

TRADE NEGOTIATIONS, IMPLEMENTATION AND RELATIONS

PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY

**Ambassador X Carim, DDG
Trade Policy, Negotiations and Cooperation
13 October 2020**



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Acronyms

| | |
|--------|--|
| AfCFTA | Africa Continental Free Trade Agreement |
| AGOA | Africa Growth and Opportunity Act |
| AU | African Union |
| BELN | Botswana, Eswatini, Lesotho, Namibia |
| BRICS | Brazil, Russia, India, China, South Africa |
| CET | Common External Tariff |
| COMESA | Common Market of Eastern and Southern Africa |
| DFQF | Duty Free Quota Free |
| EAC | East African Community |
| EFTA | European Free Trade Association |
| EU | European Union |
| FTA | Free trade agreement / area |
| GSP | Generalised System of Preferences |
| MFN | Most Favoured Nation |
| NEDLAC | National Economic Development and Labour Council |
| PTA | Preferential Trade Agreement |
| REC | Regional Economic Community |
| SACU | Southern African Customs Union |
| SADC | Southern African Development Community |
| SDT | Special and Differential Treatment |
| TFTA | Tripartite Free Trade Agreement |
| WTO | World Trade Organization |



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Outline of the Presentation

- Guiding Principles
- African Economic Integration
- SACU, SADC, TFTA, AfCFTA
- Trade Relations with the EU: SADC-EU EPA
- Trade Relations with the UK: SACUM-UK EPA
- SACU-EFTA FTA
- SA-US Trade Relations
- BRICS
- SA Approach to MTS/WTO



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Scope and Guiding Principles

- Trade policy must support industrial development
- Negotiations to enhance market access for SA exports without undermining domestic industry and employment, while preserving development policy options
- Our work is primarily about negotiating and implementing rules for trade at bilateral, regional and multilateral levels
- Rule-making traditionally covered trade in agricultural and industrial goods but increasingly expanding to measures that affect services, investment, intellectual property rights, amongst others
- African integration is a major priority and we advance a “development integration” approach that combines opening markets with industrial and infrastructure development initiatives



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African Economic Integration

- African integration is a longstanding continental objective – beginning in the immediate post-colonial era
- Seen as essential to overcome the limitations of small fragmented economies established under colonialism
- Most progress (while uneven) is registered at sub-continental levels: Arab Maghreb Union, ECOWAS, COMESA, EAC, SADC, SACU etc.
- Major shift is recent effort to continental integration under the AfCFTA



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African Economic Integration

- Africa's share of world trade is small - estimated at 2.6% in 2018
- Intra-Africa trade grew to 16.1% of Africa's total trade in 2018; but low compared to intra-Asian trade (59%), intra-North American trade (48%), and intra-EU trade (67%)
- Although intra-Africa trade low:
 - Africa is by far the second most important export market for most African countries, behind EU
 - 7 African countries count Africa as their main export market
 - 25 count it as their second most important market
 - Over three quarters of intra-African trade takes place within regional trading blocs
 - Intra-Africa trade largely in value-added manufactured products



African Economic Integration

- SA accounts for 23% of total intra-African trade (imports and exports)
- African countries were the destination of 26.5% of all SA's exports in 2019
- SADC is important to SA, accounting for more than 87% of all SA's exports to Africa
- Key SADC markets are Botswana, Namibia, Mozambique, Zambia, Zimbabwe
- In 2019, 83.5% of SA exports to Africa were manufactured products (compared to 55.3% in its global export basket)



Southern African Customs Union (SACU)

- SA's negotiation and implementation on trade in goods is framed in 2002 SACU Agreement
- The essential features of the Agreement is the common external tariff for all Members, alongside a revenue sharing formula that divides a common revenue pool amongst the Members
- Agreement foresees the development of common policies and institutions to advance integration
- For negotiations with third parties on trade in goods, it requires that SACU adopt common positions to preserve the common external tariff
- This in turn requires common approaches to related rules: standards, rules of origin and trade remedies



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Southern African Customs Union (SACU)

- For SA, NT addresses all revenue and finance related work in SACU
- SARS participates in work to improve intra-SACU border efficiencies
- DTIC addresses matters related to tariffs, rebates and trade remedies
- DTIC participates in processes to develop common SACU positions for negotiations (e.g. AfCFTA) and implementation (e.g. EPA and EFTA reviews)

- SA took over Chair of SACU on 15 July 2020 - for one year
- Recent Ministerial meetings have agreed to a new work program prioritising regional industrial cooperation, and investment and export promotion in the context of the wider African integration agenda



