



TRADE & INDUSTRIAL POLICY STRATEGIES

WORKING PAPER

**MAKING BRITAIN GREAT AGAIN! FOR WHAT
PURPOSE? IMPLICATIONS FOR SOUTH AFRICA'S
FUTURE RELATIONS WITH THE UK POST-BREXIT!**

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ABBREVIATIONS

ACP	African, Carribean and Pacific Group of States
AfDB	African Development Bank
CETA	Comprehensive Economic and Trade Agreement
DFID	Department for International Development (UK)
CHOGM	Commonwealth Heads of Government Meeting
EEA	European Economic Area
EEC	European Economic Community
EFTA	European Free Trade Association
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investment
GATT	General Agreement on Tariffs and Trade
IDC	Industrial Development Corporation
ISCOR	South African Iron and Steel Industrial Corporation
MFN	Most Favoured Nation
MOU	Memorandum of Understanding
SACU	Southern African Customs Union
SADC	Southern Africa Development Community
SDGs	Sustainable Development Goals
SPS	Sanitary and Phytosanitary
TDCA	Trade Development and Cooperation Agreement
TEU	Treaty on the European Union
UK	United Kingdom
UN	United Nations
US	United States
WTO	World Trade Organization

I. INTRODUCTION

On 23 June 2016, the United Kingdom (UK) voted in favour of withdrawing from the European Union (EU) by the finest of margins. The 52% to 48% vote in favour of leaving started a year-long process that still has no clear resolution in sight, with little known about exactly how Brexit will be achieved and what the UK's post-Brexit relationship with Europe, and the rest of the world, will look like. In May 2017 the British government decided to trigger Article 50 of the Lisbon Treaty and thus officially started a two-year period of negotiations designed to facilitate the UK's exit from the European Union by the 29 March 2019. Since then the British Parliament has been engaged in dramatic negotiations with the EU on the terms of its exit. The then British Prime Minister, Theresa May, was able to reach a deal with the EU on 28 November 2018. However, her biggest challenge was to convince a fractured British parliament to accept her deal. Her failure to do this led to her resignation in June 2019.

Theresa May's Brexit deal with the EU had already been rejected three times by the British Parliament causing increasing uncertainty in the UK and in the EU on the future trade arrangement between the UK and the EU, and consequently on all its other trading partners, such as South Africa, after the UK departs from the EU (this was initially scheduled to be at the end of March 2019). At a Summit of the EU leaders held on 21 March 2019, EU leaders decided to reject Prime Minister Theresa May's request to extend the deadline for Brexit from March 29 to June 30, 2019. Instead the EU leaders agreed that Brexit could be postponed until April 12 or May 22. On 11 April 2019, the European Council agreed to grant the UK a second extension to Article 50 of the Treaty on the European Union (TEU) either until 31 October 2019, or an earlier date (if the Withdrawal Agreement is ratified), or until 31 May 2019 if the UK failed to hold elections to the European Parliament (Szyssczak, 2019). Amid this uncertainty South Africa was among the first of the UK's external trading partners to initiate a negotiation on the future relationship of South Africa (SA) with the UK in the post-Brexit period.

This paper discusses the future of SA-UK trade relations in the post-Brexit period. The paper first provides a brief background of the UK's trading persona or approach and the history of South Africa-UK trade relations until the onset of democracy in 1994. It then looks at the UK-South Africa trade relations since 1994, providing a brief explanation of the SA-EU Trade Development and Cooperation Agreement (TDCA) and the subsequent negotiations that led to the Southern African Development Community-Economic Partnership Agreement (SADC-EPA).

This sets the background and context for the current SA-UK negotiations for a post-Brexit trade arrangement. The paper describes the substantive outcomes of the negotiations until 19 March 2019. It then describes the scenarios for the post-Brexit UK-EU relationship and the implications of these scenarios for this relationship. Some analysis is provided on

how South African policymakers should understand the current impasse in the negotiations and the possible options for South Africa in its future relationship with the UK. In this context, the ongoing negotiations between the EU and Africa and the EU and the African, Caribbean and Pacific Group of States (ACP) is briefly analysed and some policy implications drawn on the future relationship between the UK and South Africa and the UK and Africa.

The question that this paper seeks to address is: will the post-Brexit period be characterised by an increasingly aggressive Britain striving to re-assert its power in the World and advance its mercantilist interests in South Africa and Africa, or shall the world see a new idealist Britain seeking to increase cooperation in its own region and the world, re-building multilateral governance based on the values and principles of inclusivity, equity and sustainable development? It will be argued that South Africa should expect the first scenario but also prepare to influence the UK towards the second scenario. Some policy recommendations will be made both for South Africa and Africa in their future post-Brexit trade and investment relations.

