



## The US-SACU free trade negotiations: A mission (politically) impossible?

### *Executive Summary*

*The free trade agreement (FTA) negotiations between the US and the Southern African Customs Unions (SACU) have been ongoing since 2003, and have significant implications for South Africa. The question is, does South Africa have the political will and the capacity to negotiate complex trade agreements?*

### **Introduction**

'Harnessing trade for development' has become a key element in the view that developing countries 'cannot achieve sustainable growth and poverty reduction unless they integrate into the world economy. Trade reforms are necessary, but not enough ... . Negotiations ... should also focus on establishing an 'aid for trade' mechanism' (Hoekman, 2005:1).

This key element of prevailing views on trade explains the focus of many commentators, businessmen, academics, politicians and trade unionists on the free trade agreement (FTA) negotiations between the US and the Southern African customs Union (SACU), comprising South Africa, Namibia, Botswana, Lesotho and Swaziland.

The negotiations to create Africa's first FTA with the US started way back in June 2003. SACU, incidentally, is one of the oldest formal trading blocks in the world.

*Business Day* (22 July 2004) reported: 'New optimism about meeting SA-US trade talks deadline.' However, by January 2006 Peter Draper wrote in *Business Day*: 'Free-trade area talks between the Southern African Customs Unions (SACU) and the US are a bit like the children's film, *The Never Ending Story*. Except this story may not have a happy ending. Rumours out of Washington suggest the US may be about to walk away from the talks ... stalled due to substantial negotiating differences between the two sides.'

Duane Newman, automotive industry group leader and a partner at Deloitte, echoed the same view, urging business to push the trade negotiations and asking whether South African business could afford the talks to fail. He made the point: 'US business and the US Congress are pushing for it but South Africa isn't. What will happen to donor aid if the negotiations of the agreement fail?' (Cokayne, 2005).

## **South Africa's trading policies**

One of the major challenges after the end of apartheid was – as it still is – the transformation of the economy and the integration of our transforming economy into the global economy.

The magnitude of this challenge can only be well understood if one takes into account the disastrous effect of apartheid on trade relations and the urgency of the need to rebuilt global trade relations in a post-apartheid era. Sanctions and decades of protectionist and inward-looking policies, as well as apartheid-South Africa's 'war economy' (albeit in a qualified manner), played havoc with our trade relations at that time.

The centripetal political forces of apartheid were in constant conflict with centrifugal economic forces.

Post-apartheid trade policies were based on three pillars:

- Building trade ties on the African continent, including the strengthening of relations with SACU and SADC. Bilateral trade agreements were initiated. South Africa's role in advocating a better deal for African countries with countries/regions of the developed world is significant and should not be underplayed. Agoa (African Growth and Opportunity Act, 2000) was one of the outcomes.
- Improved global access for South African products, in particular in Europe (EU agreement) and increasingly in other parts of the world. Multilateral activity blossomed. A trilateral agreement emerged (with India and Brazil). The World Trade Organisation (WTO) became an important arena for South Africa.
- The liberalisation of the country's trade policy and institutional environment was unilaterally pursued in the interest of increased competitiveness. Admittedly the passion for unilateral liberalisation has declined, with South Africa pursuing the strategy of bilateral trade agreements.

The progress since 1994 has been substantial. South Africa's trade performance, however, was a huge disappointment. Admittedly, trade has grown since 1994. But not at a rate which allows one to say that 'Harnessing trade for development' is a major characteristic of the new South Africa. Trade in manufactured goods is testimony to this disappointment.

Since 2000 the SA government's global economic strategy has led to an increased emphasis on bilateral as well as regional trade negotiations. Also of significance is South Africa's increased role as a (political) champion for the needs and expectations of, in particular, Africa's economic marginalisation – with this emphasis increasingly focusing on the 'south'.

Pertinently stated, economic realism and political idealism have become intertwined – impacting on South Africa's trade negotiations. It has to be stated that the international game of trade, and its values, rules and conventions, has become highly complex within the context of our globalising world. A web of trade agreements, most of them very technical, covers the globe.

