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THE EUROPEAN UNION-SOUTH AFRICAN FTA: WHY IS THERE STILL NO AGREEMENT?

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Since 1994, shortly after South Africa's transition to democracy, negotiators from the European Union and South Africa have been locked in negotiations about a possible Free Trade Agreement (FTA). After more than three years of discussions, without significant progress being made on the trade aspect of the agreement, the question arises whether the momentum in the process has been lost: Is the EU losing its patience with South Africa's inability to decide whether it even wants an FTA; or is South Africa loosing faith in the EU's commitment to the development of the southern African region; or have both sides just sobered up to the magnitude of negotiating the deal?

Arguably South Africa erred in negotiating a trade deal with its biggest trading partner first. In 1994 South Africa was the apple of the world's eye and had it knocked on other countries' or other regional organisations' doors for a beneficial trade agreement, they would probably have conceded more and sooner, with more benefits. The reasons live in the nature of the European Union and its trade relationship with other countries. The EU has 15 member states, with at least five very strong countries, each with its own set of priorities and sensitive areas. It is very difficult to formulate uniform policy on trade issues within the EU, hence the unappealing European negotiating mandate. In addition, the EU has a long standing relationship with the developing countries of Africa, the Caribbean and the Pacific, the Lomé Convention. Lomé governs relations between 70 African, Caribbean and Pacific countries and the EU. All of them are classified as under-developed or developing countries and therefore receive preferential, non-reciprocal access to the European market. Some quotas are placed on a selection of sensitive European products. In contrast, South Africa is classified as an economy in transition, which makes it neither developed nor developing. South Africa is therefore a unique case and difficult to deal with within the framework of the EUs relationship with the developing world.

Other regional trading blocs differ in their composition from the EU, having fewer leading economies. Their relationship with the developing world is also much more informally organised, probably due to not being burdened with a colonial past.

NAFTA could be taken as an example. According to trade statistics, South Africa has significantly less trade with NAFTA than with the EU. Negotiating an FTA first with NAFTA could in a way have been used as an experiment for future trade deals: local and foreign producers would not have been vehemently opposed to the deal, as their main trading interests would not have been affected. After implementation the effects of free trade could have been monitored. NAFTA also does not have a Lomé Convention. The implication of this would have been that a truly unique deal for South Africa could have been worked out without having to take previous deals with the developing world into consideration and without fear of setting a precedent. The European Union cannot give South Africa a preferential trade agreement without considering the other 70 countries of the ACP. In addition, without the example of a previous agreement with the developing world, South Africa would also not have been tempted to pursue a similar agreement at all costs, but would have concentrated exclusively on a Free Trade agreement. There would have been no SADC problem: NAFTA trade with SADC is minimal, whereas EU-SADC trade is significant to the developing community. A NAFTA-South African FTA would have been viewed as an insignificant internal South African matter, but with one

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important result: it would have strengthened South Africa's bargaining position *vis à vis* Europe. Unfortunately South Africa was infatuated with the possibility of a high profile political deal and never took enough time to consider the economic and administrative realities.

To understand the problems currently being experienced with the EU-SA Free Trade Agreement negotiations, one has to go right back to the beginning of the process, when the initial proposal was made by Europe. In response South Africa requested full participation in the Lomé Convention. Due to South Africa's economic sophistication, it was clear right from the beginning that full Lomé participation would not even be considered. In comparison to other ACP countries, South Africa is an economic giant. Just looking at sub-Saharan Africa, South Africa is four times stronger than the rest of SADC put together and twenty times stronger than its nearest rival in the community, Zimbabwe.

In order to make its Lomé claim stronger, South Africa turned to the Southern African Development Community and signed a Free Trade Protocol with the region. The protocol aims at creating a Free Trade Area within 8 years of implementation. The protocol is due to be ratified in August of this year, but as yet it remains vague and has not been finalised. Without a doubt signing the protocol is a very positive step forward for the Community. In a neighbourhood where regional organisations have not had many successes, the protocol will strengthen ties, facilitate co-operation and force long over-protected industries to open up to influences from the world market.