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Southern African Development Community (SADC)

- Intra-SADC trade accounts for 24% of SADC's total trade, the highest amongst African regional economic communities (RECs)
- More than 40% of intra-SADC trade is accounted for by SA
- Implementation of the FTA (SADC Protocol on Trade) started in 2000, and 98% of tariff lines were fully liberalized by 2012
- 13 of 16 SADC Members are party to the Trade Protocol (except Angola, DRC, Comoros)
- Protocol on Trade in Services sets common framework and rules for services trade in 6 sectors: Communication, Construction, Energy, Financial services, Tourism, Transport;
- Services negotiations concluded in four sectors and 7 countries have ratified, with 10 required for entry into force



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Southern African Development Community (SADC)

- Angola seeks accession, proposing a tariff phase down on 90% of its tariff lines over 10 years
- National and SACU consultations underway to assess Angola's offer
- SA continues to monitor non-compliant restrictions imposed on exports under the Trade Protocol
- Hampered by absence of an effective dispute settlement mechanism:
 - Suspension of the SADC Tribunal impacts on enforcement of trade rules
 - A new Protocol on the Tribunal was negotiated and signed, but not in force – still to be ratified by Members

COMESA-EAC-SADC Tripartite FTA (TFTA)

- Framework agreement linking SADC, COMESA and EAC agreed in June 2015
- 22 out of 29 Members have signed the TFTA (except Mozambique, Eritrea, Ethiopia, Lesotho, South Sudan, Somalia and Tunisia)
- 8 Members have ratified (Egypt, Kenya, Uganda, South Africa, Rwanda, Burundi, Botswana and Namibia)
- 14 ratifications are required for entry into force



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COMESA-EAC-SADC Tripartite FTA (TFTA)

- Liberalizing trade requires negotiations between Members without existing preferential trade relations – building on what is in place
- For SA/SACU, as we are part of SADC, this means negotiations and agreement are required with East African Community (EAC) and Egypt
- SACU and EAC concluded tariff negotiations in 2019
- SACU negotiations with Egypt may be subsumed under the AfCFTA
- Outstanding issues include rules of origin for textiles and clothing, and autos
- Phase II: negotiations on Trade in Services and a framework for cooperation on Competition Policy are underway



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African Continental Free Trade Area

- AfCFTA negotiations launched at AU Summit on 15 June 2015 in Johannesburg
- AU Summit adopted the legal instruments establishing the AfCFTA on 21 March 2018 in Kigali
- 54 out of the 55 AU members have signed (not Eritrea)
- 28 AU Members have ratified the AfCFTA - the Agreement is in force
- AU Summit in Niger launched the operational phase in July 2019



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African Continental Free Trade Area

The overall legal framework is agreed:

- Agreement establishing the AfCFTA
- Protocol on Trade in Goods and its Annexes
- Protocol on Trade in Services
- Protocol on the Rules and Procedures for the Settlement of Disputes



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African Continental Free Trade Area

Modalities for Tariff Liberalization adopted

- 90% of the tariffs liberalised over 5 years (LDCs - 10 years)
- 7% additional tariff lines liberalised over 10 years (LDCs - 13 years)
- 3% of tariff lines may be excluded
- Tariff phase down in equal installments (20% cut per annum on 90% of lines, over 5 years)

Modalities for Trade in Services adopted

- 5 services sectors agreed for negotiation: Financial, Tourism, Transport, Communication, Professional services



African Continental Free Trade Area

Unfinished Business to operationalize the AfCFTA:

- Tariff Negotiations: 12 Members have submitted tariff offers
- Rules of Origin are integral to tariff offers: they define the required level of African content for traded products to benefit from tariff preferences
- Currently agreed RoO cover around 73.1% of tariff lines
- Negotiations still required for other RoO (sugar, autos, clothing and textiles)
- 6 members, including SA, have submitted offers for trade in services
- The 1 July 2020 deadline for operationalizing the AfCFTA was delayed due to suspension of meetings following the Covid-19 pandemic.
- In May 2020, Heads of State agreed that a Summit be held in December 2020 to finalise outstanding issues and that AfCFTA be operationalised by 1 January 2021 - contingent on the evolution of the pandemic



