



WHAT IS THE SOUTHERN AFRICAN CUSTOMS UNION



Tswelopele Moremi – SACU Executive Secretary

The Southern African Customs Union is the oldest customs union in the world; having been established in 1910. It consists of five Member States: Botswana, Lesotho, Namibia, South Africa and Swaziland.

The Southern African Customs Union (SACU) is a single customs territory and has a common external customs tariff. The SACU Agreement, 2002 covers trade in goods, agriculture and trade facilitation. Goods grown, produced or manufactured in the Common

Customs Area are traded freely among the Member States, free of customs duties and quantitative restrictions, except as provided elsewhere in the SACU Agreement, 2002.

SACU operates a Common Revenue Pool into which all customs, excise and additional duties are paid. Each Member State receives a share from this pool, calculated in terms of the Revenue Sharing Formula provided for by an Annex to the SACU Agreement, 2002.

Colonial Past

The Union of South Africa, and the then High Commission Territories of Bechuanaland, Basutoland and Swaziland, were the original participants in the Customs Union, through the SACU Agreement of 1910. When the three territories became independent, a new Agreement providing for the continuation of the customs union arrangement was concluded between these three states and South Africa which entered into force on 11 December 1969.

When Namibia became independent in 1990 it became a member of SACU in the same year, previously it was a de-facto member through its ties with South Africa.

With the advent of a new political dispensation in South Africa in the early 1990s, and in response to the establishment of the World Trade Organization (WTO), the Member States decided in 1994 to renegotiate the 1969 SACU Agreement and establish an organisation “to cater for the needs of the 21st century”.

A Post-Apartheid SACU

The 1969 Agreement was renegotiated after South Africa underwent its transition to Democracy in 1994, taking into account the social, economic, political and international changes in the sub-region and elsewhere. This process culminated in the signing of the new SACU Agreement on 21st October 2002.

The Member States agreed on a democratic and transparent arrangement with common policies and common institutions to promote industrial and economic development and regional integration.

Following the signing of the Agreement, the Council of Ministers embarked on a recruitment process for the Executive Secretary of the SACU Secretariat. The Executive Secretary assumed office in January 2004. The immediate priority was ensuring the

ratification of the SACU Agreement, 2002 by the Member States and the establishment of the SACU Secretariat's office which acted as a depository for the Instruments of Ratification. The new SACU Agreement entered into force on 15 July 2004.

SACU Agreement, 2002

An important difference between the new Agreement and the previous 1969 agreement is that it provides for joint responsibility over decisions affecting customs tariff setting, the Common Revenue Pool, and the overall direction of SACU.

The 2002 Agreement provides for the establishment of new institutions to reflect the joint decision making process. These include an independent SACU Secretariat which is already in place and is based in Namibia. A SACU Tribunal, a SACU Tariff Board, and Member States National Bodies are in the process of being established.

The National Bodies are to be established by each Member State to deal with requests from their private sector on customs tariff changes. The creation of these institutions is part of continued efforts towards a more cohesive regional market.

The SACU Agreement, 2002 provides for deeper economic integration through the development of common industrial, agricultural and competition policies as well as policies on unfair trade practices.

Some of the key improvements of the 2002 Agreement over the 1969 version include the democratisation of decision-making, now consensus-based, and the concomitant establishment of a dispute resolution mechanism, a commitment to exploring ways to devise common or co-ordinated policies; the removal of any one member's ability to negotiate bilateral trade agreements with third parties. All members must now negotiate as a single entity.

Objectives of the Agreement

Article 2 of the SACU Agreement, 2002 establishes eight separate objectives for SACU. These are to:

- facilitate the cross-border movement of goods between the territories of the Member States;
- create effective, transparent and democratic institutions which will ensure equitable trade benefits to Member States;
- promote conditions of fair competition in the Common Customs Area;
- substantially increase investment opportunities in the Common Customs Area;
- enhance the economic development, diversification, industrialization and competitiveness of Member States;
- promote the integration of Member States into the global economy through enhanced trade and investment;
- facilitate the equitable sharing of revenue arising from customs, excise and additional duties levied by Member States; and,
- facilitate the development of common policies and strategies.

Member States' Obligations & Commitments

The main obligations and commitments of the Member States in the implementation of the SACU Agreement, 2002 as outlined by the Agreement are to:

- jointly determine customs and excise duties and apply a common external tariff regime to non-SACU members, as well as a common system of rebates, refunds and drawbacks;
- transfer all customs and excise duties into a Common Revenue Pool with disbursements to Member States based on a revenue formula contained in the Agreement, including a customs, excise and development components;
- create tariff-free trade between Members with an exception provided to infant industry levies allowed to Botswana, Lesotho, Namibia and Swaziland (BLNS) and approved by Council;
- apply non-discrimination principles in rail and road transport and transit between SACU members;
- pursue simplification, harmonization of customs documentation and procedures and co-operation on customs initiatives to ensure effective and harmonious application of the Agreement;
- negotiate as one group for external trade negotiations and for the Common Negotiating Mechanism to undertake negotiations with third parties;
- develop common policies and strategies for industrial development;
- develop policies and instruments to address unfair trade practices;

- co-operate, for the purposes of coordination, in the areas of technical barriers to trade, agricultural policy and competition policy;
- apply sanitary and phyto-sanitary (SPS) standards according to national or international standards;
- adjudicate disputes on the interpretation and application of the Agreement through the Tribunal.

SACU Institutions

The SACU institutions that should be established are detailed in Article 7 of the SACU Agreement, 2002.

SACU Council of Ministers

The SACU Council of Ministers is the supreme policy and decision-making body on all SACU matters. It consists of at least one Minister from the Ministry of Finance, and Ministry of Trade and Industry of each Member State. The Council is responsible for the overall policy direction and functioning of SACU institutions, including the formulation of policy mandates, procedures and guidelines for these Institutions.

The Council oversees the implementation of the policies of SACU and will also approve customs tariffs, rebates, refunds or drawbacks and trade related remedies, upon recommendation from the Tariff Board.

The Council has the authority to create additional Institutions and to determine and alter their terms of reference.

The SACU Agreement, 2002 makes provisions for the Chairpersonship of Council to be held in turn by each Member State (Botswana, Lesotho, Namibia, South Africa and Swaziland) for a period of one year, beginning 14 July of a given year. The date of 14 July is the day in which the current SACU Agreement was signed in 2002. The position of Chair is rotated among the Member States on an annual basis in country alphabetical order.

The current Chairman of the SACU Council of Ministers is the Honourable Minister of Finance and Development Planning for Botswana, Honourable O.K. Matambo.

Customs Union Commission

The SACU Commission consist of senior officials at the level of Permanent Secretaries, Director Generals, Principal Secretaries and other officials of equivalent rank, from each Member State from the Ministry of Finance and the Ministry of Trade and Industry. The Commission reports to the Council.

The Commission is responsible for the implementation of the SACU Agreement, 2002 and of the decisions of the Council. The Commission oversees the management of the Common Revenue Pool in accordance with the policy guidelines set by the Council of Ministers. It also supervises the work of the Secretariat.

Secretariat

The Secretariat is one of SACU's permanent institutions. It has its headquarters in Windhoek, Namibia and is headed by an Executive Secretary who is a citizen of a SACU Member State.

It is responsible for the day-to-day administration of SACU. The Secretariat coordinates and monitors the implementation of all decisions of the Council and the Commission. It arranges meetings, disseminates information and keeps minutes of meetings of the SACU Institutions. The Secretariat is also responsible for keeping a record of all transactions into and out of the Common Revenue Pool and coordinates and assists in the negotiation of trade agreements with third parties. The Secretariat is the depository of all SACU records.

Tariff Board

The Tariff Board, once established, will be an independent SACU institution consisting of experts drawn from Member States. The Tariff Board will be responsible for making recommendations to the Council on the level and changes of customs, anti-dumping, countervailing and safeguard duties of goods imported from outside the Common Customs Area, rebates refunds, or duty drawbacks based on the directives given to it by the Council.

The terms of reference, policy mandates, procedures and regulations of the Tariff Board are determined by the Council. Currently the Tariff Board is not operational – South Africa sets SACU customs tariffs and trade remedies.

Tribunal

The Tribunal, once established, will adjudicate on any issue concerning the application or interpretation of the SACU Agreement, 2002 or any dispute arising there under at the request of the Council. Its determinations will be final and binding. The Tribunal will also, at the request of the Council consider any issue and furnish the Council with its recommendations. The Tribunal will be assisted by the Secretariat in its work and it will be composed of three members except as otherwise determined by Council. Decisions will be made by a majority vote.

In the event of any dispute or difference arising between Member States in relation to or arising out of the SACU Agreement, 2002 including its interpretation, the parties shall in the first instance meet and consult in an attempt to settle such dispute or difference before referring the matter to the Tribunal.

ENDS

Some Graphics & Data

	Botswana	Lesotho	Namibia	South Africa	Swaziland
Total Population	2 024 904	1 879 000	2 113 077	51 770 560	1 067 772
Geographic Size (km²)	582 000	30 355	825 615	1 219 090	17 364
GDP (ZAR million)	113 126	18 331	90 603	2 917 539	29 699
GDP per Capita (ZAR)	55 867	9 655	43 044	56 355	27 814
Total Roads (km)	25 800	7 438	42 260	741 700	5 275
Total Rail Lines (km)	888	2.6	2 647	22 000	300

NOTE: GDP and population figures are for the year 2011



BOTSWANA



LESOTHO



NAMIBIA



SOUTH AFRICA



SWAZILAND
