IT'S NOT SA'S CUSTOM

Under the new customs union agreement, SA trade policy could be held to ransom by any of the BLNS states, writes Michael McDonald, Head of Economics at Seifsa, in the Financial Mail, 20th September 2002.

The recently renegotiated version of the Southern African Customs Union (Sacu) Agreement could create serious problems in the administration of the SA trade policy, especially in relation to tariffs, antidumping actions and rebate dispensations.

In terms of the old agreement, SA handles customs administration especially import tariffs, on behalf of Sacu, which includes SA, Botswana, Lesotho, Swaziland, and Namibia (the BLNS countries).

Originally, SA, relying on an import replacement policy, had to control imports and apply protective import tariffs. As the BLNS countries did not have the capacity to adequately administer an import control system, SA offered to do the job. But because SA was administering relatively high import tariffs to protect its industries, the BLNS countries were paying considerably more for their imports than they needed to.

Thus was born the Common Revenue Pool (the "customs pool"). All customs, excise and additional duties collected by SA customs and excise are paid into the pool and shared out among the members, supposedly in proportion to the duties collected on imports destined for each member so as to compensate the BLNS for the higher cost of imports.

But, in practice, SA collected the duties for all imports into the Common Customs Area and then each BLNS member would declare how much it had imported. The BLNS countries tended to overstate the value of their imports. At a time when SA was at odds with the rest of the world on trade issues, it was happy to be generous to its neighbours to keep them quiet and to be able to conduct its own trade policy.

Though SA was becoming unhappy with this, little was done until 1994 when the new government sought to improve trade relations.

Over the years, the SA Board on Tariffs and Trade (BTT) has administered changes to import tariffs. It also administers the issuing of import and export permits, antidumping and countervailing duties and rebates and drawbacks of import tariff on goods imported for use in producing products for export.

The BLNS countries have played no real role in the BTT, though current legislation would allow for their participation.

However, during negotiations for a new agreement, the BLNS countries insisted on additional compensation since tariffs were dropping because of the WTO tariff cuts, the SA/EU trade agreement and the new Sadec free trade agreement. To take the heat off the issue of the share-out of the customs pool revenues, they said the BTT was undemocratic and demanded more of a say in the determination of tariffs.

And that is where the main problem with the new Sacu agreement comes in. It seems the BLNS countries' only real interest is the maximization of the customs pool.

Nevertheless, the new agreement (still to be ratified), in addition to spelling out an elaborate new formula for determining shares in the customs pool, includes a cumbersome mechanism for determining tariff changes, antidumping duties and other customs issues by a council of ministers of the Sacu states.

At present, the BTT investigates tariff and other matters within its ambit and then recommends changes to the minister of trade and industry, who can either accept or reject its report, but not amend it. If he accepts he passes on an instruction to customs and excise through the finance minister to amend the tariff.

The board itself is shortly to be transformed by an act of parliament into the Commission for International Trade Administration (CITA), which will operate similarly to the BTT with a few additional functions. However, reports and recommendations of the CITA will no longer go directly to the minister, but through a Sacu secretariat (based in a BLNS country and not in SA), a commission of senior officials, a Sacu tariff board and ultimately to a Sacu council of ministers, which will make its decisions by consensus. An independent tribunal made up of appointed trade experts will arbitrate disputes that cannot be resolved by the council of ministers. This appears to be democratic but is considered by many to be unworkable.

Each country will have a national body, which will feed its recommendations through this bureaucracy to the council of ministers.

It is possible BLNS ministers could oppose any recommendations that diminished the customs pool. So, lack of consensus is not unlikely, and the final arbiters may be the tribunal.

SA trade policy could be held to ransom by any of the BLNS countries, though 90% of the region's GDP comes from SA.