

NEDLAC trade discussions take place within the Trade and Industry Chamber (TIC) and the Technical Sectoral Liaison Committee (Teselico). The Manufacturing Circle holds a seat on both the TIC and Teselico as part of the Business delegation. This report provides an overview from our perspective of current trade negotiations according to the various agreements and agenda items, in addition to latest discussion updates; and is circulated for information purposes.

CURRENT TRADE NEGOTIATIONS

World Trade Organisation (WTO)

SA is a founding member of the WTO and an active participant. SA is opposed to plurilateral negotiations under the Joint Statement Initiative (JSI) and wants to see the concerns of developing countries reflected in new rules. SA aligns with India on many issues but is also active in the Africa Group.

Business position is for SA to join JSIs on e-commerce, women in trade etc. Labour aligns with Government in not supporting JSIs.

Current Director-General (DG) of the WTO is Ngozi Okonjo-Iweala from Nigeria -first African and first woman to hold the position.

Current agenda:

- The 12th WTO Ministerial Conference (MC12) is scheduled for June 2022.
- SA's position preparing for MC12 has consistently been focused on COVID-related issues, especially a waiver of intellectual property right protection (TRIPS) for COVID-19 vaccines and medicines.
- Other deliverables planned for MC12 – agreement to eliminate fisheries subsidies, reform of the WTO, agricultural trade issues, restoring the dispute settlement system (no Appellate Body in place due to US refusal to appoint new judges), moratorium on customs duties on electronic transactions.

Teselico Discussion:

For Information Only

The current focus is on preparation for the Ministerial Conference in June. There are tight restrictions on participation and each delegation is allowed to be 6 people in total. Business participation will be limited to online side events.

The key objective is to try to harvest an outcome on **pandemic preparedness responses**. This will include trade related matters (e.g. transparency, notifications, export restrictions, impact on food security), mechanism to manage WTO activities (survey and coordinate an integrated work programme) and intellectual property rights issues (including proposed TRIPS waiver put forward by South Africa and India).

Members are still far apart on other issues, including agriculture, fisheries subsidies and reform of the WTO.

United States (AGOA)

SA is a beneficiary of market access preferences provided by the US under the Africa Growth and Opportunities Act (AGOA), the US GSP, and qualifies for textile and apparel benefits. South Africa is also a signatory to trade and investment cooperation agreements (TIDCA and TIFA) as a member of SACU.

Current agenda:

- Current AGOA provisions are due to expire in 2025. SA may not qualify for the replacement regime as a more developed African market.
- Options post AGOA include a bilateral free trade agreement between SACU and the US. USA-Africa model FTA with Kenya is currently being negotiated.
- US-SA trade has been declining. US sees its relative competitive position versus the EU eroded due to SADC-EU EPA.
- Bilateral tensions in a number of areas:
 - SA's use of tariffs and anti-dumping duties, particularly on imports of frozen bone-in chicken.
 - SA's overdue submission on the WTO Trade Facilitation Agreement transparency notifications.
 - Certification for Electromagnetic Interference/Compatibility (EMC) Goods.
 - Intellectual property right protection - Copyright Amendment Bill (CB) and the Performers' Protection Amendment Bill (PPA).
 - Sanitary and Phytosanitary Barriers - Certification and Sealing of Containers for U.S. Meat and Poultry Exports.
 - Service trade regulations that impose local content requirements (specifically audiovisual services).

Teselico Discussion:

For Information Only

Trade with the US has rebounded in early 2022, led by exports of commodities. There is a low level of AGOA utilization.

Cabinet has been asked to approve a proposal for South Africa to host the AGOA Forum in the first week December 2022. This will follow a meeting of President Biden with African leaders in Washington in September.

Preliminary recommendations on anti-dumping duties on South African lemon juice exports to the US are expected on 8 June.

South Africa is continuing to engage the US on section 323 duties on steel products to get a country exemption that will be less onerous than product exemptions that need to be reviewed annually.