2. A BRIEF HISTORY OF THE UNITED KINGDOM AND TRADE

Prior to the adoption of the idea of free trade by the British government in the mid-to late 19th Century, Britain had been a pioneer in applying policies of state intervention and trade protectionism to develop its industries itself, according to 19th Century German economist Friedrich List (1789-1846). List believed that Britain was actually the first country to perfect the art of infant industry protection (Chang, 2002). List has observed that: “It is a very common clever device that when anyone has attained the summit of greatness, he *kicks away the ladder* by which he has climbed up, in order to deprive others of the means of climbing up after him” (Chang, 2002: 4). Britain had very high tariffs on manufacturing products as late as the 1820s, some two generations after the start of its industrial revolution (Change, 2002: 22). Britain also banned the import of superior products from some of its colonies if they threatened British industries. Thus Chang points out that “in 1700 a ban was imposed on the imports of superior Indian cotton products debilitating what was then arguably the world’s most efficient cotton manufacturing sector”, and by 1873, “it was estimated that 40-45 percent of all British cotton textile exports went to India” (Chang, 2002: 22). However, by 1815, after the Napoleonic Wars, increasingly confident manufacturers were to apply pressure for free trade in Britain (Chang, 2002: 23). The big change in England was to come only when the repeal of its Corn Laws in 1846 led to freer trade in corn. This event was regarded as the launch of free trade policies in Europe (Chang, 2002: 23). A radical member of parliament, Richard Cobden, led the campaign for free trade in Britain on behalf of a coalition of merchants, manufacturers, workingmen and journalists (Mazower, 2012).

Now that Britain had led the way it remained to enlighten other nations and get them to follow suit and Mark Mazower records that, “the door into other people’s economies was soon being forced open by British diplomats, backed by gunboats, everywhere from West

Africa to Istanbul and Peking” (Mazower, 2012: 42). The preferred method of advancing these treaties was through bilateral means even if the Ottomans and Chinese did not want them. “Free Trade” thus became the ideology of internationalism (Mazower, 2012: 42). The Cobden-Chevalier (UK and France) Treaty of 1860 had included a most favoured nation (MFN) clause and was to catalyse free trade throughout Europe. Ironically, Mazower argues, while “the British Empire was seen as a bastion of free trade, in a world of rival trading blocs, within Britain, to everyone else tariff reform preached by Britain looked like a self-serving doctrine tailored to Britain’s temporary economic advantage” (Mazower, 2012: 47). The UK abandoned free trade and adopted the Commonwealth System of Imperial Preferences at a conference held in Ottawa, Canada (21 July to 20 August 1932) that became known as the Imperial Economic Conference or Ottawa Conference (Wilcox, 1949: 66-74). The meeting agreed to reduce tariffs between members of the British Empire (“Empire Free-Trade”) or “Imperial preference”.

Article I of the General Agreement on Tariffs and Trade (GATT) guarantees unconditional and MFN treatment to all members with regard to tariffs and other charges. Exception was, however, made for preferences existing when the agreement was signed in 1947 and a list of territories falling under this rule was annexed to the agreement. The countries that provided preferences included the UK and other European countries, such as France and the Benelux countries (Belgium, the Netherlands and Luxembourg), and even the United States (US). The latter’s attack on the preference system focused on the UK Imperial Preferences, as these markets, particularly the old Dominions, were important for the US. In the 1947 Geneva negotiations, William Clayton, the new assistant secretary of state for economic affairs – who was leading the US negotiating team – decided to save the conference by accepting modest British concessions on the preferences Britain enjoyed in the Dominions (Kock, 1969: 114).

This discussion indicates that the UK, while leading the world on free trade, was to only embark on this project when it suited its interests. The UK was to use its ideology of “free trade” and liberal internationalism to penetrate global markets. The UK also used the device of MFN to expand its markets but when it was put under pressure to itself adhere to this principle in the GATT it used all its negotiating power to obtain an “exception” for the system of British Imperial Preferences.

3. THE EARLY HISTORY OF SOUTH AFRICA’S TRADE WITH THE UK

At the time of the Union of South Africa in 1910, the British dominated industry, commerce and the mines, controlled the banks and finance houses, and held an almost complete monopoly of industrial skills and training (Meredith, 2007: 521; Lewis, 1990: 8). Nancy Clark argues that the Louis Botha-Jan Smuts government was deeply sympathetic to the gold mining industry and that its economic policies followed the gold industry (Clark, 1994: 28). By the end of the First World War gold mining was the dominant industry in South Africa and over £350 million of European capital was invested in the

country. However, the mining magnates sent almost all the enormous mining dividends abroad with virtually no capital invested in local development (Clark, 1994: 31).

Smuts reconstituted the Board of Trade and Industry in 1921 which, in one of its first reports, condemned protection as a means of fostering local industries and provided no protection at all for infant industries (Martin, 1990: 59-85; Kaplan, 1976: 70-91). He also changed the name of the Department of Commerce and Industry to that of Department of Mines and Industry (Martin, 1990: 66). Thus, William Martin concludes that, “for almost a decade and a half the South African Party had failed, despite public utterances to the contrary, to construct a policy to encourage the development of South African industry” (Martin, 1990: 70). Martin blames the ideology of free trade promoted by Great Britain for this lack of support during this period (Martin, 1990: 71). The attitude of the mining industry was that free trade policies provided them with the lowest real wages and the lowest prices for their stores. This led some observers to argue that if the gold producers’ objectives were attained, “South Africa would in large measures be reduced to a plantation and raw material economy” (Kaplan, 1976). These policies of free trade were to change with the coming into power of the Pact government in 1924. Thus at this early stage of South Africa’s industrialisation, its economic ideas closely followed those of Great Britain, where the prevailing view among economists at the turn of the 20th Century and in the 1920s and 1930s, led by Alfred Marshall, was a non-interventionist model (Clarke, 2009: 24). Even John Maynard Keynes was an orthodox free trader until the mid-1920s (Clarke, 2009: 70). It was only when unemployment grew in Britain from the mid-1920s and 1930s that Keynes attacked this prevailing laissez-faire view of the economy (Clarke, 2009: 107). There was thus a change in ideas and policy paradigms towards Keynesian ideas of state intervention in Britain (Blyth, 2002: 20). In South Africa, the economic ideas of Marshall, Friedrich List, and Keynes influenced the national debate on trade and industrial policies. Apartheid South Africa was to go on to develop its policies and institutions such as Eskom, the electricity public utility, the South African Iron and Steel Industrial Corporation (Iskor), and the Industrial Development Corporation (IDC) that played a significant role in the industrial development of Apartheid South Africa in the 1940s, 1950s and 1960s (Freund, 2013).

