

Update on SACU Trade Negotiations
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• 22 May 2006

SACU-USA FTA NEGOTIATIONS

The negotiations stalled in 2004 due to differences between SACU and the USA on all topics under consideration. A meeting between SACU Ministers and former USTR Ambassador, 10 December 2004, reiterated the political importance of seeking to advance the engagement. SACU Ministers sought to identify a basis for further work and proposed consideration of moving on goods and services, while giving more time to the more difficult "new generation" issues. The US reiterated its approach to the negotiations, noting Congress requires a "comprehensive" agreement. The key outcome of the December 2004 meeting was an agreement to convene a meeting of Deputies as soon as possible to explore ways to advance the negotiations. Despite holding the Deputies meeting on 1 July 2005, negotiators were unable to overcome the basic differences in approach at the next negotiating session in September 2005. A negotiating session scheduled for mid-November 2005 was postponed due to difficulties in finding mutually convenient dates. Given the limited time available for concluding the negotiations (due date of end-2006 and the fact that the US Trade Promotion Authority expires mid-2007) the US proposed that another meeting of "Deputies" be held to take stock of where we are and to consider a way forward for the negotiations.

Deputies Meeting

A meeting of Deputies was held on 18 April 2006 at the Department of Trade & Industry in South Africa. The two sides exchanged views on their respective assessments of the current state of affairs in the negotiations. Both sides agreed that time has effectively run out to finalise negotiations towards achieving a comprehensive FTA (due date of end-2006 and the fact that the US Trade Promotion Authority expires around mid-2007). The two sides concluded as follows:

- Both parties recognised that a range of substantive issues have arisen in the negotiations that will require detailed examinations over the longer term.
- Even though these difficulties hampered progress in concluding negotiations towards an FTA, both sides remain committed to the overall vision of achieving a mutually beneficial Free Trade Agreement in the long run.
- In this regard, SACU and U.S. Deputies have agreed – subject to approval by Ministers – to establish a framework within which the United States and SACU will remain engaged in growing and deepening their bilateral relationship.
- Since the meeting of Deputies, the US have written to SACU, proposing the development of a new type of agreement (tentatively called a Trade and Investment Cooperation Agreement or "TICA") that would encompass a program of trade and investment promoting activities that could help lead both Parties to an eventual FTA.

SACU-EFTA FTA NEGOTIATIONS

The final Round of the SACU-EFTA Free Trade Agreement negotiations took place in Pretoria, South Africa from 24-26 August 2005. The negotiations are now concluded.

EFTA has offered SACU full duty and quota free access for industrial products with rules of origin equivalent of better than those contained in the TDCA. EFTA has provided SACU with limited but enhanced access to their agricultural markets. SACU offered EFTA what it has already offered the EU in terms of the South Africa-EU TDCA on both agriculture and industrial products with some adjustments (taking into account BLNS sensitivities and errors made in the TDCA). SACU has excluded any preferential offer on products that benefit from export subsidies and trade distorting support. There are no obligations on new generation issues that EFTA initially requested (services, investment, competition, IP, government procurement).

A legal and technical review of the text has been concluded and preparations have been initiated to secure authority for SACU Ministers to sign the agreement. That would lay the basis for parliamentary ratification and entry into force of the Agreement. In this regard, South Africa circulated the final SACU-EFTA text to all SACU Member States on 17 March 2006 with a request that national procedures be initiated in order to obtain authorisation for Ministers to sign the Agreement.

The two sides are currently considering other possible dates for signature. Once the Agreement has been signed by Ministers, the ratification processes needs to be commenced in order for the Agreement to be implemented as soon as possible.

RSA-EU TDCA REVIEW & SADC-EU EPA NEGOTIATIONS

SADC EPA Ministers met in February 2006 in Luanda and decided that the TDCA would be used as the basis for negotiating trade arrangements with the EU. LDCs in SADC would continue to benefit from everything-but-arms (EBA) Market Access. What this means for BLNS countries is that they have to continue to identify their specific areas of sensitivity as a matter of urgency with respect to the tariff offer to the EU.

SADC has in the meantime also developed a Negotiating Framework for the EPA negotiations and submitted it to the European Union. This Framework sets out the principles, objectives and key elements that will define more precisely the SADC EPA Member States' approach to the EPA negotiations with the EU. This Framework builds on the Guidelines for SADC EPA Negotiations as well as the SADC-EC Joint Road Map for the Economic Partnership Agreement Negotiations adopted during the launch of the negotiations on 8 July 2004. The Framework was submitted to the EC earlier this year at an EPA negotiating meeting in Brussels.

