



Ministerial Statement

made by the

Hon. Carl H.G. Schlettwein, MP

Minister of Trade and Industry

in the

National Assembly

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**An update on the EPA negotiations and unilateral measures
considered by the European Commission to force the end of the
negotiations**

Hon. Speaker

Members of this August House

I have been informed that on 21 March 2013 – coincidental with our Independence Day - the International Trade Committee of the European Union Parliament voted that a deadline of 1 October 2014 will be recommended to the EU Parliament concerning preferential access into the EU market by ACP countries which have not yet signed an Economic Partnership Agreement (EPA) with the EU.

This proposed date is the date on which duty free quota free market access will be withdrawn for those who have not yet signed or ratified an EPA with the EU. It is said

by the European Commission (EC) not to be a deadline for the negotiations of an EPA as such, but it of course amounts to a negotiating deadline, as any EPA would have to be concluded far in advance of 1 October 2014 in order for trade to continue.

It is common knowledge that Namibia is in the process of negotiating such an EPA with the EU as part of the Southern Africa Customs Union and together with Angola and Mozambique forming the Southern African Development Community EPA negotiating configuration. Namibia too would thus be affected by this decision.

The European Commission and other structures of the European Union have repeatedly maintained that the proposed amendment to Market Access Regulation 1528, by introducing this deadline, is entirely their own business and at their sole discretion. Accordingly, no formal consultation was held with Namibia, nor was any real attempt made to assess the potential impacts of such a decision on Namibia.

The background to this matter is that the non-reciprocal Cotonou Agreement trade arrangements that most of us had become familiar with over many years, came to an end because the EC itself had refused to request an extension from the World Trade Organization of the waiver that had been given to it in order to grant non-reciprocal market access to the ACP states. The WTO requires otherwise that all preferential trade agreements should be reciprocal (but could still be asymmetrical in favour of developing countries).

It thus became an obligation that a reciprocal free trade agreement be negotiated, which the EC insisted must include new generation trade related issues, where after the target agreement became an EPA.

The deadline for concluding the EPA was December 2007, resulting in the so-called interim EPA. These hurriedly concluded negotiations were a failure, as only a limited number of countries signed interim EPAs. In our case, we did not, for reasons explained previously in this House by the Rt. Hon. Prime Minister, as former Minister of Trade and Industry. Many of us will still vividly recall that most significant and still very pertinent statement made by the Rt. Hon. Prime Minister in this House on 19 May 2010, at a critical juncture when we were being pressurized to sign and ratify the interim EPA

against our will. I have appended a copy of that statement to the printed version of my own statement for purpose of reference.

To avoid that exports by ACP states to the EU will collapse without a mutually agreed WTO-compliant free trade agreement, the EC unilaterally established Market Access Regulation 1528 which granted duty-free and quota-free market access to ACP States which had not signed an EPA of any kind. This regulation stipulated amongst others that a beneficiary country would only be excluded in future if it signaled that it would not have any further intention to conclude an EPA, or if it had failed to ratify an EPA signed within a reasonable time.

Namibia at no time signaled that we have no further interest in concluding an EPA. We made it clear that we wish to revisit those provisions in the interim EPA which prevented us signing through negotiations towards a final EPA. This position prevailed and Ministers of trade of the entire SADC EPA group collectively proposed to the EC Trade Commissioner, for the sake of maintaining the functioning of SACU and its common external tariff, to:

- set aside the interim EPA and focus on the negotiation of an inclusive EPA that all members of SACU and indeed the SADC EPA group could support and that would exclude no one; and
- that this process be concluded by the end of 2010.

The EC, with the deadline that it wishes to impose, also makes the point that the current market access is unilateral, and could therefore be revoked by them at will. Nonetheless, with the conclusion of the Trade and Development Cooperation Agreement between the EU and South Africa, which Namibia never endorsed, Namibia *de facto* allowed EU products preferential access into our market. This we did to avoid the collapse of SACU, a treaty which provides real benefits to us. The main beneficiary of this condonation of the TDCA has nevertheless been the EU. More than 90% of EU goods enter our market duty free under the TDCA and via our SACU borders.

Whilst the EC may now claim that revocation of their market access regulation is unilateral, we can claim that it is also unfair.

It is of interest to us that the EC is not justifying the imposition of this deadline because of economic injury caused through the absence of an EPA. They would know that to be a non-starter since their goods have been free-riding in our market on the back of the TDCA.

Amongst reasons given by the EC for the proposed deadline of October 2014, is now that the process of negotiating the EPA has taken too long, and the EC may imply that we are at fault. I thus feel it is important for the House to know that it was our side that indicated our willingness to make an all-out effort to negotiate a final EPA and to do so by the end of 2010.