This discussion indicates that Britain was to dominate the mining industry in South Africa both with a large influx of British miners who descended on the Rand, outnumbering the Afrikaners, and with a large investment of British capital in the mining industry. The policies of “free trade” suited British mining interests and led to the early South African governments led by Botha and Smuts to follow the policy of “free trade” and British interests. This was only to change when Britain itself was influenced by the ideas of Keynes and become increasingly interventionist and the South African state moved to develop aggressive trade and industrial policies in the 1940s, 1950s and 1960s.

4. BRITISH ACCESSION TO THE EUROPEAN ECONOMIC COMMUNITY

The GATT accepted customs unions and free trade areas with the provision that they comprise substantially all trade between the members. In the case of customs unions, they were required not to cause duties and other regulations of commerce to be more restrictive on third countries. The first case that came before the GATT was that of the European Coal and Steel Community, which was created in 1951 by six continental countries (France, Italy, Germany and the Benelux countries). An economic agreement between a number of countries covering a limited number of commodities was inconsistent with the rules of the GATT and the six had to therefore apply for a waiver, which was duly granted. These six countries went on to launch the Treaty of Rome that was signed in March 1957 and went into force the following year, creating the European Economic Community (EEC). A long list of developing countries stood to be negatively affected in Africa, Asia and Latin America (Curzon, 1965: 278). The GATT did not provide any compensation to these countries, including South Africa.

The accession of the United Kingdom to the EEC in 1973 had a significant negative economic impact on South Africa. Apartheid South Africa complained in the GATT. The impact of the accession of the UK to the EEC was described by South Africa as follows: with effect from the 1st of January 1973 the dutiable percentage is expected to increase to 52 percent after the expiry of the transitional period of five years”.

South Africa was to complain in the GATT that this change was to have a negative impact on its trade with the UK removing its relatively preferential market access to the UK. South Africa stated in the GATT that it: “expects to move from a duty-free position covering approximately 87 percent of its total exports to the United Kingdom, to a position where it will receive duty-free treatment on only 36 percent of its exports to that country” (Ismail, 2015).

5. SOUTH AFRICA’S TRADE RELATIONS WITH THE UK/EU FROM THE DAWN OF DEMOCRACY IN 1994 TO BREXIT

Background

Although the European Union as a whole did not have a formal relationship with the Apartheid state, individual members of the EU, particularly its larger members – Britain, Germany and France – maintained strong trade and investment relations. Several other EU members states imposed economic sanctions against South Africa and by 1986 the EU Commission imposed a ban on imports of gold coins and iron and steel worth US\$1 billion (Nkosi, 2017). The European Parliament played a significant role in anti-Apartheid support in Europe, dedicating the inaugural Sakharov prize to Nelson Mandela in 1989 (Nkosi, 2017).

In 2015 South Africa's trade with the 28 members of the EU totaled US\$38 billion, representing 26 percent of South Africa's total goods trade, and Britain represented about 15 percent of South Africa's total trade with the EU and 3.7 percent of South Africa's total trade (Large, 2017). The EU is South Africa's largest trade and investment partner, representing 25% of South Africa's total trade and close to 80% of the total foreign direct investment (FDI). EU investment has created an estimate of over 500 000 direct and indirect jobs. However, for the EU this only represents a 1.2% share of the EU imports (excluding intra-EU trade).

South Africa is the EU's largest trading partner in Africa. South African exports to the EU have increased steadily during the past five years, and their profile has evolved from mainly commodity-based products (fuels and mining products) to include more manufactured products (machinery and transport equipment as well as other semi-manufactured goods). In 2018 South Africa, being one of the 10 EU strategic partners, only held the position 18th in a ranking of total EU trade excluding intra-EU trade. This is equivalent to a trade share of only 1.2% of the total EU trade (€47,516 million) (European Commission, 2019).

South Africa remained a very important trade and investment partner of the UK from the beginning of the 20th century until the end of the millennium. By 2001, South Africa was still the largest exporter of goods into the UK from Africa and the largest destination in Africa from British goods (Large, 2017). This was the same situation at the turn of the 20th century. However, this economic relationship began to decline relatively as the new emerging powers, led by China, began to increase their share of global trade in the new millennium. By 2008/9 Britain had fallen to sixth place in South Africa's importing country and dropped to fourth position as South Africa's major export destination (Large, 2017). However, the UK remained one of the top two sources of foreign investment in South Africa in 2017.¹

By the time of the onset of democracy in South Africa in 1994, Britain still had strong economic ties with South Africa with about 350 000 British passport holders living in the country (Large, 2017). Apartheid South Africa and the resistance to these policies had considerable influence in the domestic politics of the UK. In turn, the UK still maintained considerable influence in the domestic politics of South Africa. In Britain Margaret Thatcher's policies (1979-1990) of "constructive engagement" with the Apartheid regime and opposition to sanctions against Apartheid policies fueled broad opposition in Britain to her government (Large, 2017).

