

Update on South Africa's Trade Negotiations

**Presentation to the Parliamentary Portfolio Committee
on Trade and Industry**

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16 May 2017**



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Key parameters for trade negotiations



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Key Policy Parameters for Negotiations

- Informed by and support to national development objectives set out in IPAP, NGP, NDP.
- Provide opportunities to increase exports of value added products
- Should not unduly limit development policy space
- Should support regional integration
- National consultation at intra-governmental level (DAFF, SARS, ITAC), and with business and labour in NEDLAC
- SACU consultations to protect common external tariff



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Approach to regional integration

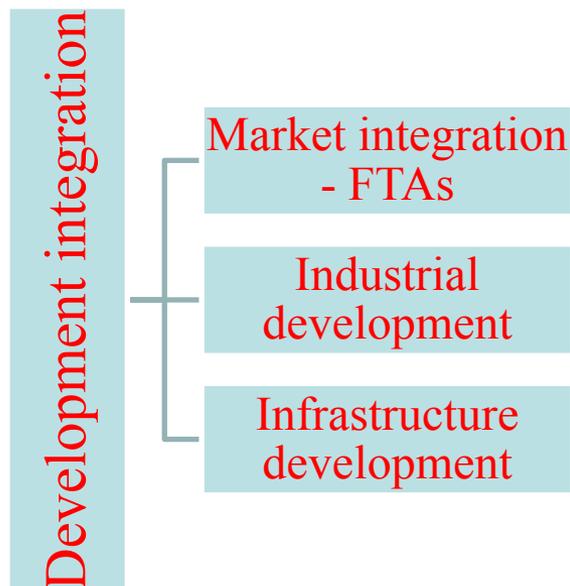


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Development Integration

- South Africa advocates a developmental integration approach in all African regional economic integration initiative.
- It is informed by the realization that trade integration alone does not bring sufficient economic benefit, because of the lack of capacity in many countries to exploit market opening.



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Development Integration cont.

- This approach is now adopted on all levels of current regional integration efforts
 - SADC: The revised Regional Indicative Strategic Development Plan (RISDP) puts considerable emphasis on industrial development. Infrastructure development continues under the Regional Infrastructure Development Master Plan and through the Project Preparation and Development Facility of the Regional Development Fund
 - Tripartite: structured according to 3 pillars: market integration (i.e. the T-FTA, in 2 phases), industrial development, infrastructure development.
 - Continental FTA: also structured according to the 3 pillars

Trade Agreements



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Trade Agreements

- Southern African Customs Union (SACU)
- Southern African Development Community (SADC) Free Trade Agreement
- Tripartite Free Trade Agree (TFTA)
- Continental Free Trade Area (CFTA)
- Preferential Trade Agreement between SACU and India
- Economic Partnership Agreement (EPA) between SACU and EU.
- Free Trade Agreement between SACU and EFTA.
- Preferential Trade Agreement between SACU and Mercosur

SACU

- Oldest Customs Union established in 1910.
- Renegotiated SACU Agreement finalised in 2002.
- Free movement of goods in the customs union.
- SACU six-point plan.
 - Industrial development as the overarching theme
 - Unified engagement in trade negotiations with third parties to preserve the Common External Tariff
 - Trade Facilitation
 - Review of the Revenue Sharing Formula
 - SACU Institutions
 - Approach to Trade in services
- Discussions are on-going on the amendments to the SACU Agreement to facilitate the implementation of the development integration agenda.



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SADC Trade Protocol (TP)

- In force since 25 January 2000. Aims to reduce customs duties and other barriers to trade.
- 13 out of 15 MS have acceded to the TP, with Seychelles the latest.
- SA/SACU grants duty free status to 99% of products under the agreement.
- The excluded products are second hand clothing and certain automotive parts. Sugar is liberalized subject to a volume-based quota.
- Has resulted in increase in intra-regional trade from US\$6bn – US\$24bn.
- In 2015, approximately 25% of SA exports went to SADC region while about 6% of imports from SADC region.
- Currently over 90% of products are traded duty free. If fully implemented, over 99% of products will be traded free of duty within SADC.
- SA to Chair SADC from August 2017-2018 – focus will be the implementation of the SADC TP and the industrial work programme.