Although the document succeeded in strengthening South Africa's developing claim, the very clauses that bring SADC indirectly to the negotiating table, articles 27 and 28, will in future make it more difficult for South Africa to negotiate trade deals with third countries. The articles stipulate that most favoured nation (MFN) status should be granted to every member country and every benefit granted to a third country should also be extended to all members. Trade agreements should also be concluded in consultation with the SADC states. This effectively means that when negotiating, South Africa is actually negotiating on behalf of the entire community. Although in some situations it would be beneficial for South Africa to stress its link with SADC, its real needs differ tremendously from the developing countries and in most cases it will find SADC to be more of a burden than a help.

Tariff liberalisation has generally been accepted in South Africa as a difficult but necessary measure to advance economic development and prosperity. SADC is, however, not entirely convinced. Whereas most participants in regional organisations view regional bodies as necessary and auxiliary steps towards participation and competitiveness on the world market, most members of SADC rather look towards the community for protection from global movements. South Africa's efforts to open up and persuade SADC to follow suit are therefore viewed with increased scepticism. This scepticism can have a serious negative influence on South Africa's trade relations with third countries.

Even the addition of SADC to the South African factor in the equation, did not sway the EU to grant full South African participation in the Lomé Convention. Objections did not only arise in Europe: strong voices were also raised within the ACP against such a move. Partially due to South Africa's persistent request for full Lomé participation, the Lomé negotiations were delinked from the overall trade and co-operation talks. After delinking, South Africa's accession was finalised swiftly, despite protests from Spain, who feared South Africa would abandon the FTA negotiations after having achieved its main goal, Lomé.

South Africa's accession to the Lomé Convention can be seen as political rather than economical. The main economic benefit will be the ability to tender for European Development Fund (EDF) projects in all ACP countries. In addition, South Africa will benefit from the accumulation of origin clause, which could have important economic benefits for South Africa and the Southern African region as a whole. South Africa will further participate in Lomé projects on technical, cultural and social co-operation, regional co-operation, industrial development and investment promotion and protection. It will not, however, be eligible for non-reciprocal trade benefits and will receive development aid separately from the Lomé Convention. (South Africa currently receives more development aid than any of the Lomé countries through the European Programme for Reconstruction and Development. South Africa will be receiving R1,236.75 million in the year 1998/1999.) Further the special protocols on Bananas, Rum, Beef and Veal, Sugar, and Coal and Steel products will also not be applicable to South Africa.

South Africa's membership of, and its full participation in all of the Lomé institutions should have some important effects on this special relationship between the developed and the developing world. It will undoubtedly increase the political weight of the ACP group, and influence the political dialogue between the ACP and the EU on many issues, including the post-Lomé debate.

The delinking of the Lomé negotiations fell outside the European mandate and it was therefore seen as a negotiating victory for South Africa at the time. In addition it was felt that with the Lomé debate out of the way, South Africa could now concentrate exclusively on the Free Trade Agreement. However, the victory might not have been entirely a South African one. South Africa did not manage to gain anything more than what had been proposed in the European mandate. South Africa now has nothing left on the table to give up as a concession.

South Africa did not pay exclusive attention to the FTA negotiations as the EU had hoped. European negotiators were presented with a total rejection of the European proposal on trade issues. The rejection was based firstly on the unacceptability of the exclusion of 39% of South African agriculture from the FTA; secondly, on the fact that due to higher tariffs currently implemented in South Africa, it will have to liberalise much more than Europe; thirdly, on the perception that the asymmetrical adjustment period is too short; and finally on the fears of SACU and SADC on the adverse effects the FTA will have on some of their industries.

The exclusion of South African agricultural products is a real problem. It remains important for South Africa to try and restore the excluded products to the negotiating agenda, even if only as a negotiating tool. Whereas the possibility of giving up Lomé as a concession has now faded away, the agricultural products were never even on the table.

