

Thank you