The new labour government of Tony Blair and his Secretary of State for the Department for International Development (DFID), Clair Short, struck a new path in international

¹ FDI by value reveals that the UK is South Africa's largest foreign investment source with US\$3.4 billion invested over the period 2007-2017. This is equivalent to 16% of total foreign investment.

relations (“third way”) that brought ethics and morality back into international relations and trade. Clair Short spearheaded a campaign with the launch of the International Development Act of 2002 to “eliminate poverty in poorer countries” (Large 2017). Notably, Tony Blair launched an initiative to support the New Partnership for Africa's Development (NEPAD), led by then South African president Thabo Mbeki in 2001, by creating a Commission for Africa that inputted into the G8 Gleneagles Summit of 2005. The UK’s commitment to increasing its development aid remained and was increased to 0.7 percent of gross national income after the Conservative Party’s David Cameron came into power in 2010.

The EU-SA relationship has been based on the following three key agreements: a) the Trade, Development and Cooperation Agreement (TDCA); b) the Strategic Partnership (SP) and; the Southern African Development Community Economic Partnership Agreement (SADC-EU EPA).

Trade, Development and Cooperation Agreement (TDCA)

South Africa’s trade relationship with the EU was to change with the onset of democracy. The EU invited South Africa to engage on a new trade and investment relationship. While South Africa had initially argued to be incorporated into the existing Lome preferential agreement enjoyed by the ACP countries with the EU, it was only not allowed access to the trade and aid part of this arrangement by the EU. The negotiations between South Africa and the EU, which began in 1994, was to lead to a Trade, Development and Cooperation Agreement (TDCA) signed on 11 October 1999 in Pretoria. The TDCA entered fully into force on 1 May 2004. The agreement was supplemented by additional agreements: The Science and Technology Agreement, and the Wine and Spirits Agreement. The Fisheries Agreement envisaged under the TDCA was not concluded. South Africa had a limited and qualified membership to the ACP-EU Cotonou Agreement.

It was the first comprehensive trade agreement SA completed with a developed country. The trade component of the TDCA covers 90% of the current trade between the parties. Tariff schedule: SA committed to grant duty-free access to 86% of EU imports over a period of 12 years (fully implemented in 2012), while the EU liberalised 95% of SA’s imports over a 10-year period (fully implemented in 2010) (Davies, 2000) .

The Strategic Partnership (SP)

In 2007 South Africa and the EU formally elevated their relationship to a strategic partnership reflecting South Africa’s pivotal role on the African continent and its contribution to multilateralism. The significance of this is reflected in the fact that only 11 countries globally enjoyed such a status (US, Canada, Japan, Russia, China, India, Brazil, South Africa, Indonesia, South Korea and Mexico) (Nkosi, 2017). In May 2007 this strategic partnership was embedded in the Mogobagoba Dialogue, establishing a strategic

dialogue between the two sides at Ministerial level (twice a year) and at Heads of State level (once a year). Six Summits took place under this dialogue including in July 2007 in Bordeaux; in September 2009 in Kleinmond, outside Cape Town; in September 2010 in Brussels; in the Kruger National Park in 2011; in September 2012 in Brussels; and in July 2013 in Tshwane. The discussions included: peace and security, reform of the multilateral system, terrorism, climate change and the Sustainable Development Goals (SDGs) (Nkosi, 2017). The political will to maintain these high-level engagements still exist on both sides (Nkosi, 2017).

The SA-EU Strategic Partnership is a mechanism that allowed intensifying and enhancing dialogue at all levels of cooperation, providing regular occasions to discuss ongoing bilateral, regional and global issues. It takes into consideration all relevant meetings that oversee cooperation between South Africa and the EU, which includes: a) The Ministerial Troika Meetings, which represents the core of the political dialogue between the two partners and takes place twice a year in South Africa and in the EU; b) The Joint Cooperation Council (JCC), which meet at Senior Officials' and/or Ministerial level alternatively in South Africa and in the EU; c) The Summits, which provide the highest level of interaction between South African Head of State, the Head of the European Council and the Head of the European Commission.

SADC-EU EPA

The SADC-EU EPA led by South Africa and the EU is the most significant and successful of the EU-EPAs in Africa. Although the negotiations were challenging the outcome is perceived on both sides as a win-win and mutually beneficial. South Africa, together with Botswana, Lesotho, Mozambique, Namibia and Swaziland, signed the agreement on 10 June 2016.

Under the SADC EPA, the EU will guarantee Botswana, Lesotho, Mozambique, Namibia, and Swaziland 100% free access to its market. The EU has also fully or partially removed customs duties on 98.7% of imports coming from South Africa. The SADC EPA states do not have to respond with the same level of market openness. Instead, they can keep tariffs on products sensitive to international competition. This is sometimes called asymmetric liberalisation. For that reason, the Southern African Customs Union (SACU) removes customs duties on only around 86% of imports from the EU and Mozambique only 74%.

