

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

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:

No progress to report.

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.

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.

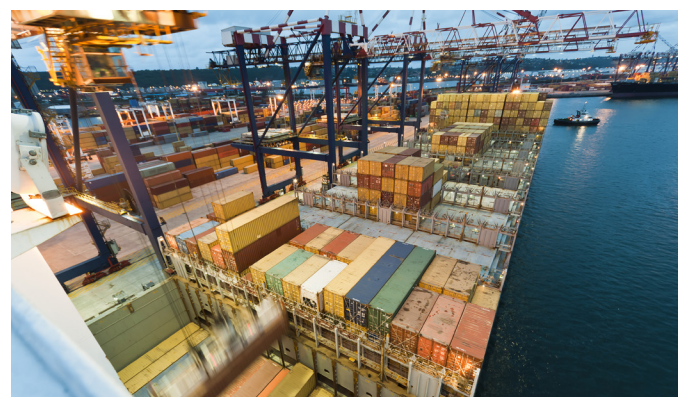
Current agenda:

- Preparation for the 13th WTO Ministerial Conference (MC13), which is scheduled to take place on 26 February 2024 in Abu Dhabi, United Arab Emirates (UAE).
- Completion of outstanding items from the 12th WTO Ministerial Conference (MC 12), 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, due to unavailability of the relevant officials.

However, the South African Ambassador to the WTO will join the next Teselico meeting, in order to provide a briefing on broader strategy at the WTO, and the specific outcomes of a joint paper South Africa has commissioned with India on reforms to the WTO.



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 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:

Following the submission of the SACU tariff offer for verification by the AfCFTA Secretariat, government reports that acceptance of the offer is likely to be announced at a forthcoming Ministerial meeting (likely in the next two weeks). Following this announcement, domestic preparations could begin on implementing the tariff offer in South African law. It remains unclear if South Africa will join the Guided Trade Initiative, which allows for preliminary trading under preferential terms with select African markets.

An extensive briefing was provided by the Deputy Commissioner of the Competition Commission, on the AfCFTA Competition protocol. The protocol will create a continental competition authority, which will have similar power to the national commission, only with an exclusive focus on competition issues impacting the continental market. Issues raised included the potential for conflict between the findings of the national and continental commissions, and the lack of oversight mechanisms for the continental body. Further engagements are expected on the specific rules that will define the thresholds and institutions that will implement the competition protocol, and this may offer an opportunity to manage some of these risks.

Work continues on a range of other protocols, including on Services, Digital Trade, Intellectual Property, and Gender issues.

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.

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:

Government confirmed that the AGOA Forum will be hosted on 3 - 4 November 2023 at the Johannesburg Expo Centre (JEC), and will be preceded by meetings of senior officials and African Ministers. The schedule provided by government is as follows:

- 1 November - African Senior Officials and Experts meeting.
- 2 November - African Ministers of Trade Consultative Group meeting; as well as concurrent meetings of the private sectors, civil society and organised labour from the US and Su Sahara Africa.
- 3 - 4 November - AGOA Ministerial Meeting, which includes African Ministers of Trade, the USTR, Senior Members of the US Administration, Members of Congress, US Development Finance Institutions, civil society, private sector and organised labour.
- A "Made in Africa" exhibition will be hosted on the sidelines of the meetings.

Government was requested to provide feedback on the Presidential mission to the United States, which aimed to strengthen relations after the strain of South Africa's position on Russia. Government noted that they could not provide any feedback, but that information may be released by the Presidency, who led the mission.

In addition, there was limited feedback on the prospects for renewal of AGOA. Government reaffirmed their previous position that a number of members of the US administration had expressed support for a renewal of South Africa's role in AGOA. Broader evidence seems to suggest that prospects for renewal are more uncertain than government suggests, however without a clear view from the US administration, it remains difficult to know how a renewal will proceed. Government reported that Cabinet has instructed that the dtic "...develops a comprehensive strategy to lobby for the extension of the AGOA beyond 2025 at the AGOA Forum".

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:

No progress to report.

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:

A joint meeting of parties to the agreement was held on 5th April 2023, and covered five main areas:

- Multilateral Safeguards Exemption: Agreement was reached that provisions on multilateral safeguards, which allow the UK to exempt SACUM countries from the application of safeguards as defined in the WTO, will be extended for a further three years.
- Rules of Procedures (RoPs) & Code of Conduct of Arbitrators: These set technical rules for dispute settlement processes, but draft rules are only set to be discussed in May 2023.
- Establishment of Special Committees: Parties are working to establish a Special Committee on Customs and Trade Facilitation; and one on Agricultural Partnership.
- Export taxes: The SACUM delegation presented draft text that allows export taxes under certain limited circumstances, but nothing has yet been agreed.
- Tariff rate quotas: The SACUM delegation has advocated for a review of tariff rate quotas. It was agreed that TRQs would be reviewed based on utilization statistics for the quotas in the coming year.

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:

Much of the focus of work has been on the upcoming review of the Economic Partnership Agreement, however it appears the process has largely stalled, with the EU side in particular emphasizing the need to conclude a study they have commissioned reviewing the agreement. A 12 May 2023 Joint SADC-EU EPA Technical Working Group (TWG) meeting concluded that initial discussions on Trade in Goods will commence on 1 June 2023, with the exchange of priority issues.

Government reported that a task team has been established in the dtic to develop a strategy around the Carbon Border Adjustment Mechanism and the broader implications of the European Green Deal. Few details of the task team were provided, but government noted that a briefing will be provided on its work at the next meeting.

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 progress to report.

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:

No progress to report.

