

## PROTOCOL ON TRADE *(consolidated text)*

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## PREAMBLE

THE HIGH CONTRACTING PARTIES:

**NOTING** that the Treaty establishing the Southern African Development Community has, in Article 22, expressly called for the conclusion of Protocols as may be necessary in each area of co-operation within the Community;

**CONSIDERING** that trade in goods and services and the enhancement of cross-border investment are major areas of co-operation among the Member States of the Community;

**RECOGNISING** that the development of trade and investment is essential to the economic integration of the Community;

**RECOGNISING** that an integrated regional market will create new opportunities for a dynamic business sector;

**CONVINCED** of the need to strengthen Customs co-operation and combat illicit trade within the Community;

**CONVINCED** that a framework of trade co-operation among Member States based on equity, fair competition and mutual benefit will contribute to the creation of a viable Development Community in Southern Africa;

**MINDFUL** of the different levels of economic development of the Member States of the Community and the need to share equitably the benefits of regional economic integration;

**COMMITTED** to linking the liberalisation of trade to a process of viable industrial development, as well as co-operation in finance, investment and other sectors;

**NOTING** the provisions of the Abuja Treaty calling for the establishment of regional and sub-regional economic groupings as building blocs for the creation of the African Economic Community;

**MINDFUL** of the results of the Uruguay Round of Multilateral Trade Negotiations on global trade liberalisation;

**RECOGNISING** the obligations of Member States in terms of existing regional trade arrangements and bilateral trade agreements;

Hereby agree as follows:

## PART ONE DEFINITIONS AND OBJECTIVES

### ARTICLE 1 DEFINITIONS

"Annex"	means a legal instrument of implementation of this Protocol, which forms an integral part thereto, and has the same legal force;
"Community"	means the Organisation as defined in Article 1 of the SADC Treaty;

“Conformity Assessment”	means any procedure used, directly or indirectly, to determine that a technical regulation or standard is fulfilled, including sampling, testing, inspection, evaluation, verification, monitoring, auditing, accreditation, registration or approval used for such a purpose, but does not mean an approval procedure;
“Council”	means Council of Ministers as defined in Article 1 of the SADC Treaty;
“CMT”	means the Committee of Ministers responsible for trade matters;
“Dumping”	means, in accordance with the provisions of Article VI of GATT(1994), the introduction of a product into the commerce of another country at less than its normal value, if the price of the product exported from one country to another is less than the comparable price in the ordinary course of trade, for the like product when destined for consumption in the exporting country;
“Export Duties”	means any duties or charges of equivalent effect imposed on, or in connection with, the exportation of goods from any Member State to a consignee in another Member State;
“High Contracting Parties”	means States as defined in Article 1 of the Treaty;
“Import Duties”	means Customs duties or charges of equivalent effect imposed on, or in connection with, the importation of goods consigned from any Member State to a consignee in another Member State;
“Member State”	means a Member State as defined in Article 1 of the Treaty.
“Non-Tariff Barrier” (NTB)	means any barrier to trade other than import and export duties;
“Originating goods”	means goods of a Member State as provided for in Annex I on Rules of Origin;
“Protocol”	means this instrument of implementation of the Treaty and includes any Annex or amendment thereof which form an integral part thereof;
“Provisional Safeguard Measures”	means measures imposed in accordance with Article 20 <i>bis</i> of this Protocol;
“Quantitative Restrictions”	means prohibitions or restrictions on imports into, or exports from a Member State whether made effective through quotas, import licences, foreign exchange allocation practices or other measures and requirements restricting imports or exports;
“Region”	means Region as defined in Article 1 of the Treaty;
“Safeguard measures”	means measures imposed in accordance with Article 20 of this Protocol;
“Services”	means intangible activities and those enumerated in Annex 1B

	to the World Trade Organisation's General Agreement on Trade in Services (GATS);
"Sub-Committee"	means a committee of experts established under each respective Annex of this Protocol;
"Subsidies"	shall have the same meaning and interpretation as in the WTO Agreement on Subsidies and countervailing measures;
"Third country"	means a country other than a Member State;
"FTA"	means Free Trade Area;
"TNF"	means the Trade Negotiating Forum;
"Treaty"	means the Treaty establishing the Southern African Development Community;
"WTO"	means World Trade Organisation.

## **ARTICLE 2 OBJECTIVES**

The objectives of this Protocol are:

1. To further liberalise intra-regional trade in goods and services on the basis of fair, mutually equitable and beneficial trade arrangements, complemented by Protocols in other areas.
2. To ensure efficient production within SADC reflecting the current and dynamic comparative advantages of its Members.
3. To contribute towards the improvement of the climate for domestic, cross-border and foreign investment.
4. To enhance the economic development, diversification and industrialisation of the Region.
5. To establish a Free Trade Area in the SADC Region.

## **PART TWO TRADE IN GOODS**

### **ARTICLE 3 ELIMINATION OF BARRIERS TO INTRA-SADC TRADE**

1. The process and modalities for the phased elimination of tariffs and non-tariff barriers shall be determined by the Committee of Ministers responsible for trade matters (CMT) having due regard to the following:
  - a) The existing preferential trade arrangements between and among the Member States.
  - b) That the elimination of barriers to trade shall be achieved within a time frame of eight (8) years from entry into force of this Protocol.

- c) That Member States which consider they may be or have been adversely affected, by removal of tariffs and non-tariff barriers (NTBs) to trade may, upon application to CMT, be granted a grace period to afford them additional time for the elimination of tariffs and (NTBs). CMT shall elaborate appropriate criteria for the consideration of such applications.
  - d) That different tariff lines may be applied within the agreed time frame for different products, in the process of eliminating tariffs and NTBs.
  - e) The process and the method of eliminating barriers to intra-SADC trade, and the criteria of listing products for special consideration, shall be negotiated in the context of the Trade Negotiating Forum (TNF).
2. The agreed process and modalities for eliminating barriers to intra-SADC trade shall upon adoption, be deemed to form an integral part of this Protocol.

#### **ARTICLE 4 ELIMINATION OF IMPORT DUTIES**

1. There shall be a phased reduction and eventual elimination of import duties, in accordance with Article 3 of this Protocol, on goods originating in Member States.
2. The process should be accompanied by an industrialisation strategy to improve the competitiveness of Member States.
3. The CMT shall adopt such measures as may be necessary to facilitate adjustment arising from application of this Article. The CMT shall review such measures from time to time.
4. Pursuant to paragraph 1, Member States shall not raise import duties beyond those in existence at the time of entry into force of this Protocol.
5. Nothing in Paragraph 4 of this Article shall be construed as preventing the imposition of across-the-board internal charges.
6. This Article shall not apply to fees and similar charges commensurate with costs of any services rendered.

#### **ARTICLE 5 ELIMINATION OF EXPORT DUTIES**

1. Member States shall not apply any export duties on goods for export to other Member States.
2. This Article shall not prevent any Member State from applying export duties necessary to prevent erosion of any prohibitions or restrictions, which apply to exports outside the Community, provided that no less favourable treatment is granted to Member States than to third countries.

#### **ARTICLE 6 NON-TARIFF BARRIERS**

Except as provided for in this Protocol, Member States shall, in relation to intra-SADC trade:

- a) adopt policies and implement measures to eliminate all existing forms of NTBs.

- b) refrain from imposing any new NTBs.

**ARTICLE 7  
QUANTITATIVE IMPORT RESTRICTIONS**

1. Member States shall not apply any new quantitative restrictions and shall in accordance with Article 3, phase out the existing restrictions on the import of goods originating in Member States, except where otherwise provided for in this Protocol.
2. Notwithstanding the provisions of paragraph 1 of this Article, Member States may apply a quota system provided that the tariff rate under such a quota system is more favourable than the rate applied under this Protocol.

**ARTICLE 8  
QUANTITATIVE EXPORT RESTRICTIONS**

1. Member States shall not apply any quantitative restrictions on exports to any other Member State, except where otherwise provided for in this Protocol.
2. Member States may take such measures as are necessary to prevent erosion of any prohibitions or restrictions which apply to exports outside the Community, provided that no less favourable treatment is granted to Member States than to third countries.

**ARTICLE 9  
GENERAL EXCEPTIONS**

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Member States, or a disguised restriction on intra-SADC trade, nothing in Article 7 and 8 of this Protocol shall be construed as to prevent the adoption or enforcement of any measures by a Member State:

- a) necessary to protect public morals or to maintain public order;
- b) necessary to protect human, animal or plant life or health;
- c) necessary to secure compliance with laws and regulations which are consistent with the provisions of the WTO;
- d) necessary to protect intellectual property rights, or to prevent deceptive trade practices;
- e) relating to transfer of gold, silver, precious and semi-precious stones, including precious and strategic metals;
- f) imposed for the protection of national treasures of artistic, historic or archaeological value;
- g) necessary to prevent or relieve critical shortages of foodstuffs in any exporting Member State;
- h) relating to the conservation of exhaustible natural resources and the environment; or
- i) necessary to ensure compliance with existing obligations under international agreements;

- j) necessary to prohibit or control the importation or exportation of second-hand goods into or from its territory under this Protocol.

**ARTICLE 10  
SECURITY EXCEPTION**

1. Nothing in this Protocol shall prevent any Member State from taking measures which it considers necessary for the protection of its security interests or for the purpose of maintaining peace.
2. The concerned Member State shall notify the CMT of any such measures.

**ARTICLE 11  
NATIONAL TREATMENT**

Member States shall accord, immediately and unconditionally, to goods traded within the Community the same treatment as to goods produced nationally in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

**PART THREE  
CUSTOMS PROCEDURES**

**ARTICLE 12  
RULES OF ORIGIN**

Originating goods shall be eligible for Community treatment, in accordance with the provision of Annex 1 of this Protocol.

**ARTICLE 13  
CO-OPERATION IN CUSTOMS MATTERS**

Member States shall, as provided for in Annex II of this Protocol, take appropriate measures, including arrangements regarding Customs administration co-operation, to ensure that the provisions of this Protocol are effectively and harmoniously applied.

**ARTICLE 14  
TRADE FACILITATION**

Member States shall, as provided for in Annex III of this Protocol, take such measures as are necessary to facilitate the simplification and harmonisation of trade documentation and procedures.

**ARTICLE 15  
TRANSIT TRADE**

Products imported into, or exported from, a Member State shall, as provided for in Annex IV of this Protocol, enjoy freedom of transit within the Community and shall only be subject to the payment of the normal rates for services rendered.



**PART FOUR  
TRADE LAWS**

**ARTICLE 16  
SANITARY AND PHYTOSANITARY MEASURES**

1. Member States shall base their sanitary and phytosanitary measures on international standards, guidelines and recommendations, so as to harmonise sanitary and phytosanitary measures for agricultural and livestock production and food safety.
2. Member States shall, upon request, enter into consultation with the aim of achieving agreements on recognition of the equivalence of specific sanitary and phytosanitary measures, in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

**ARTICLE 17  
STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT**

1. Each Member State shall use relevant international standards as a basis for its standards-related measures, except where such standards would be an ineffective or inappropriate means to fulfil its legitimate objectives.
2. A Member State's standards-related measures that conform to an international standard shall be presumed not to create an unnecessary obstacle to trade.
3. Without reducing the level of safety, or of protection of human, animal or plant life or health, of the environment or of consumers, without prejudice to the rights of any Member State and taking into account international standardisation activities, Member States shall, to the greatest extent practicable, make compatible their respective standards-related measures, so as to facilitate trade in goods and services within the Community.
4. Member States accept as equivalent technical regulations of other Member States, even if these regulations differ from their own, provided that they adequately fulfil the objectives of their regulations.
5. A Member State shall, upon request of another Member State, seek through appropriate measures, to promote the compatibility of specific standards or conformity assessment procedures that are maintained in its territory, with the standards or conformity assessment procedures maintained in the territory of other Member States.

**ARTICLE 18  
ANTI-DUMPING MEASURES**

Nothing in this Protocol shall prevent any Member State from applying anti-dumping measures which are in conformity with WTO provisions.

**ARTICLE 19  
SUBSIDIES AND COUNTERVAILING MEASURES**

1. Member States shall not grant subsidies which distort or threaten to distort competition in the Region.
2. Notwithstanding paragraph 1 of this Article, a Member State may continue to apply a subsidy in accordance with Article 3.

3. A Member State may, for the purposes of offsetting the effects of subsidies and subject to WTO provisions, levy countervailing duties on a product of another Member State.
4. Notwithstanding the provisions of paragraph 1 of this Article, a Member State may introduce a new subsidy only in accordance with WTO provisions.

#### **ARTICLE 20 SAFEGUARD MEASURES**

1. A Member State may apply a safeguard measure to a product only if that Member State has determined that such product is being imported to its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.
2. A serious injury shall be determined in accordance with Article 4 of the WTO Agreement on Safeguards.
3. Safeguard measures shall be applied to a product being imported irrespective of its source within the Region.
4. In applying measures in accordance with paragraph 1 of this Article, a Member State shall give like treatment to all imports of originating goods.
5. A Member State shall apply safeguard measures only to the extent and for such period of time necessary to prevent or remedy serious injury and to facilitate adjustment. In accordance with Article 7 of the WTO Agreement on Safeguards, the period shall not exceed four years, unless the competent authorities of the importing Member State have determined that the safeguard measure continues to be necessary to prevent or remedy serious injury and that there is evidence that the industry is adjusting.
6. Notwithstanding the provision of paragraph 5 of this Article, the total period of application of a safeguard measures shall not exceed eight (8) years.

#### **ARTICLE 20 BIS PROVISIONAL SAFEGUARD MEASURES**

1. Where a Member State is of the opinion that any product is being imported in such increase quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers of like or directly competitive products in its territory, that Member State shall be entitled, subject to paragraph 2, to impose a provisional safeguard measure, to the extent necessary to prevent or remedy the injury. In no circumstances shall a measure be imposed for a period exceeding 200 days.
2. A Member State shall provide the Executive Secretary with a written notification of its intention to impose a measure in terms of paragraph 1 prior to taking such a measure. Such notification shall contain the following information:
  - (a) the product subject to the proposed measure;
  - (b) the proposed safeguard measure;
  - © the proposed date of introduction of the provisional safeguard measure;

- (d) the expected duration of the provisional safeguard, if any decision on the duration of the measure has been made; and
  - (e) the basis:
    - (i) making a preliminary determination, that increased imports have caused or are threatening to cause serious injury; and
    - (ii) determining that there are critical circumstances where delay would cause damage which it would be difficult to repair.
3. The Executive Secretary shall call an urgent meeting of the CMT to take place within a period of 20 days from the date of receipt of the notification to decide on the proposed imposition of the provisional safeguard measure
  4. Unless the CMT decides by consensus to disapprove the imposition of such measure, the notifying Member State may proceed with the imposition of the measure. The CMT may only disapprove the measure if the notifying Member State fails to provide the basis for such measure as contemplated in paragraph 2(e)
  5. In the event that the CMT fails to make a decision regarding the approval of the proposed imposition of the provisional safeguard measure within 30 days from the date of notification, the notifying Member State shall be entitled to proceed with the imposition of the provisional safeguard measure in accordance with the information provided in the said notification.
  6. The CMT may request additional information as it considers necessary from the notifying Member State.
  7. A provisional safeguard measure shall not be applied against a product originating in a Member State as long as its share of imports of the product concerned in the notifying Member State does not exceed 7 per cent, provided that Member States with less than 7 per cent import share collectively account for not more than 15 per cent of total imports of the product concerned.
  8. A provisional safeguard measure shall take the form of tariff increases only.
  9. Any duties collected as a result of the imposition of a provisional safeguard measure shall be promptly refunded if no subsequent investigation referred to in Article 20 is proceeded with after the imposition of the provisional safeguard measure, or if the subsequent investigation does not determine that increased imports have caused or threatened to cause serious injury to a domestic industry.

## **ARTICLE 21 PROTECTION OF INFANT INDUSTRIES**

1. Notwithstanding the provisions of Article 4 of this Protocol, upon the application by a Member State, the CMT may as a temporary measure in order to promote an infant industry, and subject to WTO provisions, authorise a Member State to suspend certain obligations of this Protocol in respect of like goods imported from the other Member States.
2. The CMT may, in taking decisions under paragraph 1 of this Article, impose terms and conditions to which such authorisation shall be subject, for the purposes of preventing or minimising excessive disadvantages as those which may result in trade imbalances.
3. The CMT shall regularly review the protection of infant industries by a Member State applied in accordance with paragraph 1 of this Article.