CURRENT TRADE NEGOTIATIONS

SACU-India Preferential Trade Agreement (PTA)

Five rounds of negotiations have been held. The first one in 2007, the last one in 2010. Negotiations stalled for the next decade until India revived talks in July 2020. India's strategic interest in SACU reportedly lies in promoting closer investment ties in Namibia's manufacturing and industrial sector as well as sourcing commodities from the customs union. SA is also a relatively large market for India's vehicles and auto components, transport equipment, pharmaceuticals, footwear, chemicals and textiles.

Current agenda:

- Not clear if negotiations will resume. Waiting to see the revised scope that is proposed by India.

Teselico Discussion:

No progress to report.



Tripartite Free Trade Area (TFTA)

An FTA between members of COMESA, the East African Community (EAC) and the Southern Africa Development Community (SADC). Ten countries have ratified the agreement with four more needed to attain the ratification threshold and for the agreement to enter into force.

Current agenda:

- There is some confusion as to how the TFTA relates to the AfCFTA. The two agreements have different rules of origin for some products and there is also likely to be different tariff rates applied if the TFTA enters into force.
- The main trading partnership impacted by the TFTA is between SACU and the EAC.

Teselico Discussion:

For Information Only

Tunisia, Somalia and South Sudan have joined the TFTA configuration bringing the total membership to twenty-nine (29) countries. Twenty-two (22) out of twenty-nine (29) TFTA Member States have signed the TFTA Agreement. Eleven (11) Member/Partner States, namely, Egypt, Uganda, Kenya, South Africa, Botswana, Burundi, Rwanda, Namibia, Eswatini, Zambia and Zimbabwe had ratified it. The TFTA will only come into force once it has been ratified by fourteen (14) Member/Partner States. An additional three (3) more ratifications are required for the TFTA Agreement to enter into force.

The SACU-EAC agreement will enter into force with the TFTA.

African Continental Free Trade Area (AfCFTA)

A comprehensive trade agreement among AU member states, covering trade in goods and services, investment, intellectual property rights, competition policy and e-commerce. Entered into force on 30 May 2019, the operational phase was launched on 7 July 2019 and the AU Assembly approved the start of trading under the AfCFTA 1 January 2021. However there has not yet been any trade under the AfCFTA as negotiations are still ongoing on rules of origin and the tariff schedules.

Current agenda:

- Phase 1 negotiations not yet completed: outstanding rules of origin for automotives, clothing and textiles, sugar and some other agricultural products.
- SACU is yet to finalise its tariff offer that covers 90% of all goods traded. Botswana has not ratified the Agreement.
- Services trade and phase 2 negotiations (investment, intellectual property rights, competition policy and e-commerce) are underway but likely to be complex and slow.
- Dispute settlement process agreed but only open to governments to use.

Teselico Discussion:

For Information Only

29 Members have tabled offers of 90% that could allow for trading to be implemented. An update has been requested but it appears there has not been any trade yet.

SACU is still short 28 tariff lines to reach 90% offer. Hoping to finalise offer in June by SACU Ministers. The offer is designed as a 10 year phased approach (13 years for sensitive products) in order to be reciprocal. Botswana has still not ratified the AfCFTA. They are likely to do so when the tariff offer is finalized by SACU and other 90% offers are ready to be implemented. It is expected that Botswana can move quite quickly to finalise ratification.

Ongoing meetings have been held on rules of origin. Tobacco rules have been agreed at technical level. Consultations still focused on clothing and textiles, sugar and automotives.

The DRC has joined the East African Community (EAC) but the DRC bilateral offer still stands until notified otherwise. The EAC is revising its offer as the common external tariff has changed with an increase in tariffs to 35% for some finished products.

Work is underway on a possible extra protocol on gender and youth issues.



EXISTING TRADE AGREEMENTS

Southern African Customs Union (SACU)

The Customs Union links Botswana, Eswatini, Lesotho, Namibia and South Africa by a single tariff schedule and no customs duties between the members. Other barriers are eliminated on substantially all the trade between the Member States for products originating in SACU countries. Includes a common negotiating mechanism, meaning South Africa cannot negotiate and enter into new preferential trade agreements with third parties without the consent of other SACU members. Trade revenues are collected by SARS and shared between the Members on the basis of an agreed formula.

