



# **Update on the negotiations of a rollover Economic Partnership Agreement (EPA) between the Southern African Customs Union Member States (SACU), Mozambique and the United Kingdom (UK)**

**Portfolio Committee on Trade and Industry**

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# Context

- June 2016: United Kingdom (UK) voted to leave the European Union (EU).
- 29 March 2017: UK invoked EU Treaty Article 50 - 2 years to negotiate its future relationship with the EU.
- Withdrawal Agreement accepted by EU, and by UK Cabinet
  - Includes transitional/implementation period of 21 months; not applicable in the event that no Withdrawal Agreement is reached
  - During this period UK will continue to benefit from EU Agreements but loses decision making power;
  - However, during the period, UK can conclude Trade Agreements.



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# Context

- PM May still to secure House of Commons approval for the Withdrawal Agreement:
  - Border between Republic of Ireland and Northern Ireland: if no agreement found by 31 Dec 2020, UK can invoke “back-stop” = remain in a customs union with EU for undefined period;
  - But UK wants guarantee of the independence and autonomy of UK trade policy (*reality: independent trade policy incompatible with customs union*).
  - New legally binding changes to the Withdrawal Agreement agreed with EU on 11 March 2019- provides clarifications and legal guarantees on the nature of the backstop and commitment to replace it by December 2020.
- Various options still on the table.



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# Background

- Economic Partnership Agreement (EPA) between the EU and the Southern African Development Community (SADC) EPA Group provisionally entered into force on 10 October 2016.
  - EU has fully or partially removed custom duties on 98.7% tariff lines. (Not liberalized: aluminum and some agricultural products)
  - EPA countries can activate safeguards and increase the import duty in case of import surge.
  - Outlines rules of origin to be met for the products to receive preferential access which have been carefully negotiated on both sides.
  - EPA eliminates the possibility for the EU to use agricultural export subsidies.



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# Background ....

- UK is part of the EU and trades with SA/ SADC EPA States under the SADC-EU EPA.
- The SADC EPA Group consists of Botswana, Eswatini, Lesotho, Namibia, Mozambique and South Africa.
- On completion of UK's withdrawal from the EU, "Brexit", the UK will not be part of the EPA.
- To avoid trade disruption, SACU, Mozambique and UK have decided to roll-over the EPA into a standalone trade agreement



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# Trade between SA and UK

- The UK is SA's second biggest trading partner in the EU with the total trade between the two countries in 2017 amounting to R79.6 billion, excluding gold. (UK = 18% of SA exports to EU; 10% of imports)
- The top 5 UK average imports from South Africa for the period 2016-2018 were Gold, incl. gold plated with platinum and semi-manufactured (56%); Platinum, incl. palladium and semi-manufactured (15%); Motor cars and other motor vehicles (6%); Fresh Fruits including citrus, grapes, apples, pears, berries, peaches and avos (6%), Commodities not elsewhere specified (2%) and Wine (1,6%).
- About 44% of UK world imports of platinum from SA, 22% of citrus, 20% of grapes, 18% of apricots and peaches, 17% of apples and pears; 5% of vehicles, 4% of wine.

# Trade between SA and UK cont.

- The top 5 SA average imports from UK for the period 2016-2018 were Unused postage, revenue or similar stamps of current or new issue in the country (12%); Motor cars and other motor vehicles (12%); Undenatured ethyl alcohol, spirits, liqueurs and other spirituous (6%); Petroleum oils and oils obtained from bituminous minerals (5%); and Commodities not elsewhere specified (5%).
- About 65% of SA world imports of unused postages and coins from UK, 58% of spirits (mostly whiskey) from UK, 36% of printed books, 15% of Steam turbines and other vapour turbines; 8% of vehicles.

# Roll-over Agreement

- The Ministerial roundtable discussion held on 19 March 2017 in Johannesburg, Ministers agreed that the EU-SADC EPA should be rolled-over into a standalone Agreement between SACU, Mozambique and the UK.
- Terms of Reference agreed:
  - ensure as far as possible continuity of the terms of the SADC-EU EPA following the UK's exit from the EU by agreeing to a separate trade agreement that mirrors the terms of the SADC-EU EPA;
  - be a technical exercise rather than an opportunity to renegotiate existing terms;
  - seek to maintain the current effect of the EPA;
  - modify only those elements necessary to ensure operability for example new Tariff Rate Quota (TRQ) volumes.



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# Roll-over Agreement .....

- Negotiations on the rollover of the SADC EPA into a functional standalone SACU and Mozambique and UK Agreement have progressed well.
- The consolidated text has been drafted with most provisions agreed.
- Legal scrubbing has also been undertaken on the areas of the legal text that have been agreed.
- Two outstanding issues are Cumulation with the EU and Sanitary and Phyto Sanitary (SPS) Measures.