The complexity will increase, requiring sophisticated analytical expertise. In fact, the focus of trade negotiations has moved far beyond the 'traditional' focus of preferential tariff reductions. The so-called 'new generation' of FTAs includes a wide variety of issues, ranging from antidumping to intellectual property, the environment and even government procurement!

In other words, the new FTAs have significant influence on domestic policy, the domestic regulatory framework and domestic institutions.

## **The anti-(US-SACU) FTA lobby**

Some critics, basing their views on their interpretations of the US-Chile FTA and the CAFTA model (relevant to the four less developed countries), are of the opinion that – in the case of South Africa – a US-SACU FTA will have the following negative effects:

- Jeopardise affirmative action policies and the strategy of the SA government to enforce BBBEE programmes.
- Impact negatively on worker rights and the position of trade unions.
- Undermine the rights of developing countries to refuse the imports of genetically modified organisms (GMOs) which may impact negatively on small-scale farmers.
- Undermine access of poor communities to 'public goods' due to an inevitable trend towards privatisation in order to enhance competition.
- Undermine the ideal of a people's democracy.

Other critics voiced the following views:

- Agoa has given duty free access to more than 90 percent of South African goods entering the US market. The incentive to open South Africa's goods market is too small.
- Will an FTA motivate US business to invest in South Africa in view of the country's developmental requirements?
- What economic effect will an FTA have on the weaker/smaller members of SACU?

It is being said that the South African department of trade and industry (DTI) is deliberately stalling on the negotiations by requiring 'impossible' conditions. Negotiations have already stalled for one year since July 2004. Iqbal Sharma, an official of the DTI, indicated that this was due to the too ambitious demands of the US. A new framework was established during July 2005 in Geneva.

### **Responses from the US**

American advocates of the US-SACU FTA are saying 'time is running short'. They argue that the authority to negotiate an agreement expires on 30 June 2007. The implication is that current negotiations have to be concluded by December 2006 to allow congress enough time to act on the required legislation. A renewal of the authority is said to be doubtful.

The FTA chapters provide specific benefits in the following areas:

- Non-agricultural market access.
- Agricultural market access.
- Textiles and apparel.
- Investment.
- Government procurement.
- Services.
- Intellectual property rights protection.
- Technical barriers to telecommunications.
- Labour and the environment.

It is argued that benefits will be significant.

- Permanent duty-free access to the \$12 trillion US economy – reaching beyond what Agoa has provided.
- Facilitation of regional economic integration.
- Emphasis on the export dimension of the domestic economy.
- Enhancing competitiveness whilst at the same time easing the pressures on the export of some goods (textiles and apparel) by enlarging export opportunities.
- A US-SACU FTA is much broader and more inclusive than SA's agreement with the EU.
- An agreement will offset the negatives of the failed DOHA negotiations – giving SACU members access to the world's largest market.

## Conclusion

The US has identified SA as one of five ‘anchor states’ in Africa, determined to build workable, permanent and mutually beneficial relations with these states. A US-SACU FTA will be, from the perspective of the US, an important strategic building block. In this regard the following should be taken serious note of:

Being regarded as an ‘anchor’ state does not imply permanent US support if the relationship does not deliver tangible mutually beneficial dividends. If the FTA negotiations fail the US will turn to other African states and will explore FTAs elsewhere. Countries such as Ghana, Mozambique and Egypt are mentioned.

In the case of South Africa, and in view of South Africa’s role/position in the region as well as the country’s advocacy function regarding the needs and expectations of the south, the FTA negotiations are heavily influenced by political considerations.

These considerations, if not carefully weighed up against developmental and economic benefits, could jeopardize the talks. The possibility of this happening is high, in particular in view of the fact that a US-SACU FTA will of necessity impact on domestic policies and regulatory frameworks, requiring reforms.

A fundamental issue which needs to be addressed is: **Does South Africa have the institutional and negotiating capacity, as well as the political will, to negotiate complex trade agreements?**

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