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Diplomat's Notes

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THE EU AND SOUTH AFRICA: EXPERIENCE OF COOPERATION

The process of the EU enlargement – mainly at the expense of the former «socialist-camp» countries – and the acquisition by other countries, including Ukraine, of the status of «the EU neighbouring country» caused quite an understandable interest in various forms of European Union's co-operation with other countries. This primarily refers to geographically proximate, bordering countries, such as, for example, the EFTA member countries and the countries in the Mediterranean. However, the phenomenon of globalization introduces amendments into traditional conceptions, and it turns out that even geographically remote countries in respect to the world economy can be closer than the bordering countries. A striking example of this type of relations is the relations between the EU and the Republic of South-Africa (SAR).

The European Union is the main economic partner of the South African Republic, which accounts for nearly 40% of exports and imports of the country and more than 70% of direct foreign investments in the SAR (exceeding €20 bln.). Moreover, the EU reduced taxes on South African goods from 2.7% to 1.5% on average, while the SAR, in its turn, reduced taxes on EU goods from 10% to 4.3%.

The state of present economic relations evolved from long and laborious work at the establishment of special relations between the SAR and the EU.

The history of settling and colonizing southern Africa gave rise to long-lasting and rather close relationships with Europe, which rested on economic

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and cultural contacts. Some specialists directly indicate that modern agreements between the SAR and the EU are primarily based upon the previous, 400-year-old relations between southern Africa and Europe [1]. The presence of large European communities (English, Portuguese, French, Italian, Greek, German), the European origin of Afrikaners (Boers), and affiliation with the British colonial empire (after the Anglo-Boer war of 1899–1902) were instrumental in transformation of Europe, and later of the European Union, into the most powerful trade partner and foreign investor. But political opposition with the former mother country (Great Britain) and introduction of international sanctions during the apartheid policy repressed the development of these relations. A watershed of time in the relations of the Europeans with the South African state became a known speech by Harold Macmillan, the British Prime-Minister, – «Winds of Changes» – presented in February 1960 in the SAR Parliament, where he demanded political changes from the apartheid regime.

In 1977, it was for the first time that the EU countries (then 9 countries: France, Germany, Italy, Great Britain, Ireland, Denmark, and Benelux) negotiated and agreed on measures against the SAR in response to murderous repressions in Soueto: the adopted Code of Conduct with South Africa presumed adherence to principles of equal payment for equal labour, free access to education, no workplace discrimination, recognition of trade unions, etc. At that time, the joint strategy of the EU countries toward South Africa rested on precedence of reaching the two objectives: to ensure economic liberalization of South African countries and to overthrow the regime of apartheid [2].

Later, in response to worsening political situation in the SAR, the European Commission introduced embargo on the sale of weapons in 1985–86, blocked new investments, suspended exports of oil, and reduced cultural and sports contacts (the so-called First (July 1985) and Second (September 1986) packages of restrictive measures). At the same time, the relief funds for the victims of apartheid were created.

Meanwhile, in the apartheid times, under political and economic sanctions against the SAR, the representative offices of the business association South Africa Foundation, the functions of which among others included the establishment of relations with business and academic circles of foreign countries, were located in western Europe (in particular, in Frankfurt and London).

(R.Gruber, the representative of South Africa Foundation in Europe, by invitation of Ternopil Institute of National Economy, now TANE, visited Ukraine twice, in particular in November 1991 at the head of numerous delegation).

A diplomatic mission of the SAR to the European Commissions in Brussels was accredited more than two decades ago, and, after the creation of a transition government in the country, the Delegation of the European Commission in South Africa was opened in the SAR according to the agreement of December 14, 1993.

At the same time, the European Parliament in every way supported the process of democratization in the SAR, in particular through the Association of Western European Parliamentarians against Apartheid (AWEPAA), and after collapse of the apartheid policy – through collaboration within the Joint Assembly of Parliaments of the Countries of Africa, the Caribbean and the Pacific basins (EU/ACP Joint Assembly), as well as through exchange programs between the European Parliament and the parliaments of the countries of the Southern Africa Development Community (SADC).