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# Cumulation with EU

- Purpose is to ensure that SACU, Mozambique and the UK continue to cumulate with the EU under the terms of the rollover Agreement.
- General objective: to maintain the current trade flows and preserve existing value-chains between the parties.
- If a “no deal” Brexit is to materialise (i.e. no preferential trade arrangement between the UK and the EU), the ability of SA to source input products from the UK for final exportation of beneficiated or manufactured products to the EU and vice versa could be severely compromised.
- Cumulation allowed in EU-SADC EPA with countries if Preferential Trade Agreement in place with those countries.



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# Cumulation with EU cont.

- The nature and detail of future trade relationship between UK and EU not yet known.
- SACU and Mozambique proposed a transitional arrangement to preserve exiting value chains which provides for recognition of EU materials and processing for a period of three years while the Parties negotiate a permanent arrangement.
- UK agreed to this approach but no agreement yet on the conditions to apply.
- Parties agreed that to cumulate with EU materials and processing:
  - Rules of Origin (RoO) of EU-SADC EPA will apply to the materials from EU;

# Cumulation with EU cont.

- UK must have a customs administrative arrangement or agreement with EU.
- To ensure equal treatment of EU and UK, SACU and Mozambique's position is that cumulate be allowed with materials from the EU where the duties are the same or lower if imported into SACU or Mozambique. This is to ensure that circumvention of duties does not take place.
- UK wants to cumulate with any material from EU – a condition that is currently not provided for in the SADC-EU EPA.
- To address concern from UK, SACU and Mozambique proposed consultation between the Parties if at any stage a higher duty is applicable to materials imported from EU than when imported from UK.



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# Cumulation with EU cont.

- The purpose of the consultation will be to consider the impact on cumulation.
- The parties have not yet reached agreement on this issue and undertook to have further domestic consultations.
- In addition, the SADC-EU EPA does not provide for cumulation with SA on products destined for the EU/UK that do not enjoy duty free quota free treatment (mainly agriculture products).
- SACU and Mozambique's position is that full regional cumulation should be addressed during the Transition period so as to enhance regional integration and promote the development of regional value chains.



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# SPS

- While the UK is part of the EU, the EU regulations on Sanitary and Phyto Sanitary requirements on the import of agricultural products applied.
- Once the UK leaves the EU, the UK will have to put in place its own SPS framework.
- SACU and Mozambique proposed that during the transitional period, the UK ensures continuity in trade in agricultural products by:
  - affording sufficient time to SACU and Mozambique to adjust to new UK operational requirements. This is without prejudice to the UK invoking their right to modify and adopt its own SPS regime
- No agreement yet due to differences in respect of the timelines for recognition of model EU health certificates, establishment listings and import requirements.



# Proposed Bridging Agreement

- A Memorandum of Understanding or Transitional Agreement to act as a bridge if the UK leaves the EU on 29 March 2019 without an agreement has been discussed.
- The purpose of the Bridging Agreement will be to ensure continuity in trade between the parties by agreeing to continue to provide each other with the treatment given under the EU-SADC EPA the day before this agreement ceases to apply to the UK for a period of 6 months while the Rollover Agreement between SACU Member States, Mozambique and UK are being finalised.
- A draft has been developed and the UK is undertaking further domestic consultations on the instrument.

# Way forward

- SACU Member States, Mozambique and UK are having further internal consultations on the outstanding issues and the proposed bridging agreement.
- A Joint Ministerial meeting has been proposed for 15 March 2019.
- The UK has a number of votes on different proposals from 12-14 March 2019.
- Scenarios:
  - If the Withdrawal Agreement with EU is accepted by Parliament on 12 March 2019 the EU-SADC EPA will continue to apply to UK until the end of 2020.
  - If the Withdrawal Agreement is not accepted, the UK Parliament will vote on whether to leave the EU without a deal.



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# Way forward

- On 14 March 2019, the UK parliament will vote on whether to ask for an extension of the period under Art 50. If agreed, the UK will stay part of the EU for the further period agreed with the other EU member states. This will provide more time to finalise the Rollover Agreement between SACU Member States, Mozambique and UK.
- The Ministerial meeting scheduled for 15 March 2019 will aim to resolve the outstanding issues to facilitate conclusion of the roll-over Agreement and the MoU/Bridging Agreement.



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# Definitions

- EPA – Economic Partnership Agreement
- TDCA- Trade Development Cooperation Agreement
- BELN- Botswana, Eswatini, Lesotho and Namibia
- TRQs- Tariff Rate Quotas
- RoO- Rules of origin
- UK- United Kingdom
- EU- European Union
- SACU – Customs union between Botswana, Eswatini, Lesotho, Namibia, and South Africa
- SADC- Southern Africa Development Community
- SADC EPA Group- Botswana, Eswatini, Lesotho, Namibia, Mozambique and South Africa
- Roll over EPA- Stand alone agreement between SACU, Mozambique and the UK.



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