African Continental Free Trade Area

- National consultations set mandate for SA's tariff offer and RoO positions – at NEDLAC and the Agricultural Trade Forum
- NEDLAC agreed to an offer covering 90% of tariff lines contingent on rules of origin for autos, textiles and clothing that do not undermine existing industrial capacity in SA
- Ongoing consultation in SACU for a common SACU tariff offer to the AU
- SA assumed Chair of AU Ministers of Trade meetings (AMOT) on 30 September, for one year, that oversees the negotiations.
- A work program was agreed to focus on submission of tariff offers with agreed rules of origin in time for AU Summit scheduled for 5 December 2020

African Continental Free Trade Area

Challenges

- Ensure effective RoO and customs controls to avoid transshipment and to maximize benefits of preferences accrue to African producers
- Ensure AfCFTA build on existing sub-regional arrangements
- Ensure benefits of more open markets shared across participating members – for legitimacy and sustainability
- Vulnerabilities of external dependence on health products and basic food exposed by the C-19 pandemic
- Heightened importance of African cooperation and particularly for industrialization



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Trade Relations with the EU: SADC-EU EPA

- The EU is SA's largest trading partner: 24.5% of SA total exports, 29.7% of SA's total imports in 2019
- Between 2013 and 2019 total trade between SA and EU grew from R449bn to R697bn
- SA exports to EU increased from R161bn to R319bn
- SA imports from EU increased from R282bn to R378bn
- Overall trade balance favours the EU, though it declined from R121bn in 2013 to R59bn in 2019
- The EU runs a large trade surplus in manufactured goods (R140bn)
- SA has a surplus in agriculture and agro-processed goods (R4bn) and commodities (R76bn)



Trade Relations with the EU: SADC-EU EPA

- SADC-EU EPA in force since Oct 2016 between EU, Botswana, Lesotho, Namibia, Mozambique, SA and Eswatini
- For SA, the EPA replaced the trade chapter of 1999 Trade, Development and Cooperation Agreement (TDCA) with the EU
- SA achieved its objectives under the EPA: preserve the SACU CET; improve access to EU market (in fish exports, 32 agricultural products; and improved rules of origin); and some additional policy space (allowances for export taxes, special agricultural safeguard)
- Protocol on Geographical Indications protects 102 SA wine names and 3 agricultural product names (rooibos, honey bush and Karoo lamb)



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Trade Relations with the EU: SADC-EU EPA

- In Sept 2018, following due legal processes, SACU introduced a bilateral safeguard duty of 35.5% on bone-in EU chicken imports to be phased down over 4 years
- EU has lodged a dispute against the measure but in March 2020 delayed establishing an arbitration panel until the C-19 pandemic passes
- SA/SACU believes the measure is legally sound, and is prepared to defend the case should it proceed
- Ongoing engagement on other issues of SA interest: exports of cooked poultry, horses, wine certification
- Formal review of EPA implementation due to start in 2021



Trade Relations with the UK: SACUM-UK EPA

- UK is SA's 6th largest trade partner with trade conducted under the SADC-EU EPA
- In June 2016 the UK voted to leave the EU
- SACU+Mozambique concluded agreement with the UK in Oct 2019 to avoid trade disruption when the UK leaves the EU customs union
- The terms of the SADC-EU EPA are rolled-over into new SACU+M-UK EPA
- SA Parliament ratified the agreement in December 2019
- Botswana and the UK have also ratified the SACUM-UK EPA
- Others are in the process of ratification
- Expect to complete all processes, and deposit Instruments of Ratification before end of Nov 2020 for implementation on 1 January 2021 when the UK is expected to leave the EU

SACU-EFTA FTA

- SACU FTA with the European Free Trade Area (EFTA) (Iceland, Liechtenstein, Norway and Switzerland) in force since 1 May 2008
- Provides SACU with duty, quota free access for industrial products to EFTA but more limited access in agricultural goods

EFTA Review underway:

- SACU priorities include meat, vegetables, nuts, sugar, fruits, fruit juices, honey, chocolates and pasta products
- EFTA seeking access in chocolates, cheese, sheep and goat meat, and industrial products such as plastics, textiles and clothing and autos
- Engagement continues



SA-US Trade Relations

- The US is SA's 3rd largest trading partner
- SA benefits from 2 non-reciprocal US preferential schemes: AGOA, GSP
- Total SA-US trade peaked at \$16.3bn in 2011; declining to \$12.3bn in 2019
- SA exports peaked at \$10bn in 2008; declining to \$7.6bn in 2019
- Share of SA exports under AGOA peaked at 31% in 2013; declining to 16% in 2019
- Declines due to poor trade conditions over last 10 years and new measures restricting SA exports
- In 2018, the US imposed high tariffs on imports of steel (25%) and aluminum (10%) that negatively impacted SA exports
- Threat of a similar action on autos prompted firm-level sourcing decisions that saw SA auto exports to the US decline by over 50% in 2019