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SADC Services Negotiations

- The SADC Trade in Services Protocol was approved by Summit in 2012 and negotiations started in 2012 on specific commitments in priority sectors.
- SA has a well developed services sector, already active in SADC and Africa. The Services Protocol will consolidate this.
- Enhance access for SA services providers.
- SA firms can contribute to economic development in the region.
- Liberalisation will give SA an advantage over suppliers from outside the region.
- The Protocol will lay basis for wider services market under the TFTA and CFTA in future.



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SADC Services Negotiations Cont.

- SADC Identified 6 priority sectors namely Communications, Construction, Financial, Energy Related Services, Tourism, Transport.
- Negotiations on Communication, Financial, Tourism and Transport services sectors completed.
- Negotiations on Construction and Energy services in early stages.
- Thirteen countries have made offers so far – Angola and Namibia outstanding.
- The indicative timeline for finalization of negotiations was September 2016 but negotiations on two sectors still to be finalised. CMT in June/July will decide on new timeline.



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Tripartite FTA Negotiations

- Tripartite initiative has three pillars: market access, cross-border infrastructure and regional industrial development.
- TFTA will combine markets of 26 countries with a population of nearly 625 million and a combined GDP of US\$1.6 trillion.
- Provide market scale that could launch a sizeable part of the continent onto a new developmental trajectory.
- The T-FTA to form the basis for an Africa-wide FTA.
- T-FTA launched on 10 June 2015 following the launch of negotiations in 2011. Launch signified the conclusion of negotiations on the legal text of the main agreement and most of the annexes to the Agreement; work towards a functional FTA continued as part of the built-in agenda.

Tripartite FTA Negotiations cont.

- **STATUS UPDATE: MARKET INTEGRATION**

- Legal scrubbing of most annexes has been concluded with outstanding annexes completed and to be legally scrubbed in May 2017.
- Outstanding work: list rules that will form an appendix to the Annex on Rules of Origin and the tariff concessions that will be granted to each other by Member States of the TFTA.
- For SA/SACU , the SADC list rules are a basis for negotiation and the negotiations will be informed by industrial policy objectives.
- Negotiations on tariff preferences are among TFTA members with no preferential arrangements in place between them (i.e. no reopening SADC Trade Protocol)
- In effect SACU is negotiating tariff concessions with non-SADC Members of TFTA (notably EAC, Egypt, Ethiopia, Djibouti, Eritrea, Sudan).

Tripartite FTA Negotiations cont.

- Offers have been exchanged between EAC and SACU as well as between SACU and Egypt. Negotiations at advance stage.
- Offers to all other non SADC member states are ready for exchange once those countries are ready.
- 2nd Phase of negotiations will cover negotiations on trade in services as well as cooperation on IPR, investment and competition policy.



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Tripartite FTA Negotiations cont.

- **STATUS UPDATE: INDUSTRIAL DEVELOPMENT**
- The Tripartite Sectoral Ministerial Committee approved the Framework for Cooperation and Roadmap/ Work Programme of the Industrial Development Pillar in October 2016.
- There is need for the Tripartite Task Force to mobilise resources for the implementation of the Work Programme of the Industrial Development Pillar.

Tripartite FTA Negotiations cont.

- **STATUS UPDATE: INFRASTRUCTURE DEVELOPMENT**
 - Done by Tripartite Task Force (i.e. the 3 secretariats)
 - Purpose: improving the region's infrastructure so as to improve the efficiency of the internal trade and transport network (road, rail, water and air and including, ICT and energy).
 - Progress made: operationalization of the Project Preparatory and Implementation Unit (PPIU) which supports the preparation of bankable infrastructure projects
 - Flagship infrastructure and trade facilitation programme: North-South Corridor
 - The aim is to address both physical and non-physical bottlenecks along the corridor

Tripartite FTA Negotiations cont.

- **STATUS UPDATE: MOVEMENT OF BUSINESS PERSONS**
 - Instrument on Movement Business Persons (MBP) being negotiated.
 - Inter-departmental framework: Department of Home Affairs (DHA) leads the negotiations; **the dti** and Department of Labour (DoL) provide technical support to DHA.
 - Tripartite Technical Committee on Movement of Business Persons (TTC-MBP) has had 6 meetings.
 - Text on the guiding principles and dispute settlement provisions remain outstanding.
 - Aim to finalise Instrument by June 2017.

Continental FTA 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 2015 in Johannesburg, South Africa.
- To date, 5 meetings of the CFTA Negotiating Forum (CFTA-NF), Two Meetings of the seven Technical Working Groups (TWGs), Two Senior Trade Officials and AU Ministers of Trade meetings have taken place.
- The outcomes of the meetings include:
 - ❑ Definitions of the Principles guiding the CFTA negotiations;
 - ❑ Terms of References for various Technical Working Groups, namely:
 - *Legal and Institutional Affairs*
 - *Non-Tariff Barriers (NTBs) and Technical Barriers to Trade (TBTs)*
 - *Rules of Origin*
 - *Sanitary and Phyto-sanitary (SPS) Measures*
 - *Trade Remedies*
 - *Customs Procedures and Trade Facilitation*
 - *Trade in Services*



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Continental FTA Negotiations cont.

- ❑ Work Plan and Schedule for the CFTA negotiations.
 - ❑ Consideration of the draft modalities for the CFTA tariff negotiations
 - ❑ Consideration of the draft modalities for the CFTA Trade in services negotiations
 - ❑ Introduction and preliminary consideration and discussion of the Draft CFTA texts (Framework Agreement and Annexes)
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- The draft modalities for Trade in Goods (Tariff Negotiations) and Trade in Services which are the cornerstone for the negotiations remain to be finalized by the 6th CFTA-NF, STO and AMOT scheduled to take place in June 2017.
 - Negotiations are Member States driven.
 - The draft CFTA texts are considered to be work in progress for discussion and consideration by the next meeting of the TWGs.
 - SACU and TFTA Member States continue to coordinate positions/approaches to the CFTA negotiations.
 - For SA, SACU and TFTA Member States, the approach is to build on the acquis of the TFTA.

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 5th largest trade partner with trade in 2015 over R95 billion.
- Difficulty in finalising SA/SACU offer - Concerns raised with negotiations include NTBs in the Indian market and requests by India in sensitive sectors like textiles and clothing.
- Looking at reduced level of tariff exchange coverage and use the PTA as an incremental building block to enhanced trade in future.

Economic Partnership Agreement (EPA) between SADC EPA Group and the European Union (EU)

- The EU as a block remains SA's largest trading partner.
- Trade Development and Cooperation Agreement (TDCA) between SA and EU entered into force on 1 January 2000 and has been fully implemented since 2012.
- Total trade between SA and EU increased from R 150 billion in 2000 to R 588 billion in 2016. SA exports to the EU increased from R 64 billion to R250 billion, while imports from the EU increased from R 86 billion to R338 billion during the same period.
- SA decided to join EPA process to establish a regional agreement with the EU and to secure further market access especially in agriculture.
- The EPA was signed on 10 June 2016.

EPA between SADC EPA Group and the EU Cont.

- The Agreement provisionally entered into force on 10 October 2016, except for the new agriculture market access negotiated.
- New agriculture market access entered into force on 1 November 2016.
- Two tariff reductions have taken place on SACU and EU side:
 - first reductions occurred on 10 October 2016 for fisheries and on 1 November 2016, for new agricultural market access
 - second reductions occurred on 1 January 2016
- EPA replaced the trade chapter of TDCA at entry into force.

EPA Implementation Institutions

- **Joint Council**
 - Composed of the relevant members of the European Commission and SADC EPA Ministers
 - The Joint Council have powers to take decisions in respect of all matters covered by the agreement.
- **Trade and Development Committee (TDC)**
 - Assist the Joint Council in the performance of their duties
 - The TDC monitors and evaluates the implementation of the provisions of this Agreement.
- The first Trade and Development Committee (TDC) meeting took place on 16 – 17 February 2017 in South Africa.

EPA Benefits for SA

- 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).
- Improved access for our exports of flowers, some dairy, fruit and fruit products.
- New market access for our fishery products.
- The EPA rules of origin improve 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 and standstill clause have been eased under the EPA and new safeguard provision included in EPA.
- Protocol on Geographical Indications (GIs) that protects 102 South African wines and three agricultural product names (Rooibos, honey bush and karoo lamb).

