

South Africa and the Southern African Customs Union

**Presented by
Ms Xolelwa Mlumbi-Peter
Acting Deputy Director General: ITED**

**Parliamentary Portfolio Committee on
Trade and Industry
29 July 2015**



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

2002 SACUA



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

CONTENTS

1. 2002 SACUA
2. Summit Decision
3. 5-Point Plan
4. Progress in the 5-Point Plan
5. Role of SACU Institutions
6. Issues elevated to HoSG
7. SA's approach to SACU
8. **Next Steps**



The New SACU Agreement

- SACU is the world's oldest customs union.
- Established in 1910 to serve British colonial interests and, after 1948, the interests of the apartheid regime.
- In 1994, SA initiated re-negotiation; negotiations concluded in 2002 and new SACU Agreement entered into force in 2004.
- The new Agreement democratizes relations between SA and Botswana, Lesotho, Namibia and Swaziland (BLNS).
- It establishes a Council of Ministers as highest decision-making body where decisions taken by consensus.
- It retains the common external tariff (CET) for goods imported into the common SACU market.



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

The New SACU Agreement

- It retains a revenue sharing formula (RSA) that allocates revenue in favour of BLNS from a common pool made up of customs and excise duties.
- While SA contributes around 98% to the pool, BLNS receive around 55% of the proceeds.
- For 2015-16, for example, total disbursement will be approx R84bn, of which BLNS will receive R46bn.
- This is seen as 'compensation' for BLNS lack of policy discretion to determine tariffs and for the price raising effects of being subjected to tariffs that primarily protect SA industry.
- SA remains by far the most industrialised economy in SACU.



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

The New SACU Agreement

- Agreement also has enabling provisions for development of common policies and institutions.
- Key areas for common policies include industrial and competition policy, along with cooperation in agriculture.
- Enabling provisions provide for the establishment of National Bodies and a SACU Tariff Board.
- The SACU Tariff Board to make recommendations to Council on tariffs, trade remedies (anti-dumping, countervailing and safeguard duties) and rebates.
- Until these institutions are established, functions are delegated to the International Trade Administration Commission (ITAC) in SA.
- Also provides for an ad-hoc Tribunal.

The 2011 SACU Summit

- Despite good intentions embedded in the Agreement, several challenges have emerged.
- In 2011, President Zuma convened a Summit to address two challenges that threatened the Union:
 - Serious divergences among Members during the Economic Partnership Agreement (EPA) negotiations with the EU; and
 - Volatility in customs revenue, on which BLNS are highly dependent – fluctuations in revenue shares with serious implications during the global economic downturn.
- The Summit laid a basis for a process to move SACU beyond an arrangement held together only by the CET and RSA, and more firmly towards a deeper development and integration project.



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Principles to inform the work programme

- A development agenda premised on complementarities rather than competition.
- Need for the development of regional value-chains based on identification of clear areas of economic cooperation which will inform and shape the regional economic agenda.
- Focussing the trade facilitation initiatives on delivery i.e. making a real and measurable difference on the ground and targeting quick wins;
- SACU to negotiate as a block and use tariff as instruments for industrial development - build regional productive capacity and industrialisation, diversify the export profile to include higher value-added products;
- Review of the RSF to support the new work programme.

SACU's 5-Point Plan

- A five-point, integrated plan was agreed:
 - Review the Revenue Sharing Arrangement (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.
- For SA the key issue is the development of programmes and projects that promote real economic integration with key focus on industrial development, trade facilitation, infrastructure development.

SACU's 5-Point Plan

- Need for the review of the RSA to support this work programme.
- Requires stabilisation of disbursements to BLNS who are highly dependent on the revenue for government expenditure and to allocate a portion of funds for cross-border regional infrastructure and industrial development projects.



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Progress on the 5-Point Plan

- Progress on the 5-point plan is uneven.
- We have registered progress on trade facilitation.
- There is greater unity of purpose in negotiations with third parties (EPA, SACU-India and Tripartite Free Trade Area).
- There is however little meaningful progress on the review of the RSA.
- Good intentions of both the 2002 SACUA and the five-point work programme have not been translated into meaningful progress,
- SACUA and work programme not able to lay a basis to resolve deep-seated divergences in policy perspective between the BLNS and SA - arising from differences in the size and structure of the economies of the members of SACU.

