SACU’s participation in the SADC EU EPA Negotiations

With different positions to the EPA negotiations, fears were expressed that this could mean the end of SACU. New Era’s Catherine Sasman spoke to SACU Executive Secretary Ms. Tswelopele Moremi, and Director: Policy Development Research, Mr. Anton Faul to find out more.

At the end of last year Botswana, Lesotho, Namibia and Swaziland (BNLS countries) initialled an Interim Economic Partnership Agreement (IEPA) with the European Union (EU). South Africa decided against the initialing of an IEPA. This has placed the integrity of the Southern African Customs Union (SACU) under pressure and gave rise to speculation of a breakup of the oldest customs union. Could you give a comment on these developments?

Ms Moremi: I think it is fair to say that the fact that different SACU Member States reached different decisions was contrary to our own expectations because within the context of the SACU Agreement we have been approaching negotiations with third parties as a bloc. In this instance it is important to note that SACU is participating in the EU EPA Negotiations through the SADC Configuration as all members of SACU are members of SADC. However, we do not expect that development will lead to a breakdown of SACU. In fact, this was a matter that was discussed at the Council Meeting in December 2007, where Council resolved that, yes there were setbacks, but it is important that we should now regroup with the view to continue with our traditional approach as provided for in the SACU Agreement. Right now we are dealing with these issues. The Trade Ministers have met at least twice since the beginning of this year under the instruction of the SACU Council of Ministers. As far as we are concerned, this will not necessarily lead to a breakup of SACU. I think it is important to understand that first of all, SACU has got its own agreement. Within the context of the SADC EPA, those differences cannot automatically lead to a SACU breakdown. For that to happen, fundamentally, Member States would have to consider all the implications of the SACU Agreement itself. This was also not the ideal situation in the past. But we have learnt to live side by side with agreements that were entered into - like the Trade, Development and Cooperation Agreement (TDCA) between South Africa and the EU - but that did not break up SACU.

In our view, SACU has actually withstood so many other challenges. The SADC EPA’s have been taxing on SACU, I agree, but I think there is a commitment to address those (continued on page 2)

What are the EPA’s?

The Economic Partnership Agreements (EPA’s) are trade and development agreements the European Union (EU) is currently negotiating in parallel with six ACP regions: the Caribbean, West Africa, East Africa, Central Africa, Southern Africa and the Pacific.

These are meant to replace the trade chapters of the 2000 Cotonou Agreement between the EU and ACP countries. The waiver exempting these chapters from World Trade Organisation (WTO) law will expire at the end of 2007, requiring both parties to have put in place a WTO-compatible alternative.

The EU has committed to ensuring that the EPA’s will guarantee both the development focus and improve on the preferential trading terms currently enjoyed by ACP countries while complying with WTO obligations.

The EPA’s aim at integrating the ACP into the world trading economy and increasing the quantity and diversity of their trade. After more than 30 years of preferential access to Europe’s markets, the ACP still exports just a few basic commodities, many of whose prices are in long term decline.
issues that made Member States take different positions. For those Member States whose market access in the EU was going to come to an end on December 31 2007, there was a lot of concern about what would happen after December 31st if countries would not be able to reach this agreement, and therefore what would happen to their market access in the EU.

So, for the moment there is no undue pressure on SACU?

Ms Moremi: There is pressure on SACU but that comes from within SACU itself to make sure that these issues are being addressed. There is no pressure from outside. There is recognition within SACU - even at the last Council meeting held in April this year - that we need to address and create the necessary conditions to ensure our cohesion and integrity as a Customs Union, and maintain that integrity as a Customs Union. This is the mandate that everyone understands and are working towards.

Mr Faul: Trade negotiations in general are pressured situations because you have to compromise. If you do that as a group the pressure is even more. If you consider how long the WTO (World Trade Organization) Doha negotiations have been on the table, there is no way of knowing how long it will take to get to the point where a conclusion will be reached. But if there wasn’t this pressure; one would not know how far integration has been achieved. I think this pressure brings different parties closer. They know they have a duty towards their citizens. Member States are more willing to engage. They meet more often and they think more carefully about what they are dealing with.