The Framework document seeks to accomplish the following objectives:

- (i) Coordination and alignment of the TDCA Review and the EPA negotiations;
- (ii) Consolidation of preparations for the EPA negotiations;
- (iii) Laying the basis for how the region could advance towards establishing a single trade regime between SADC EPA Member States and the EU;
- (iv) Retaining the impetus for regional integration among SADC Member States;

- (v) Ensuring the SADC EPA arrangement with the EU is WTO compatible; and
- (vi) Ensuring alignment between trade-related technical assistance in the EPA and the programming of EU development assistance.

A formal response from the EU is still expected.

SACU-MERCOSUR PTA NEGOTIATIONS

The SACU-MERCOSUR Preferential Trade Agreement (PTA), signed 16 December 2004, contains a Main Text, and five Annexes. The Main Text sets out the principles, legal provisions and procedures for the arrangement. It also establishes an institutional arrangement to manage the new trade arrangement. Annexes 1 and 2 set out MERCOSUR and SACU respective tariff concessions covering around 1000 products each way with preference margins spread over 100-10%. The other Annexes cover General Rules of Origin, Safeguards, and Dispute Settlement.

The PTA is significant in that it is the first trade agreement concluded by SACU as a single entity. It is also important that this first agreement is with another developing region, giving meaning to the objectives of South-South cooperation and integration. The PTA creates a basis for further integration and cooperation including through possible further exchanges of tariff preferences, and cooperation on any other area. It establishes a legal framework to govern SACU and MERCOSUR trade relations.

The Understanding reached between SACU and MERCOSUR on 16 December 2004 outlines a built-in agenda for further work that could take the form of amendments or additional protocols to the PTA. These include: further exchange of tariff preferences, rules of origin (RoO), customs cooperation, Non Tariff Measures (i.e. SPS), and the automotive sector.

The last negotiating session between the two Parties was held in October 2005 and focused on finalizing the RoO list rules and final exchange of reciprocal trade concessions. One more meeting is envisioned to conclude all outstanding matters. At that stage, procedures will need to be initiated to take the PTA to our respective Parliaments for final ratification.

**Briefing Note on State of Play in the
WTO Negotiations
9 May 2006**

Development Objectives

A technically credible and politically sustainable outcome of the Doha negotiations is an important impetus to promote growth in the global economy and for the legitimacy of the global trading system enshrined in the WTO. Of particular relevance is its developmental content that was the basis and promise of the Doha Development Agenda agreed in 2001.

There is debate on what the development content entails. For South Africa, and for other developing countries, a development outcome will require:

- Elimination of export subsidies and other forms of export competition (appropriate disciplines on export credit, state trading enterprises, food aid);
- Substantial reduction of all forms of trade distorting domestic support (amber box, *de minimus* support, blue box, and stricter criteria for green box subsidies);
- Developing countries will offer market opening of up to two thirds that offered by developed countries;
- Enhanced access into developed country markets of industrial products of export interest to developing countries by reduction of tariff peaks and escalation in developed country markets;
- Developing countries will offer improved access to their markets for industrial products (less than full reciprocity), in a proportional manner taking into account their level of industrial development, employment sensitivities, and industrial policy, and over a longer transition period (special and differential treatment);
- Small and vulnerable economies (SVEs) are provided the opportunity to take on less onerous obligations and least developed countries (LDCs) are excluded from taking on obligations in the Round; LDCs to obtain duty and quota free market access; an expeditious solution to cotton subsidies;
- Technical support and capacity building, including through Aid for Trade, for developing countries to address supply side constraints, promote diversification, cushion adjustment costs, including impact of preference erosion.

DDA negotiations are currently at a critical stage. Progress has been slow and mixed: successful launch in Doha, series of missed interim deadlines, failure at Cancun, negotiations back on track following adoption of July 2004 Package, maintaining momentum in Hong Kong, but now having missed deadline for modalities on 30 April.

Substantive Difficulties

Difficulties are pronounced in agriculture. A development round requires removal of distortions in international trade that inhibit the export growth of developing countries. The largest structural distortion in international trade occurs in agriculture in developed countries. These frustrate the development prospects of many developing countries and their removal is the systemic litmus test of the development credentials of the DDA. Tariff negotiations in the industrial sector should ensure that the remaining high tariffs,

of enacting a new Farm Bill. Core modality issues to be resolved by June should unlock the process. There is some indication that progress will be made on these core issues:

- Finding a middle ground for average tariff reductions in agriculture between the EU offer of a 39% reduction and the US offer of 65%. The G20 proposed 54% average reduction offers this middle ground;
- Ensuring appropriate treatment of sensitive products so that it does not circumvent market opening by developed countries;
- Ensuring real (meaningful) cuts in domestic support in the US. This may be forthcoming if the EU improves its offer on tariff;
- For cuts on industrial tariffs, the principle of less than full reciprocity and proportionality between industry and agriculture, indicate that industrial countries

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