

# Rewriting the Rules

## The changing landscape of international trade

By Anna Mouton

**S**tephanie van der Walt of Agbiz Fruit is an attorney and expert in international trade. She described the position of South Africa in a complex and shifting global marketplace and explained how events such as Brexit can impact local industries.

### WHY DOES FREE TRADE MATTER?

A free flow of goods and services aids consumers by lowering prices and increasing their options. Businesses profit too through access to larger markets. Free trade encourages competition and allows companies to exploit comparative advantage and economies of scale. "If you can't produce everything, you're able to supplement with imports and fully mobilise your exports for the benefit of your economy," explained Van der Walt.

Global exports are currently around a third of global gross domestic product. Ninety-eight percent of this trade is conducted under World Trade Organisation (WTO) rules. The WTO was established in 1995 to promote free trade by creating a framework for trade negotiations and providing a mechanism for dispute resolution. WTO members may not discriminate against other members by singling out some trading partners for higher tariffs or stricter standards on their goods.

The WTO is credited for creating a more stable trading environment and overall lower tariffs, but there has been a proliferation of non-tariff barriers. According to Van der Walt, sanitary and

phytosanitary measures have been used repeatedly to prevent market access for South African products.

She also pointed out that WTO rules maintain the imbalance between large and small economies. "It's like you taking away the ladder that you yourself used to climb up. Before the inception of the WTO, countries used tariffs to protect their own markets and to build their own economies until they were strong enough to compete. Currently developing countries face more challenges in using WTO rules to improve their position in the global market."

### THE RISE OF REGIONALISM

**W**TTO members are allowed to enter into bilateral and regional trade agreements and these have multiplied rapidly over the past thirty years. "The downside is an increase in complexity," said Van der Walt. When a country is a member of multiple trade agreements it becomes difficult for it to draft consistent rules that meet the requirements of all its partners.

"This creates problems with uncertainty and implementation," related Van der Walt, "It's something that we are struggling with in Africa and that has been a huge obstacle in harmonising trade and in promoting trade on the continent." This is why the African Continental Free Trade Agreement has come into force but not yet opened markets — the details of implementation still have to be negotiated.

Van der Walt described how South Africa suffered losses in the past when it signed on to the WTO as a developed country. South Africa opened its

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markets hoping to stimulate trade with other developed nations but saw little reciprocity. That experience has made the Department of Trade and Industry cautious about entering into additional trade agreements. The Southern African Customs Union is the only active free trade agreement to which South Africa is party.

### BREXIT AND THE CUMULATION CHALLENGE

**V**an der Walt highlighted the issue of cumulation in the context of bilateral agreements as it is one of the obstacles to concluding a trade agreement between South Africa and the United Kingdom. Cumulation allows a country to treat imported goods as though they originated locally when trading with another country. The details are subject to negotiation but there is frequently a minimum threshold for the value a country needs to add before it can claim a good as its own and therefore entitled to preferential treatment.

The UK is seeking cumulation for all products from the EU going through the UK to South Africa. Concession by South Africa would amount to preferential treatment of EU countries in contravention of WTO rules.

Van der Walt cautioned that cumulation rules may become a barrier to trade for South Africa after Brexit. "We have an agreement with the EU, we hope to have an agreement with the UK, but what happens if they don't have an agreement with each other?"

Another area of concern is the recognition of certificates of origin and product and phytosanitary standards. "If those things are not addressed, you

could see your ships being turned away or setting sail not knowing if your products will be able to enter the market," warned Van der Walt.

The outcome of Brexit is expected by the end of October, but as Van der Walt's talk made clear, change and uncertainty in global trade will remain long past that date. **FQ**



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