One of the first steps signifying striking changes in the attitude towards «a new SAR» was the visit of John Major, Prime-Minister of Great Britain, to this country in the early 1994. Then, the parties reached mutual understanding concerning the preparation of a new agreement on investments protection in an effort to strengthen economic ties between the two countries. In July 1994, F. Mitterand, President of France, paid a visit to the SAR.

Half a year after Nelson Mandela has been elected president of the SAR in May 1994, the full-scale cooperation between the SAR and the EU was restored by concluding a cooperation agreement. Since 1995 the EU has been providing financial assistance to South Africa through European Programme for Reconstruction and Development (EPRD) with the annual budget of €127.5 mln. Owing to the program and the European Investment Bank's credits, the EU turned into the major donor of South Africa.

Since the mid-90-s the Program has been focused at poverty reduction and life quality improvement of the deprived by financing jobs related to solving such problems as creation of the system of social security (primary education, adult education, health care, AIDS prevention, access to drinking water, etc.), development of private economic sector (middle and small businesses, financial intermediaries), competent state administration, democratization and adherence to human rights (reorganization of public service, improvement of judicial system, etc.), and regional cooperation (within the SADC in the first place).

In June 1998, the SAR joined Loma Convention. At that, South Africa acquired a special status (due to the fact that the macroeconomic indices of the country did not meet the criteria set for less developed countries), which, for example, did not grant it any title to the EU financial support (within the framework of this Convention). This model of relationships satisfied neither of the parties, and the more so as these relationships were not limited to trade only, but covered a wide spectrum of problems, such as intellectual property protection, free movement of capital, and scientific and technical cooperation. The EU-SAR science and technology cooperation agreement was approved in 1996 and signed in 1997. The agreement allows South African scientists and research centres to participate in the programs financed according to the EU research and technological development framework programs, as well as presumes similar participation of European scientists in South African research programs.

In view of the afore-mentioned, the EU initiated the preparation of Trade, Development and Cooperation Agreement (TDCA), which was subsequently signed in October 1999 in Pretoria. From the standpoint of free trade, the two key components specified in the agreement were the following: the first one referred to settling the reduction of tariffs on industrial products, whereas the second related exclusively to agricultural produce [3].

The agreement came partly into effect in 2000. Since then, the European Reconstruction and Development Program has been incorporated in the general agreement which defines its objectives as follows:

- to finance harmonious and sustainable economic and social development of South Africa (special focus given to problems of poverty alleviation);
- to support the integration of the country into the world economy;
- to be instrumental in consolidation of the democratic society, to foster competent state administration, human rights abidance, and adherence to laws.

These objectives were replicated in the European Parliament and Council Regulation 1726/200, which, in addition, set the indicative index of financing for 2000–2006 in total value of €825 mln.

But the process of ratification and additional approval of some articles and stipulations has delayed for four years: most efforts were spent to concord the terms «sherry» and «port» which are used in the SAR and the EU for defining sorts of fortified wines (which is very important for the SAR which specializes in the exports of wine). Finally, a compromise Wines and Spirits Agreement was signed on January 28, 2002, and brought into force starting January 1, 2002.

So far, the negotiations still continue with regard to another disputable issue – fishery. In addition, some countries (Spain, Portugal, France, Italy, and Greece) held back the signing of the agreement because they regard the EU to be overly concessive in the clause on trade in agricultural products. In this connection, a number of products were excluded from the general package of agreements (Table 1). (Inevitably, a special research conducted by South Africa Foundation in April 1999 on the impact of the EU-SAR free trade zone upon its economy described the clauses related to the agrarian sector as «the most disputable»).

Article XXIV of GATT postulates free trade agreements to abolish duties and other trade restrictions on «substantially all» goods. At first, the EU suggested that the either side should liberalize 90% of its exports. In the end, however, the EU agreed that liberalization would refer to 90% of general volume of trade, and the EU would liberalize 95%, whereas the SAR – 86% of exports. The EU also tried to exclude almost a half of South African agricultural products from the agreement. However, the negotiations resulted in a so called «reserve list» of the goods, the customs tariffs on which were not subject to reduction, that included only 28% of the SAR exports.

