

Annex on the Institutionalisation of the Southern African Customs Union Summit

Presentation to the Portfolio Committee

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REPUBLIC OF SOUTH AFRICA

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Background

- South Africa is a signatory Member of the Southern African Customs Union (SACU).
- SACU is the world's oldest customs union – since 1910.
- Reviewed and gave rise to the 1969 Agreement.
- SACU Agreement re-negotiated, signed in 2002 and entered into force on 15 July 2004.
- Highest decision making institution in the 2002 Agreement is the Council of Ministers.
- Established a Secretariat in 2004 - hosted by Namibia.
- SACU is in the process of institutionalising Summit.



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2002 SACU Agreement

- Aims to:
 - facilitate the cross-border movement of goods between the territories of the Member States;
 - create effective, transparent and democratic institutions which will ensure equitable trade benefits to Member States;
 - promote conditions of fair competition in the Common Customs Area;
 - substantially increase investment opportunities in the Common Customs Area;
 - enhance the economic development, diversification, industrialization and competitiveness of Member States;
 - promote the integration of Member States into the global economy through enhanced trade and investment;
 - facilitate the equitable sharing of revenue arising from customs, excise and additional duties levied by Member States;
 - facilitate the development of common policies and strategies.



Heads of State and Government decisions

- The first meeting of SACU Heads of State and government took place on 22 April 2010.
- It was at this meeting that Heads of State and Government decided that SACU should have a Summit that will be the Highest decision making body that will provide political and strategic guidance
- The Annex to institutionalise Summit was developed and adopted by Council in 2012.
- Heads of State and Government signed the Annex at a meeting held in Botswana in 2013



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Objectives of the Annex

- The main objective of the annex is to make provision for the establishment of Summit as an additional institution of SACU in terms of Article 8(8) of the 2002 SACU Agreement.
- The Annex aims to provide an opportunity for Heads of State provide strategic and political guidance to the Council of Ministers.
- The institution of Heads of State and Government is also provided for in almost all of the regional integration arrangements on the continent.



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Annex on the Institutionalisation of Summit

- Article 1 – amends Article 1 (Definitions) of the 2002 Agreement by providing for the definition of Summit.
- Article 2- amends Article 6 (Admission of new members) of the 2002 Agreement by :
 - making a provision for the admission of any State as a member of SACU upon approval by a unanimous decision of the Summit.
 - Deleting 6(3) and making a provision for it to be included in the functions of Council as provided for in Article 8 - The Council shall determine the procedures and criteria for the admission of new members.
- Article 3 amends Art 7 (SACU Institutions) by inserting Heads of State and Government as one of the institutions of SACU under (a) and addressing the numbering.



Annex on the Institutionalisation of Summit

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- Article 4 – amends Article 7 (Summit) by inserting a new 7A which entails the roles and responsibilities of Summit.
 - States that Summit consists of Heads of State and Government;
 - Provides strategic and political direction to SACU;
 - Receives reports on the work of Council;
 - Provides for Council to refer legal instruments for adoption by Summit;
 - Meets once a year but may hold extra-ordinary meetings;
 - The chairmanship of Summit shall be held in turn by each Member State for a period of twelve months in the same order as Council;
 - Summit will determine its rules and procedures



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- Article 5- amend Article 8 (Council of Ministers) by:
 - Deleting “and shall be the supreme decision making authority of SACU matters.” in 8(1).
 - Inserting decision making in 8(2) and will now read - The Council shall be responsible for decision making on the overall policy direction and functioning of SACU institutions, including the formulation of policy mandates, procedures and guidelines for the SACU institutions.
 - Adding 6(3) as 8(9) - The Council shall determine the procedures and criteria for the admission of new members.

Annex on the Institutionalisation of Summit

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- Article 6 – amends Article 10 (Secretariat) by inserting in 10(2) and 10(9) the word “Summit” before Council and the new articles will read as follows:
 - The Secretariat shall coordinate and monitor the implementation of all decisions of the Summit, Council and the Commission.
 - The Secretariat shall perform such other duties as may be assigned to it from time to time by the Summit, Council and the Commission.
- Article 7- amends Article 13 (Tribunal) by:
 - Inserting the word Summit in 13(4)- The Tribunal shall, at the request of the Summit or the Council, consider any issue and furnish the Council with its recommendations.
 - Inserting through the Council in 13(6) - Member States party to any dispute or difference shall attempt to settle such dispute or difference amicably before referring the matter to the Tribunal through the Council.



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- Article 8 – amends Article 43 (Amendments) by:
 - Deleting “and decision” and substitute “Council” with “Summit” - Any Member State desirous of amending this Agreement shall put forward its proposal for such amendment, together with its submissions in motivation of the proposed amendment, to the Council for consideration. An amendment of this Agreement shall be adopted by a decision of the Summit.
- Article 9 (Entry into force) – provides that the amendments shall enter into force thirty (30) days after the deposit of the instruments of ratification by all the Member States.

The role of the Summit

- To provide political and strategic direction to SACU.
- To deliberate on some of the reports of the Council of Ministers that require strategic direction
- To meet from time to time to assess the status of implementation of SACU Agreement, policies, strategies and work programmes.



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The role of the Summit cont....

- Provide strategic oversight in the implementation of the five-point plan:
 - Review the RSA;
 - Prioritise work on regional cross-border industrial development;
 - Work to promote trade facilitation border measures;
 - Develop SACU institutions; and
 - Strengthen unified engagement in trade negotiations.



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Procedural and legal implications

- The Annex was referred to Departments of Justice and Constitutional Development and International Relations and Cooperation for opinion and advice.
- The Department of Justice and International cooperation advised that the Annex be ratified by Parliament in line with Section 231(2) of the Constitution.
- Cabinet has approved that the Annex be tabled before Parliament.
- **the dti** will act as the Competent Authority to oversee the implementation of the Annex on behalf of Government.



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