SA-US Trade Relations

- Regular reviews of SA's eligibility for AGOA and GSP has created degrees of uncertainty for SA exporters
- AGOA will expire in 2025
- US proposes that, post-AGOA, it will seek FTAs with individual countries, using recent US-Mexico-Canada Agreement as the model
- US FTAs are extensive and demanding, and scope for flexibility is narrow:
 - Close to full tariff liberalisation in industrial and agricultural goods
 - Extensive commitments and market opening demanded in services, investment, government procurement, finance, intellectual property and digital trade
- SA will need to carefully consider its post-AGOA trade relations with US



BRICS

- BRIC was formed in 2008, as a grouping of leading emerging economies: Brazil, Russia, India and China – SA joined in 2010
- BRICS is a forum for dialogue and cooperation on matters of common interest - including economy, trade, finance, business, agriculture, education, health, science and technology
- On trade, engagement is on practical cooperation, rather than rule-making for market access
- SA has sought to encourage inward investment in productive sectors and exports of higher value added products
- SA has proposed cooperation to address under-invoicing
- BRICS also provides opportunities to coordinate approaches to the WTO



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BRICS

- Total intra-BRICS trade (2019): \$354.5 bn
- SA exports (X) to and imports (M) from BRIC – Trade Balance

| | | | |
|--------------|---------------|--------------|---------------|
| Brazil: | X \$425.6 mn; | M \$1.1 bn; | (-) \$697.4mn |
| Russia: | X \$380.2 mn; | M \$280.7mn | (+) \$99.5mn |
| India: | X \$4.1 bn; | M \$4.0 bn; | (+) \$143.7mn |
| China: | X \$9.7 bn; | M \$16.6 bn; | (-) \$6.9 bn |
| Total BRICs: | X \$14.6 bn; | M \$21.9 bn; | (-) \$7.4 bn |
- China and India account for 94% of SA trade with BRICs
- Major concern is the content of SA trade with BRICs
- SA manufactured goods account for 24% of our exports while 94% of our imports are manufactured products

Trade Agreements: Other Developing Countries

SACU-MERCOSUR Preferential Trade Agreement (PTA)

- Entered into force on 1 April 2016
- The PTA is limited - provides preferential tariff access on around 1000 tariff lines

SACU-India PTA

- Difficulty in finalising negotiations - concerns about extensive non-tariff barriers in India and demands for access to our sensitive sectors like textiles and clothing.
- Some attempts to relook at the negotiations
- Exchange of updated trade data at this stage



SA Approach to MTS/WTO

- SA supports multilateral cooperation to manage interdependence amongst economies and, in principle, supports the rules-based trading system as embodied in the WTO
- However, WTO rules exhibit a range of imbalances and inequities that prejudice the trade and development interests of developing countries
- Imbalances in agriculture: developed countries continue to provide massive distorting support to their farmers, with constraints on developing countries for food security
- Rules on industrial subsidies constrain policy space to support industries in sectors of interest to developing countries but allow advanced economies to provide substantial support in high-tech, knowledge-intensive industries



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SA Approach to MTS/WTO

- IPRs that provide incentives for innovation also facilitate monopoly rents and diminish possibilities for technology transfer that spread growth and development more widely
- The promise of the Doha Round to correct the imbalances has been frustrated but the agenda remains relevant and legitimate

New challenges:

- Disabled dispute settlement mechanism – enforcement by bilateralism
- Risk to principles (MFN, special and differential treatment for developing countries and existing rules (tariff bindings)
- Risk that plurilateral negotiations will undermine multilateralism and consensus decision making
- Proposed new rules may further constrain industrial policy and technology transfer

SA Approach to MTS/WTO

SA approach to WTO Reform:

- Defend rules based system but address existing imbalances
- No new rules that worsen imbalances
- Ensure better balance between global rules and policy space for development, industrialisation and technology transfer
- Advocate an inclusive and development centred multilateralism to promote sustainable integration of developing countries in global trade
- Preserve SDT and the right to regulate in the public interest
- Many ideas embedded in the developmental agenda of the Doha mandate remain relevant
- In e-commerce, focus on cooperation, overcoming the digital divide, options for digital industrial policy, not rules that would 'lock in' current situation



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