Table 1.

Products Excluded from EU-SAR Trade, Development and Cooperation Agreement*

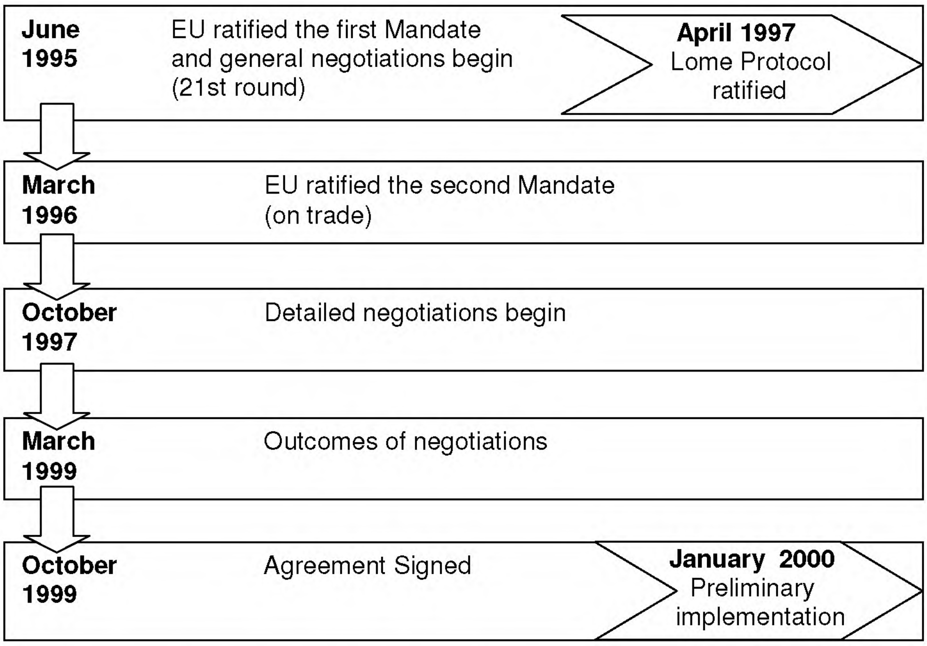
Main products excluded from the Agreement by the EU	Main products excluded from the Agreement by the SAR
• beef • sugar • some milk products (including milk, butter, whey) • corn and corn products • rice • starch • some natural flowers • some fresh fruits (including citrus crops, apples, peaches, grapes, bananas) • tomato products • some fruit products and juices • vermouth • ethyl alcohol • some kinds of fish	• beef • sugar • some milk products (including milk, butter) • corn and corn products • barley and barley products • wheat and wheat products • starch • chocolate • ice-cream
• raw aluminium	• oil and oil products • some chemicals • some textiles • motor-car products (tire covers, etc.)
Total of 304 tariff positions, which account for 3.4% of total imports from the SAR	Total of 120 tariff positions, which account for 10.9% of total imports from the EU

* The list is periodically revised.

Source: Partners in Progress. The EU/South Africa – European Commissions, Oct. 1999, p. 9.

The negotiations were headed by Professor João de Deus Pinheiro from the EU, and by the Minister of Trade and Industry Alec Erwin from the SAR (Figure 1). After twenty one rounds of negotiations, in December 1998 the parties agreed on basic provisions.

Figure 1.



Source: Partners in Progress. The EU/South Africa – European Commissions, Oct. 1999, p. 39.

Except for trade issues, the agreement was supplemented with clauses on intellectual property protection, competition policy, regulations on the origin of goods, fight against drug trafficking and money laundering, information protection, etc. The most significant component of the agreement was a schedule of customs tariffs liberalization on agricultural and industrial goods, according to which the SAR had to abolish tariffs for 86% of the EU goods exported to the SAR within 12 years. In its turn, the EU was obligated to abolish tariffs for 95% of South African exports to the EU within 10 years.