The SADC EPA has been hailed as a success for South Africa and SACU, by former Minister of Trade and Industry, Rob Davies. Minister Davies briefed the media on 16 June 2016 and reported to the South African parliament on 15 February 2017 as follows: *“We participated along with our partners in SACU in the EPA negotiations with the EU because they held out the prospect of harmonizing our relations with our largest trading partner with other Members of the customs union, and also offered the prospect of improving the*

terms of access to the EU market for some agricultural products over that available in the bilateral Trade, Development and Cooperation Agreement in force since 2000” (Davies, 2016).

The new deal further provides for extensive “cumulation”, including with other African countries, which will facilitate intra-regional trade and industrialisation across the African continent. Whether a product can or cannot be exported to the EU with a reduced or zero duty rate depends always on its origin. In the SADC EPA, the rules defining the origin are formulated in a way to support development of new value chains in the region. The so-called cumulation of origin will allow, for example, applying EU preferential tariffs for fruit harvested in one country of the region and then preserved and canned in another country. This type of flexible rules of origin will benefit companies in agri-food, fishery and industrial sectors. The rules of origin on clothing have also been simplified in the EPA and will encourage SA clothing exports to the EU.

The SADC-EU EPA agreement has been recognised by observers as a significant improvement on the SA-EU-TDCA agreement. Outside EPAs, the EU has never agreed before to such a degree of asymmetry in any free trade agreement. It is the first agreement that commits the EU to eliminate its use of export subsidies. The SADC EPA now harmonises the SACU tariffs imposed on imports originating in the EU and consequently improves the functioning of the customs union – an objective that all participants wanted to achieve. In this way, the SADC EPA strengthens regional integration. For South Africa, and SACU, this offers significant trade and investment improvements that build on the existing TDCA.

6. SOUTH AFRICA’S NEGOTIATIONS WITH THE UK ON POST-BREXIT

The United Kingdom is one of the most important nations in the world trading system, ranking as the world’s fifth largest destination for merchandise exports and the world’s second largest exporter of commercial services (WTO, n.d). A breakdown of the export and import markets for goods and services coming to and from the UK shows the importance of EU trade, and once again highlights the potential economic risks of a no-deal Brexit, which will see high barriers implemented between the UK and the EU. In 2015, the EU was the destination for 44% of all UK goods and services exports, while 53% of all imports to the UK came from the EU (Office for National Statistics, 2016).

Greg Hands, the Minister of State for the UK’s new Department for International Trade, emphasised the significance of the SA-UK economic relationship in an opinion piece in Business Day. He stated that “the UK remains SA’s biggest long-term foreign investor, with 45% of SA’s FDI stock originating from the UK. And there are many South African companies active and present in the UK, growing their businesses and sustaining jobs in SA. We are clear that this strong relationship will continue as the UK leaves the EU” (Hands, 2018). Thus Brexit will have an economic impact on South Africa’s trade with the

UK as it leaves the EU. The negative impact of Brexit on the UK economy will have also be felt in South Africa due to South Africa's close economic relationship with the UK.

South Africa was one of the first countries to initiate a discussion with the UK on its post-Brexit trade and investment relationship after the UK triggered Article 50. Rob Davies, then Minister of Trade and Industry of South Africa, briefed the press on Monday, 18 March on the outcomes of the SA-UK post-Brexit negotiations (Omarjee, 2019). South Africa proposed that the most efficient way forward, given the high levels of uncertainty on the post-Brexit regime for the UK-EU relationship, was for the existing SADC EPA to be rolled over according to Rob Davies (speaking at the press conference on 18 March 2019). Davies explained that the existing framework of the trade regime between SA and the UK was thus encompassed in the recently agreed SADC EPA.

In the negotiations, according to Davies, the SA government argued that South Africa did not benefit from the accessions to the EU, since the UK joined the EU in 1973 and thus was entitled to increase its access to the UK market, beyond the current access it obtained from the EU. Thus, the post-Brexit negotiations with the UK included a discussion of additional quotas in the UK market for several agricultural products, including wine and sugar. These issues are still under negotiation with the UK.

A number of issues arose in the negotiations that added a measure of complexity to the post-Brexit trade arrangement. These included the issue of sanitary and phytosanitary (SPS) permits. The UK needed an additional six months to roll over the existing permits with the EU, with the permits allowed to be maintained (or rolled over) for the first six months, and then suspended for six months to allow the UK Agriculture experts time to examine them. This issue required further discussion. South Africa also requested a review of the EU black-spot regime for its citrus exports into the UK as it believed that the current SPS regime with the EU were too restrictive.

South Africa also wanted the current "cumulation" regime of the SADC EPA deal to be reviewed. The current rules do not allow South Africa or its SADC (SACU plus Mozambique) trading partners to cumulate with each other (to satisfy the rules of origin requirements) for the purposes of exports into the EU. For example, a company based in Eswatini could not use inputs from South Africa for its canned fruit exports into the EU. The UK insisted the full cumulation is a "red line".

In addition, the EU had insisted on the SADC EPA members agreeing to the so-called MFN (most favoured nation) clause that would prevent SADC members from providing more favourable access to third country trading partners. The UK did not want to discuss this.

What are the options for the SA-UK post-Brexit deal?

