



Ratification of the COMESA-EAC-SADC Tripartite Free Trade Area (TFTA)

**PORTFOLIO COMMITTEE ON
TRADE AND INDUSTRY
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the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA



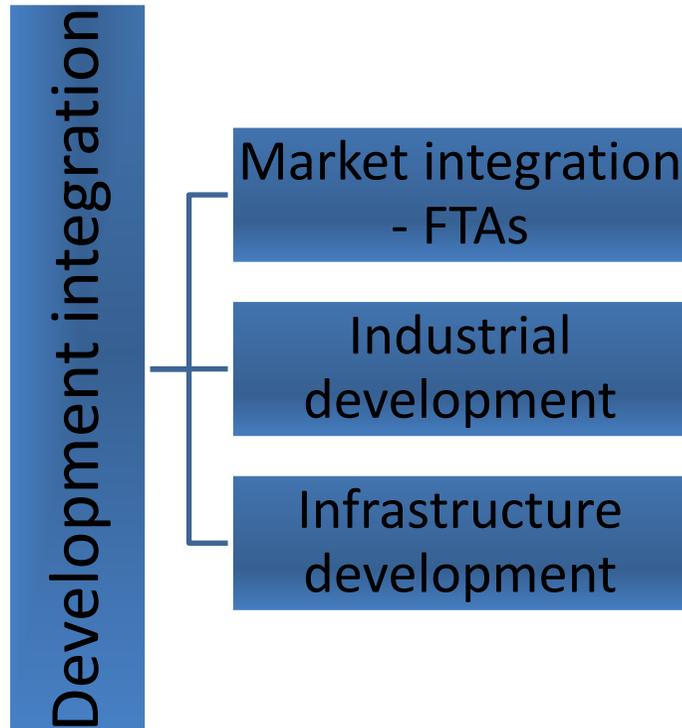
Background

- The Tripartite FTA was launched in June 2015 in Egypt.
- Negotiations of the legal texts (the main Agreement and its annexes) were concluded in May 2017.
- South Africa signed the Agreement in July 2017.
- 22 of 26 Member States have signed the Agreement.
- The Agreement will enter into force once it has been ratified by 14 Member States.
- Thus far only Egypt and Uganda have ratified the Agreement.



Basis for the TFTA

- Based on the development integration agenda that combines market integration with industrial and infrastructure development.
- Recognizes that the much advocated linear integration model is not suitable for countries of very different levels of economic development.
- Argues that major barriers to intra-regional trade are often inadequate infrastructure and underdeveloped production structures, rather than tariffs or regulatory barriers.



Purpose of concluding the TFTA

- The Agreement will facilitate:
 - harmonisation of trade regimes,
 - free movement of business persons- separate track – Home Affairs
 - joint implementation of regional infrastructure projects and programmes;
 - development of regional value chains; and
 - legal and institutional arrangements for regional cooperation among the 26 countries who are members of COMESA, EAC and SADC.
- This ratification request only relates to the trade liberalisation element of the agreement.

Key Features of the TFTA

- Recognition of differentials in levels of economic development, i.e. Flexibility, Special & Differential Treatment.
- Variable geometry regarding pace of liberalisation across negotiating regions.
- Building on the existing *acqui* of the Regional Economic Communities (no backtracking).
- Objective to create a single TFTA market.

Potential Benefit for South Africa (1)

- Access to new and dynamic markets:
 - combined gross GDP of US\$1.2 trillion and
 - a combined population of approximately 626 million people, just over half the total African population and economy.
- Some TFTA countries are among the fastest growing economies in the continent, i.e. Rwanda, Ethiopia, Tanzania etc.
- South Africa will build on its current share of the African market and have access to a larger, more integrated, and growing regional market.
- This has the potential to stimulate industrial development, investment and job creation.
- It will promote intra-regional investment.

Potential Benefit for South Africa (2)

- When negotiations commence on the investment chapter, South Africa will advance that core provisions of *South Africa's Protection of Investment Act* must be taken into account.
- Legal certainty and predictability of market in TFTA.
- Legal protections for South African exporters i.e. Agreement makes provision for dispute settlement mechanism that is de-linked from national courts.
- Possibility for the TFTA having a “single-rule book” for trade, investment, IPR and Competition.
- The TFTA will boost intra-regional trade.

Potential threats to South Africa

- Transshipment (third party imports gaining access through neighbouring countries) – this can be addressed through rules of origin and customs cooperation that is facilitated by the TFTA.
- Influx / dumping of substandard goods which can be addressed through effective border management – TFTA itself promotes intra-regional trade in compliance with SA standards.
- Non-implementation of commitments by regional partners with implications for preferential access for SA exports.
- Risk of implementation of barriers to trade with implications on movement of goods across the region- requires implementation of the industrial and infrastructure development pillars to broaden benefits of the TFTA.