During negotiations, the parties tried to adhere to three key principles:

1) the agreement should comply with the WTO requirements, i. e. it should regulate trade matters in all sectors of the economy;

2) the agreement had to be asymmetric, implying that the EU as economically more developed party would open the markets faster and more intensely compared to similar steps of the South African side;

3) the agreement should be useful for the entire southern African region (which is very important in terms of the SAR participation in the Southern African Customs Union with Lesotho, Swaziland, Namibia, and Botswana).

(Note: the Southern African Customs Union functions since March 1, 1970, on the basis of the agreement among the SAR, Botswana, Namibia, Lesotho, and Swaziland signed on December 11, 1969, which replaced the 1910 Customs Agreement. Thus, the Southern African Customs Union is actually the oldest Customs Union in the world).

The agreement was provisionally applied on January 1, 2000, and registered in the WTO on November 2, 2000, in compliance with GATT, Article XXIV «Free Trade Areas and Customs Unions Covering Trade in Goods».

In the early 2004, the agreement was ratified by all EU member countries, except Luxemburg. However, a formal obstacle was created by Namibia, a member of the South African Customs Union, which delayed the ratification because of technical reasons. Nevertheless, the legislative bodies of both countries have managed to ratify the agreement before May 2004, and, as a result, there was no need in approving it with the ten EU accession countries.

It should be noted that the Agreement on Trade, Development and Cooperation in principle provides for consultations to be carried out within the framework of Cooperation Council (CC) established by the parties for reconciliation of all disputable questions arising from the agreement, in case third countries join the EU. In addition, according to the agreement, the SAR was entitled to protectionist measures in case free imports of goods from the EU would inflict considerable harm to the economies of the Southern African Customs Union (upon request of such a country). However, this right did not apply to the SADC, with the SAR as its member, where free trade area could be created. Moreover, if the SAR attempted to create such an area, it should conduct consultations with the EU, which could result in amendments to the very agreement.

As far as the accession of ten new EU member countries on May 1, 2004, is concerned, the agreement applied to them automatically, and the SAR did not object to such an approach. This could be explained by the fact that the agreement has not been ratified by the legislative bodies of all the EU member countries to the last moment, and only the specific clauses on trade applied *de facto* until very recently. In this connection, the South African side was not interested in extra complications stemming from bringing the agreement into force, and thus preferred to monitor the effects of EU enlargement on the SAR. Should these effects come out negative, the SAR could hold negotiations at the annual meeting of the Cooperation Council and make relevant adjustments (supplements) to the agreement. (According to unofficial evidence, the SAR intends to make certain amendments to the adjacent Wine and Spirits Agreement, taking into account some wine-producing new EU member countries).

This approach was specifically undertaken at the fourth meeting of the Council held on December 9, 2003. Koos Richelle, Director General, Development of the European Commission, presided from the EU side, and Alistair Ruiters, Director General, Department of Trade and Industry, – from the South African side. The representatives of both the EU accession and member countries, as well as the members of the Southern African Customs Union (which fall under the agreement because of their and the SAR's participation in the free trade area), were invited to the meeting. Apropos, the SAR is entitled to introduce protective measures if the agreement produces negative effects on economies of the countries in the customs union, which also provides a possibility of making necessary amendments induced by the EU enlargement.

As it was mentioned above, the EU/SAR Agreement influences directly not only the members of the customs union, but also the other countries in the Southern Africa region. The trade protocol of the SADC postulates that none of the members of the community which includes, besides the SAR, the other 12 countries (except for the Seychelles, which declared their intention to leave the SADC, and Madagascar, which applied for accession to the community) can grant any trade preferences to third countries without applying them to the SADC members first. Hence, in their trade with the SAR, the countries of the SADC can benefit from preferences fixed for the EU countries, but on their part, introduce protectionist measures (the SADC is not a free trade area). Being the member of the African, Caribbean and Pacific Group of States (ACP), South Africa also entered into negotiations with the EU for the New Trading Arrangement (NTA) within the framework of Partnership Agreement signed in Cotonou, the capital of Benin.