Ms Moremi: To add to that, this was a particular setback, but if you look back at the way SACU has operated in terms of its relationship with third parties especially in trade negotiations, SACU has done very well over the last couple of years. We currently have a team in Buenos Aires in Argentina to finalize a trade agreement between SACU and the MERCOSUR group of countries (Paraguay, Uruguay, Brazil, Argentina and Venezuela) which we hope will have been concluded by the end of this month. SACU has started preferential trade negotiations with India, which is being led by Namibia. We have concluded a cooperation framework with the USA that we hope will be signed very soon. From next month we will be implementing an FTA agreement between SACU and the EFTA group of countries (which is Norway, Switzerland, Liechtenstein and Iceland).

The EPA negotiations in 2007 only commenced in March last year after the EU responded to the SADC EPA Strategic Framework proposals and ended with the initialing of a goods-only IEPA. Do you think the SACU Member States are equipped to negotiate a full EPA, including services and other new generation issues by the end of 2008?

Ms Moremi: The decision lies with the SACU Member States but as a Secretariat we understand there is a commitment by the Member States to move forward towards a full EPA by the end of 2008.

Mr Faul: We have raised our concerns and the EU has agreed that those can still be addressed. But the commitment is that all Member States want to get on board. Trade Ministers that have met at SACU level, with the European Commission and have agreed on a roadmap with schedules. They are confident that they will conclude negotiations by the end of 2008.

Ms Moremi: As far as the new generation issues are concerned, yes, the SACU Agreement is about trade in goods only, but we have, in past negotiations, been able to develop a common approach as SACU even though the agreement does not cover these issues. I am raising this to illustrate that whilst we have no formal position to engage in those collectively as SACU, we understand that in any future negotiations there is increasing pressure to include new generation issues. Indeed, these are issues that have been placed before the Council.

If at the end of 2008 the same scenario prevails where BNLS countries have signed the full EPA with EU excluding South Africa, what would the effect be on SACU?

Ms Moremi: Right from the beginning, when we started the negotiations with the EU, our intention was to streamline trade relations between SACU and the EU. That was the overall objective. Because we have the TDCA on the other hand we wanted to make sure that we can bring South Africa on board so that on the Trade Side we at least have one trade regime. Right now I think there is still hope that there will be enough commitment and willingness to resolve the outstanding obstacles, in negotiations amongst SACU Member States to enable them to collectively engage with the EU. I also think there is a desire from South Africa to be included in the negotiations.

Namibia has initiated the IEPA contingent on the fact that a list of unresolved issues encountered in 2007 would be re-opened for negotiation. Do you think these issues are relevant in terms of SACU? If so, why did Botswana, Lesotho and Swaziland initial the IEPA without these concerns?

Ms Moremi: South Africa and Namibia submitted a list of their concerns at the SACU Trade Ministers meeting, where it has been decided that the senior officials should study
The SACU 2002 Agreement still lacks finalization. For example, Article 41 on Unfair Trade Practices is on the drawing board now for more than four years without a resolution. There is still no harmonization between the agricultural policy for SACU (Article 39) and no common industrial development policy (Article 39). Do you not think that international developments have overtaken the slow pace to finalize the 2002 SACU Agreement and that this has contributed to the differences between the Member States in the EPA negotiations?

Ms Moremi: International Developments have not overtaken the implementation of the 2002 SACU Agreement. You are right that there has not been a full implementation of the 2002 SACU Agreement. But it has only been three-and-a-half years that the new agreement has been in place. The new agreement is a fundamental departure from the previous ones. It is a major transformation and provides for deeper integration amongst the five Member States. Under the previous agreement, there were meetings once or twice a year where Member States met to share the SACU revenue and then would go their own way. The new agreement provides for democratic institutions to be set up. There has been some progress despite the fact that this new SACU Treaty is still in its infancy. Previously, individual states were only looking at their own national interests. There was nothing they saw as common because it was then only about Revenue Sharing. The new arrangement provides for much more engagement of stakeholders. This is something Member States have begun to understand; there is a need to look beyond their own national interests for the broader interest for deeper integration. This is a matter that was much debated at the last Ministers’ Council in April 2008. The Council has resolved that the SACU Task Team on Regional Integration should meet to address issues such as how best to consolidate the institutions with a view to make SACU realize its own objectives.

Has the fact that the non-implementation of the full SACU Agreement contributed to the differences between Member States in the EPA negotiations?

