South Africa and the Southern African Customs Union

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2002 SACUA
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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 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 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.
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.
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
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
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• 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
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 redistributional 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
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?