



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. Business position is for SA to join JSIs on e-commerce, women in trade etc. Labour aligns with Government in not supporting JSIs. SA aligns with India on many issues but is also active in the Africa Group.

#### Current agenda:

- Completion of outstanding items from the 12th WTO Ministerial Conference (MC12), particularly on the work programme for **agriculture**.
- Work will begin on **reform of the WTO**, including a decision on the dispute settlement system by 2024.
- Efforts to reinvigorate the work programme on **E-commerce** are expected, with a focus on improving the participation of developing markets, however details are still outstanding.

#### Teselico Discussion:

No progress reported in the meeting. Government may send a written update as a follow-up to the meeting.

### 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). Eleven countries have ratified the agreement with three 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:

Some technical work has been completed on the TFTA, including the development of guidelines for trade in perishable goods, Rules of Origin, and a unified approach to Competition Policy. Requests have been made for government to share these documents.

Despite this work, little addition progress is notable, and the TFTA is still largely stalled as a result of the focus on the AfCFTA.



# CURRENT TRADE NEGOTIATIONS

## 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 automobiles, 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:

Significant progress has been made on the AfCFTA, with the most important step being the finalization of SACU's tariff offer during the Council of Ministers meeting in mid-February. The offer has been submitted to the AfCFTA Secretariat for verification and, when approved, South Africa will be compliant with the core requirements of the agreement, and will be ready to start trading under the deal. When verified, a total of 43 African states will be compliant with the conditions of trade under the AfCFTA.

The same SACU Ministers meeting also started a process to finalise rules of origins under the deal, with rules of origin on about 12% of tariff lines yet to be completed. This work primarily focuses on ROO for automobiles and clothing & textiles, which make up a significant portion of the outstanding rules. Additional information is expected on these processes in the coming weeks.

Work continues on protocols beyond the trade in goods, including on services trade, and on protocols covering Investment, Competition Policy, Intellectual Property Rights, and Digital Trade. The first three of these protocols are expected to be considered in draft format at the AU Summit on the 18-19 February. While the protocols are not yet public, they include important interventions such as reinforcing investor protections against policies like blocking the repatriation of funds or unjustified expropriation of assets; and creates a continental Competition Agency that will oversee mergers and anti-competitive practices impacting the region as a whole. Further communication on these protocols will follow once they are publicly available to share.

Other additional work mentioned by government included efforts to agree on special treatment for products produced in Special Economic Zones, and the nomination of an initial board for the regional dispute settlement mechanism.

## United States (AGOA)

SA is a beneficiary of market access preferences provided unilaterally 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:

The US – Africa Leaders Summit took place in December 2022, and offered an opportunity for African leaders to align positions on the renewal of AGOA, and to receive some indication on the prospects for renewal. The Africa delegation called for a more than ten-year renewal of AGOA, which is in-line with the previous calls for policy certainty made during the last renewal, and tasked Washington-based Ambassadors and delegations with the task of coordinating engagement with the US on the renewal.

Government reported high levels of confidence in the future renewal of AGOA, saying that they expect the agreement to be extended by September 2023, with no countries graduated from the scheme. Despite this report, it is unclear whether this truly reflects the US position. It is possible that the US Trade Representative expressed such support during engagements in December, but ultimately renewal is a Congressional responsibility, and Congress has sent very mixed messages on the prospects for renewal.

Government confirmed again that South Africa will host the AGOA Forum in 2023, although the exact date and location is yet to be confirmed. A National Organizing Committee has been convened for the event, and will meet for the first time in February 2023. The event is likely to take place in August.

## EXISTING TRADE AGREEMENTS

### SACU-EFTA<sup>1</sup> 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:

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- 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:

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No progress to report.

<sup>1</sup>EFTA countries: Iceland, Liechtenstein, Norway, Switzerland.

### 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:

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- 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:

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No progress to report.

### 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:

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- 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:

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No progress 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:

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- 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:

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Much of the focus of work has been the upcoming review of the Economic Partnership Agreement, however government complained that the process has been held up by serious delays on the part of the EU. The EU has committed to send a draft workplan for the review, but the SADC group is still awaiting this input.

As previously reported, the South African government's agenda for the review includes issues such as:

- First Come- First Served requirement for wheat and meslin quota;
- Review of wine quota split ratio;
- Review of market access such as the wine and sugar tariff rate quotas;
- Article on Export Taxes;
- Cumulation with the United Kingdom,
- Rules of Origin for Autos.

The EU's agenda for the review will likely include:

- Negotiations on Services – including digital protection;
- Competition;
- Intellectual Property Rights;
- Green transition – circular economy and renewable energy;
- Gender and trade issues.

South Africa continued to raise concerns on a number of issues, notably requirements for the cold treatment of citrus exports to the EU; while the EU has raised objectives to South Africa's anti-dumping investigations on products like poultry and frozen chips.

A request was made for government to develop a dedicated communication channel with the EU on the implementation of the Carbon Border Adjustment Mechanism (the EU's carbon border tax). Government will provide feedback on this request, and convene a meeting to discuss further.

## 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:

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- 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:

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No progress to report.

### 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:

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- Promote utilisation and full implementation of the PTA.

#### Teselico Discussion:

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Nothing new to report.