According to Rob Davies, if there is a deal before the end of March 2019, the Memorandum of Understanding (MOU) allows for the current SADC EPA to be rolled over,

ensuring stability in the trade and investment relationship for both sides. If a withdrawal agreement with the EU is reached, the EU has agreed to retain the status quo in its trade relations with the UK until the end of December 2020. Therefore, South Africa's MOU with the UK on the future of the SA or SADC EPA must be in place before the end of December 2020.

The second scenario is that the UK is allowed an extension to conclude its exit from the EU. This will allow more time for the South African and UK negotiators to conclude their MOU.

In the third scenario the UK can withdraw from the EU without a deal. In this case the UK relationship with the rest of the world will be based on its MFN relationship with the world before the Uruguay Round. To mitigate against this uncertainty, the UK has published a list of 87 percent of products by value which would be duty free (GOV.UK, 2019). Tariffs into the UK market would only apply for 13 percent of UK goods imports (about 469 products). In the latter case, the tariffs at the border would be the applied rates, including meats, sugar and vehicles. For South Africa the tariffs on the fully built-up automotive vehicles exported into the UK would have significant negative consequences for the auto industry. The UK government has stated that these tariffs would apply for a 12-month period during which time suitable agreements would be negotiated with third countries. The South African Minister of Trade and Industry warned that in this scenario, South Africa would consider applying a tariff on the UK's exports of whisky into South Africa.

The South African Minister compared the UK divorce from the EU as one which would be regarded as that of its friends on both sides. Thus South Africa would want to retain a strong and friendly relationship with both parties post-Brexit.

Scenarios for Post-Brexit EU-UK economic relations

Several options have been put forward for a post-Brexit UK-EU trade relationship. If the UK leaves the EU without a deal an economically damaging "hard Brexit" will become a reality. A "hard Brexit" will be an outcome that both sides would rather avoid, with the UK government explicitly stating in its white paper that it is committed to "securing the freest trade possible in goods and services between the UK and EU" (Department for International Trade, 2017: 27). For this reason, the UK parliament voted to exclude a "no-deal" option for its withdrawal from the EU. There are at least four options for a future UK-EU post-Brexit trade regime that have been discussed by academic observers. Each of these options are briefly discussed in the following subsections.

Option 1: The Customs Union ("The Turkey model")

Customs unions are a form of preferential trade agreement in which participating nations agree to liberalise trade between each other while also adopting a common external tariff

and trade policy. Currently the EU has a functioning customs union agreement with Turkey, and while it is a possible model for post-Brexit trade there are significant drawbacks, despite the relatively high levels of access such a partnership would offer to the UK.

The EU's agreement with Turkey requires that Turkey essentially copies EU trade policy while not being a party to negotiations for any free trade agreement (FTA) that the EU implements. As a result, Turkey will often have to *de facto* grant market access to third party countries that negotiate free trade agreements with the EU (via deflected trade imported to an EU member state and then reimported to Turkey under the customs union) without receiving any market access in return, as they are not automatically considered a party to the FTA (as they are not an EU member state) (Department for International Trade, 2017: 27). If Turkey wishes to negotiate market access with a nation that has an FTA with the EU, it will have to enter into separate bilateral talks. However, there is unlikely to be much incentive for the other party to agree to give Turkey access as it will already enjoy access to the Turkish market via the customs union with the EU.

Entering into a customs union with the EU, like Turkey, would therefore deny the UK the ability to develop its own trade policy (one of its concerns) and to pursue free trade agreements with third party nations. The UK would also have little influence in the development of EU regulations and standards. While this option may allow for relatively broad access to the EU market, it would deny much of the independence and reclamation of sovereignty promised in the run up to the referendum by pro-Brexit campaigners.

Option 2: The European Economic Area (“The Norway Model”)

The European Economic Area (EEA) is comprised of all EU members together with three members of the European Free Trade Association (EFTA) (Norway, Lichtenstein and Iceland), and allows nations that are not part of the EU to nevertheless become members of the single market. As members of the EEA are part of the single market, they are required to allow the free movement of goods, services, people, and capital to and from other EEA members, and they must also implement EU rules concerning the single market. Membership of the EEA does not require the full integration demanded of a member of the EU, as nations are not required to participate in the monetary union, common foreign or security policy, or the common agricultural policy. However, integration in the EEA is deep, with the system requiring more than mere convergence in economic regulations. The EEA also requires at least partial participation in the EU legal system in areas such as competition policy, government procurement and consumer protection (Eeckhout, 2018: 9). While trade within the EEA is largely liberalised, it is not a customs union and as such there is no common external tariff. Countries are able to maintain their own independent trade policy and conduct their own trade negotiations with non-member states. As a result, trade between non-EU members of the EEA and EU

members is not as frictionless as trade between full EU members, and some border checks must remain to enforce measure such as rules of origin. EEA members which are not part of the EU must still pay towards the EU budget to be allowed access to the single market. In 2011, Norway's contribution to the EU budget per capita was only 17% lower than the UK's net contribution for that year, indicating that there are unlikely to be large fiscal savings for the UK if they were to take this route (Dhingra and Sampson, 2016).

While membership of the EEA would allow the UK to participate in the single market while being able to create its own trade policy and opt out of any further EU integration efforts, it would also subject the UK to single market legislation created by the EU without any input in the decision-making process. Because the rules governing the single market are created by the EU, not the EEA, the UK would have to give up its power to influence the laws of the single market when it leaves the EU and would have to accept and implement any further laws without any say in crafting them.

However, joining the EEA would mean submitting to the free movement of people (along with the free movement of goods, services, and capital), and would force the UK to accept EU legislation governing the single market without input in creating said legislation. Given that the pro-Brexit campaign relied heavily on the dual goals of taking back control of borders (immigration) and taking back the UK's sovereignty, it may be politically impossible for the UK government to agree to such an outcome.

Option 3: A comprehensive FTA (“The Canada Model”)

In October 2016 the EU signed a free trade agreement with Canada it hailed as “the most ambitious trade agreement the EU had ever concluded” (Robertson, 2018). The Comprehensive Economic and Trade Agreement (CETA) eliminates 98% of all tariffs on goods, opens government procurement bidding processes, protects geographical indicators, and offers improved protection for intellectual property rights (Robertson, 2018). While CETA is only one of the network of free trade agreements that the EU has negotiated with nations around the world, the fact that it is the newest and most advanced of these agreements means it is an obvious candidate to be the basis of a future UK-EU FTA. However, the CETA agreement, while impressive in its scope as an FTA between two large economies, is still a significant step down from the market access currently enjoyed by the UK. One of the major flaws is that the CETA agreement, like most FTAs, is light on the liberalisation of services. This would not be optimal for the UK as a services-based economy, and the second largest exporter of services in the world. Any FTA negotiated between the UK and the EU would have to include services or risk a large-scale disruption of the European financial system, much of which is based in the City of London.

An FTA may be politically acceptable to the UK government as it would allow them complete control over borders and immigration, would not lock the UK into the single

market, and would not require the harmonisation of regulations without a say in creating them. FTAs are relatively flexible, as long as the final agreement conforms to World Trade Organization (WTO) rules, and as such both parties would be allowed to protect sensitive sectors in return for offering greater access in other areas. Drawbacks would include the imposition of physical barriers at the borders to ensure compliance with regulations and rules of origin, which would likely decrease trade flows from their current levels. The EU would be unlikely to want to grant the UK access to the single market that was too beneficial, as doing so may be seen as allowing the UK to cherry pick its obligations, and could bolster anti-EU parties in member states such as Italy which are starting to gain support.

Option 4: No trade deal (“the WTO option”)

Should the UK and the EU not be able to agree on any deal governing their future trading relationship by the time the UK leaves the union, then trade between the two would be governed by the rules of the WTO. As there would be no agreement, trade would be based on the WTO’s MFN principle, and market access would have to be granted at the same level as the most favoured third party nation (with the exception of preferential access given to developing nations and nations which have negotiated FTAs). This would see a range of EU MFN tariffs levied on goods exported by the UK and would be extremely detrimental to UK services exports as WTO rules on trade in services are not nearly as liberalised as the equivalent EU ones (Dhingra and Sampson, 2016: 7).

Reversion to WTO rules would allow the UK to set its own laws on the free movement of labour between itself and the continent, and it would also be granted free reign to negotiate new trade agreements and set its own tariffs. The greater independence and sovereignty granted by this option would be balanced by the large economic cost, as an economy with links and value chains across the EU suddenly has to implement a variety of tariff and non-tariff barriers that will disrupt and slow trade, virtually overnight.

7. POLICY IMPLICATIONS AND RECOMMENDATIONS FOR SOUTH AFRICA AND AFRICA IN A POST-BREXIT WORLD

The UK’s long history as a great power and leading trading nation can be seen as one that reflects a similar attitude as that of the US, and its more recent approach to Brexit has some resonance in the US aggressive trade interventions and quest to make “America Great Again”. This historical attitude of the UK to trade and foreign policy is briefly outlined before discussing how should South Africa engage the UK in a post-Brexit scenario.

The United Kingdom and the United States were the main powers that emerged after the tragedy of the Second World War. The rise of the UK preceded that of the US by more than a century. However, both powers were to reflect a similar approach to trade

liberalisation and multilateralism. The UK led the world on “free trade” when it was at the height of its industrial development and thus demanded more open markets and non-discrimination (MFN) from its trading partners. The Cobden-Chevalier (UK and France) Treaty of 1860 included an MFN clause, and was to catalyse free trade throughout Europe. Similarly, the United States was to lead the world on free trade in the 1930s with the passing of the US Reciprocity Act in 1934. The US followed the example of the UK and aggressively negotiated bilateral free trade agreements with its trading partners, based on the MFN principle. Thus, the US was leading the debate during the negotiations on the GATT for more open trade and the MFN clause. However, “while the United States was willing to liberalise trade in those sectors where it could accrue economic gain (and where it faced little competition), it was not willing to do the same in areas of political and economic sensitivity”. This “liberal-mercantilist approach” Rorden Wilkinson argues, “particularly with regard to agriculture, became the cornerstone of the GATT”. (Wilkinson, 2014). In the experience of many developing countries, this attitude of protectionism in the GATT on the part of the United States and other developed countries was perceived as “double standards” (Patterson, 1966). This approach to trade of the United States could also be used to describe the approach of the United Kingdom.