Current agenda:

- Trade agreement reviews and negotiations: EU-SADC EPA, SACU-EFTA FTA, SACU-Mercosur PTA, TFTA, AfCFTA, SACU-India PTA
- The use of reserved business activities and import restrictions by member states.
- Adoption of HS2022 tariff schedule.
- Cooperation on customs, including electronic exchange of data.
- Development of a joint industrial policy that will provide guidance for trade policy in the region.

Teselico Discussion:

For Information Only

Current SACU focus is on:

- Trade agreement negotiation and implementation.
- Investment opportunities in the region that were recently presented at a roundtable in Botswana.
- Trade facilitation.
- Industrial policy (priority sectors - leather, fruit and vegetables, meat, textiles and cosmetics).

SACU-EFTA¹ Free Trade Agreement (FTA)

The Agreement covers trade in goods and lays the foundation for further engagement on intellectual property, investment, trade in services and public procurement.

Current agenda:

- Review and negotiation of an updated and expanded FTA- focus on trade in goods, rules of origin, trade facilitation and trade and sustainable development.

Teselico Discussion:

Review of agreement is ongoing.

¹EFTA countries: Iceland, Liechtenstein, Norway, Switzerland.

SACU and Mozambique-UK Economic Partnership Agreement

An agreement to maintain continuity in the trade relationship between the UK and the SACUM countries post the British exit of the EU. Duty-free, quota-free access for goods exported from the SACUM Member States, except for South Africa, to the UK. SACUM commits to gradual tariff liberalisation, with some exception for sensitive products. Covers trade in goods and intellectual property, including geographical indications. Terms of EPA largely mirror SADC-EU EPA.

Current agenda:

- Development of the Rules of Procedure for the institutions established under the SACUM-UK EPA.
- Arrangement for SACUM-UK EPA tariff rate quotas to be carried out by SARS on a first-come first-served basis (applicable to some agricultural products).

Teselico Discussion:

No issues to report.

SADC Trade Protocol

An agreement between SADC Member States to reduce customs duties and other barriers to trade on imported products. First step in larger economic integration ambitions, like becoming a Customs Union, Common Market and eventually a Monetary Union.

Current agenda:

- Implementation of the Trade Facilitation Programme (TFP).
- Address illicit trade in excisable products (alcohol and tobacco products) within the region.
- Negotiations for Angola to join the SADC Free Trade Area.

Teselico Discussion:

No issues to report.

SADC-EU Economic Partnership Agreement (EPA)

An agreement between the SADC EPA states (SACU and Mozambique) and the European Union. Negotiated as a development-oriented agreement, the EPA gives market access preferences for a wide range of traded products.

Current agenda:

- Enhance cooperation on sanitary and phytosanitary measures and other aspects, includes safeguard measures relating to the implementation of the EPA.
- Development of a common methodology aimed at finalising a monitoring and evaluation framework for the EPA.
- Review of the EPA underway in 2022.
- Angola's ascension request to join the EPA is under consideration.
- EU is moving ahead with climate border adjustment measures, which may impact some SA exports.
- First dispute under the EPA is on SACU safeguard duties on chicken products.

Teselico Discussion:

Important Change:

A request to have the multilateral safeguard provision extended for a further 5 years was approved by the EU. This means that South Africa may now face multilateral safeguards from 1 May 2022, including on some steel products (stainless hot rolled etc.) where SA exports more than the 3% of the total (de minimus level).

To Action:

There is still scope to add items to the review of the EPA. Business is invited to identify any challenges in trade with the EU that could be considered by the DTIC.

Some issues already raised include wine quotas, sugar TRQ, export tax provision etc.

SACU-Mercosur PTA

A limited-scope Preferential Trade Agreement between SACU, Argentina, Brazil, Paraguay, and Uruguay (Mercosur countries). Sets out preference margins of 10%, 25%, 50% and 100% on 1,050 tariff lines on both sides. The main SA sector to benefit under the PTA has been edible oils. Limited application to current trade.

Current agenda:

- Promote utilisation and full implementation of the PTA.

Teselico Discussion:

No issues to report.