The above mentioned research of SA Foundation pointed to intensification of market competition in the SAR, which would result from elimination of protective measures, which have hitherto supported national companies. At the same time, the research placed special emphasis on the fact that the disparity in the partners' shares in each other's foreign trade (1% – for the EU imports and more than one third – for the SAR imports) will give rise to non-equivalent after-effects of the agreements. The inequality of capabilities will pertain also to investment operations (including mergers and acquisitions of the existing companies) of the European and South African corporations [4].

During the negotiation period, the effects of the agreement on the SAR and other countries of southern Africa were further analyzed in two fundamental studies. The first one, conducted by the UNCTAD, asserted that the EU imports to the countries of South Africa would increase more progressively than South African exports to the EU, resulting in negative consequences for the balances of payments of the SAR and the other countries of the region. The second study was conducted by the British Institute for Development Studies and Botswana Institute for Development Policy Analysis under the aegis of the Southern African Customs Union. It focused mainly on questions of fiscal policy and labour market and did not reveal any significant rewards for any of the two sides.

Later, a research conducted by German centre Coordination Southern Africa (KOSA) was published. It forecasted potential profit losses in Botswana by

5–9%, in Lesotho by 13–21%, in Namibia by 8–14%, and in Swaziland by 14–23%. It also asserted that the creation of a free trade area with the EU would affect the deepening of integration processes in the SADC negatively, since the member countries of the community would cooperate on unequal terms with such a powerful partner as the EU. (In its time, the SAR offered the EU to postpone the EU/SAR free trade area negotiations for ten years in order to provide the SAR an opportunity to advance trade liberalization within the community, but the EU rejected the proposal). Meanwhile, the officials of the SAR pay attention to the fact that the agreement does not strip these countries of the opportunity to get extra benefits from participation in Cotonou Agreement, such as financial aid, etc. (This particularly refers to Lesotho, which is among the poorest countries in the world).

In the period of agreement validity, a significant increase in exports (over 20% per annum) is observed on each side, with some lead in growth rates held by the EU countries. It is expected that after the EU enlargement in May 2004 this tendency will even intensify thanks to new EU member countries, which hitherto had no liberalized excess to the market of the SAR and the other countries of the South African Customs Union.

The opposition circles accuse the government of opening to the EU of almost 90% of its trade with the EU, while the EU, on its part, provides excess only to 50% of its market. Moreover, the EU keeps using the non-tariff barriers (such as strict requirements regarding the matters of health care and security) that actually block the access for many South African goods to the EU market, mainly limiting them to raw materials.

It is natural that similar to any integration, which by definition presumes conformity with certain common rules (often set by a stronger member of integration), the integration processes (complete integration is not meant even in the long-term perspective) between the SAR and the EU foster some benefits, challenges and losses for both parties. At that, the EU experience proves greatest benefits to be achieved at the stage when integration processes transit from the exchange of commodities to the movement of services and investments [5].

However, in our opinion, the SAR-EU relationships signify that economic ties between the partners who differ a lot in political, economic and cultural aspects are possible only on condition that they are driven by a mutual desire to find common areas that will more likely unite than separate them. This is very important for Ukraine, which, like South Africa, has many similarities with the EU countries (especially after the new «ten» entered the Union) and still many peculiarities that not only distinguish, but also separate, us. This specifically refers to some aspects of our history, culture, mentality, as well as legislation and business practice. One cannot omit also the political aspects related primarily to integration processes within the former USSR. In this regard, it is necessary to examine thoroughly how the development of special relations between the SAR and the EU coordinate with the undertakings related to integration of the SADC countries, the Southern African Customs Union, and the Common Southern Africa Currency Area.

Another significant aspect is the need to consider partnership inequality due to a number of factors, including consequences of the administrative system (non-market status of the economy) and certain autarky in the past, variance in economic structures (lagging behind the «new economy» industries), and underdeveloped institutes of market economy (especially in the financial sphere).

Nevertheless, as proves the South African experience, all these barriers can be removed by joint efforts and political will.

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