In an article in the online journal Quartz, Henry Wismeyer argues that “for much of the pro-Brexit coalition rational assessment has been subordinated to a more sentimental project: putting the ‘Great’ back in Great Britain by evoking the indomitable spirit of a time when Britain conquered the globe” (Wismeyer, 2017). This motivation for the withdrawal of the United Kingdom, reflected in the argument about regaining its sovereignty so that the United Kingdom was free again to drive an independent trade and foreign policy, has gained much ground among the political elite in the United Kingdom. Denis Macshane has argued that “the pro-Brexit camp was led by elite, wealthy white men and women perfectly at home at the annual gatherings of the world’s rich and powerful in Davos...” (Macshane, 2017). This desire to resurrect Britain’s former position of influence in world affairs did resonate among the more conservative elements of British society, including in the campaign of Nigel Farage from UKIP and the British National Party that was described by Macshane as “nationalistic and nostalgic” (Macshane, 2017: 99).

British politicians have also been reviving the fortunes of the Commonwealth at the most recent Commonwealth Heads of Government Meeting (CHOGM) held in London in April 2018. The Commonwealth was created in 1949 at a time when the UK as still an Empire and most of its members were still colonies and yet to become independent states. The Commonwealth had served a useful purpose at the time of its creation. Jan Smuts, who was regarded as the architect of the Commonwealth argued that the British Empire should be called the “British Commonwealth of Nations”. He believed that the Empire was “the only successful experiment in international government” and called for it to be

extended on a world scale (Mazower, 2009). However, the Commonwealth has since evolved into a voluntary forum of 53 member states across six continents and replaced the Queen as its head with Prince Charles at CHOGM held in London on 20 April 2018.

The question that thus arises for South African and African policymakers is how to engage with the UK in a post-Brexit scenario that will reduce the mercantilist and nationalistic tendency reflected in UK history and support and encourage the UK to live up to its more liberal and idealistic values?

In March 2019, the then South African Minister of Trade and Industry Rob Davies stated the South Africa had not taken an official view on the wisdom of the Brexit decision by the UK government (Omarjee, 2019). He pointed out that this was for Britons to decide themselves. He was concerned about the future of the UK-SA economic relationship. At the same press conference, Nigel Casey, the UK High Commissioner argued that the first objective of the post-Brexit deals was to follow the maxim “do no harm”. This meant ensuring that there should be no negative economic consequences for South Africa, particularly on its poor black majority and workers through job losses.

While Britain’s trade relationship with South Africa had declined in relative importance due to the changing geography of world trade, Britain has remained an important investor in the South African economy, and almost 400 000 British tourists visited each year according to Nigel Casey (Nortje, 2017). The UK dominated over two centuries of trade and investment relations with South Africa, with its cultural influences through the English language and over a million people of British descent living in South Africa. The SA-UK relationship will remain significant for decades to come. Both governments need to take this reality into account and build and deepen a more modern, trustful, mutually beneficial and sustainable relationship. This can be achieved only with a change in policy in the UK from a more mercantilist foreign policy to one based on values and mutual respect.

South Africa plays a pivotal role in Africa, both as a trade and investment hub as more foreign multinationals and South Africa’s own companies form a pole of growth and outward investment into the rest of Africa. South Africa too has built a reputation (somewhat tarnished by the corruption scandals that surrounded former president Jacob Zuma’s regime) of being a significant player in the multilateral system of governance multilaterally, in the United Nations (UN) and in the WTO, and also as an important emerging power in the BRICS (Brazil, Russia, India, China and South Africa) alliance of countries. South Africa should be more strident in its approach to the UK. Several hundred of its major companies are listed in London and active in the British market. Thousands of students travel to study in the UK each year and there is a two-way flow of professional and skilled labour. Just as Jan Smuts was to play an influential role in the British Cabinet between the first and the end of the second world wars, the South African democratic

government can lead with ideas, policies and vision and build a partnership with the UK in the newly emerging multi-polar world.

The *Africa Free Trade Initiative* launched by David Cameron's coalition government in 2011 focused on three main areas: removal of tariffs and non-tariff barriers intra-regionally to enhance regional free trade; building productive capacity; and using trade to drive inclusive growth (APPG, 2016). This initiative would need to be more responsive to the real interests and needs of African countries.

The three implementation programmes of DFID – TradeMark Southern Africa, TradeMark East Africa and Support to West African Regional Integration Programme – could be enhanced and make an important contribution to regional integration in Africa. While these programme have focused on the real issues of building capacity, such as SPS standards, customs reforms and logistics infrastructure, including ports, rail and road, physical infrastructure, including power, water and telecommunication, these projects can be more fully integrated into the development strategies of African countries and the regional economic communities. A genuine partnership with African governments would help to build trust, ownership and sustainability of these programmes.

DFID has also leveraged other private sector players and development finance institutions such as the African Development Bank (AfDB), including its own CDC, to provide much needed development finance to local entrepreneurs to build local productive capacity create local businesses and build public-private partnerships. This should be encouraged and these programmes should be discussed with African governments in a transparent manner that encourages empowerment and capacity building of the state and private sector.

South Africa should use its increasing influence in Africa, and multilaterally, to push the UK towards its more egalitarian and idealistic personality. Tony Blair's *third way* and Clare Short's development and aid programme for developing countries and Africa reflect the potential of the UK to become a strategic partner with South Africa, and Africa as a whole, and to support the process of regional integration and transformative industrialisation and development underway in Africa. In addition, the UK could play a role in re-building multilateralism, both in the UN and in the WTO. South Africa should encourage and seek to partner with the UK in these efforts.

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