**PART FIVE  
TRADE RELATED INVESTMENT MATTERS**

**ARTICLE 22  
CROSS-BORDER INVESTMENT**

Member States shall adopt policies and implement measures within the Community to promote an open cross-border investment regime, thereby enhancing economic development, diversification and industrialisation.

**PART SIX  
OTHER TRADE RELATED ISSUES**

**ARTICLE 23  
TRADE IN SERVICES**

1. Member States recognise the importance of trade in services for the development of the economies of SADC Countries.
2. Member States shall adopt policies and implement measures in accordance with their obligations in terms of the WTO's General Agreement on Trade in Services (GATS), with a view to liberalising their services sector within the Community.

**ARTICLE 24  
INTELLECTUAL PROPERTY RIGHTS**

Member States shall adopt policies and implement measures within the Community for the protection of Intellectual Property Rights, in accordance with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.

**ARTICLE 25  
COMPETITION POLICY**

Member States shall implement measures within the Community that prohibit unfair business practices and promote competition.

**PART SEVEN  
OTHER SUBSTANTIVE PROVISIONS**

**ARTICLE 26  
TRADE DEVELOPMENT**

Member States shall adopt comprehensive trade development measures aimed at promoting trade within the Community, as provided for in Annex V of this Protocol.

**PART EIGHT  
TRADE RELATIONS AMONG MEMBER STATES AND WITH THIRD COUNTRIES**

**ARTICLE 27  
PREFERENTIAL TRADE ARRANGEMENTS**

1. Member States may maintain preferential trade and other trade related arrangements existing at the time of entry into force of this Protocol;
2. Member States may enter into new preferential trade arrangements between themselves, provided that such arrangements are not inconsistent with the provisions of this Protocol.
3. Notwithstanding the provisions of paragraph 1 and 2 of this Article, Member States party to any existing preferential trade arrangements and other trade related arrangements undertake to review the further application of such preferential trade arrangements, with a view to attaining the objectives of this Protocol.

**ARTICLE 28  
MOST FAVOURED NATION TREATMENT**

1. Member States shall accord Most Favoured Nation Treatment to one another.
2. Nothing in this Protocol shall prevent a Member State from granting or maintaining preferential trade arrangements with third countries, provided such trade arrangements do not impede or frustrate the objectives of this Protocol and that any advantage, concession, privilege or power granted to a third country under such arrangements is extended to other Member States.
3. Notwithstanding the provisions of paragraph 2 of this Article, a Member State shall not be obliged to extend preferences of another trading bloc of which that Member State was a member at the time of entry into force of this Protocol.

**ARTICLE 29  
COORDINATION OF TRADE POLICIES**

Member States shall, to their best endeavour, coordinate their trade policies and negotiating positions in respect of relations with third countries or groups of third countries and international organisations as provided for in Article 24 of the Treaty, to facilitate and accelerate the achievement of the objectives of this Protocol.

**ARTICLE 30  
CO-OPERATION WITH THIRD COUNTRIES OR  
GROUPS OF THIRD COUNTRIES**

Member States shall develop co-operation and conclude agreements with third countries or groups of third countries and international organisations as provided for in Article 24 of the Treaty, to facilitate and accelerate the achievement of the objectives of this Protocol.

**PART NINE  
INSTITUTIONAL ARRANGEMENTS AND DISPUTE SETTLEMENT PROCEDURES**

**ARTICLE 31  
INSTITUTIONAL ARRANGEMENTS**

1. The institutional mechanisms for the implementation of this Protocol shall comprise the CMT, Committee of Senior Officials responsible for trade matters, the TNF and the Secretariat.

2. The Committee of Ministers shall be responsible for trade matters including the following:
  - a) supervision of the implementation of this Protocol;
  - \* b) supervision of the work of any committee or sub-committee established under this Protocol.
3. The Committee of Senior Officials shall:
  - a) report to the CMT on matters relating to the implementation of the provisions contained in this Protocol;
  - b) supervise the work of the Secretariat;
  - c) clear the documents prepared by the Secretariat to be submitted to the CMT;
  - d) liaise closely with both the CMT and the Secretariat;
  - e) monitor the implementation of this Protocol;
  - f) supervise the work of the TNF.
4. The Trade Negotiation forum shall be responsible for the conduct of trade negotiations and shall report to the Committee of Senior Officials. Its functions shall include:
  - a) regular reviews in which offers shall be made and where the removal of non-tariff barriers shall be requested or offered;
  - b) the creation of a research capacity of experts to monitor the impact of measures already implemented, and offer advice on the potential impact of offers under discussion;
  - c) the establishment of a linkage between trade liberalisation and industrial policy coordination, as well as other areas of sectoral co-operation; and
  - d) the establishment of a regional framework on the phased reduction and eventual elimination of tariff and NTBs to trade among Member States.
5. The Secretariat shall perform the following functions:
  - a) coordinate the day-to-day operations in the implementation of this Protocol;
  - b) provide technical and administrative assistance to the CMT, the Committee of Senior Officials and the TNF;
  - c) provide assistance to subsidiary committees, sub-committees and panels established to implement this Protocol;
  - d) work closely with the private sector;
  - e) identify research needs and priorities in the trade area.

**ARTICLE 32  
SETTLEMENT OF DISPUTES**

The rules and procedures of Annex VI shall apply to the settlement of disputes between Member States concerning their rights and obligations under this Protocol.

### **ARTICLE 33 GENERAL UNDERTAKING**

1. Member States shall take all appropriate measures to ensure the carrying out of the obligations arising from this Protocol.
2. Member States shall co-operate in addressing any impediments to intra-SADC trade that may arise as a result of any action or lack of action by any Member State on issues having material bearing on such trade and which are not covered elsewhere in this Protocol.
3. In the event that Member States disagree on the existence of impediments to intra-SADC trade, the Member States may have recourse to the provisions of Article 32 of this Protocol.

### **ARTICLE 34 AMENDMENTS**

1. Amendments to this Protocol shall be in accordance with the procedures established by Article 36 of the Treaty.
2. In the case of a proposal to amend an existing annex or include a new annex to this Protocol, the CMT shall adopt the proposal by consensus.
3. A proposal adopted by the CMT in accordance with paragraph 2 shall form an integral part of this Protocol."

### **ARTICLE 35 SIGNATURE**

This Protocol shall be signed by the High Contracting Parties.

### **ARTICLE 36 RATIFICATION**

This Protocol shall be ratified by the Member States in accordance with their constitutional procedures.

### **ARTICLE 36 A IMPLEMENTATION**

1. Each Member State shall deposit an instrument of implementation, indicating the date upon which that Member State shall implement the Protocol, within six months after the date of entry into force of this Amendment Protocol. This Amendment Protocol and the Tariff Reduction Schedules, adopted by the CMT pursuant to Article 3(2) of the Protocol, shall be implemented by each Member State on a date not later than twelve months from the date of entry into force of this Amendment Protocol. No Member State shall be obliged to extend preferential treatment under this Protocol to another Member State which has not deposited an instrument of implementation as provided for in this paragraph.
2. No Member State shall deposit an instrument of implementation or accession to this

Amendment Protocol unless it has previously or simultaneously deposited an instrument of ratification or accession to the Protocol.

**ARTICLE 37  
ENTRY INTO FORCE**

This Protocol shall enter into force 30 days after the deposit of the Instruments of Ratification by two-thirds of the Member States.

**ARTICLE 38  
ACCESSION**

This Protocol shall remain open for accession by any Member State.

**ARTICLE 39  
DEPOSITARY**

1. This Protocol and all instruments of Ratification or Accession shall be deposited with the Executive Secretary, who shall transmit certified true copies thereof, to all Member States.
2. The Executive Secretary of SADC shall notify the Member States of the dates of deposit of Instruments of Ratification and Accession.
3. The Executive Secretary shall register this Protocol with the United Nations, the Organisation of African Unity and such other organisations as the Council may determine.

**IN WITNESS WHEREOF, WE,** the Heads of State or Government or duly Authorised Representatives of SADC Member States have signed this Protocol.

Done at Maseru this 24<sup>th</sup> of August 1996 in two (2) original texts in the English and Portuguese languages, both texts being equally authentic.

.....  
**REPUBLIC OF ANGOLA**  
.....  
**KINGDOM OF LESOTHO**  
.....  
**REPUBLIC OF MAURITIUS**  
.....  
**REPUBLIC OF NAMIBIA**  
.....  
**KINGDOM OF SWAZILAND**  
.....  
**REPUBLIC OF ZAMBIA**

.....  
**REPUBLIC OF BOTSWANA**  
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**REPUBLIC OF MALAWI**  
.....  
**REPUBLIC OF MOZAMBIQUE**  
.....  
**REPUBLIC OF SOUTH AFRICA**  
.....  
**UNITED REPUBLIC OF TANZANIA**  
.....  
**REPUBLIC OF ZIMBABWE**



**ANNEXES**

**ANNEX I**

**CONCERNING THE RULES OF ORIGIN FOR PRODUCTS TO BE TRADED BETWEEN THE MEMBER STATES OF THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY**

**PREAMBLE**

The High Contracting Parties:

**AWARE** that they have undertaken to progressively establish a Development Community within which Customs duties and other charges of equivalent effect imposed on imports shall be gradually reduced and eventually eliminated and non-tariff barriers to trade among Member States shall be removed, and all trade documents and procedures shall be harmonised;

**RECOGNIZING** that clear and predictable rules of origin and their application should facilitate the flow of regional trade and economies of scale in the Region;

**RECOGNIZING** that it is desirable to provide for transparency of laws, regulations and practices regarding rules of origin and that the scope of this Annex is to provide for a consolidated text, incorporating all provisions concerning the origin of goods, within the context of this Protocol, and aimed at facilitating implementation and administration of these rules;

**DESIRING** to ensure that rules of origin themselves do not create unnecessary obstacles to trade and facilitate the implementation thereof by Customs administrations by providing an exhaustive and complete text;

**TAKING INTO ACCOUNT** the provisions of Article 12 of this Protocol which require that the rules of origin for products that shall be eligible for Community treatment shall be set out in Annex I to this Protocol;

**HEREBY AGREE** as follows:

**RULE 1  
DEFINITIONS AND INTERPRETATION**

**1. Definitions**

For the purposes of this Annex:

"Chapters"  
and "Headings"  
[and sub-headings] mean the chapters and the headings (four and six-digit codes) used in the Harmonised Commodity Description and Coding System, referred to in this Annex as "the Harmonised System" or "HS";

"Classified" refers to the classification of a product or material under a particular HS heading;

"Consignment" means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

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"Customs value"	means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the GATT (WTO Agreement on Customs Valuation);
"Ex-works price"	means the price paid for the product ex works to the manufacturer in any Member State in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, plus the profit and minus any internal taxes which are, or may be, repaid when the product obtained is exported;
"Goods"	means both materials and products;
"MMTZ"	means the Republic of Malawi, the Republic of Mozambique, the United Republic of Tanzania and the Republic of Zambia;
"Manufacture"	means any kind of working or processing, including assembly or specific operations;
"Material"	means any ingredient, raw material, component or part and the like, used in the manufacture of the product;
"Product"	means the product being manufactured, even if it is intended for later use in another manufacturing operation;
"SACU"	means the Southern African Customs Union of which the members are the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland;
"Territories"	includes territorial waters;
"Value of materials"	means the customs value at the time of importation of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in any Member State. The calculations of the Customs value of the non-originating materials will include: <ul style="list-style-type: none"> <li>(a) the cost of transport of the imported goods to the port or place of importation;</li> <li>(b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and</li> <li>(c) the cost of insurance,</li> </ul> provided that the amount of any transport costs incurred in transit through Member States should be deducted from the calculations of the Customs value of the non-originating materials as provided for in the definition herein;
"Value of the originating materials"	means the value of such materials as defined in "value of materials" above, applied <i>mutatis mutandis</i> .

## RULE 2 ORIGIN CRITERIA

### 1. General requirements

For the purpose of implementing this Protocol, goods shall be accepted as originating in a Member State if they are consigned directly from a Member State to a consignee in another Member State and:

- (a) they have been wholly produced in any Member State as provided for in Rule 4 of this Annex; or
- (b) they have been obtained in any Member State incorporating materials which have not been wholly produced there, provided that such materials have undergone sufficient working or processing in any Member State within the meaning of paragraph 2 of this Rule.

## **2. Sufficiently worked or processed products**

- (a) For the purpose of this Rule, products, which are not wholly produced, are considered to be sufficiently worked or processed when the conditions set out in the list in Appendix I of this Annex are fulfilled.
- (b) The conditions referred to in sub-paragraph (a) indicate, for all products covered by this Protocol, the working and processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. Accordingly, it follows that if a product, which has acquired originating status by fulfilling the conditions set out in this list, is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.
- (c) Notwithstanding the provisions of sub-paragraph (a), products of HS chapters 50 to 63 exported to SACU by MMTZ Member States will be considered to be sufficiently worked or processed when the conditions set out in column 4 of the list in Appendix I are fulfilled, subject to such quantitative limits, time periods and arrangements for the administration and enforcement of such quantitative limits as agreed upon by the CMT on 4 August 2000.

## **3. Value tolerance**

- (a) Notwithstanding the provisions of paragraph 2(b) of this Rule, non-originating materials which, according to the conditions set out in the list in Appendix I, should not be used in the manufacture of a product may nevertheless be used, provided that:
  - (i) their total value does not exceed 15 per cent of the ex-works price of the product; and
  - (ii) any of the percentages given in the list for the maximum value of non-originating materials are not exceeded through the application of this sub-paragraph.
- (b) The provisions of sub-paragraph (a) shall not apply to the products falling within HS chapters 50 to 63, 87 and 98.

## **4. Cumulative treatment**

- (a) For the purposes of implementing this Annex, the Member States shall be considered as one territory.
- (b) Raw materials or semi-finished goods originating in accordance with the provisions of this Annex in any of the Member States and undergoing working or processing either in one or more Member States shall, for the purpose of determining the origin of a finished product, be deemed to have originated in the Member State where the final processing or manufacturing takes place.

## 5. Non-eligibility of certain agricultural products

Notwithstanding any provision in this Annex, agricultural products, whether or not processed in any way, obtained, or partly obtained from food aid or monetization or similar assistance measures, including arrangements based on non-commercial terms, shall not be eligible for any preferential treatment under this Protocol.

### **RULE 3 PROCESSES NOT CONFERRING ORIGIN**

Notwithstanding the provisions of paragraph 1(a) of Rule 2 of this Annex, the following operations and processes shall be considered as insufficient to support a claim that goods originate in a Member State:

1. Packing, packaging and other preparations or processes for shipping and for sales:
  - (a) packing, repacking or retail packaging, including bottling, placing in flasks, bags, cases and boxes, fixing on cards or boards and all other simple packing operations;
  - (b) changes of packing and breaking up or assembly of consignments;
  - (c) operations to ensure the preservation of merchandise in good condition during transportation and storage, such as ventilation, spreading out, drying, freezing, making into a solution, removal of damaged parts and similar operations. This also includes loading, reloading or any other operation necessary to maintain the merchandise in good condition.
2. Mere dilution, blending and other types of mixing:
  - (a) simple mixing of ingredients imported from outside the Member States;
  - (b) mere dilution with water or another substance that does not materially alter the characteristics of the material;
  - (c) the addition of substances such as anti-caking agents, preservatives, wetting agent and the like;
  - (d) diluting chemicals with inert ingredients to bring them to the standard degree of strength;
  - (e) for the purposes of this sub-paragraph, dilution shall be taken not to include:
    - (i) either mixing together of two bulk medicinal substances followed by the packaging of the mixed products into individual doses for retail sale; or
    - (ii) the addition of water or another substance to a chemical compound under pressure which results in a reaction creating a new chemical compound.
3. Simple assembly or combining operations.
4. Other minor operations:
  - (a) ornamental or finishing operations incidental to textile production designed to enhance the marketing appeal or ease the product's case, such as simple hand dyeing and printing, embroidery and appliqué, pleating, hemstitching, stone or acid washing, permanent pressing, or the attachment of accessories, findings and trimmings. The

rules of origin for products of HS chapters 50 to 63 exported to SACU by MMTZ Member States, according to the provisions of paragraph 2(c) of Rule 2, may allow minor operations that would otherwise be non-origin conferring processes;

- (b) dismantling or disassembly;
  - (c) repairs and alterations, washing, laundering or sterilisation;
  - (d) application of preservatives or decorative coatings, including lubricants, protective encapsulation, preservative or decorative paint or metallic coatings;
  - (e) testing, sorting or grading;
  - (f) marking, labelling or affixing other like distinguishing signs on products or their packages;
  - (g) simple operations such removal of dust, sifting or screening, sorting, classifying and matching, including the making up of sets, goods, greasing, washing, painting or cutting up.
5. Slaughter of animals.
6. Any process or work in respect of which it may be demonstrated, on the basis of the preponderance of evidence that the sole objective was to circumvent these rules.
7. A combination of two or more insufficient working or processing operations does not confer origin, regardless of whether the product-specific rules of origin have been satisfied or not.
8. All the operations carried out in the Member States on a given product shall be considered together when determining whether they are to be regarded as insufficient within the meaning of this Rule.