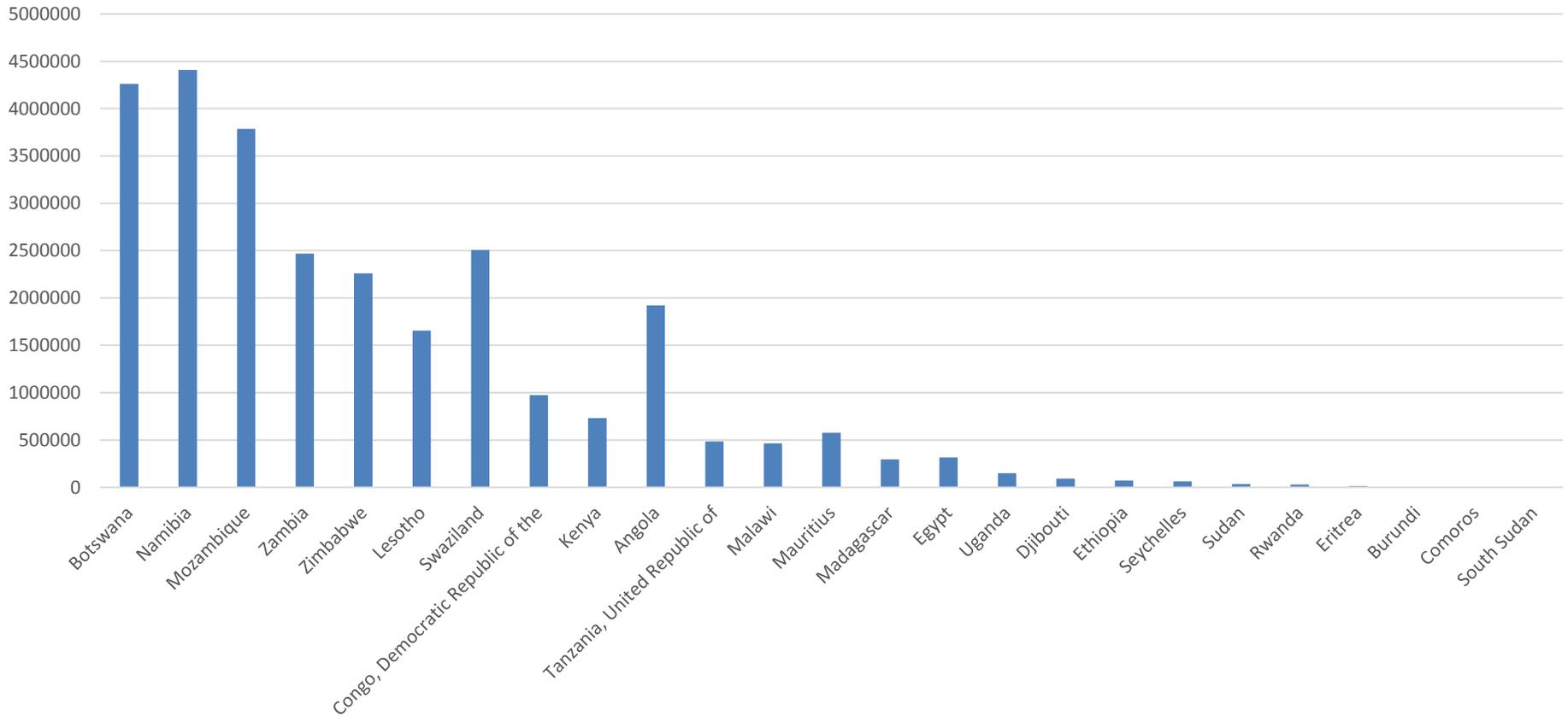
Mitigation of potential threats/ risks

- Implementation of the development integration agenda and all its pillars (industrial and infrastructure development) to broaden the benefits to all the participating Member States.
- Effective customs cooperation as transshipment will undermine regional productive capacity and benefits for all the participating countries.
- Enforcement of agreed rules of origin to ensure that preferential access is granted to products that meet the rules.
- Good quality infrastructure institutions and implementation of safeguard provisions.
- Capacity building and sharing of experiences and expertise among regional institutions to promote trade.