Mr. Faul: One would have to look at the realities on the ground. Member States had to weigh the costs and benefits, recognizing that it is still an interim agreement. There was tremendous time pressure as well; it was a do or die situation for Member States. It was in their interest to sign and initial EPA’s because it safeguarded their market access to the EU. And even if they were not ready, at some point they had to make a decision because the negotiations were still ongoing. And yes, it was about striking a compromise. South Africa did not have much to lose because they already have a TDCA, while the other countries do not have that. Namibia had to initial the interim agreement, but it does not mean that is final. Some concerns are national because the countries are all different, but in the end those that have initiated recognized the concerns affecting SACU as a block and SADC for that matter. It is not something we cannot resolve unanimously amongst SACU States as we need to consider the other Negotiation Party, in this case the EU, which does not recognize South Africa at the same level as the other SACU countries. They don’t want to give the same market access to South Africa as to the other four SACU Member States. That is where the problem started. I suppose SADC is equally affected because a lot of the members have signed the EPAIs in Economic Arrangements elsewhere/outside SADC.

Ms Moremi: For a long time it was only the issue of negotiating to meet the December 31 deadline last year. It was only in the middle of last year that it became clear that countries would not be ready to sign a full EPA. The point I want to make is that since a decision was taken to implement the 2002 SACU Agreement in 2004, SACU has done very well in negotiating as a block, harmonizing our own positions, and so on. But SACU finds itself within a broader framework; that is where the complications come in, and perhaps the fundamental problems regarding the implications of EPA are much deeper and affect SADC in a very fundamental manner in the sense that we have some SADC Member States negotiating under SADC EPA, and others negotiating under the Eastern African Community - EAC EPA.

What is the SACU Secretariat doing to address the problem of lack of a common negotiating mechanism between Member States?

Mr. Faul: Article 31 of the SACU Agreement deals with the common negotiating mechanism. We have already drafted a common negotiating mechanism after a lot of consultation with Member States. This draft has already gone to some of the technical institutions where it was approved. The senior official level has also approved it. It is now before the Trade Ministers. They will be considering it at the next meeting, after which it will go to the Council. The process is quite advanced. If the Council agrees to it, will begin to be implemented.

Ms. Moremi: We have adopted a common approach for negotiations with third parties. Currently we have a team of people out there who are negotiating on behalf of SACU as a bloc in the MERCOSUR Trade Negotiations with SACU. In the secretariat this is important because we can begin to build capacity in our dealings with third parties. As I said if you look back at the way SACU has operated in terms of its relationship with third parties SACU has done very well over the last couple of years especially in Trade Negotiations.
Progress to Date on the SADC EPA Negotiations

The SADC EPA States and the European Commission (EC) met in Brussels, Belgium, in November 2007 at technical, Senior Officials and Ministerial level with the aim to conclude the negotiations and initial an Interim Agreement. This Interim Agreement mainly covers trade in goods, thereby guaranteeing, as a minimum, the continuation of preferences offered to SADC EPA States by the EC after 1 January 2008. The Interim Agreement also includes provisions to continue negotiations leading to a full Economic Partnership Agreement (EPA) by the end of 2008.

Following extensive negotiations during November 2007, Botswana, Lesotho, Mozambique and Swaziland initialled the text of the Interim Agreement, thereby signaling their acknowledgement that the text adequately reflects the outcome of the negotiations. Namibia and South Africa did not have the mandate to initial the text at that stage. It was agreed that they should be allowed to initial the text at a later stage, if they so wish, following further national consultations. Namibia then proceeded to initial the Interim Agreement on 12 December 2007, on the understanding that specific concerns she had with the Interim Agreement would remain open for discussion with the EC. South Africa and Angola, for various reasons, opted not to initial the Interim Agreement at that time and, until date, the status quo remains.

In the meantime, SADC EPA Ministers met on 18 February 2008, preceded by a meeting of SACU Ministers responsible for Trade, to discuss, inter alia, the concerns of some Member States with respect to the Interim Agreement, the finalisation of market access schedules for trade in goods, the notification of the interim agreement to the WTO, the legal requirements of signature, ratification and implementation of the Interim Agreement, as well as preparations for the second phase of the negotiations with the EC with a view to conclude a comprehensive EPA before the end of 2008.

