

# SACU WORKSHOP

## 16 March 2011

### PROGRAMME

09:00 – 09:10	<b>Opening Remarks: Overview of the Programme</b> <ul style="list-style-type: none"><li>Ms J Fubbs - Chair: Portfolio Committee: Trade and Industry</li><li>Trudi Hartzenberg, tralac</li></ul>
09:10 – 10.10	<b>Session 1: A new Vision for SACU?</b> Trudi Hartzenberg <ul style="list-style-type: none"><li>100 years on – a New Vision and Mission</li><li>Intra-regional developments: An agenda for development?</li><li>SACU's extra-regional agenda: South-South Relationships, intra-African agenda</li></ul> Discussion
10.10 – 11.10	<b>Session 2: Trade Policy Making in a Customs Union</b> Professor Colin McCarthy <ul style="list-style-type: none"><li>What is a customs union and what are the implications of customs union membership?</li><li>Trade-industrial policy interface in SACU</li></ul> Discussion
11.10 – 11.30	<i>Tea/Coffee Break</i>
11.30 – 12.30	<b>Session 3: SACU's Legal and Institutional Matters</b> Professor Gerhard Erasmus <ul style="list-style-type: none"><li>Overview of the 2002 SACU Agreement</li><li>SACU Institutions: Secretariat, Tariff Board, Tribunal (A Permanent SACU Summit?)</li><li>Decision making in SACU</li></ul> Discussion
12.30 – 13.00	<b>Session 4: General Discussion</b>
13.00	Close

## **SACU Workshop - Background Note**

The aim of this Workshop is to provide an opportunity to review developments related to the regional integration agenda in southern Africa, specifically with respect to the Southern African Customs Union (SACU). SACU is the oldest functioning customs union in the world, and it has a very specific history which must be taken into account when reviewing current developments.

The following are some of the issues that we will focus on.

### **SACU and the World Trade Organisation (WTO)**

Free Trade Areas and Customs Unions are permissible in terms of WTO Law. Regional trade agreements (i.e. customs unions and free trade areas) are an exception to one of the fundamental principles of the multilateral trading system; non-discrimination or the most-favoured nation (MFN) clause. The MFN clause (Article 1 of the General Agreement on Tariffs and Trade (GATT)) requires that any privilege extended by a member of the WTO to any other WTO member, be extended to all WTO members. WTO Rules do however permit WTO members to form free trade areas or customs unions, and in such arrangements, the member states offer privileges to their other members which are not extended to non-members. These WTO Rules are found in Article XXIV of the GATT and the Enabling Clause, if the regional trade agreement covers trade in goods, and Article 5 of the General Agreement on Trade in Services, if services are covered by the agreement.

SACU has been notified to the WTO under Article XXIV of the GATT, since the SACU Agreement covers trade in goods and not services.

### **SACU's Relationship with other trading partners**

It is important to recall that all SACU member states, are also members of the Southern African Development Community (SADC), and that the SADC member states have agreed (in October 2008) to establish, together with the member states of the Common Market for East and Southern Africa (COMESA) and the East African Community (EAC). These 26 member states have agreed to establish a Tripartite Free Trade Area. SADC also has its own integration agenda, aiming to become a customs union (there is no date set for the customs union at this stage - it was to have been 2010), and then eventually to establish a monetary union.

In addition, SACU is engaged in negotiations with extra-regional partners. The SACU-India negotiations are in process, SACU member states are also engaged in negotiations with the European Union to conclude an Economic Partnership Agreement (Mozambique and Angola are also part of the SADC EPA Group to which the SACU member states belong). A SACU-MERCOSUR Preferential Trade Agreement has

been concluded, a SACU-EFTA Agreement that has also been concluded and it has a rendezvous clause; a commitment to revisit this agreement and consider negotiations on issues such as services.

### **Current Developments in SACU**

The 2002 SACU Agreement has not yet been fully implemented. This Agreement provides for new institutions to management SACU's agenda. The SACU Secretariat has been established in accordance with the Agreement, but the SACU Tariff Board and the Tribunal have not yet been established. No explicit provision is made for a permanent SACU Summit, as is the case in for example SADC. However during 2010 the SACU Heads of State and Government met twice - once on the occasion of the celebration of SACU's Centenary and once after that to deliberate on SACU's future agenda. A new Vision and Mission were adopted for SACU, articulating a commitment to a deeper regional integration agenda, and a review of SACU matters, specifically the revenue sharing arrangement. A study of the revenue sharing formula has now been completed (by external consultants) and is currently being considered. It is therefore a very opportune time to review and discuss SACU matters.