

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:

Following the completion of the 12th WTO Ministerial Conference in June 2022 (discussed in the last briefing note), the WTO has been in effective recess during the European summer holidays. Further progress is expected to be reported in September.

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:

Final Cabinet clearance on South Africa's hosting of the AGOA Forum is still outstanding. While initially scheduled for 2022, South Africa is now expected to host the conference in early-2023, in order to avoid a conflict with the US mid-term elections in November.

The United States has proposed the development of a SA-US Trade and Investment Taskforce. Further information on the purpose and structure of the proposed taskforce was not provided, and government expressed concerns that the taskforce could duplicate existing cooperation mechanisms. The language used for the proposed taskforce is similar to that used in trade agreements the USA has been attempting to develop in other parts of Africa (such as in the US-Kenya Strategic Trade and Investment Partnership), indicating that the taskforce may be a precursor to efforts to replace South Africa's AGOA preferences with a bilateral agreement.

Secretary of State Antony Blinken is expected to visit South Africa for a bilateral Strategic Dialogue on 8 August 2022, and will launch a revised US Strategy for Africa, which may provide some indication on the likely approach to the expiration of AGOA in 2025.

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. Government reports they are awaiting a response from India on a proposed Senior Officials meeting.

CURRENT TRADE NEGOTIATIONS

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:

Nothing new to report.

Three more countries need to ratify the agreement in order for it to come into effect. Work on implementation guidelines is ongoing.

On trade in services, technical officials have tasked the Secretariat to assess what is still feasible, given parallel work underway in the AfCFTA.

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:

The 11th Senior Trade Officials and 9th Council of Ministers meetings held from 26-27 July in Accra, during which South Africa handed over the Chairship of the bodies to Gabon.

The number of members that are now ready for provisional implementation of the agreement has increased from 29 to 36, with Algeria and the EAC now complete. Offers from Tunisia, Morocco and Angola are undergoing technical verification.

The dtic requests inputs on the offers made by Algeria and the EAC (which are attached here). There is typically limited scope for negotiation on these initial offers, however the dtic would like to understand industry's positions on the offers, in order to better plan for future engagements.

The SACU tariff offer is still incomplete, with 28 tariff lines still outstanding. The deadlock on the offer has been escalated to Ministerial level, and government reports that it will be escalated to Head of State level if not resolved by September.

A "Strategy for the African Automotive Manufacturing Sector" has been developed to attempt to complete talks on the autos sector, and includes proposed Rules of Origin that broadly allow for 5% more non-originating content than currently allowed by SADC rules. A similar strategy has been proposed for the textile sector, in an attempt to close substantial differences in opinion on rules of origin.

South Africa has developed a revised services offer, which expanded on a previous offer in telecoms, distribution services, tourism and transport services. Most restrictions in the offer do not represent a substantial shift from existing domestic regulations, but codify policy space for existing domestic rules.

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:

Nothing new 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:

- Promote utilisation and full implementation of the PTA.

Teselico Discussion:

Nothing new to report.



EXISTING TRADE AGREEMENTS

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. Senior Officials met in July 2022, and Technical Officials are expected to meet this week to consider outstanding issues.

Government reported that offered revisions are mainly a repackaging of previous offers, with non-agricultural market access maintaining the 2018 conditional offer. Further issues for discussion include Rules of Origin, the commitments of non-EU members Norway and Switzerland, and text on Trade and Sustainable Development.

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

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.

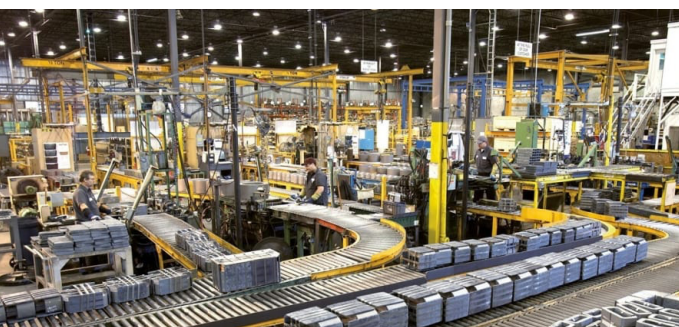
Current agenda:

- 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:

Following the implementation of SPS restrictions on South African citrus, 1200 containers of South African exports are stuck at EU borders, and must be cleared urgently or they will spoil. Government has started consultations on the issue at WTO, and has provided assurances that the issue is being escalated politically.

The review of the EPA agreement is ongoing, with no new updates reported.



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:

Angola will submit a revised offer following the meeting with SACU. Once offer is received then a request will be prepared. It is expected that there will be negotiations with Angola in September.

SADC Industrialisation Week is currently taking place in Kinshasa, running from 2 to 6 August 2022.

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:

Nothing new to report.

A joint meeting of Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) experts is expected to take place in September 2022.

Note: Attached documents relate to the AfCFTA current trade negotiations where the dtic requests inputs on the offers made by Algeria and the EAC.