The European Union, however, remains adamant that it is proposing the best possible agricultural deal to South Africa. In all previous trade negotiations, the EU used to propose a positive list of agricultural products, in contrast to the negative list now included in the South African mandate. In other words, whereas previously all agricultural products were *a priori* excluded from the deal, except for the few products listed, all agricultural products will be included in the South African deal, except for the listed products. This means that South Africa will in future be able to export products, which it is not currently exporting, without first returning to the negotiating table.

The EU believes that South Africa will not be able to increase production in the products which are excluded from the mandate, as South Africa has almost reached maximum production capacity for them. This assumption can be attributed to South Africa's scarce water supplies. The EU should however recognise the reverse side of the coin: if the EU acknowledges South Africa's inability to expand production, then why consider some of the products sensitive enough to exclude them from the negotiations?

In order to sway SADC and SACU fears on the adverse effects of the FTA, South Africa proposes that the EU pronounces itself willing to compensate workers in SADC who lose their jobs as a result of the agreement and to provide investment where businesses are closed. However, the EU remains adamant that South Africa will have to deal with the problem itself.

An additional concern for South Africa is the expansion of the European Union eastwards. Whilst the possibility of expansion is no longer being discussed in Europe, but accepted as a forgone conclusion, the issue is being debated in South Africa: should it fear the expansion of the Union or are there certain benefits to be gained from a wider European membership?

Hungary and Poland are likely to be the first two former eastern bloc countries to join the European powerhouse. These two countries are virtually on the same level of economic development as South Africa, and have the same mix of products in their exports and imports. As soon as these countries enter the European Union they will be eligible for many privileges and could therefore become a real threat to South Africa. With the advantage of huge amounts of Foreign Direct Investment, East European countries could flood the South African market.

If South Africa decides not to sign an FTA with Europe, it won't enjoy the same preferential access to the European market as the EU members and will therefore not be able to compete with the East European products. However, when signing the FTA, South Africa will have equal free access to the European market and should then not fear the East. Similarities between South Africa, Hungary and Poland could be used in a combined effort. Whereas the expertise will often lie in Europe, South Africa will always have a comparative advantage in respect of floor space and electricity. South African industrial products are also likely to find a market in Poland and Hungary, as they might be more satisfied with lower quality products than many of the western Europe. South Africa should therefore fear the East if it decides against signing the FTA, but should welcome European expansion if it decides to sign.

While being mindful of the possible dangers in signing an FTA, South Africa should also remember the alternatives. If no formal trade agreement can be reached with the European Union, South Africa's trade with Europe will be governed by the General System of Preferences (GSP). The GSP is a system developed within UNCTAD to encourage the expansion of *manufactured and semi-manufactured exports* from developing countries by making such goods more competitive in developed country markets through tariff preferences. Each industrialised nation determines its own system of preferences, specifying the goods that would benefit from preferential treatment. Although GSP might be attractive for its non-reciprocity, it must be remembered that the GSP is something the European Union will be *granting* South Africa and is not a negotiated agreement. Preferences are decided upon by the EU and can be withdrawn at any time, leaving South Africa with a closed European market.

It seems therefore that the problems currently experienced with the FTA lie in South Africa's inability to accept its semi-developed status; its fears that it is not getting the best possible deal and continuous pressure from a SADC fearful of the negative effects of an FTA. South Africa would, however, be wise to consider the alternatives to accepting an FTA with the EU and realise that in Europe patience with the process is running out. In the end the investment security an FTA will bring will render far greater benefits than lowered tariffs on agriculture ever can.

The writer has recently been on a Research Trip to Europe and this Update flows out of conversations had with various people from many different sectors. Special thanks, however, go to Carolyn Jenkins at Oxford University.

STATEMENT OF PURPOSE

The South African Institute of International Affairs is an independent organisation which aims to promote a wider and more informed understanding of international issues among South Africans.

It seeks also to educate, inform and facilitate contact between people concerned with South Africa's place in an interdependent world, and to contribute to the public debate on foreign policy.