EPA negotiations also considered the outcome of various high-level political meetings such as the Africa-EC Summit, held in December 2007 in Lisbon, the ACP Ministerial meeting held on 13 December 2007 in Brussels and the African Union Summit, held from 25-02 February 2008 in Addis Ababa. Ministers considered the declarations that were made during these events as they contained an important focus on EPA negotiations. Ministers also reflected on the offer by President Barosso to visit the ACP regions and the assurances provided that discussions on the Economic Partnership Agreements would continue beyond the initialing of interim agreements.

Following the SADC and SACU EPA Ministers meetings in February 2008, a joint SADC-EC Ministerial meeting was held on 4 March 2008 in Gaborone, Botswana. The meeting considered, inter alia, issues Related to the Application of the Interim EC-SADC EPA which included President Barosso’s commitment to visit the SADC region, observations and concerns on the Interim Agreement and proposed way forward, signature and ratification of the Interim Agreement, information to the WTO and notification of the Interim Agreement and a Discussion on Negotiations Towards a Full EPA - which included a Roadmap for subsequent negotiations and the adoption of a joint Declaration.

The Joint EC-SADC Ministerial meeting agreed that second phase negotiations would start as soon as possible, with the next joint SADC-EC EPA meeting scheduled for May 2008; that those countries who have initiated, should urgently proceed with their internal processes to facilitate the signature, ratification and implementation of the Interim Agreement (deadline of 1 July 2008); that those countries with concerns should address them on a parallel track and as part of the negotiations towards a comprehensive EPA; and that an information exercise, prior to notification to the WTO, be undertaken through a joint information event in Geneva and a joint Declaration in the Council for Trade in Goods.

From a SACU perspective, and in pursuance of implementing the decisions taken at the SADC-EC Ministerial, three Member States (Botswana, Lesotho and Swaziland) have initiated the Interim EPA unconditionally and are ready to sign, ratify and implement it.

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Aid for Trade Meeting

An aid for Trade Meeting was held in Maseru, Lesotho. It was organised by the Ministry of Trade, Cooperatives and Marketing in Lesotho.

SACU was represented at the meeting by the SACU Secretariat Deputy Director of Policy Development and Research Mr Mihe Gaomab II. According to Mr Gaomab the meeting was well attended by the local stakeholders. Regional organizations that attended include SACU and SADC and other specialized International Co-operating Partners namely WTO, UNIDO, UNCTAD, UNDP, DFID.

The purpose of the meeting was to update stakeholders on Lesotho’s involvement and status on the Integrated Framework coordinated by the WTO to ensure trade related financing in the area of technical assistance and capacity building. The dialogue was also convened to exchange views on what Aid for Trade (A4T) means and to forge a common understanding on AFT in Lesotho.

The Principal Secretary of the Ministry of Trade, Industry, Cooperatives and Marketing in Lesotho, Mr. David Mohlomi Rantekoa was facilitating the Dialogue together with a representative from UNDP. In his welcoming remarks, the Principal Secretary Mr. Rantekoa said the objective of the dialogue is primarily to sensitise stakeholders about Aid for Trade and Enhanced Integrated Framework issues. He added that the importance of Aid for Trade is to build supply side capacity to expand trade for LCD’s such as Lesotho and to overcome trade challenges to partake competitively in global trade.

When opening the workshop the Minister of Trade and Industry, Cooperatives and Marketing of Lesotho, Honourable Popane Lebesa indicated that Aid for Trade can successfully assist developing countries if it is prudently operationalised and that there is sustained support from international organizations and cooperating partners. He concluded that A4T can help developing countries to access trade related aid and therefore welcomed the holding of this dialogue which is essential to identify trade capacity constraints of Lesotho and to examine its role for A4T and the EIF.

The workshop was updated on Lesotho’s status regarding its involvement on the integrated framework. Lesotho has an action matrix with a list of 43 barriers or opportunity composing of (1) institutional capacity, policy making and trade enhancement, (2) regional integration (how to increase domestic market), Multilateral and Bilateral, and the Business Environment.