SA's Trade with TFTA countries

figures in US\$ 000

TFTA Trade



SA's trade with the TFTA countries

- South Africa's trade with TFTA countries represents about 16 % of SA's trade with the world.
- In 2017 total trade with TFTA countries was in the tune of US \$ 27,6 billion.
- A bulk of the trade is with SADC countries. After SADC, Egypt, Kenya, Ethiopia and Uganda feature as export destinations of potential.
- South Africa exports to Kenya account for 3,3 % of TFTA exports. South Africa in turn receives about 2% of its TFTA imports from Egypt.

The Negotiations Process (1)

- **the dti** leads the negotiations, with support and involvement of line function Departments such as SARS, DAFF and DIRCO.
- In accordance with the constitution, negotiating positions are informed by consultations through the NEDLAC process.
- Legal opinions from DIRCO and DoJCD verify compliance with SA legislation, Constitution and international obligations to facilitate signature of the Agreement.
- South Africa was the coordinator of the negotiations, on behalf of SACU, which negotiates as a block.
- Negotiations are among Members States/regions that currently do not have preferential arrangements among themselves.
- SACU is currently negotiating tariff liberalisation with the EAC and Egypt.
- Other partners to negotiate with are Djibouti, Eritrea, Ethiopia,

The Negotiations Process (2)

- In addition to the tariff negotiations:
 - ✓ there are efforts towards concluding a protocol on movement of business persons, which is negotiated under a separate track by Departments responsible for immigration.
 - ✓ an industrial development framework and plan of action have been adopted.
 - ✓ there is ongoing work to cooperate on infrastructure development.
- Phase II of the negotiations will address Trade in Services, Intellectual Property Rights (IPR), Investment and Competition Policy.

Conclusion of the negotiating process

- Negotiations on the legal text (agreement) have been concluded.
- Negotiations on tariffs and rules of origin continue towards establishing a functional TFTA that offers preferential access.
- Tariff negotiations are taking place between member states who do not belong to the same FTA .
- The agreement makes provision for variable geometry i.e other countries can join at a later stage and will before joining trade using existing arrangements.
- South Africa's (SACU) tariff negotiations with the EAC are almost concluded.
- SACU has initiated negotiations with Egypt through the exchange of tariff offers. The conclusion thereof is expected in early 2019.

Conclusion of the negotiating process...

- Negotiations on rules of origin are 60 % completed. It is envisaged that these will be concluded by mid 2019.
- Preferential tariff treatment can commence where concluded as soon as there is ratification by 14 Member States and the rules of origin are in place. Most Member States have committed to ratify by end of September 2018.

Implementation of the agreement

- After an agreement enters into force, the dti will request SARS to implement the preferential tariff treatment.
- This requires amendment of schedules to the Customs and Excise Act to factor in the relevant tariff phase down schedules, rules of origin of the new agreement and accompanying certificates, import permits if there are quotas to be managed, among others.
- All signatory Member States follow similar procedures to afford South African exports preferential treatment.
- The dti always embarks on national roadshows to create awareness to private sector about a concluded FTA.
- The unit within the dti, Trade Invest Africa (TIA) is mandated to promote trade and investment in the continent and will champion this awareness campaign.

Protection using rules of origin

- The TFTA region does not have a common external tariff to regulate treatment of goods from third parties; therefore an incentive exists for third countries to flood the market through a member with the most liberal trade regime, hence the need to agree on common rules of origin.
- Rules of origin are used to determine origin of imported goods, so as to grant preferences to qualifying goods.
- Most rules of origin emphasize the need for substantial processing/ transformation to take place in the region. This is the basis for discriminating against goods originating outside the FTA.
- One of the key principles of the Annex on rules of origin is facilitation of intra-TFTA trade.
- This means that regional industrialisation and local sourcing are at the center of the rules of origin negotiations.

Protection using rules of origin....

- South Africa uses the SADC rules as a guide. These are based strictly on the industrial development objectives of the country.
- There is continuous consultation with private sector through NEDLAC on South African positions.

Movement of Business Persons

- The Agreement is limited to temporary movement of business visitors, traders and investors for up to 90 days in a calendar year.
- Business persons is defined in line with domestic laws.
- Temporary stay is up to 90 days with possible extension upon request for up to 90 days.
- Multiple entry visas are issued for a minimum period of 1 year; in accordance with domestic laws.
- The agreement encourages issuing of visa within 7 days but can be extended to allow investigations.

Movement of Business Persons....

- Article 15 acknowledges the need for member states to regulate movement of persons for public security, health and policy as long as they are not discriminatory.

Concluding observations

- The TFTA has been used as a basis for engaging in the ongoing African Continental Free Trade Agreement (AfCFTA) negotiations.
- Ratification by South Africa will send a strong signal of South Africa's commitment to regional integration.
- Ratification will bring South African exporters a step closer to enjoying preferential treatment under the TFTA.