



PRESS RELEASE

EU-SACU Poultry Safeguard Measure Arbitration

Trade defence instruments at work for developing countries - SACU secures a victory against the European Union on a bilateral safeguard measure

WINDHOEK, NAMIBIA

3rd AUGUST 2022

1. In a historic milestone, in its final Report delivered on the 3rd August 2022, the Arbitration Panel's Ruling on the dispute between the European Union (EU) and the Southern African Customs Union (SACU) Member States, secures a landmark victory for the SACU poultry industry.
2. The dispute was initiated by the EU under the Economic Partnership Agreement (EPA) between the EU and the SADC EPA States (EU-SADC EPA) and relates to a bilateral safeguard measure imposed by SACU on *frozen bone-in chicken* cuts imports from the EU, in 2018. The EU had challenged the legal basis and compliance of the measure with the EU-SADC EPA on a number of grounds.
3. Dismissing the majority of the EU's claims, in particular those pertaining to the geographical scope of the measure, the requirement for an investigation, the adequacy of the information provided to the EU as well as the request for a refund of the duties already paid, the Arbitration Panel confirmed that the EU-SADC EPA provides for a safeguard regime that departs from that under WTO rules, emphasising the developmental character of the EU-SADC-EPA.
4. The EU also failed to establish that increased imports from the EU had not caused injury although the Panel made no finding on this issue. The Panel however upheld claims by the EU relating to the fact that SACU may not have considered other factors with regard to the proportionality of the duty, as well as the duration of the consultations that SACU conducted, including with the EU, before imposing the measure. The Panel did not require SACU to take any further action in relation to the safeguard measure.
5. This is the first arbitration for the SACU Member States as a collective under an international Trade Agreement, and the first dispute related to the safeguard regime present in this type of international economic instrument. It is therefore a monumental achievement for SACU to have successfully defended its rights and decisions taken in compliance with the EU-SADC EPA. The Panel's emphasis on the developmental nature of the EPAs and its consideration of this fundamental objective in its analysis of the dispute, provides legal certainty in the application of the EU-SADC EPA, going forward.

6. SACU welcomes the balanced Panel Report as well as its emphasis on the requirement for cooperation and comity between the Parties in the implementation of the EU-SADC EPA, going forward. This is indeed one of the fundamental principles underlying the EPAs. Furthermore, the Ruling reinforces SACU's confidence in the objectives of the EU-SADC EPA and the robustness of the safety valves encompassed within it to protect the SADC EPA States' domestic industries from imports from the EU, when necessary.
7. The arbitral Ruling has been transmitted to the Trade and Development Committee under the EU-SADC EPA, which will decide on its publication.

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