On Aid for Trade, the meeting was updated on the outcome of the Global Review Meeting that was held in November 2007 at the WTO in Brussels. The Global Review Meeting concluded that AFT is not a fund or a mechanism like the integrated framework. AFT was declared as a political initiative that should assist in scaling up trade related financing. The Global Review meeting further acknowledged that trade was not considered as central to the long term economic growth, development and poverty reduction of member states and has officially affirmed that Trade should be central to any developmental process of any economy. For an AFT to be successful, the private sector should be central as the driver to play a larger role in increasing trade, thereby adding to increased economic growth. The Global Review meeting concluded that the following are the issues that were common to the three meetings held in Lima, Manila and Dar es Salaam in 2007.

- **Country Leadership and Ownership** critical for AFT to work as no external agent can decide on the development or trade priorities.
- **Regional Dimension** is vital in the sense that AFT can be pursued at national level but with a regional focus of looking at mechanisms to finance regional project strategies or bankable projects. Countries belonging to a regional grouping may decide how to approach the regional financing facility of AFT.

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Aid for Trade Meeting
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- Countries should engage in priority setting of Products and Sectors that are vital for increased trade.
- Involvement of the Private Sector is crucial and a need for a more formalized Public Private Partnership (PPP) is essential for Aid for Trade to work.
- Aid for Trade can only be implemented effectively globally if there is coherence of international actors working together to implement it.
- There is need to ensure sustained political commitment of at least 3 years to effect benefits of A4T at negotiation, policy and strategic level.

The dialogue concluded on the following:

- Activate a high level Trade and Competitiveness Coordination Committee that should build on existing ministerial structures to drive the A4T and EIF process. This should also include the involvement of the Private Sector.
- Urge Exporters to mobilize themselves and institute real public-private partnership.
- National Institutions should work together to identify Aid for Trade priorities and key constraints or bottlenecks to trade.
- Convene a Lesotho Aid for Trade Review bringing together key donors, agencies, REC’s and private sector actors to road test plan and layout an actionable road map. There should be continuity in the sense that a follow up meetings be held.
- Efficient local production capacity for both export and local consumption should be encouraged.
- Trade Information Systems should be established (markets, products, etc). Steering Committee meetings to be convened to assess periodic reviews on progress of Aid for Trade.

The meeting was closed by the Assistant Minister of Trade and Industry, Cooperatives and Marketing of Lesotho, Honourable K. Matla.

The meeting proved extremely useful in terms of gathering the national thinking on aspects surrounding Aid for Trade in a SACCU member State.

According to Mr. Gaomab who attended the workshop on behalf of the Secretariat the way forward for Member States is to consider the following issues which were also adopted at the Global Review Meeting in November 2007:

- Increased awareness on aid for trade.
- Increased integration, Member States’ developmental impacts of the Customs Union, their impact on regional and global levels.
- There should be national inter-governmental structures on Aid for Trade to coordinate trade competitiveness and trade strategy and extends this at regional and global levels.
- The private sector should be invited to ensure their active involvement in such structures as well as to assist in ensuring increased awareness on aid for trade.

SADC EPA Negotiations
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One Member State (Namibia) has initiated the Interim EPA with reservations and is not yet in a position to sign, ratify and implement it. She initiated on the understanding that her concerns would be addressed through continuing negotiations and in this regard annexed a statement to the Interim Agreement, outlining that she would only be in a position to sign and ratify if agreement on the outstanding issues is found. One Member State (South Africa) has not initialed the interim Agreement, sighting several concerns with the Agreement as reason for not initialing. She has requested that her concerns be addressed through continuing negotiations with the EC; however it is not clear whether she intends initialing the Interim Agreement at some stage.

One of the key objectives for SACU in the negotiations with the EC was to harmonise trade relations between SACU countries and the EC. This will remain an important focus and as such, it is necessary that all efforts be made to try and achieve a situation where all five SACU Member States end up with a similar trade agreement with the EC (at least in so far as it relates to trade in goods).

SACU has started and has continued its efforts to re-group. In 2008, SACU met twice at both Senior Officials’ and Ministers’ level and considerable efforts have been undertaken to reach a common understanding on the way forward in the EPA negotiations. SACU has been working on the concerns raised by Namibia and South Africa with a view to link these concerns to the functioning of the Customs Union, their impact on regional integration, Member States’ developmental policy space and also possible legal and institutional implications.
A glance through all the Statements indicates some fair degree of planned reform in the area of taxation. Given the magnitude of the problem though, one wonders if it is not too little.