#### **RULE 4 GOODS WHOLLY PRODUCED IN THE MEMBER STATES**

1. For the purposes of paragraph 1(a) of Rule 2 of this Annex, the following shall be regarded as wholly produced in the Member States:
- (a) Mineral products extracted from their ground or seabed;
  - (b) Vegetable products harvested there;
  - (c) Live animals born and raised there;
  - (d) Products obtained there from live animals;
  - (e) Products obtained by hunting or fishing conducted there;
  - (f) Products of sea fishing and other products taken from the sea by their vessels;
  - (g) Products made on board their factory ships exclusively from products referred to in subparagraph (f);
  - (h) Used articles collected there fit only for the recovery of raw materials;
  - (i) Waste and scrap resulting from manufacturing operations conducted there;

- (j) Products produced there exclusively from one or both of the following:
  - (i) products specified in sub-paragraphs (a) to (i);
  - (ii) materials containing no element imported from outside the Member States or of undetermined origin.
- 2. In determining the place of production of marine, river, or lake products and goods in relation to a Member State, a vessel of a Member State shall be regarded as part of the territory of that Member State. In determining the place from which goods originated, marine, river or lake products taken from the sea, river or lake or goods produced there from at sea or on a river or lake shall be regarded as having their origin in the territory of a Member State and have been brought directly to the territory of the Member State.
- 3. For the purpose of this Annex, a vessel shall be regarded as a vessel of a Member State if it is registered in a Member State and satisfies one of the following conditions:
  - (a) The vessel sails under the flag of a Member State;
  - (b) At least 75 percent of the officers and crew of the vessel are nationals of a Member State;
  - (c) At least the majority control and equity holding in respect of the vessel are held by nationals of a Member State or institution, agency, enterprise or corporation of the Government of such Member State.
- 4. Electrical power, fuel, plant machinery and tools used in the production of goods shall always be regarded as wholly produced within the Region when determining the origin of the goods.

**RULE 5  
UNIT OF QUALIFICATION**

- 1. Each item in a consignment shall be considered separately.
- 2. Notwithstanding the provisions of paragraph 1 of this Rule:
  - (a) Where the Harmonised System specifies that a group, set or assembly of article is to be classified within a single heading, such a group, set or assembly shall be treated as one article;
  - (b) Tools, parts and accessories which are imported with an article, and the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole with the article, provided that they constitute the standard equipment customarily included in the sale of articles of that kind;
  - (c) Notwithstanding the provisions of sub-paragraphs (a) and (b) of this paragraph, goods shall be treated as a single article if they are so treated for purposes of assessing Customs duties on like articles by the importing Member State.
- 3. An un-assembled or dis-assembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to import it in a single consignment, shall be treated as one article.

**RULE 6  
SEPARATION OF MATERIALS**

1. For those products or industries where it would be impracticable for the producers to separate physically materials of similar character but different origin used in the production of goods, such separation may be replaced by an appropriate accounting system which ensures that no more goods are deemed to originate in the Member State than would have been the case if the producer had been able to physically separate the materials.
2. Any accounting system shall conform to such conditions as may be agreed upon by the CMT in order to ensure that adequate control measures shall be applied.

**RULE 7  
TREATMENT OF MIXTURES**

1. In the case of mixtures, not being groups, sets or assemblies of goods dealt with under Rule 5, any product resulting from the mixing together of goods originating in the Member States with goods which would not qualify as originating in the Member States, would not qualify as originating if the characteristics of the product as a whole are not different from the characteristics of the goods which have been mixed.
2. In the case of particular products where it is recognised by the CMT to be desirable to permit mixing of the kind described in paragraph 1 of this Rule, such products shall be accepted as originating in the Member States in respect of such part thereof as may be shown to correspond to the quantity of goods or originating in the Member States used in the mixing, subject to such conditions as may be agreed by the CMT.

**RULE 8  
TREATMENT OF PACKING**

1. Where for purposes of assessing Customs duties, a Member State treats the origin of the goods separately from the origin of the packing, it may also, in respect of its imports consigned from another Member State, determine separately the origin of such packing.
2. Where paragraph 1 of this Rule is not applicable, packing shall be considered as forming a whole with the goods and no part of any packing required for their transport or storage shall be considered as having been imported from outside the Member States when determining the origin of the goods as a whole
3. For the purposes of paragraph 2 of this Rule, packing with goods which are ordinarily sold at retail shall not be regarded as packing required for the transport or storage of goods.
4. Containers which are purely for the transport and temporary storage of goods and are to be returned shall not be subject to Customs duties and other charges of equivalent effect. Where containers are not to be returned, they shall be treated separately from the goods contained in them and be subjected to Customs duties and other charges of equivalent effect.

**RULE 9  
DOCUMENTARY EVIDENCE**

1. The claim that goods shall be accepted as originating from a Member State in accordance with the provision of this Annex shall be supported by a certificate given by the exporter or their

authorized representative in the form prescribed in Appendix II of this Annex. The certificate shall be authenticated with a seal by an authority designated for this purpose by each Member State.

2. Every producer, where such producer is not the exporter, shall, in respect of goods intended for export, furnish the exporter with a written declaration in conformity with Appendix III of this Annex to the effect that the goods qualify as originating in the Member State under the provisions of Rule 2 of this Annex.
3. The competent authority designated by an importing Member State may in exceptional circumstances and notwithstanding the presentation of a certificate issued in accordance with the provisions of this Rule, require, in case of doubt, further verification of the statement contained in the certificate. Member States, through their competent authorities, shall assist each other in this process. Such further verification should be made within three months of the request being made by a competent authority designated by the importing Member State. The form used for this purpose shall be that contained in Appendix IV to this Annex.
4. The importing Member State shall not prevent the importer from taking delivery of goods solely on the grounds that it requires further evidence, but may require security for any duty or other charge which may be payable: provided that where goods are subject to any prohibitions, the conditions for delivery under security shall not apply.
5. Copies of certificates of origin and other relevant documentary evidence shall be preserved by the appropriate authorities of the Member States for at least five years.
6. All Member States shall deposit with the Secretariat the names of Departments and Agencies authorized to issue the certificates required under this Annex, specimen signatures of officials authorized to sign the certificates and the impressions of the official stamps to be used for that purpose, and those shall be circulated to the Member States by the Secretariat.

#### **RULE 10 INFRINGEMENT AND PENALTIES**

1. The Member States undertake to introduce legislation where such legislation does not exist, making such provision as may be necessary for penalties against persons who, in their territories, furnish or cause to be furnished documents which are untrue in any material sense, particularly in support of a claim in another Member State.
2. Any Member State to which an untrue claim is made in respect of the origin of goods shall immediately bring the issue to the attention of the exporting Member State from which the untrue claim is made, in accordance with the provisions on mutual assistance and co-operation in customs matters as contained in Appendix I of Annex II of this Protocol.
3. Continued infringement by a Member State of the provisions of this Annex may be dealt with in accordance with the provisions of Annex VI of this Protocol.

#### **RULE 11 DEROGATIONS**

1. Notwithstanding the provisions of Rules 2 and 3 of this Annex, derogations may be granted by the CMT where the development of existing industries or the creation of new industries is justified.
2. The Member State shall make the request for a derogation for existing or new industries to the CMT.



3. In order to facilitate the examination of the request for derogation, the Member State making the request shall provide the CMT with the fullest possible information as to the reason for the request.
4. The CMT shall respond to each Member State's request which is duly justified and in conformity with this Rule, provided no serious injury is caused to any established industry within the Region.
5. The CMT shall take steps necessary to ensure that a decision is reached as soon as possible and in any case not later than 90 working days after the request is received.
6. The derogation shall be valid for a specific period to be determined by the CMT.

**RULE 12  
REGULATIONS**

The CMT shall adopt regulations to facilitate the implementation of this Annex.

**APPENDIX I TO ANNEX I**

**INTRODUCTORY NOTES TO THE LIST OF CONDITIONS REGARDING WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS**

**Note 1:**

The list sets out the conditions required for all products to be considered as sufficiently worked or processed within the meaning of paragraph 2 of Rule 2 of Annex 1 of this Protocol.

**Note 2:**

2.1: The first two columns in the list describe the product obtained. The first column gives the heading number or chapter number used in the Harmonised System and the second column gives the description of goods used in that System for that heading or chapter. For each entry in the first two columns a rule is specified in column 3. Where, in some cases, the entry in the first column is preceded by an "ex", this signifies that the rules in column 3 apply only to the part of that heading as described in column 2. Optional rules in column 4 only apply to textile and clothing products of HS chapters 50 to 63 exported by MMTZ to SACU under the quota system.

2.2: Where several heading numbers are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rules in columns 3 or 4 apply to all products which, under the Harmonised System, are classified in headings of the chapter or in any of the headings grouped together in column 1.

2.3: Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rules in columns 3 or 4.

**Note 3:**

3.1: The provisions of Rule 2 of Annex 1 of this Protocol concerning products having acquired originating status which are used in the manufacture of other products apply regardless of whether this status has been acquired inside the factory where these products are used or in another factory in the Region.

For example\*, an engine of heading No 8407, for which the rule may state that the value of non-originating materials which may be incorporated may not exceed a certain percentage of the ex-works price, is made from 'other alloy steel roughly shaped by forging' of heading No ex 7224.

If this forging has been forged in the Region from a non-originating ingot, it has already acquired originating status by virtue of the rule applicable to products of HS chapter 72 in the list. The forging can then count as originating in the value calculation for the engine regardless of whether it was produced in the same factory or in another factory in the Region. The value of the non-originating ingot is thus not taken into account when adding up the value of the non-originating materials used.

3.2: The rule in the list represents the minimum amount of working or processing required and the carrying out of more working or processing also confers originating status; conversely, the carrying out of less working or processing cannot confer originating status. Thus if a rule provides that non-originating material at a certain level of manufacture may be used, the use of such material at an earlier stage of manufacture is allowed and the use of such material at a later stage is not.

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\* This example is given for the purpose of explanation only. It is not legally binding.

3.3: When a rule in the list specifies that a product may be manufactured from more than one material, this means that any one or more materials may be used. It does not require that all be used.

For example\*, the rule for fabrics of heading Nos 5208 to 5212 provides that natural fibres may be used and that chemical material, among other materials, may also be used. This does not mean that both have to be used; it is possible to use one or the other or both.

3.4: Where a rule in the list specifies that a product must be manufactured from a particular material, the condition obviously does not prevent the use of other materials which, because of their inherent nature, cannot satisfy the rule. (See also Note 6.2 below in relation to textiles).

For example\*, in the case of an article of apparel of ex chapter 62 made from non-woven materials, if the use of only non-originating yarn is allowed for this class of article, it is not possible to start from non-woven cloth, even if non-woven cloths cannot normally be made from yarn. In such cases, the starting material would normally be at the stage before yarn, that is the fibre stage.

**Note 4:**

4.1: The term "natural fibres" is used in the list to refer to fibres other than artificial or synthetic fibres. It is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres that have been carded, combed or otherwise processed but not spun.

4.2: The term "natural fibres" includes horsehair of heading No 0503, silk of heading Nos. 5002 and 5003 as well as the wool fibres, fine or coarse animal hair of heading Nos. 5101 to 5105, the cotton fibres of heading Nos. 5201 to 5203 and the other vegetable fibres of heading Nos. 5301 to 5305.

4.3: The terms "textile pulp", "chemical materials" and "paper-making materials" are used in the list to describe the materials not classified in Chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.

4.4: The term "man-made staple fibres" is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of heading Nos. 5501 to 5507.

**Note 5:**

5.1: The conditions set out in column 3 or 4 shall not be applied to any basic textile materials, used in the manufacture of this product, which, taken together, represent 10 per cent or less of the total weight of all the basic textile materials used. (See also Notes 5.3 and 5.4 below).

5.2: However, the tolerance mentioned in Note 5.1 may only be applied to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials:

- silk,
- wool,
- coarse animal hair,
- fine animal hair,
- horsehair,
- cotton,
- paper-making materials and paper,
- flax,

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\* These examples are given for the purpose of explanation only. It is not legally binding.

- true hemp,
- jute and other textile bast fibres,
- sisal and other textile fibres of the genus Agave,
- coconut, abaca, ramie and other vegetable textile fibres,
- synthetic man-made filaments, artificial man-made filaments,
- synthetic man-made staple fibres of polypropylene,
- synthetic man-made staple fibres of polyester,
- synthetic man-made staple fibres of polyamide,
- synthetic man-made staple fibres of polyacrylonitrile,
- synthetic man-made staple fibres of polyamide,
- synthetic man-made staple fibres of polytetrafluoroethylene,
- synthetic man-made staple fibres of polyphenylene sulphide,
- synthetic man-made staple fibres of polyvinyl chloride,
- other synthetic man-made staple fibres,
- artificial man-made staple fibres of viscose,
- other artificial man-made staple fibres,
- yarn made of polyurethane segmented with flexible segments of polyether whether or not gimped,
- yarn made of polyurethane segmented with flexible segments of polyester whether or not gimped,
- products of heading No 5605 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film,
- other products of heading No 5605.

For example\*, a yarn of heading No 5205 made from cotton fibres of heading No 5203 and synthetic staple fibres of heading No 5506 is a mixed yarn. Therefore, non-originating synthetic staple fibres that do not satisfy the origin rules (which may require manufacture from chemical materials or textile pulp) may be used up to a weight of ten per cent of the yarn.

For example•, a woollen fabric of heading No 5112 made from woollen yarn of heading No 5107 and synthetic yarn of staple fibres of heading No 5509 is a mixed fabric. Therefore, synthetic yarn which does not satisfy the origin rules (which may require manufacture from chemical materials or textile pulp) or woollen yarn that does not satisfy the origin rules (which require manufacture from natural fibres, not carded or combed or other otherwise prepared for spinning) or a combination of the two may be used provided their total weight does not exceed ten per cent of the weight of the fabric.

For example•, tufted textile fabric of heading No 5802 made from cotton yarn of heading No 5205 and cotton fabric of heading No 5210 is only a mixed product if the cotton fabric is itself a mixed fabric being made from yarns classified in two separate headings or if the cotton yarn used are themselves mixtures.

For example•, if the tufted fabric concerned has been made from cotton yarn of heading No 5205 and synthetic fabric of heading No 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is accordingly a mixed product.

5.3: In case of products incorporating "yarn made of polyurethane segmented with flexible segments of polyether whether or not gimped" this tolerance is 20 per cent in respect of this yarn.

5.4: In the case of products incorporating "strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm,

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\* These examples are given for the purpose of explanation only. It is not legally binding.

sandwiched by means of an adhesive between two layers of plastic film", this tolerance is 30 per cent in respect of this strip.

**Note 6:**

6.1: Textile materials, with the exception of linings and interlinings, which do not satisfy the rule set out in the list in column 3 or 4 for the made-up product concerned may be used provided that they are classified in a heading other than that of the product and that their value does not exceed 8 per cent of the ex-works price of the product.

6.2: Without prejudice to Note 6.3, materials which are not classified within Chapters 50 to 63 may be used freely in the manufacture of textile products, whether or not they contain textiles.

For example\*, if a rule in the list provides that for particular textile items yarn must be used, this does not prevent the use of metal items, such as buttons, because buttons are not classified within chapters 50 to 63. For the same reason, it does not prevent the use of slide-fasteners, even though slide-fasteners normally contain textiles.

6.3: Where a percentage rule applies, the value of materials which are not classified within Chapters 50 to 63 must be taken into account when calculating the value of the non-originating materials incorporated.

**Note 7:**

**CHEMICAL PROCESSING RULES TO CONFER ORIGINATING STATUS**

**Section VI**

**Products of the Chemical or Allied Industries (Chapter 28-38)**

**Notes to Section VI:**

**Note 1**

7.1: Rules 1 through 7 of this Section confer origin to a good of any chapter or heading in this Section, except as otherwise specified in those rules.

**Note 2**

7.2: Notwithstanding Note 1, a good is originating if it meets the applicable change in tariff classification or the percentage value content of non-originating material specified in Appendix I of Annex I of the Protocol on trade.

**Rule 1: Chemical Reaction Origin**

7.3: For a good of Chapters 28 through 38, which is subject to a chemical reaction, shall be treated as an originating good if the chemical reaction occurred in the territory of one or more of the Parties.

7.4: Note: For purposes of this section, a "chemical reaction" is a process (including a biochemical process) that results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

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\* This example is given for the purpose of explanation only. It is not legally binding.

7.5: The following are not considered to be chemical reactions for the purposes of determining whether a product is an originating good:

- (a) dissolution in water or in other solvents;
- (b) the elimination of solvents including solvent water; or
- (c) the addition or elimination of water of crystallization.

#### **Rule 2: Purification Origin**

7.6: For a good of chapters 28 through 38, a good that is subject to purification shall be treated as originating provided that one of the following occurs in the territory of one or more of the Parties:

- (a) Purification of a good resulting in the elimination of 80 percent of the content of existing impurities; or
- (b) The reduction or elimination of impurities resulting in a good suitable for one or more of the following applications:
  - (i) Pharmaceutical, medicinal, cosmetic, veterinary, or food grade substances;
  - (ii) Chemical products and reagents for analytical, diagnostic or laboratory uses;
    - (iii) Elements and components for use in micro-elements;
    - (iv) Specialized optical uses;
    - (v) Non toxic uses for health and safety;
    - (vi) Biotechnical use;
    - (vii) Carriers used in a separation process; or
    - (viii) Nuclear grade uses.

#### **Rule 3: Mixtures and Blends**

7.7: A good of chapters 30, 31, 33 through 38 except for heading 38.08, shall be treated as originating if the deliberate and proportionally controlled mixing or blending (including dispersing) of materials to conform to predetermined specifications which results in the production of a good having physical or chemical characteristics which are relevant to the purposes or uses of the good and are different from the input materials, occurs in the territory of one or more of the Parties.

#### **Rule 4: Change in Particle Size**

7.8: A good of chapters 30, 31, and 33, shall be treated as originating if the following occurs in the territory of one or more of the Parties: the deliberate and controlled modification in particle size of a good, including micronizing by dissolving a polymer and subsequent precipitation, other than by merely crushing or pressing, resulting in a good having a defined particle size, defined particle size distribution or defined surface area, which is relevant to the purposes of the resulting good and have different physical or chemical characteristics from the input materials is considered to be origin conferring.

#### **Rule 5: Standards Materials**

7.9: A good of chapters 28 through 38, shall be treated as originating if the production of these materials occurs in the territory of one or more of the Parties.

7.10: For the purposes of this rule "standards materials" (including standard solutions) are preparations suitable for analytical, calibrating or referencing uses and having precise degrees of purity or proportions, which are certified by the manufacturer.

**Rule 6: Isomer Separation**

7.11: A good of chapters 28 through 38, shall be treated as originating if the isolation or separation of isomers from mixtures of isomers occurs in the territory of one or more of the Parties.

**Rule 7: Separation Prohibition**

7.12: A good that undergoes a change from one classification to another in the territory of one or more of the Parties as a result of the separation of one or more materials from a man-made mixture shall not be treated as originating unless the isolated material underwent a chemical reaction in the territory of one or more of the Parties.

**NOTE 8:****IN CHAPTER 87**

8.1 In the case of Road tractors for semi-trailers of a vehicle mass not exceeding 1600 kg (subheading ex 8701.20); Motor vehicles for the transport of ten or more persons, including the driver, of a vehicle mass not exceeding 2000 kg (subheadings ex 8702.10 and ex 8702.90); Motor cars and other motor vehicles principally designed for the transport of persons (excluding those of heading No. 8702) including station wagons and racing cars (heading 8703); Other motor vehicles for the transport of goods of a vehicle mass not exceeding 2000 kg or a G.V.M. not exceeding 3500 kg or of a mass not exceeding 1600 kg or a G.V.M. not exceeding 3500 kg per chassis fitted with a cab (subheadings ex 8704.21, ex 8704.31 and ex 8704.90); Bodies (including cabs), for the motor vehicles of heading No. 8701 to 8705 (heading 8707); **manufacture or assembly** of the vehicle or body entails that the floor panels, body sides and roof panels must be attached to each other and the engine, transmission, axles, radiators, suspension components, steering mechanisms, braking or electrical equipment or instrumentation must be fitted to the floor panels or chassis frame of the vehicle.

8.2 In the case of Road tractors for semi-trailers of a vehicle mass exceeding 1600 kg (subheading ex 8701.20); Motor vehicles for the transport of ten or more persons, including the driver, of a vehicle mass exceeding 2000 kg (subheadings ex 8702.10 and ex 8702.90); Other motor vehicles for the transport of goods of a vehicle mass exceeding 2000 kg or a G.V.M. exceeding 3500 kg or of a mass exceeding 1600 kg or a G.V.M. exceeding 3500 kg per chassis fitted with a cab (subheadings ex 8704.21, ex 8704.22, ex 8704.23, ex 8704.31, ex 8704.32 and ex 8704.90); **manufacture or assembly** of the vehicle entails that the cab or body must be attached to the chassis frame and the engine, transmission, axles, radiators, suspension components, steering mechanisms, braking or electrical equipment or instrumentation must be fitted to the floor panels or chassis frame of the vehicle.

8.3 In the case of Chassis fitted with engines, for the motor vehicles of headings Nos. 8701 to 8705 (heading 8706); the engine, transmission, axles, radiators, suspension components, steering mechanisms, braking or electrical equipment or instrumentation must be fitted to the floor panels or chassis frame.

**\*LIST OF CONDITIONS REGARDING WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS**

HS HEADING no.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
Chapter 01	Live animals	All the animals of Chapter 1 used must be wholly produced
Chapter 02	Meat and edible meat offal	Manufacture in which all the materials of Chapters 1 and 2 used must be wholly produced
Chapter 03	Fish and crustaceans, molluscs and other aquatic invertebrates	Manufacture in which all the materials of Chapter 3 used must be wholly produced
Chapter 04	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included	Manufacture in which all the materials of Chapter 4 used must be wholly produced
Chapter 05	Products of animal origin, not elsewhere specified or included	Manufacture in which all the materials of Chapter 5 used must be wholly produced
Chapter 06	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	Manufacture in which all the materials of Chapter 6 used must be wholly produced
Chapter 07	Edible vegetables and certain roots and tubers	Manufacture in which all the materials of Chapter 7 used must be wholly produced
Chapter 08	Edible fruit and nuts; peel of citrus fruit or melons	Manufacture in which all the materials of Chapter 8 used must be wholly produced
ex Chapter 09	Coffee, tea, maté and spices; except for:	Manufacture in which all the materials of Chapter 9 used must be wholly obtained
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion	Manufacture in which the weight of the materials used does not exceed 40% of the weight of the product
ex 0902	Black tea	Manufacture in which the weight of the materials used does not exceed 40% of the weight of the product
ex 0910	Curry and mixtures of spices	Manufacture from materials of any heading and cloves used must be wholly produced
Chapter 10	Cereals	Manufacture in which all the materials of Chapter 10 used must be wholly produced
ex Chapter 11	Products of the milling industry; malt; starches; inulin; wheat gluten; except for:	Manufacture in which all the cereals, edible vegetables, roots and tubers of headings Nos. 0708 and 0714 or fruit used must be wholly produced
ex 1101	Wheat flour	No rule, no preferential duty treatment
	Durum wheat flour	Manufacture from materials of any heading except that of the product
1102.30	Rice Flour	Manufacture from materials of any heading, except that of the product
ex 1106	Flour, meal and powder of the dried, shelled leguminous vegetables of heading No. 0713	Manufacture in which all the materials of heading No. 0708 used must be wholly produced
Chapter 12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medical plants; straw and fodder	Manufacture in which all the materials of Chapter 12 used must be wholly produced
Chapter 13	Lac; gums, resins and other vegetable saps and extracts	Manufacture from materials of any heading except that of the product
Chapter 14	Vegetable plaiting materials; vegetable products not elsewhere specified or included	Manufacture from materials of any heading except that of the product
Chapter 15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes.	Manufacture from materials of any heading except that of the product.
Chapter 16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	Manufacture in which all materials of Chapters 2 & 3 used must be wholly produced, however materials of headings 0207.1405; 0302.31 to 0302.39; 0303.41 – 0303.49; 0306 and 0307, may be used

\* List is as Amended by decision of the 20<sup>th</sup> Meeting of the SADC Committee of Ministers of Trade



HS HEADING no.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
1701	Cane or beet sugar and chemically pure sucrose, in solid form	Manufacture from wholly produced sugar cane stalks and sugar beet
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel	Manufacture: from materials of any heading except that of the product; and in which all the materials of Chapter 17 used must already be originating
1703	Molasses resulting from the extraction or refining of sugar	Manufacture in which all the materials used must be wholly produced
1704	Sugar confectionery (including white chocolate), not containing cocoa	Manufacture: from materials of any heading except that of the product; and in which all the materials of Chapter 17 used must already be originating
Chapter 18	Cocoa and cocoa preparations	Manufacture: from materials of any heading except that of the product; and in which all the materials of Chapter 17 used must already be originating
1901	Malt extract; food preparations of flour, groats, meal starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading Nos. 0401 to 0404, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included	Manufacture from materials of any heading except that of the product and provided that all the wheat products of chapter 11 used must be milled, hulled, groated, rolled, flaked, pearled, sliced, kibbled or pelleted in any member state
ex1902	Pasta made from durum wheat	Manufacture from materials of any heading except that of the product
	Pasta made from wheat flour	Manufacture from materials of any heading except that of the product and provided that all the wheat products of chapter 11 used must be milled, hulled, groated, rolled, flaked, pearled, sliced, kibbled or pelleted in any member state
1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or in similar forms	Manufacture from materials of any heading except potato starch of heading No. 1108
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (excluding maize corn), in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked, or otherwise prepared, not elsewhere specified or included	Manufacture from materials of any heading except that of the product and provided that all the wheat products of chapter 11 used must be milled, hulled, groated, rolled, flaked, pearled, sliced, kibbled or pelleted in any member state
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products	Manufacture from materials of any heading except that of the product and provided that all the wheat products of chapter 11 used must be milled, hulled, groated, rolled, flaked, pearled, sliced, kibbled or pelleted in any member state
Chapter 20	Preparations of vegetables, fruit, nuts or other parts of plants	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product.
Chapter 21	Miscellaneous edible preparations	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product
Chapter 22	Beverages, spirits and vinegar	Manufacture: from materials of any heading except that of the product; and in which any material derived from grapes used must be wholly produced
Chapter 23	Residues and waste from the food industries; prepared animal fodder	Manufacture from materials of any heading except that of the product

HS HEADING no.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
ex Chapter 24  2401	Tobacco and manufactured tobacco substitutes; except for:  Unmanufactured tobacco; tobacco refuse	Manufacture in which the weight of the unmanufactured tobacco or tobacco refuse of heading No. 2401 used does not exceed 30% of the weight of the product  Manufacture in which all the materials used must be wholly produced
Chapter 25	Salt; sulphur; earths and stone; plastering materials, lime and cement	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product
Chapter 26	Ores, slag and ash	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product
Chapter 27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product
Chapter 28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
Chapter 29	Organic chemicals	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
Chapter 30	Pharmaceutical products	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
Chapter 31	Fertilisers	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
Chapter 32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7

HS HEADING no.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
Chapter 33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
Chapter 34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
Chapter 35	Albuminoidal substances; modified starches; glues; enzymes	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
Chapter 36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
Chapter 37	Photographic or cinematographic goods	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
Chapter 38	Miscellaneous chemical products	Manufacture from materials of any heading, except that of the product OR Manufacture in which the value of the materials used does not exceed 60 % of the ex-works price of the product OR Chemical processing rules as per Appendix I of Annex I, Introductory Notes, Note 7
3901 to 3914	Plastics in primary forms	Manufacture: from materials of any heading except that of the product; and in which all the materials of heading No. 3915 used must be wholly produced
3915	Waste, parings and scrap, of plastics	Manufacture in which all the materials used must be wholly produced
3916 and 3917	Semi-manufactures and articles of plastics	Manufacture in which: all the materials used are classified within a heading other than that of the product; the value of the materials of Chapter 39 used does not exceed 60% of the ex-works price of the product.

<b>HS HEADING no.</b>	<b>DESCRIPTION OF PRODUCTS</b>	<b>WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS</b>
(1)	(2)	(3)
3918 to 3924	Semi-manufactures and articles of plastics	Manufacture in which: all the materials used are classified within a heading other than that of the product; the value of the materials of Chapter 39 used does not exceed 55% of the ex-works price of the product;
ex 3925	Builder's ware of plastics, not elsewhere specified or included, except for:	Manufacture in which: all the materials used are classified within a heading other than that of the product; the value of the materials of Chapter 39 used does not exceed 55% of the ex-works price of the product;
3925.20	Doors, windows and their frames and thresholds for doors	Manufacture in which: all the materials used are classified within a heading other than that of the product; the value of the materials of Chapter 39 used does not exceed 60% of the ex-works price of the product;
3926	Other articles of plastics and articles of other materials of headings 3901 to 3914	Manufacture in which: all the materials used are classified within a heading other than that of the product; the value of the materials of Chapter 39 used does not exceed 55% of the ex-works price of the product;
ex Chapter 40	Rubber and articles thereof; except for:	Manufacture from materials of any heading except that of the product
ex 4012	Re-treaded tyres	Manufacture from materials of any sub-heading except that of the product
ex Chapter 41	Raw hides and skins (excluding furskins) and leather; except for:	Manufacture from materials of any heading except that of the product
ex 4102	Raw skins of sheep or lambs, without wool on	Removal of wool from sheep or lamb skins, with wool on
4114.20	Patent leather and patent laminated leather; metallised leather	Manufacture from leather of heading No. 4107, 4112 or 4113
Chapter 42	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (excluding silk worm gut)	Manufacture from materials of any heading except that of the product
ex Chapter 43	Furskins and artificial fur; manufactures thereof; except for:	Manufacture from materials of any heading except that of the product
ex 4302	Tanned or dressed furskins, assembled:  Plates, crosses and similar forms  Other	Bleaching or dyeing, in addition to cutting and assembly of non-assembled tanned or dressed furskins  Manufacture from non-assembled, tanned or dressed furskins
4303	Articles of apparel, clothing accessories and other articles of furskin	Manufacture from non-assembled, tanned or dressed furskins of heading No. 4302
Chapter 44	Wood and articles of wood; wood charcoal	Manufacture from materials of any heading, except that of the product
Chapter 45	Cork and articles of cork	Manufacture from materials of any heading except that of the product
Chapter 46	Manufactures of straw, of esparto or of other plaiting materials; basket ware and wickerwork	Manufacture from materials of any heading except that of the product
Chapter 47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard	Manufacture from materials of any heading except that of the product

HS HEADING no.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
ex Chapter 48	Paper and paperboard; articles of paper pulp, of paper or of paperboard; except for:	Manufacture from materials of any heading except that of the product
4808	Paper and paperboard, corrugated (with or without glued flat surface sheets), creped, crinkled, embossed or perforated, in rolls or sheets (excluding that of heading No. 4803)	Manufacture in which all the materials used are classified within a heading other than that of Chapter 48
4809	Carbon paper, self-copy paper and other copying or transfer papers (including coated or impregnated paper for duplicator stencils or offset plates), whether or not printed, in rolls, or sheets.	Manufacture from paper making materials of chapter 47
4810	Paper and paperboard, coated on one or both sides with kaolin (china clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-coloured, surface-decorated or printed, in rolls or rectangular (including square) sheets of any size	Manufacture in which all the materials used are classified within a heading other than that of heading No. 4802
4811	Paper, paperboard, cellulose wadding and webs of cellulose fibres, coated, impregnated, covered, surface-coloured, surface-decorated or printed, in rolls or sheets (excluding goods of heading No. 4803, 4809 or 4810)	Manufacture in which all the materials used are classified within a heading other than that of Chapter 48
4816	Carbon paper, self-copy paper and other copying or transfer papers (excluding those of heading No. 4809), duplicator stencils and offset plates, of paper, whether or not put up in boxes	Manufacture in which all the materials used are classified within a heading other than that of heading No. 4809
4818	Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 cm or cut to size or shape; handkerchiefs, cleansing tissues, towels, tablecloths, serviettes, napkins for babies, tampons, bed sheets and similar household sanitary or hospital articles, articles of apparel and clothing accessories, of paper pulp, paper, cellulose wadding or webs of cellulose fibres	Manufacture in which all the materials used are classified within a heading other than that of Chapter 48
4823	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape; other articles of paper pulp, paper, paperboard, cellulose wadding or webs of cellulose fibres	Manufacture in which all the materials used are classified within a heading other than that of Chapter 48
Chapter 49	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans	Manufacture from materials of any heading except that of the product

HS HEADING No.	DESCRIPTION OF PRODUCT	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS	
(1)	(2)	(3)	(4)
Chapter 50	Silk; Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock), carded or combed; Silk yarn and yarn spun from silk waste; Woven fabrics of silk or of silk waste whether or not Incorporating rubber thread	<p>Manufacture from materials of any heading except that of the product</p> <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 50% of the ex-works price of the product</p>	
ex Chapter 51  5111 to 5113	<p>Wool, fine or coarse animal hair; horsehair yarn and woven fabric; <b>except for:</b></p> <p>Woven fabrics of wool, of fine or coarse animal hair or of horsehair, whether or not Incorporating rubber thread</p>	<p>Manufacture from materials of any heading except that of the product</p> <p>Manufacture from:</p> <ul style="list-style-type: none"> <li>- coir yarn;</li> <li>- natural fibres;</li> <li>- man-made staple fibres not carded or combed or otherwise prepared for spinning; chemical materials or textile pulp; or paper</li> </ul> <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending, burling, etc.) where the value of the unprinted fabric used does not exceed 50% of the ex-works price of the product</p>	
ex Chapter 52  5208 to 5212	<p>Cotton; <b>except for:</b></p> <p>Woven fabrics of cotton:</p> <ul style="list-style-type: none"> <li>- Incorporating rubber thread</li> <li>- Other</li> </ul>	<p>Manufacture from materials of any heading except that of the product</p> <p>Manufacture from single yarn</p> <p>Manufacture from:</p> <ul style="list-style-type: none"> <li>- coir yarn;</li> <li>- natural fibres;</li> <li>- man-made staple fibres not carded or combed or otherwise prepared for spinning; chemical materials or textile pulp; or paper</li> </ul> <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product</p>	<p>Manufacture from single yarn</p> <p>Manufacture from single yarn</p> <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product</p>

HS HEADING No.	DESCRIPTION OF PRODUCT	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS	
(1)	(2)	(3)	(4)
ex Chapter 53  5309	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn, <b>except for</b>  Woven fabrics of other vegetable textile fibres; woven fabrics of paper yarn:  - Incorporating rubber thread  - Other	Manufacture from materials of any heading except that of the product  Manufacture from single yarn  Manufacture from: - coir yarn; - natural fibres; - man-made staple fibres not carded or combed or otherwise prepared for spinning; - chemical materials or textile pulp; or - paper  or  Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product	
5401 to 5406  5407 and 5408	Yarn, monofilament and thread of man-made filaments; Woven fabrics of man-made filament yarn.  Woven fabrics of man-made filament yarn:  - Incorporating rubber thread  - Other	Manufacture from materials of any heading except that of the product  Manufacture from single yarn  Manufacture from: - coir yarn; - natural fibres; - man-made staple fibres not carded or combed or otherwise prepared for spinning; - chemical materials or textile pulp; or - paper  or  Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product	

<b>HS HEADING No.</b>	<b>DESCRIPTION OF PRODUCT</b>	<b>WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS</b>	
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
5501 to 5511	Man-made staple fibres	Manufacture from materials of any heading except that of the product	
5512 to 5516	Woven fabrics of man-made staple fibres: - Incorporating rubber thread - Other	Manufacture from single yarn  Manufacture from: - coir yarn; - natural fibres; - man-made staple fibres not carded or combed or otherwise prepared for spinning; - chemical materials or textile pulp; or - paper  or  Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product	Manufacture from single yarn  Manufacture from single yarn  or  Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product
Chapter 56	Wadding, felt and non-wovens; special yarns; twine, cordage, ropes and cables and articles thereof.	Manufacture from materials of any heading except that of the product	
Chapter 57	Carpets and other textile floor coverings	Manufacture from: - yarn; - synthetic or artificial filament yarn; - natural fibres; or - man-made staple fibres not carded or combed or otherwise processed for spinning	



HS HEADING No.	DESCRIPTION OF PRODUCT	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS	
(1)	(2)	(3)	(4)
ex Chapter 58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery; <b>except for:</b>	Manufacture from materials of any heading except that of the product	Manufacture from single yarn
5801 to 5804	Woven pile fabrics and chenille fabrics; terry towelling & similar fabrics; gauze tulle & other net fabrics	Manufacture from: <ul style="list-style-type: none"> <li>- natural fibres;</li> <li>- man-made staple fibres not carded or combed or otherwise processed for spinning; or</li> <li>- chemical materials or textile pulp</li> </ul> or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product	Manufacture from single yarn or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product
5810	Embroidery in the piece, in strips or in motifs	Manufacture: <ul style="list-style-type: none"> <li>- from materials of any heading except that of the product</li> <li>- in which the value of all the materials used does not exceed 50% of the ex-works price of the product</li> </ul>	<ul style="list-style-type: none"> <li>- Manufacture from materials of any heading except that of the product</li> <li>- Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product</li> </ul>
Ex chapter 59	Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use	Manufacture from materials of any heading except that of the product	
5902	Tyre cord fabric of high tenacity yarn of nylon or other polyamides, polyesters or viscose rayon.	Manufacture from materials of any heading except that of the product provided that manufacture entails the processes of cabling of the yarn, weaving of the fabric and dipping of the final product	
5910	Transmission or conveyor belts or belting, of textile material, whether or not impregnated, coated, covered or	Manufacture from materials of any heading except that of the product, provided that manufacture entails the processes of cabling of the yarn, weaving of the fabric and dipping of the final product	
Chapter 60	Knitted or crocheted fabrics	Manufacture from: <ul style="list-style-type: none"> <li>- natural fibres;</li> <li>- man-made staple fibres not carded or combed or otherwise processed for spinning; or</li> <li>- chemical materials or textile pulp</li> </ul>	Manufacture from single yarn

HS HEADING No.	DESCRIPTION OF PRODUCT	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS	
(1)	(2)	(3)	(4)
Chapter 61	<p>Articles of apparel and clothing accessories, knitted or crocheted:</p> <ul style="list-style-type: none"> <li>- Obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form</li>   <li>- Other</li> </ul>	<p>Manufacture from yarn</p> <p>Manufacture from:</p> <ul style="list-style-type: none"> <li>- natural fibres;</li> <li>- man-made staple fibres not carded or combed or otherwise processed for spinning; or</li> <li>- chemical materials or textile pulp</li> </ul>	<p>Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items</p> <p>or</p> <p>Knitting of shaped components from single yarn, looping and lining of components necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items</p> <p>Manufacture from single yarn</p>

HS HEADING No.	DESCRIPTION OF PRODUCT	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS	
(1)	(2)	(3)	(4)
ex Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted; <b>except for:</b>	Manufacture from yarn	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
ex 6202, ex 6204, ex 6206, ex 6209 and ex 6211	Women's, girls' and babies' clothing and clothing accessories for babies, embroidered	Manufacture from yarn  or  Manufacture from unembroidered fabric provided the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
ex 6210 and ex 6216	Fire-resistant equipment of fabric covered with foil of aluminised polyester	Manufacture from yarn  or  Manufacture from uncoated fabric provided the value of the uncoated fabric used does not exceed 40% of the ex-works price of the product	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
6213 and 6214	Handkerchiefs, shawls, scarves, mufflers, mantillas, veils and the like:		
	- Embroidered	Manufacture from unbleached single yarn  or  Manufacture from unembroidered fabric provided the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
	- Other	Manufacture from unbleached single yarn  or  Making up followed by printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted goods of heading Nos. 6213 and 6214 used does not exceed 47.5% of the ex-works price of the product	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items

HS HEADING No.	DESCRIPTION OF PRODUCT	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS	
(1)	(2)	(3)	(4)
6217	<p>Other made up clothing accessories; parts of garments or of clothing accessories (excluding those of heading No. 6212):</p> <ul style="list-style-type: none"> <li>- Embroidered</li> <li>- Fire-resistant equipment of fabric covered with foil of aluminised polyester</li> <li>- Interlinings for collars and cuffs, cut out</li> <li>- Other</li> </ul>	<p>Manufacture from yarn</p> <p>or</p> <p>Manufacture from unembroidered fabric provided the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product</p> <p>Manufacture from yarn</p> <p>or</p> <p>Manufacture from uncoated fabric provided the value of the uncoated fabric used does not exceed 40% of the ex-works price of the product</p> <ul style="list-style-type: none"> <li>- Manufacture from materials of any heading except that of the product</li> <li>- Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product</li> </ul> <p>Manufacture from yarn</p>	<p>Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items</p> <p>Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items</p> <p>Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items</p> <p>Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items</p>

<b>HS HEADING No.</b>	<b>DESCRIPTION OF PRODUCT</b>	<b>WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS</b>	
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
ex Chapter 63	Other made-up textile articles; sets; worn clothing and worn textile articles; rags; <b>except for:</b>	Manufacture from materials of any heading except that of the product	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
6301 to 6304	Blankets, travelling rugs, bed linen etc.; curtains etc.; other furnishing articles:		
	- Of felt, of non - wovens	Manufacture from: <ul style="list-style-type: none"> <li>- natural fibres; or</li> <li>- chemical materials or textile pulp</li> </ul>	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
	- Other:		
	- Embroidered	Manufacture from unbleached single yarn or Manufacture from unembroidered fabric (other than knitted or crocheted) provided the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
	- Other	Manufacture from unbleached single yarn	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items

HS HEADING No.	DESCRIPTION OF PRODUCT	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS	
(1)	(2)	(3)	(4)
6305	Sacks and bags, of a kind used for the packing of goods	Manufacture from: <ul style="list-style-type: none"> <li>- natural fibres;</li> <li>- man-made staple fibres not carded or combed or otherwise processed for spinning; or</li> <li>- chemical materials or textile pulp</li> </ul>	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
6306	Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods: <ul style="list-style-type: none"> <li>- Of non-wovens</li> <li>- Other</li> </ul>	Manufacture from: <ul style="list-style-type: none"> <li>- natural fibres; or</li> <li>- chemical materials or textile pulp</li> </ul> Manufacture from unbleached single yarn	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items  Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
6307	Other made-up articles, including dress patterns	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	Laying out and cutting of uncut fabric; assembly of cut components by stitching or other appropriate methods; necessary finishing, including addition of trim and other findings, washing and pressing etc.; and packaging of finished items
6308	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes, or similar textile articles, put up in packings for retail sale	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated provided their total value does not exceed 15% of the ex-works price of the set	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated provided their total value does not exceed 15% of the ex-works price of the set

HS HEADING No.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
ex Chapter 64	Footwear, gaiters and the like; parts of such articles; <b>except for:</b>	Manufacture from materials of any heading <b>except for</b> uppers of heading No. 6406
6406	Parts of footwear (including uppers whether or not attached to soles (excluding outer soles)); removable in-soles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof	Manufacture from materials of any heading except that of the product
Chapter 65	Headgear and parts thereof	Manufacture from materials of any heading except that of the product
Chapter 66	Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops, and parts thereof	Manufacture from materials of any heading except that of the product
Chapter 67	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair	Manufacture from materials of any heading except that of the product
ex Chapter 68	Articles of stone, plaster, cement, asbestos, mica or similar materials; <b>except for:</b>	Manufacture from materials of any heading except that of the product
ex 6802	Tiles, cubes and similar articles	Manufacture from materials of any heading
ex 6803	Articles of slate or of agglomerated slate	Manufacture from worked slate
6809	Articles of plaster or of compositions based on plaster	Manufacture from materials of any sub-heading except that of the product
6810.91	Prefabricated structural components for building or civil engineering	Manufacture from materials of any sub-heading except that of the product
6810.99	Other articles	Manufacture from materials of any sub-heading except that of the product
6811	Articles of asbestos-cement, of cellulose fibre-cement or the like	Manufacture from materials of any sub-heading except that of the product
ex 6812	Articles of asbestos; articles of mixtures with a basis of asbestos and magnesium carbonate	Manufacture from materials of any sub-heading except that of the product
ex 6814	Articles of mica	Manufacture from worked mica
Chapter 69	Ceramic products	Manufacture from materials of any heading except that of the product
ex Chapter 70	Glass and glassware; except for:	Manufacture from materials of any heading except that of the product
ex 7001	Glass in the mass	Manufacture from materials of any heading
ex 7006	Thin dielectric or metallic film coated flat glass	Manufacture by coating
7010	Carboys, bottles, flasks, jars, pots, phials, ampoules and other containers, of glass, of a kind used for the conveyance or packing of goods; preserving jars of glass; stoppers, lids and other closures, of glass	Manufacture from materials of any heading, except that of the product
ex 7013	Cut glassware; cut and polished glassware	Manufacture from materials of any heading except that of the product  or Manufacture by substantial cutting and polishing of uncut and unpolished glassware blanks of heading No. 7013
ex 7019	Yarn, thin sheets (voiles), webs, mats, mattresses, boards and similar non-woven products; woven fabrics and articles of glass fibres, rovings or yarn	Manufacture from materials of any sub-heading except that of the product

HS HEADING No.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
ex Chapter 71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin; <b>except for:</b>	Manufacture from materials of any heading except that of the product
ex 7102, ex 7103 and ex 7104	Worked precious or semi-precious stones (natural, synthetic or reconstructed)	Manufacture from unworked, precious or semi-precious stones
7106, 7108 and 7110	Precious metals: - Unwrought	Manufacture: - from materials of any heading except that of the product - by purification by electrolytic, thermal or chemical separation of precious metals of heading No. 7106, 7108 or 7110; - by alloying of precious metals of heading No. 7106, 7108 or 7110 with each other or with base metals; or - by plating
ex 7107, ex 7109 and ex 7111	- Plated, semi-manufactured (other than plated) or in powder form	Manufacture from unwrought precious metals of heading Nos. 7106, 7108 or 7110
ex 7107, ex 7109 and ex 7111	Metals clad with precious metals, semi-manufactured	Manufacture from metals clad with precious metals, unwrought
7117	Imitation jewellery	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
ex Chapter 72	Iron and steel; <b>except for:</b>	Manufacture from materials of any heading except that of the product
ex 7205	Powders of alloy steel and other iron or steel	Manufacture from materials of any sub-heading except that of the product
ex 7211	Flat-rolled products of iron or non-alloy steel, of a width of less than 600 mm, not clad, plated or coated, cold-rolled	Manufacture by cold rolling from a hot-rolled product of heading No. 7211
ex 7216	Angles, shapes and sections of iron or non-alloy steel, further worked than hot-rolled	Manufacture by cold-rolling or cladding
ex 7218	Semi-finished products of stainless steel	Manufacture from ingots or other primary forms of heading No. 7218
ex 7219 and ex 7220	Flat-rolled products of stainless steel, further worked than hot-rolled	Manufacture by cold-rolling or cladding
ex 7222	Bars, rods, angles, shapes and sections of stainless steel, further worked than hot-rolled	Manufacture by cold-rolling or cladding
ex 7224	Semi-finished products of other alloy steel	Manufacture from ingots or other primary forms of heading No. 7224
ex 7225 and ex 7226	Flat-rolled products of other alloy steel, further worked than hot-rolled	Manufacture by cold-rolling or cladding
ex 7228	Bars, rods, angles, shapes and sections of other alloy steel, further worked than hot-rolled	Manufacture by cold-rolling or cladding
ex Chapter 73	Articles of iron or steel; <b>except for:</b>	Manufacture from materials of any heading except that of the product
ex 7303	Tubes, pipes and hollow profiles, of cast iron; with a layer of asphalt/bitumen, reinforcement materials and concrete; coated inside with a layer of polyurethane and outside with a layer of polyurethane or asphalt/bitumen	Manufacture by coating
ex 7312	Armoured steel stranded wire, ropes and cables	Manufacture by armouring



HS HEADING No.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
ex Chapter 74  ex 7403  ex 7406  7407 to 7419	Copper and articles thereof; <b>except for:</b>  <i>Copper alloys</i>  Powders of lamellar structure  Copper bars, rods and profiles; copper wire; copper plates, sheets and strip; copper foil; articles of copper	Manufacture from materials of any heading except that of the product  Manufacture from materials of any sub-heading except that of the product  Manufacture from materials of any heading  Manufacture from materials of any heading, except that of the product
ex Chapter 75  7502.20  ex 7504  7505  ex 7506  7507	Nickel and articles thereof; <b>except for:</b>  Nickel alloys  Nickel powders  Nickel bars, rods, profiles and wire  Nickel foil  Nickel tubes, pipes and tube or pipe fittings (for example, couplings, elbows, sleeves)	Manufacture from materials of any heading except that of the product  Manufacture from unwrought nickel, not alloyed  Manufacture from materials of any heading  Manufacture from materials of any sub-heading except that of the product  Manufacture from materials of any heading  Manufacture from materials of any sub-heading except that of the product
ex Chapter 76  ex 7601  ex 7603  ex 7608	Aluminium and articles thereof; <b>except for:</b>  Aluminium alloys  Powders of lamellar structure  Cold-drawn aluminium tubes and pipes	Manufacture from materials of any heading except that of the product  Manufacture from unwrought aluminium  Manufacture from materials of any heading  Manufacture by cold-rolling
Chapter 77	Reserved for possible future use in HS	
ex Chapter 78  7801.10  ex 7801.99  ex 7803  7804  7805	Lead and articles thereof; <b>except for:</b>  Unwrought lead, refined  Lead alloys  Lead wire  Lead plates, sheets, strip and foil; lead powders and flakes  Lead tubes, pipes and tube or pipe fittings (for example, couplings, elbows, sleeves)	Manufacture from materials of any heading except that of the product  Manufacture by refining  Manufacture from unwrought lead, not alloyed  Manufacture from bars, rods and profiles of heading No. 7803  Manufacture from materials of any heading  Manufacture from materials of any heading
ex Chapter 79  ex 7901  ex 7903  ex 7904	Zinc and articles thereof; <b>except for:</b>  Zinc alloys  Zinc powders  Zinc wire	Manufacture from materials of any heading except that of the product  Manufacture from unwrought zinc, not alloyed  Manufacture from materials of any heading  Manufacture from bars, rods and profiles of heading No. 7904

HS HEADING No.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
ex Chapter 80	Tin and articles thereof; <b>except for:</b>	Manufacture from materials of any heading except that of the product
8001.20	Tin alloys	Manufacture from unwrought tin, not alloyed
ex 8003	Tin wire	Manufacture from bars, rods and profiles of heading No. 8003
8005	Tin foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials), of a thickness (excluding any backing) not exceeding 0.2mm; tin powders and flakes	Manufacture from materials of any heading
8006	Tin tubes, pipes and tube or pipe fittings (for example, couplings, elbows, sleeves)	Manufacture from materials of any heading
Chapter 81	Other base metals; cermets; articles thereof	Manufacture from materials of any heading
ex Chapter 82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal; <b>except for:</b>	Manufacture from materials of any heading except that of the product
8212.10	Razors	Manufacture from materials of any sub-heading except that of the product
ex 8212.20	Safety razor blades	Manufacture from materials of any heading
ex 8213	Scissors, tailors' shears and similar shears	Manufacture from materials of any heading
ex Chapter 83	Miscellaneous articles of base metal; <b>except for:</b>	Manufacture from materials of any heading except that of the product
ex 8306	Statuettes and other ornaments, plated with precious metal	Manufacture by plating
ex Chapter 84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof; <b>except for:</b>	Manufacture in which the value of all the materials used does not exceed 60% of the ex-works price of the product
8415	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps (excluding air conditioning machines of heading No. 8415)	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8419	Machinery plant of laboratory equipment, whether or not electrically heated, for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling (excluding machinery or plant of a kind used for domestic purposes); instantaneous or storage water heaters, non-electric	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8421	Centrifuges, including centrifugal dryers, filtering or purifying machinery and apparatus, for liquids or gases	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product.

<b>HS HEADING No.</b>	<b>DESCRIPTION OF PRODUCTS</b>	<b>WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
8433	Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce (excluding machinery of heading No. 8437)	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8450	Household or laundry-type washing machines, including machines which both was and dry	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8451	Machinery (excluding machines of heading No. 8450) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses) bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics or made up textile articles and machines for applying the paste to the base fabric or other support used in the manufacture of floor coverings such as linoleum; machines reeling, unreeling, folding, cutting or pinking textile fabrics	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8481	Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product

<b>HS HEADING No.</b>	<b>DESCRIPTION OF PRODUCTS</b>	<b>WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
ex Chapter 85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles; <b>except for:</b>	Manufacture in which the value of all the materials used does not exceed 60% of the ex-works price of the product
ex 8501	Electrical motors and generators (excluding generating sets)	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8501.52	Other AC motors, multi-phase, of an output exceeding 750 W but not exceeding 75 kW	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8501.53	Other AC motors, multi-phase, of an output exceeding 75 kW	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8501.61	AC generators (alternators), of an output exceeding 75 kVA	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8503	Parts suitable for use solely or principally with the machines of heading No. 8501 or 8502	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8509	Electro-mechanical domestic appliances, with self-contained electric motor	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8512	Electrical lighting or signalling equipment (excluding articles of heading No. 8539), windscreen wipers, defrosters and demisters, of the kind used for cycles or motor vehicles	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8516	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electro-thermic hair-dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes; electric heating resistors (excluding those of heading No. 8545)	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8517	Electrical apparatus for line telephony or telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8528	Reception apparatus for television, whether or not incorporating radio-broadcasting receivers or sound or video recording or reproducing apparatus; video monitors and video projectors	Manufacture from materials of any heading, except that of the product. However printed circuit assembly of heading 8529 may not be used Or Manufacture in which the value of all the materials used does not exceed 50% of the price of the product
8532	Electrical capacitors, fixed, variable or adjustable (pre-set)	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8535	Electrical apparatus for switching or protecting electronic circuits, or for making connections to or in electrical circuits (for example switches, fuses, lightning arresters, voltage limiters, surge suppressers, plugs, junction boxes), for a voltage exceeding 1000 V	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product

HS HEADING No.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
8537	Boards, panels, consoles, desks cabinets and other bases, equipped with two or more apparatus of heading No. 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus (excluding switching apparatus of heading No. 8517)	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8538	Parts suitable for use solely or principally with the apparatus of heading No. 8535, 8536 or 8537	Manufacture in which the value of all the materials used does not exceed 55% of the ex-works price of the product
8544	Insulated (including enamelled or anodised) wire, cable (including co-axial cable) and other insulated electric conductors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors	Manufacture in which: <ul style="list-style-type: none"> <li>- the value of all the materials used does not exceed 60% of the ex-works price of the product;</li> <li>- the copper used must be wholly produced; and</li> <li>- metallic conductors of heading 8544 may not be used.</li> </ul>
ex Chapter 86	Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signalling equipment of all kinds; <b>except for:</b>	Manufacture from materials of any heading except that of the product
8607	Parts of railway or tramway locomotives or rolling-stock	Manufacture from materials of any heading
ex Chapter 87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof; <b>except for:</b>	Manufacture in which the value of all the materials used does not exceed 60% of the ex-works price of the product and subject to the manufacture or assembly as per Appendix I of Annex I, Introductory Notes, Note 8
8708	Parts and accessories of the motor vehicles of heading Nos. 8701 to 8705	Manufacture in which the value of the materials used does not exceed 50% of the ex-works price of the product
8716	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof	Manufacture in which the value of the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 88	Aircraft, spacecraft, and parts thereof; <b>except for:</b>	Manufacture from materials of any heading except that of the product
8803	Parts of goods of heading No. 8801 or 8802	Manufacture from materials of any heading
8804	Parachutes (including dirigible parachutes and paragliders) and rotocutes; parts thereof and accessories thereto	Manufacture from materials of any heading
8805	Aircraft launching gear; deck-arrestor or similar gear; ground flying trainers; parts of the foregoing articles	Manufacture from materials of any heading
Chapter 89	Ships, boats and floating structures	Manufacture from materials of any heading except that of the product
Chapter 90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof	Manufacture in which the value of all the materials used does not exceed 60% of the ex-works price of the product
ex Chapter 91	Clocks and watches and parts thereof; <b>except for:</b>	Manufacture from materials of any heading except that of the product
ex 9111	Watch cases	Manufacture by finishing, cladding or plating
ex 9112	Clock cases and cases of a similar type for other goods of this Chapter	Manufacture by finishing, cladding or plating
ex 9113	Watch straps, watch bands and watch bracelets	Manufacture by finishing, cladding or plating
Chapter 92	Musical instruments; parts and accessories of such articles	Manufacture from materials of any heading except that of the product

HS HEADING No.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
ex Chapter 93	Arms and ammunition; parts and accessories thereof; <b>except for:</b>	Manufacture from materials of any heading except that of the product
9306	Bombs, grenades, torpedoes, mines, missiles, and similar munitions of war and parts thereof; cartridges and other ammunition and projectiles and parts thereof, including shot and cartridge wads	Manufacture from materials of any heading
Chapter 94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings.	Manufacture in which the value of all the materials used does not exceed 60% of the ex-works price of the product
Chapter 95	Toys, games and sports requisites; parts and accessories thereof	Manufacture from materials of any heading except that of the product OR Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product.
ex Chapter 96	Miscellaneous manufactured articles; <b>except for:</b>	Manufacture from materials of any heading except that of the product
ex 9601	Articles of worked materials	Manufacture from worked materials of heading No. 9601
ex 9602	Articles of worked vegetable or mineral carving materials	Manufacture from worked materials of heading No. 9602
9608	Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen holders, pencil holders and similar holders; parts (including caps and clips) of the foregoing articles (excluding) those of heading No. 9609	Manufacture from materials of any sub-heading except that of the product
9609.10	Pencils and crayons, with leads encased in a rigid sheath	Manufacture from materials of any sub-heading except that of the product
9613	Cigarette lighters and other lighters, whether or not mechanical or electrical, and parts thereof (excluding flints and wicks)	Manufacture from materials of any sub-heading except that of the product
ex 9614.20	Pipes and pipe bowls	Manufacture from roughly shaped blocks of wood or root
ex 9615.90	Hairpins, curling pins, curling grips, hair-curlers and the like, other than those of heading No. 8516	Manufacture from materials of any heading
ex 9617	Vacuum flasks and other vacuum vessels, complete with cases	Manufacture from materials of any heading
Chapter 97	Works of art, collectors' pieces and antiques	Manufacture from materials of any heading except that of the product
Chapter 98	Original equipment components	No rule, no preferential duty treatment

## APPENDIX II TO ANNEX I

## SADC CERTIFICATE OF ORIGIN

Registration No. ....(Optional)	3. Country Ref. No. ....			
1. Exporter (Name and Office Address)	<b>SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)</b>  <b>CERTIFICATE OF ORIGIN</b>			
2. Consignee (Name and Office address)				
4. Particulars of transport:	5. For official use only			
6. Marks and numbers; number and kind of package, description of goods	7. Customs Tariff No.	8. Origin Criterion (See overleaf)	9. Gross weight or other quantity	10. Invoice No. & date (Optional)
(i) Marks & Nos.                      (ii) Description of goods				
11. CUSTOMS ENDORSEMENT	12. CERTIFICATION			
Declaration certified	.....			
Export Document (2) Form.....N <sup>o</sup>	.....			
Customs Office.....	.....			
Issuing Country or Territory.....	Signature.....			
Date.....	Certificate of Customs or other Designated Authority			
.....	STAMP			
Signature				

**INSTRUCTIONS FOR COMPLETING THE SADC CERTIFICATE OF ORIGIN**

- (i) The forms may be completed by any process provided that the entries are indelible and legible.
- (ii) Neither erasures nor superimposition should be allowed on the certificate. Any alterations should be made by striking out the erroneous entries and making any additions required.
- (iii) If warranted by export trade requirements, one or more copies may be drawn up in addition to the original.
- (iv) The following letters should be used when completing a certificate in Box No. 8:
  - "P" for goods wholly produced
  - "S" for goods with imported inputs



**APPENDIX III TO ANNEX I**

**DECLARATION BY THE PRODUCER**

**To whom it may concern**

For the purpose of claiming preferential treatment under the provision of Rule 2 of the Annex of the Rules of origin for Products to be Traded between the member States of the Southern African Development Community:

**I HEREBY DECLARE:**

- a) that the goods listed here in quantities as specified below have been produced by this company/enterprise/workshop/supplier<sup>1</sup>.

Name and address of producer: (Postal and physical Address)	
.....	
.....	Registration No: _____
.....	

and

- b) that evidence is available that the goods listed below comply with the origin criteria as specified by the Annex on the Rules of Origin for the Southern African Development Community.

**LIST OF GOODS**

Commercial Description of Goods	Quantity	Criterion

**Notes:** This form should be completed in duplicate where the Exporter is not a Producer.

.....

Stamp & Signature of the  
**PRODUCER**

<sup>1</sup> Please delete the description not applicable

**APPENDIX IV TO ANNEX I**

**FORM OF VERIFICATION OF ORIGIN**

<b>A. REQUEST FOR VERIFICATION</b>	<b>B. RESULT OF VERIFICATION</b>				
<p>Verification of the authenticity and accuracy of this certificate is requested for the following reasons:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(Place and date)</p> <p>.....</p> <p>(Signature and Stamp)</p>	<p>Verification carried out shows that this certificate</p> <table border="0"> <tr> <td data-bbox="799 539 935 651" style="text-align: center; vertical-align: middle;"> <input type="checkbox"/> </td> <td data-bbox="1042 533 1374 689">                     was issued by the Customs Office or designated authority indicated and that the information contained therein is accurate.                 </td> </tr> <tr> <td data-bbox="810 714 946 826" style="text-align: center; vertical-align: middle;"> <input type="checkbox"/> </td> <td data-bbox="1042 707 1396 864">                     does not meet the requirement as to the authenticity/ accuracy (delete whichever not applicable)                 </td> </tr> </table> <p><b>Insert X in the appropriate box</b></p> <p>.....</p> <p>(Place and date)</p> <p>.....</p> <p>(Signature and Stamp)</p>	<input type="checkbox"/>	was issued by the Customs Office or designated authority indicated and that the information contained therein is accurate.	<input type="checkbox"/>	does not meet the requirement as to the authenticity/ accuracy (delete whichever not applicable)
<input type="checkbox"/>	was issued by the Customs Office or designated authority indicated and that the information contained therein is accurate.				
<input type="checkbox"/>	does not meet the requirement as to the authenticity/ accuracy (delete whichever not applicable)				

## **APPENDIX V TO ANNEX I**

### **REGULATION ON THE TARIFF QUOTAS, TIME PERIODS AND ARRANGEMENTS FOR THE ADMINISTRATION AND ENFORCEMENT IN RESPECT OF PRODUCTS OF HS CHAPTERS 50 TO 63 EXPORTED TO SACU BY MMTZ MEMBER STATES**

#### **ARTICLE 1 DEFINITIONS**

In this Regulation, an expression that has been defined in this Protocol has that meaning.

#### **ARTICLE 2 SCOPE**

The provisions of this regulation shall apply to products of HS chapters 50 to 63 exported to SACU by MMTZ Member States, which comply with the set of rules of origin set out in column (4) of the list in Appendix I to Annex I of this Protocol. Such products shall be admitted free of duty into SACU, subject to the annual tariff quotas set out in Part 1 of this Regulation.

#### **ARTICLE 3 REGISTRATION AS CERTIFIED EXPORTER**

1. A manufacturer in MMTZ Member State, who wishes to export goods to SACU under this Regulation, shall apply to the competent authority of MMTZ Member State for registration as a certified exporter. The competent authority of MMTZ Member State shall notify the SACU central coordinating authority, in writing, of the details of any manufacturer registered as certified exporter by it, within seven working days after such registration.
2. Only certified exporters, registered in accordance with the provisions of paragraph 1 of this Article, shall qualify for duty-free treatment, in accordance with the provisions of Article 2 of this Regulation.

#### **ARTICLE 4 ALLOCATION OF TARIFF QUOTAS**

1. The competent authority of each MMTZ Member State shall be responsible for the allocation and management of the tariff quotas allocated to such Member State in terms of Part 1 of this Regulation. Tariff quotas shall be allocated, at least, at the four-digit level of the HS.
2. the competent authorities of the MMTZ Member States shall notify the SACU central coordinating authority in writing of the tariff quota allocations made by them and of any adjustments to such allocations, within seven working days after such allocations or adjustments have been made and the SACU central coordinating authority shall, within one working day after receipt of such written notice, advise all SACU customs authorities accordingly.

#### **ARTICLE 5 EXPORT PROCEDURES**

1. Any products which are exported from MMTZ Member States to a SACU Member State shall:
  - (a) be consigned directly from the premises of a certified exporter to a consignee in a SACU Member State; and

- (b) be covered by an export certificate in the form prescribed in Part 2 of this Regulation.
2. Notwithstanding the provisions of Rule 9(1) of Annex I of this Protocol, a certificate of origin is not required to be submitted in respect of products which are covered by an export certificate as contemplated in paragraph 1(b) of this Article.
  3. The provisions of Rule 9(3) and (4) of Annex I of this Protocol shall apply *mutates mutandis* in respect of any verification required by an importing SACU Member State concerning any statement in MMTZ export certificate.
  4. An issuing authority of MMTZ Member State shall, upon certification of an export certificate, transmit a copy of such export certificate to the SACU central coordinating authority by facsimile transmission within one working day of such certification. The SACU central coordinating authority shall confirm receipt of such faxed copy within one working day of receipt. The SACU central coordinating authority shall transmit a copy of such export certificate by facsimile transmission to the customs authority at the port of entry of the importing SACU Member State, which is indicated on such export certificate, within one working day after receipt of such certificate.
  5. Upon presentation of an original export certificate, the customs authority of the importing SACU Member State shall compare such original certificate with the copy of such certificate received by it in terms of paragraph 4 of this Article.
  6. Upon clearance of a consignment of products, the customs authority of the importing SACU Member State shall transmit, by registered post, the original export certificate to the SACU central coordinating authority within one working day after the clearance of such products. The SACU central coordinating authority shall deduct the quantities which appear on an export certificate from the tariff quotas of the MMTZ Member State from whose territory such products were consigned and shall notify all SACU customs authorities accordingly.
  7. The issuing authorities of the MMTZ Member States shall notify the SACU central coordinating authority in writing of the cancellation of any export certificate issued by them, within seven working days after such cancellation has been made and the SACU central coordinating authority shall, within one working day after receipt of such written notice, advise all SACU customs authorities accordingly.
  8. The relevant MMTZ and SACU authorities shall fully cooperate and resolve any issues arising from the administration of the quota system in an amicable way and with a view to ensuring the smooth implementation of the quota system.
  9. For the purpose of this Article, products shall be deemed to be consigned from MMTZ Member States on the date on which the export certificate, under which such products are exported to SACU, has been certified by MMTZ issuing authority, provided such goods are exported not later than 20 working days after the date of certification.

#### ARTICLE 6 **REVIEW**

1. A comprehensive review of this Regulation shall be carried out in January 2003 and shall include, among others, adjustment of quota levels and transferability of quotas between Member States.
2. The review of quotas levels shall thereafter be carried out annually.

ARTICLE 7  
**TEXTILE AND CLOTHING COMMITTEE**

1. A Textile and Clothing Committee (hereinafter referred to as the "TCC") is hereby established. The TCC shall consist of representatives from all Member States and shall meet at least twice a year.
2. The functions of the TCC shall include:
  - (a) monitoring the allocation of tariff quotas contemplated in Article 4 of this Regulation;
  - (b) monitoring the operation of and compliance with the export procedures contemplated in Article 5 of this Regulation;
  - (c) undertaking the review contemplated in Article 6 of this Regulation;
  - (d) generally reviewing the implementation of this Regulation; and
  - (e) performing such other functions as may be determined by the CMT.
3. The TCC shall develop its own rules of procedure.

ARTICLE 8  
**COMPETENT AND ISSUING AUTHORITIES AND SACU CENTRAL COORDINATING AUTHORITY**

1. For the purposes of the implementation of this Regulation, MMTZ Member States shall be notified of the particulars of the SACU central coordinating authority, within ten working days of the implementation of this Regulation.
2. MMTZ Member States shall notify the SACU central coordinating authority, within ten working days of being notified as provided for in paragraph 1 of this Article, of the particulars of their competent authorities and of their issuing authorities. Any change in the particulars of such authorities shall be notified to the SACU central coordinating authority at least twenty working days prior to such intended change.

ARTICLE 9  
**DURATION**

This Regulation shall enter into force on 1<sup>st</sup> August 2001 and shall remain in force for 5 years until 31<sup>st</sup> July 2006.

## Part 1

## AGREED ANNUAL TARIFF QUOTAS

	HS CHAPTER 52	HS CHAPTER 55	HS CHAPTER 58	HS CHAPTER 60	HS CHAPTER 61 AND 62	HS CHAPTER 63
	KG	KG	KG	KG	PIECES	KG
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>MALAWI</b>	<b>1.110.000</b>	<b>43.000</b>	<b>0</b>	<b>200.000</b>	<b>12.565.000</b>	<b>565.000</b>
<b>MOZAMBIQUE</b>	<b>3.600.000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4.200.000</b>	<b>170.000</b>
<b>TANZANIA</b>	<b>4.400.000</b>	<b>600.000</b>	<b>0</b>	<b>500.000</b>	<b>1.900.000</b>	<b>1.200.000</b>
<b>ZAMBIA</b>	<b>9.850.000</b>	<b>0</b>	<b>150.000</b>	<b>60.000</b>	<b>500.000</b>	<b>250.000</b>

## Notes:

1. The annual tariff quotas shall be valid and calculated from 1 January to 31 December of the same year.
2. The tariff quotas set out in column (6) of the above table refer to combined quotas for HS chapters 61 and 62 and not separate quotas applicable to each HS chapter.
3. The tariff quota set out in column (7) of the above table for Zambia, will include 100.000 units under tariff sub-heading 6301.4000.
4. Preferences shall only be extended:
  - in the case of HS chapter 52, to products of HS headings 5204 to 5212;
  - in the case of HS chapter 55, to products of HS headings 5508 to 5516;
  - in the case of HS chapter 58, to products of HS headings 5801 to 5811;
  - in the case of HS chapter 60, to products of HS headings 6001 and 6002;
  - in the case of HS chapter 61, to products of HS headings 6101 to 6117;
  - in the case of HS chapter 62, to products of HS headings 6201 to 6217; and
  - in the case of HS chapter 63, to products of HS headings 6302 to 6308 and 6301.4000 for Zambia.
5. No preferences shall be extended to products of HS chapters 50 to 63 unless tariff quotas are provided for such products in the above table.

**ANNEX II**

**CONCERNING CUSTOMS CO-OPERATION WITHIN THE SOUTHERN  
AFRICAN DEVELOPMENT COMMUNITY**

**PREAMBLE**

The High Contracting Parties

**NOTING** that divergences between national Customs laws and procedures can hamper intra-SADC trade and other intra-SADC exchanges;

**MINDFUL** of the need to promote trade and foster co-operation among Member States;

**CONSIDERING** that simplification and harmonisation of Customs laws and procedures can effectively contribute to the development of intra-SADC trade and other intra-SADC exchange;

**CONVINCED** that implementation of the provisions of the present Annex would lead progressively to a high degree of simplification and harmonisation of Customs procedures which is the objective of Article 13 of the Trade Protocol;

**HEREBY AGREE** as follows;

**ARTICLE 1  
DEFINITIONS**

"Customs Authorities"	means the administrative authority responsible for administering Customs Laws;
"Customs Legislation"	means legal instruments adopted by the Member States and governing the import, export, transit of goods and their placing under any Customs procedure, including measures of prohibition, restrictions and control;
"Customs offence"	means any breach or attempted breach of Customs Law;
"Customs territory"	means the territory in which the Customs Laws of a Member State applies in full;
"Goods declaration"	means a statement made in the form prescribed by the Customs Authorities by which the persons interested indicates the procedure to be applied to the goods and furnish the particulars which the Customs Authorities require to be declared for the application of that procedure;
"Harmonised system"	means the Harmonised Commodity Description and Coding System established by the International Convention on the Harmonised Commodity Description and Coding System of the World Customs Organisation;
"Sub-committee"	means the Customs Co-operation Sub-Committee established under Article 11 of this Annex;
"Temporary Admission"	means Customs procedures under which certain goods (including means of transport) can be brought into a Customs

territory conditionally relieved from payment of import duties and taxes and without application of import prohibitions or restrictions of economic character: such goods (including means of transport) must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

ARTICLE 2  
**OBJECTIVES AND SCOPE**

1. The objective of this Annex is to simplify and harmonise Customs laws and procedures by:
  - a) providing for common measures with which Member States shall undertake to comply in the formulation of their Customs laws and procedures;
  - b) establishing appropriate institutional arrangements at regional and national levels;
  - c) co-operating to prevent fraud and illicit trade.
2. The provisions of this Annex do not apply to areas of Customs co-operation which are covered specifically by Annexes I and IV of this Protocol.
3. Co-operation in Customs matters shall apply to any administrative authority of Member States which is competent for matters covered by Customs legislation. This co-operation shall be channelled through the Customs Authorities of Member States.

ARTICLE 3  
**HARMONISATION OF CUSTOMS TARIFF  
NOMENCLATURES AND STATISTICAL NOMENCLATURES**

1. Subject to the exceptions enumerated in paragraph 4:
  - a) Each Member State undertakes, except as provided in sub-paragraph (c) of this paragraph, to adopt Customs tariffs nomenclatures and statistical nomenclatures which are in conformity with the Harmonised System. It thus undertakes that in respect of its Customs tariff and statistical nomenclatures -
    - (i) it shall use all the headings and sub-headings of the Harmonised System without addition or modification, together with their related numerical codes;
    - (ii) it shall apply the general rule for the interpretation of the Harmonised System and all the Section, chapter and sub-heading notes, and shall notify the scope of the sections, chapters, headings or sub-headings of the Harmonised Systems; and
    - (iii) it shall follow the numerical sequence of the Harmonised System;
  - b) Each Member State shall also make publicity available on its import and export trade statistics in conformity with the six-digit codes of the Harmonised System, or at the initiative of the Member State, beyond that level, to the extent that publication is not precluded for exceptional reasons such as commercial confidentiality or national security;



- c) Nothing in this Article shall require a Contracting Party to use the sub-headings of the Harmonised System in its Customs Tariff Nomenclature provided that it meets the obligations at (a)(i) – (iii) above in a combined tariff/statistical nomenclature.
2. In complying with the undertakings at paragraph 1 (a) of this Article, each Member State may make such textual adoptions as may be necessary to give effect to the Harmonised System in its domestic law.
3. Nothing in this Article shall prevent a contracting party from establishing, in its Customs tariff or statistical nomenclatures, sub-divisions classifying goods beyond the level of the Harmonised System, provided that any such sub-division as added and coded at a level beyond that of the six-digit numerical code is as set out in the Harmonised System.
4. CMT may allow exceptions in the application of the provisions of this Article as would be allowed in the application of the provisions of the Harmonised System convention, provided that CMT is satisfied that they would not hinder the comparison of Customs tariffs and trade statistics of Member States.

#### ARTICLE 4

#### **HARMONISATION OF VALUATION LAWS AND PRACTICE**

Member States undertake to adopt a system of valuing goods for Customs purposes based on principles of transparency, equity, uniformity and simplification of application in accordance with the WTO Valuation System.

#### ARTICLE 5

#### **SIMPLIFICATION AND HARMONISATION OF CUSTOMS PROCEDURES**

1. Member States, undertake to incorporate in their Customs Laws, provisions designed to simplify Customs procedures in accordance with internationally accepted standards, recommendations and guidelines particularly those which are contained in the International Instruments of:
- the World Customs Organisation (WCO);
  - the United Nations Economic Commission for Europe (UN-ECE)
  - the International Maritime Organisation (IMO);
  - the International Civil Aviation Association (ICAO);
  - the International Standards Organisation (ISO);
  - the International Chamber of Commerce (ICC); and
  - the International Air Transport Association (IATA)
2. Member States undertake to adopt in their Customs Laws, common principles for the Customs procedures which, in the opinion of CMT, are particularly important in intra-Community trade including:
- a) Customs formalities applicable to commercial means of transport;
  - b) clearance for home use;

- c) outright exportation;
  - d) Customs transit;
  - e) drawback;
  - f) temporary admission, subject to re-export in the same Member State;
  - g) temporary admission for inward proceeding;
  - h) free zones;
  - i) postal traffic
3. Member States undertake to develop a single Customs document as support of all Customs procedures, in intra-community trade as well as in trade with third countries.

ARTICLE 6  
**COMPUTERISATION OF CUSTOMS OPERATIONS**

1. Member States shall encourage and facilitate the use of data processing techniques to support Customs operations particularly in the following areas:
- inventory control;
  - accounting for goods;
  - accounting for revenue;
  - goods declaration processing;
  - production of statistics;
  - enforcement.
2. Member States undertake to ensure that their laws cater for computerised Customs procedures as well as manual procedures. In particular, the laws should provide for:
- other information transmission methods as an alternative to paper based documentary requirements, e.g. magnetic media and tele-transmission;
  - other authentication methods as an alternative to hand-written and other paper-based signatures;
  - the definition of relevant terms using internationally accepted definitions which take account of data processing media.
3. The Customs authorities of Member States should review and where appropriate modernise existing manual procedures, documentation and coding practices prior to introducing the use of data processing techniques.
4. Whenever practicable, computer applications implemented by Customs authorities of Member States should use internationally accepted standards, especially those adopted by the World Customs Organisation, the United Nations Economic Commission for Africa and UNCTAD.

5. The Customs authorities of Member States shall consider developing or adopting common Customs application systems. They shall consult with other agencies, national and international, when considering the development or adoption of new systems or the enhancement of existing ones with a view to avoiding duplication of effort where possible.
6. In automating procedures, Customs authorities of Member States shall allow the possibility of interchanging data with trade users by direct link or on machine-readable media according to the technology available.