In return, we were met by additional demands from the EC, with extensive new text proposals on trade related issues such as intellectual property, competition, taxation, geographical indication, public procurement and sustainable development, and demands that binding commitments be made on these areas which had not been previously discussed in depth. The mandate given to our negotiators was only to seek cooperation in these areas, not binding commitment with legal, policy or financial implications to us. I trust that the historians will agree that the pace of the EPA negotiations was as much to be blamed on such demands as on any other factor.

Hon. Speaker, Hon. Members,

We are not alone in experiencing these misgivings. As recent as December 2012 at a the Heads of State and Government of the Africa Caribbean Pacific (or ACP) group of states at their Summit in Sipopo, Equatorial Guinea, declared their concern with the EPA process as follows, to mention only a few aspects:

- that “several contentious issues in the EPA process severely limit policy space or tilt the balance of rights and obligations” and that issues which are not germane to WTO compatibility should be removed from the negotiations;

- “that EPAs have undermined regional integration processes and that the consolidation of regional integration processes should precede any trade liberalization” towards the EU;
- that no additional resources have been programmed by the EU to mitigate the implementation costs of an EPA;
- that the proliferation of EU regulations and legislations on non-tariff measures are technical barriers to trade, which I can add, devalues the duty free quota free market access given to those who sign EPAs; and
- importantly, the ACP Heads of State calling on the EU not to deny any ACP State market access benefits for whatever reason, and further calling on the EU structures in the context of the proposed deadline to enable the negotiations to be continue without pressure of time so that the outcome will be acceptable to all sides.

Our concern is indeed that this new deadline would place further pressure on the EPA negotiations which are at a critical stage, and further distort its outcome in favour of the large economic power that we are negotiating with. Such a deadline could in fact jeopardize the entire negotiations.

Above all, I have to express dissatisfaction with a negotiating partner taking precipitous unilateral economic action against a more vulnerable side whilst we are in the process of negotiations. This is simply not in the spirit of partnership, fair play or equity. Once again the concept of partnership in these economic partnership negotiations has become so diluted that it is hardly worth anything at all.

This deadline will have consequences for our producers. It is not within our power alone to conclude the negotiations that we are doing as an economic bloc under the legal obligations of the SACU treaty. Dictating that such a process must be concluded before a certain date is simply unacceptable.

Despite considerable progress made recently, there remain several very important issues to be resolved in the EPA negotiations, for which enough time and not any artificial deadline is needed. Some of the key unresolved issues most pertinent to Namibia are the:

- finalization of the provision on the use of export taxes in support of industrialization which does not amount to giving the EC a veto right;
- finalization of bilateral and agricultural safeguards to be included in the agreement;
- the final balance of liberalization in agricultural products to be agreed between SACU and the EC, hinging largely on the strength of the safeguard measures being developed;
- how the Most Favoured Nation Clause could be specified without undermining both the common external tariff of SACU and prospects for increased South-South co-operation and trade; and
- various aspects of the Rules of Origin, including how an exemption will be specified for Namibia concerning the treatment of fish caught in Namibia's Exclusive Economic Zone by leased vessels and doing away with any right of first refusal to the EU. The issue is that the country of origin status of fish caught in international waters (as defined by other agreements) is determined by the flag of the vessel, and catches would impact preferential access into the EU market in cases where Namibia depends on leasing, such as the tuna sector. The exemption being developed would be a considerable improvement on the requirements of the Cotonou Agreement concerning vessel registration, ownership, and the nationality of crew and captain.

I must emphasize that all these matters have significant economic and policy implications for Namibia and must be solved through negotiation.

While noting that the final decision still has to be taken by the EU Parliament, as we expect sometime later in April, but in anticipation that the EU Parliament would confirm this deadline, consultations have been initiated to safeguard our market and mitigate against potential loss of exports to the EU.

Hon. Speaker

I further wish to inform this House that I am arranging a national consultation on the EPA towards the end of April, for us to take stock of the negotiations, potential costs and benefits of a future EPA, and to help us chart the way forward collectively. Further information in this regard would be sent out in the next few days.

Hon. Speaker

Any unilateral measure that affects our ability to export is a serious matter. I conclude by calling on the EU to desist from any unilateral action concerning our market access, the EPA negotiations and our economy as a whole, at least while we are still in the process of negotiating an agreement.

I wish to repeat exactly the last two paragraphs from the statement of the Rt. Hon. Prime Minister in May 2010. They remain true entirely. *“Many people speculate whether the EC will now move to exclude us from their market – even though we are still negotiating. I will not join in such speculations, but I trust that all concerned would realize how serious the impact of doing so would be on our exporters and our economy – but especially on our relations with the EU.*

I call on our friends in Europe not to abandon us and to work with us towards a lasting solution. After all, the EPA is about partnership towards the shared goals of poverty alleviation and economic development. Let’s not use bully tactics or old colonial arrogance. Let’s be partners who are equal in sovereignty”.

I thank you