Common in all the Statements is a proposal to extend relief to taxpayers through implementation of bracket creep, measures to increase the threshold in respect of interest and dividend income, etc. There are also some few measures to broaden the tax base.

In Swaziland there is plan to establish a Revenue Authority; Botswana plans to table a tax administration bill and Lesotho is focusing more on improving financial management particularly in the areas of accounting, auditing and procurement. Namibia is planning to improve tax administration and diversify the revenue base.

All of these measures are necessary and they represent steps in the right direction. However, in view of the scale of the problem effort needs to be placed more on improving tax administration and diversifying the revenue base.

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Turning now to the Education and Health Sector challenges, the Budget Statements contain a number of positive proposals.

In all the Budget statements we see priority being given to the health and education sectors. Focus by the BLNS countries is mainly on improving access through expansion and improving the quality of education.

South Africa also focuses on improving access but also looks at improving the conditions of service of the educators and health practitioners. They also plan to improve the quality of the education system.

In my view, all the SACU countries are doing the right thing by focusing in this area as it has potential to benefit the growth and development of the economies over time.

Addressing Poverty

Poverty levels remain high among SACU member states and there is a commitment to address this problem in all the Budget Statements.

This year is going to be a particularly difficult one in view of the rising interest rates, electricity crisis and the high oil prices. As is always the case, the brunt of rising prices is felt disproportionately by the poor.

The responses that we are seeing form the budget statements are more in the form of adjusting people’s incomes, through bracket creep and increasing the levels of social grants. At the same time we are seeing increased efforts to promote employment either through SME development and increased public infrastructure programme.

Again we ask the question whether the efforts and resources being channelled in this area are enough. There are no straight forward answers to this question. This is a problem that faces the whole continent and
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It is pleasing that it remains in the radar screens of the Finance Ministers. We need novel ideas to address this and maybe more debate should be focused on this.

The Growth and Development Imperative

• This is another area that all the Budget Statements try to address.

• There is recognition by most member states to create a conducive business environment and the important role played by SMEs in the SACU economies.

• Infrastructure development is allocated a considerable budget across all Member States. This is supposed to reduce transaction cost and the general cost of doing business in these economies.

• South Africa goes further to bailout ESKOM in an attempt to ensure that the power crisis does not stay with us for too long.

• In the area of policy, a number of initiatives are proposed for SMEs.

• South Africa goes on to look at a tax relief for the corporate sector and some incentive to promote industrial growth.

• This is an area in which there are usually not many problems as the stakeholders are able to articulate their needs and in most of the countries are well organised. The only drawback is that the benefits in this area usually take time to bear fruit.

Turning now to the Area of HIV/AIDS

• This is another problem that has been with us for some time. Efforts to find a cure remain elusive and the magnitude of the problem continues to grow every year.

• All the Budget Statements outline some plans to address this problem. The response includes the provision of drugs and implementation of preventative measures.

• Again given the scale of the problem, questions are always asked about the adequacy of the measures taken.

Overall, the Budgets presented by the Finance Ministers largely address the development challenges facing the region. All of them conform to the standards prescribed by International Organisations on appropriate ratios. All the budget balances fall below the 3% target for GDP.

The fundamentals in all of these countries look sound. In the past few years most of these economies have recorded positive budget outturns. These have provided a good base for these economies to weather the storms appearing on the horizon. What is required is a system of checks to ensure that we anticipate the challenges and plan appropriately.

Calendar of Events for the Next Quarter

08 - 10 April World Customs Organisation (WCO) Customs Strategy workshop, Johannesburg, South Africa.

16 - 17 April SACU - MERCOSUR 12th round of Trade Negotiations, Buenos Aires Argentina.


20 - 22 May 16th SACU Technical Liaison Committee Meetings, Pretoria, South Africa.


02 - 03 June SACU Regional Integration Task Team meeting, Johannesburg, South Africa.

04 - 06 June World Economic Forum on Africa, Cape Town, South Africa.

24 - 26 June 15th SACU Commission meeting, Midrand South Africa.

27 June 15th SACU Council of Ministers meeting, Midrand South Africa.

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