Progress on the 5-Point Plan

- SACUA calls for the development of common policies and common institutions, but leaves open when and how these should be achieved.
- Without changes to the RSA, work on cross-border industrial and infrastructure development lacks adequate financial support.
- Lack of progress on the development of SACU institutions is primarily a result of divergences in policy perspectives and priorities among Members

Progress on the 5- Point Plan

- Differences in policy perspectives are evident in approaches to tariff setting.
- SA views tariffs as instruments of industrial policy while tariffs are a major source of government revenue for others.
- While rebates may be employed effectively to promote industrialization, they also result in revenue foregone for which additional compensation may be sought.
- Differences arise when one member proposes lower tariffs to import goods from cheapest sources globally, and this undermines the industry of another member.
- In light of these policy differences, the process to establish SACU institutions is constrained.

Progress on the 5-Point Plan

- Without coordinated approach to industrial and trade policy, establishment of the SACU Tariff Board to co-determine tariffs pose risks to effective decision-making for industrialisation across SACU
- Consensus decision-making can become a recipe for gridlock.

Two core challenges remain unresolved in SACU:

- The development of common policies and priorities among countries that exhibit disparities in economic size, population, levels of economic, legislative and institutional development.
- An effective decision-making procedure that takes proper account of differences in economic impacts and population across SACU.

Review of the Revenue Sharing Formula

- Review of the RSF;
- Management of the RSF - SACU Agreement only provides for a MS appointed to manage SACU revenue and to specify account into which collections will be paid and regularly report to SACU MS on all transactions;
- Framework for determination of revenue shares – based on intra-SACU trade;
- Discussion of incentives and implications for the RSA;
- Development Fund – discussions on financing of the DF to facilitate the implementation of joint projects and programmes.

Role of SACU Institutions



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Role of the Council

- The Council shall be responsible for decision making on functioning of SACU institutions, including the formulation of policy mandates, procedures and guidelines for the SACU institutions.
- Appoint an Executive Secretary of SACU, members of the Tariff Board.
- Approves the budgets of the Secretariat, the Tariff Board and the Tribunal.
- Oversees the implementation of the policies of SACU.
- Approves customs tariffs, rebates, refunds or drawbacks and trade related remedies.

Role of the SACU Summit

- SACU 2002 Agreement amended in to make a provision for the Summit.
- Role of Summit:
 - Provides strategic and political direction to SACU.
 - Subject to Art 42 of the Agreement, Council may refer some legal instruments to Summit for adoption.
 - Will receive reports on the work of Council.
- Provision to:
 - Meet once a year but as and when necessary.

Issues elevated to HoSG



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Issues elevated to HoSG

- The issues have been discussed in SACU through various platforms without an agreed common approach.
- High level engagements by HoSG:
 - Engage on the difficult policy issues – approach to policy development, establishment of common institutions and the review RSF
 - Provide strategic direction as envisaged in the Annex to institutionalise Summit.
- SACU work programme in the ST:
 - Continue to engage on the administrative and operational issues.
 - Continue to have a unified engagement with third parties.



SA's approach to SACU



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

SA approach

- South Africa is committed to regional integration: SA believes that SACU has a potential to move beyond an arrangement of convenience held together by a CET and a redistributive RSA to a developmental integration agenda that serves the interests of its Member States.
- The five-point plan is a package: The priority programme would require implementation of all its elements for it to be effective.
- Need to clearly define the process on the establishment of common institutions.
- Need to focus on a targeted cooperation agenda.

Next Steps



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Next Steps

- Against this background, SA needs to re-assess how best to advance development and integration in SACU.
- An open discussion is required among SACU Members.
- The development of a common approach to trade and industrial policy is most urgent and is the prerequisite for establishing effective SACU institutions in future.
- A discussion on appropriate decision-making procedures on sensitive trade and industry matters that takes into account SACU-wide impacts is required.
- Progress across all pillars of the 5-point plan remains an important option to advance development integration in SACU.

THANK YOU

Questions?



the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA