

The 'One Size' Trade Pact That Doesn't Fit At All

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Johannesburg -- SEVERAL business and nongovernmental organizations lay the blame for what some describe as a halt in free-trade talks between Southern African Customs Union (Sacu) and the US at the door of the world's largest economy.

The US's approach to the talks has been seen as inflexible by it asking Sacu members SA, Namibia, Botswana, Lesotho and Swaziland to sign up to the "template" that the US applies in free-trade talks with other countries or blocs, rather than engaging in real negotiation.

US negotiators' hands are somewhat tied by their mandate to negotiate nothing less than a comprehensive free-trade deal not only with Sacu, but with all the US's prospective free trade partners.

There has been little negotiation by the US, according to Michael McDonald, a representative of Business Unity SA (Busa), who says that the US has not moved "one inch" from its original highly ambitious position.

While Sacu commentators apportion the blame to the US, the root of the seemingly insurmountable stalemate that has stalled talks several times over the past three years, is found in Sacu. The union is the oldest in the world, yet it still has vastly disparate levels of trade policy development.

The lack of harmonized policy has rendered the union unwilling or unable to conclude a comprehensive free-trade deal with the US -- a deal that in addition to trade in goods and services, means that the partners make commitments on "new generation" issues such as investment and intellectual property rights.

Sacu, led by SA's chief negotiator, Xavier Carim, put forward what it described as a reasonable request last year, suggesting that the two parties negotiate an initial basic free-trade deal, shelving the new-generation issues until there was greater harmonization within Sacu, or at least a plan to achieve common policies.

The US team, led by Assistant US Trade Representative for Africa Florie Liser, has stuck to its guns, saying it cannot submit anything less than a comprehensive trade deal to the US congress.

Brendan Vickers, a representative of the Trade Strategy Group, says the US is not prepared to recognize the degrees of economic and policy development within Sacu, and the fact that the union is the first bloc to resist signing the US's "one-size-fits-all" free-trade template is something of a victory.

However, Trudi Hartzenberg of the Trade Law Centre in SA says that Sacu may have been shortsighted in failing use this opportunity to push for harmonization and commit to a comprehensive deal.

"Sacu's future free-trade deals will have to be just that. The benefit for Sacu in its planned trade deals with China and India will come from new-generation issues, not from trade in goods."

The lack of movement towards harmonization is illustrated by the latest draft of SA's mooted new industrial policy.

"Sacu is not even mentioned in the draft," says Hartzenberg.

A new plan is on the table to take the struggling Sacu-US talks forward, following a meeting -- touted by outsiders as a last ditch attempt to break the deadlock -- between deputy trade ministers from the US and Sacu last week.

The two parties said that they had agreed to develop a "joint work programme" that would see talks about the tough issues continuing.

At the same time, the two sides would attempt to conclude co-operation agreements in specific areas such as customs and phytosanitary requirements to help smooth trade flows, they said.

However, some described the outcome as little more than a last-resort strategy to pick the "low-hanging fruit" in recognition that a free-trade deal was not achievable.

Despite both sides saying that they remain committed to a free- trade agreement, all deadlines were removed from the talks at the Pretoria meeting.

Moreover, Sacu and the US have acknowledged that it is probably impossible to conclude negotiations by year-end in order to pass congress before the Trade Promotion Authority Act expires in July next year.

Expiry of the act, which provides for trade deals to be passed more easily, together with the increasingly protectionist mood in the US, are widely expected make it considerably more difficult, if not impossible, for a Sacu-US free-trade deal to be sealed.

"It would be a great pity if we lose out on these talks, particularly because this is such an opportune time to do it," says the director of the American Chamber of Commerce in SA, Luanne Grant, noting that US President George Bush will not stand for another term and therefore owes no allegiances to farmers or industrialists, allowing him to "make promises".

Raymond Parsons of Busa, which believes real opportunities such as job creation will stem from a fair free trade deal with the US, says another opportunity to speedily secure a favorable trade deal "may not occur again soon".

Grant echoes this, maintaining that the US's unilateral African Growth and Opportunity Act, which has helped SA's exports to the US double every year for the past five years, will not last forever, while McDonald says it can be removed "overnight".

A free-trade deal was expected to encourage much-needed direct investment by US companies in Sacu. "There would now be a question mark in the US over why the deal was turned down," says Grant.

It is widely agreed that good free- trade deals can serve as tools to promote economic growth and create jobs, among other benefits, which is why most countries are in a race to wrap up free-trade deals as part of their efforts to increase their share of global trade.

The country's free-trade agenda has fallen far behind its original aims, which were to have trade deals in place with the US, the European Free Trade Association and Latin American bloc Mercosur more than a year ago, and to start talks with India last year.

Vickers says the entire US-Sacu episode has served as a wake-up call. Hartzenberg says that Sacu will have to rise to the challenge of harmonizing its regulatory environment "with some urgency".