Effect of BREXIT on EPA

- The United Kingdom (UK) is South Africa's 7th biggest trading partner and 2nd biggest trading partner in the EU.
- For agricultural exports, the UK was the 3rd biggest market in the world in 2015 with 30% of all SA's fruit exports going to the UK and 25% of all wine exports.
- In March 2017, the UK Prime Minister gave notice under Article 50 of the Lisbon Treaty that the UK will be leaving the EU. This notification started the two year period of negotiations for the UK exit from the EU.
- Currently the UK is still part of the EU and is provisionally applying the EPA as decided by the EU Parliament.
- Until the UK completes negotiations and exits the EU, all the obligations of the EU, including under the EPA, will stay in place.
- SA's objectives is to ensure that there will not be an interruption in the trade between SA and the UK once the UK exits the EU.

Effect of BREXIT on EPA Cont.

- Ongoing discussions have been held between SA and the UK on the need to provide certainty to traders and investors on the trade arrangement between SA and UK post BREXIT.
- Agreement in principle that the most expedient way to ensure a smooth transition and no interruption in the trade between the UK and SA will be to put an interim arrangement in place based on the EPA.
- There are a number of Tariff Rate Quotas (TRQs) in the EPA and SA will have to negotiate the volume of the TRQs with the UK.
- Since the TRQs in place with the EU were never increased as more countries became part of the EU, like Croatia in 2014, it is SA's position that the volume of TRQs in the EPA should not be reduced with the UK exit from EU.
- SACU has sent a letter to the UK requesting discussions on establishing an interim arrangement based on the EPA.
- It is anticipated that discussions between SACU and UK may start after the UK's general elections on 8 June 2017.

European Free Trade Association (EFTA) FTA

- EFTA comprises of Iceland, Liechtenstein, Norway and Switzerland.
- The SACU - EFTA Free Trade Agreement(FTA) was concluded in 2006 and entered into force on 01 May 2008.
- The Agreement covers trade in goods including industrial products, processed agricultural products; fish and other marine products.
- The main Agreement covers all products falling within HS Chapters 25 to 97.
- Bilateral Agreements on basic agricultural products (within HS chapters 1 to 24 except process agricultural products) were entered into with individual EFTA States.
- Tariff reductions finalised at the end of 2015.
- SACU states received duty free quota free access (DFQF) for all industrial products at entry into force of the agreement
- SA remains the main trading partner of EFTA in the region
- The trade balance between South Africa and EFTA has consistently been in SA's favour, with a positive trade balance of R4.25 billion in 2016.

EFTA FTA cont.

- The Agreement has been due for review since 2013; however, it has been postponed pending entry into force EPA negotiations.
- The parties met in November 2016 to agree on the process of the review.
- Improvement of SACU's access to EFTA will only be pursued for agricultural products as Duty Free Quota Free treatment is already applied to all non-agricultural products.
- SACU member states submitted request lists on Processed and Basic Agricultural Products to EFTA
- EFTA has submitted request lists on NAMA and Processed Agricultural Products.
- The first negotiation session will take place during the second half of the year.

SACU – MERCOSUR Preferential Trade Agreement (PTA)

- Mercosur comprises of Argentina, Brazil, Paraguay and Uruguay. Venezuela recently became a member of MERCOSUR but has been suspended since December 2016.
- The PTA is aimed at promoting trade between the two sides on over 1000 tariff lines on both sides.
- The PTA was concluded and signed in 2008.
- 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%.
- The PTA entered into force on 1 April 2016. South Africa implemented the agreement on 10 October 2016 retrospectively to 1 April 2016.
- The First Joint SACU-MERCOSUR Committee meeting under the PTA will take place on 23-24 May 2016 in South Africa.



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World Trade Organisation (WTO)

- Trade Facilitation Agreement entered in force in February 2017.
- Paragraph 6 of the TRIPS Agreement also entered into force in 2017.
- The 11th Ministerial Conference (MC11) to be held in December 2017.
- Period of considerable uncertainty in trade policy, including a widening backlash against trade agreements and globalization.
- Divergences on the mandate of the development agenda in the Doha Development Agenda (DDA).
- Strong push for “cherry-picking” of issues like e-commerce.
- SA Position:
 - Preserve the multilateral trading system (MTS)
 - Continue to advocate for progress on the outstanding Doha issues.
 - Any package agreed must have clear developmental character and content and should ensure trade supports inclusive growth.
 - we will need to calibrate expectations realistically - possibility may be that the best outcome for MC11, in the current context, is simply a reconfirmation of commitment to MTS and centrality of WTO.





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