ARTICLE 7

**PRESERVATION, INVESTIGATION AND SUPPRESSION OF CUSTOMS OFFENSES**

1. Member States undertake to co-operate in the prevention investigation and suppression of Customs offences.
2. For the purposes of paragraph 1 of this Article, the Member States undertake to:
  - a) exchange lists of goods and publications, the importation of which is prohibited in their respective territories;
  - b) prohibit the exportation of goods and publications referred to in sub-paragraph (a) of this paragraph to each other's Customs territories;
  - c) exchange among themselves lists of Customs offices located along common frontiers, details of the power of such offices, their working hours and any changes in these particulars for the effective operation of the provisions of sub-paragraph (d) of this paragraph;
  - d) consult each other on the establishment of common border posts and take such steps as may be deemed appropriate to ensure that goods exported or imported through common frontiers pass through the competent and recognised Customs office and along approved routes;
  - e) endeavour to correlate the powers and harmonise the working hours for their corresponding Customs office referred to in sub-paragraph (c) of this paragraph; and
  - f) maintain special surveillance over:
    - (i) the entry into, sojourn in, and exit from their Customs territories of particular persons reasonably suspected by a Member State of being involved in activities that are contrary to the Customs Law of any Member State;
    - (ii) the movement of particular goods suspected by any Member State to be the subject of illicit traffic towards the importing Member States;
    - (iii) particular places where stocks of goods have been built up giving reason for suspicion that they may be used for illicit importation into any Member States; and
    - (iv) particular vehicles, ships, aircraft, or other means of transport suspected of being used to commit Customs offences in any Member State.
3. Member States shall exchange:
  - a) as a matter of course and without delay, any information regarding:

- (i) operations which it is suspected will give rise to Customs offences in any Member States;
    - (ii) persons, vehicles, shops, aircraft and other means of transport reasonably suspected of being engaged in activities that may be in violation of the Customs Laws of any Member State;
    - (iii) new techniques of committing Customs offences; and
    - (iv) goods known to be the subject of illicit traffic;
  - b) on the request from a Member State and as promptly as possible, any available information:
    - (i) contained in Customs documents relating to such exchange of goods between countries as are suspected of being in violation of the Customs Law of the requesting Member State;
    - (ii) enabling false declarations to be detected, in particular with respect to dutiable value; and
    - (iii) concerning certificates of origin, invoices or other documents, known to be, or suspected of being, false; and
  - c) on the request and if appropriate in the form of official documents from a Member State, information concerning the following matters;
    - (i) the authenticity of any official document produced in support of goods declaration made to Customs authorities of the requesting Member State;
    - (ii) whether goods which were granted preferential treatment on departure from the territory of the requesting Member State, because they were declared as intended for home use in the other Member State, have been duly cleared for home use in that State;
    - (iii) whether goods imported into the territory of the requesting Member State have been lawfully exported from that of the exporting Member States;
    - (iv) whether goods exported from the territory of the requesting Member State have been lawfully imported into that of the importing Member States and in accordance with the importer's declaration; and
    - (v) special documents which may be issued by the Customs authorities of the exporting Member State for surrender to the Customs authorities of the importing Member State in order that they may certify that the goods were lawfully exported.
4. Each Member State undertakes, whenever expressly requested by another Member State, to:
- a) make enquiries, record statements and obtain evidence concerning a Customs offence under investigation in the requesting Member State and transmit the results of the enquiry as well as any documents or other evidence, to the requesting Member State; and

- b) notify the competent authorities of the requesting Member State of actions and decisions taken by the competent authorities of the Member State where the Customs offence took place in accordance with the law in force in that Member State.
5. Member States shall keep information on Customs matters strictly confidential.

ARTICLE 8  
**CO-OPERATION IN TRAINING**

Member States undertake to develop or adopt joint training programmes, exchange staff and share training facilities and resources.

ARTICLE 9  
**COMMUNICATION OF CUSTOMS INFORMATION**

1. Member States shall exchange information on matters relating to Customs and more particularly the following:
  - a) changes in Customs legislation, procedures and duties and commodities subject to import or export restrictions;
  - b) information relating to the prevention, investigation and repression of Customs offences; and
  - c) information required to implement and administer the regulations on the determination of originating goods;
  - d) any other information deemed necessary by the Sub-Committee.
2. For the purpose of paragraph 1 of this Article, Member States shall adopt loose-leaf editions of national Customs tariff scheduled.

ARTICLE 10  
**IMPLEMENTATION ARRANGEMENTS**

For the effective implementation of the provisions of this Annex, the Member States undertake to:

- a) encourage co-operation between their respective national Customs administration and the Sub-Committee; and
- b) establish joint training facilities and arrangements of programmes for the training of personnel engaged in Customs administration.

ARTICLE 11  
**SUB-COMMITTEE ON CUSTOMS CO-OPERATION**

CMT shall appoint a Sub-Committee on Customs Co-operation whose functions shall include:

- a) all activities relating to Customs co-operation among the Member States as set out in paragraph 1 of Article 2 of this Annex; and

- b) the undertaking of studies and the making of recommendations on the practical aspects of Customs co-operation among the Member States, including those relating to joint training for personnel engaged in Customs administration.

ARTICLE 12  
**REGULATIONS**

CMT shall adopt regulations to facilitate the implementation of this Annex.

## APPENDIX 1 TO ANNEX II

### REGULATION ON MUTUAL ASSISTANCE AND COOPERATION IN CUSTOMS MATTERS

#### ARTICLE 1 DEFINITIONS

In this Regulation, an expression that has been defined in this Protocol has that meaning and, unless the context indicates otherwise:

**"Personal data"** means all information relating to an identified or identifiable person.

**"Requested customs authority"** means the customs authority of a Member State receiving a request for assistance.

**"Requesting customs authority"** means the customs authority of a Member State making a request for assistance.

#### ARTICLE 2 CENTRAL COORDINATING UNITS

1. Each Member State shall appoint in its customs authority a central coordinating unit responsible for:
  - (a) receiving all requests for assistance;
  - (b) coordinating requests for assistance; and
  - (c) maintaining contact with central coordinating units of the other Member States.
2. The activity of the central coordinating units shall not exclude, particularly in an emergency, direct contact or cooperation between customs authorities. For reasons of efficiency and consistency, the central coordinating units shall be informed of any such direct contact or cooperation.
3. If a customs authority is not competent to process a request for assistance, the central coordinating unit shall forward the request to the competent national authority and inform the requesting customs authority that it has done so.

#### ARTICLE 3 LIAISON OFFICERS

1. Member States may make agreements between themselves on the exchange of liaison officers for limited or unlimited periods.
2. Liaison officers may, subject to the conditions as may be agreed upon under paragraph 3, have the following duties:
3.
  - (a) facilitating the exchange of information between Member States;
  - (b) providing assistance in investigations which relate to the Member State they represent;

- (c) providing support in dealing with requests for assistance;
  - (d) advising and assisting the host Member State in preparing and executing mutual assistance operations; and
  - (e) any other duties which Member States may agree between themselves.
3. Member States may agree bilaterally or multilaterally on the terms of reference and the location of liaison officers. Liaison officers may also represent the interests of one or more Member States.
4. Liaison officers shall have no powers of intervention in the host Member State and shall at all times be able to produce written authority stating their identity and their official functions.

ARTICLE 4  
**REQUESTS FOR INFORMATION AND ENQUIRIES**

By agreement between the requesting customs authority and the requested customs authority, officers authorized by the requesting customs authority may, subject to detailed instructions from the requested customs authority –

- (a) obtain information from the offices of the requested customs authority where a request is made for information under Article 7(3)(b) or 7(3)(c) of Annex II of this Protocol; or
- (b) be present at the enquiries where a request is made for enquiries under Article 7(4)(a) of Annex II of this Protocol.

ARTICLE 5  
**JOINT OPERATIONS**

1. Customs authorities may engage in mutual assistance operations which may include the holding of joint law enforcement exercises or the establishment of joint special investigation teams.
2. Coordination and planning of such operations shall be the responsibility of the central coordinating units appointed under Article 2.
3. Joint operations shall be subject to the following rules:
- (a) Requests for joint operations shall, as a rule, take the form of requests for assistance as contemplated in Article 7.
  - (b) The requested customs authority shall not be obliged to engage in an operation if the type of operation is not permitted or not provided for under the national law of that Member State.
  - (c) Where officers of a Member State engage in activities in the territory of another Member State and cause damage by their activities, the Member State in whose territory the damage was caused shall make good the damage in the same way as it would have done if the damage had been caused by its own officers. That Member State shall be reimbursed in full by the Member State whose officers have caused the damage for the amounts it has paid to the victims or to other entitled persons or institutions.



- (d) In the course of operations, officers on mission in the territory of another Member State:
  - (i) shall be treated in the same way as officers of that Member State with regard to offences committed against them or by them;
  - (ii) shall be bound by the law of the Member State in whose territory the operation takes place; and
  - (iii) shall not have the right to apprehend persons or seize goods.
- 4. Information obtained by officers during such operations may be used, subject to particular conditions laid down by the customs authority of the Member State in which the information was obtained, as evidence by the customs authority of the Member State receiving the information.

ARTICLE 6  
**ORIGIN VERIFICATIONS**

- 1. For purposes of mutual assistance in the verification of the statements contained in certificates of origin contemplated in Annex I of this Protocol, a Member State may:
  - (a) with the assistance and co-operation of, and accompanied by, the customs authority of the exporting Member State, visit the premises of an exporter or a producer in the territory of the exporting Member State; and
  - (b) during such verification visit, inspect the books, documents, records, premises, plant, machinery and processes relating to the goods reflected on the relevant certificate of origin.
- 2. Prior to conducting a verification visit pursuant to paragraph 1, a Member State shall, through its customs authority:
  - (a) request the required assistance and cooperation of the customs authority of the exporting Member State for the proposed verification visit;
  - (b) request the customs authority of the exporting Member State to make the necessary arrangements for the proposed verification visit with the exporter or producer concerned; and
  - (c) request the customs authority of the exporting Member State to obtain the written consent of the exporter or producer whose premises are to be visited.
- 3. A request made pursuant to paragraph 2 shall take the form of a request for assistance as contemplated in Article 7 but shall also include the following information:
  - (a) the name of the exporter or producer whose premises are to be visited;
  - (b) the date and place of the proposed verification visit; and
  - (c) the names of the officials to conduct the proposed verification visit.
- 4. Where an exporter or a producer has not given its written consent to a proposed verification visit within 30 days of receipt of a request made by the customs authority of the exporting Member State pursuant to paragraph 2(c), the importing Member State may deny preferential tariff treatment to the goods that would have been the subject of the verification visit.

5. Where a request is made to a customs authority pursuant to paragraph 2, such customs authority may, within 15 days of receipt of the request, postpone the proposed verification visit for a period not exceeding 60 days. Advice of such postponement and the reasons therefore shall immediately be forwarded to the requesting customs authority.
6. A Member State may require security for any duty or other charge which may be payable where a verification visit is postponed pursuant to paragraph 5.
7. The customs authority of the exporting Member State conducting a verification visit shall provide the exporter or producer whose goods are the subject of the verification with a written origin determination in accordance with its national law.
8. Where a verification indicates that an exporter or a producer made false or unsupported statements or declarations regarding the originating status of such goods, a Member State may withhold preferential tariff treatment to similar or identical goods exported or produced by such exporter or producer.

#### ARTICLE 7

#### **FORM AND CONTENT OF REQUESTS FOR ASSISTANCE**

1. Requests for assistance shall –
  - (a) be made in writing; and
  - (b) include the following information:
    - (i) the requesting customs authority
    - (ii) the measure requested;
    - (iii) the object of, and reason for, the request;
    - (iv) the legal or regulatory provisions and other legal elements involved;
    - (v) indications as exact and comprehensive as possible on the assistance requested; and
    - (vi) a summary of the relevant facts and the enquiries already carried out.
2. If a request does not meet the formal requirements as set out in paragraph 1, the requested customs authority may ask for it to be corrected or completed but may commence with measures necessary to comply with the request in the meantime.

#### ARTICLE 8

#### **EXECUTION OF REQUESTS**

1. In order to comply with a request for assistance, the requested customs authority shall proceed, within the limits of its competence and available resources, as though it was acting on its own account, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out.
2. Requests for assistance shall be executed in accordance with the national law of the requested customs authority.

ARTICLE 9

**FORM IN WHICH INFORMATION IS TO BE COMMUNICATED**

1. The requested customs authority shall communicate results of requests for assistance to the requesting customs authority in writing, or in electronic format, together with relevant documents, certified copies and other materials.
2. Original files, documents and other materials shall be transmitted only upon request in cases where certified copies would be insufficient.
3. Original files, documents and other materials that have been transmitted shall be returned as soon as possible.

ARTICLE 10

**EXCEPTIONS TO THE OBLIGATION TO PROVIDE ASSISTANCE**

1. Assistance may be refused or may be subject to certain conditions or requirements, in cases where a Member State is of the opinion that assistance would:
  - (a) be likely to prejudice its sovereignty;
  - (b) be likely to prejudice public policy, security or other essential interests; or
  - (c) violate an industrial, commercial or professional secret.
2. Assistance may be postponed by the requested customs authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested customs authority shall consult with the requesting customs authority to determine if assistance can be given subject to such terms and conditions as the requested customs authority may require.
3. Where the requested customs authority is not in a position to provide assistance on the grounds contemplated under paragraph 1, it shall inform the requesting customs authority accordingly.

ARTICLE 11

**CONFIDENTIALITY OF INFORMATION**

1. Any information communicated pursuant to a request for assistance shall be treated as confidential and shall at least be subject to the same protection and confidentiality as the same kind of information is subject to under the national law of the Member State that received it.
2. Paragraph 1 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for failure to comply with customs legislation.
3. Personal data may be exchanged only where the Member State which may receive it undertakes to protect such data in at least an equivalent way as the Member State that may supply it. To this end, the Member States shall communicate to each other information on their applicable rules and legal provisions relating to the treatment of personal data.

ARTICLE 12

## **EXPERTS AND WITNESSES**

An official of a requested customs authority may be authorized to appear, within the limitations of the authorization granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by or referred to in this Regulation, and produce such objects, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

### ARTICLE 13

#### **ASSISTANCE EXPENSES**

1. The Member States shall waive all claims on each other for the reimbursement of expenses incurred pursuant to a request for assistance
2. Notwithstanding the provisions of paragraph 1, the customs authorities involved may consult to determine the terms and conditions under which a request shall be executed as well as the manner in which the costs shall be borne:
  - (a) if expenses of a substantial and extraordinary nature are, or will be, required to execute the request, or
  - (b) for expenses to experts and witnesses, and those to interpreters and translators who are not public service employees.

### ARTICLE 14

#### **IMPLEMENTATION**

1. The Sub-Committee on Customs Cooperation shall ensure the satisfactory implementation of this Regulation.
2. Any matter related to the interpretation or implementation of this Regulation shall be referred to the Sub-Committee on Customs Cooperation.

### ARTICLE 15

#### **FINAL PROVISIONS**

Each Member State may enact, where appropriate, such legislative measures as may be necessary to give effect to the provisions of this Regulation and shall inform the Secretariat accordingly.

## ANNEX III

### CONCERNING SIMPLIFICATION AND HARMONISATION OF TRADE DOCUMENTATION AND PROCEDURES

#### PREAMBLE

The High Contracting Parties

**RECALLING** the provisions of Article 14 of this Trade Protocol which requires the simplification and harmonisation of trade documentation and procedures;

**RECOGNISING** that cumbersome trade documentation and procedures can be a barrier to intra-community trade in goods and services;

**AWARE** of the need to adopt internationally accepted standards and guidelines for facilitating trade documentation and procedures;

**HEREBY AGREE as follows,**

#### ARTICLE 1 DEFINITIONS

"Document"	means paper and or other medium designed to carry and actually carrying data or information, and includes magnetic tapes and risks, and microfilm;
"Trade facilitation"	means the coordination and rationalisation of trade procedures and documents relating to the movement of goods in international trade from the place of consignment to the destination;
"Trade procedures"	means activities relating to the collection, presentation, processing and dissemination of data and information concerning all activities constituting international trade;

#### ARTICLE 2 OBJECTIVE

The objective of this Annex is to promote co-operation among Member States in simplifying and harmonising trade documentation and procedures for the purpose of facilitating intra-SADC trade.

#### ARTICLE 3 REDUCTION OF COSTS OF TRADE DOCUMENTATION

Member States undertake to reduce the cost of all trade documentation and procedures by:

- a) aligning intra-SADC and international trade documentation on the United Nations Layout Key;
- b) reducing to a minimum the number of national documents and copies required for intra-community and international trade transactions;

- c) harmonising the nature of the information to be contained in documents referred to in sub-paragraph (a) of this paragraph;
- d) reducing to a minimum the number of institutions required to handle documents referred to in sub-paragraph (a) of this paragraph;
- e) centralising to the extent possible the issuing and processing of documents required for intra-SADC and international trade.

ARTICLE 4

**STANDARDISATION OF TRADE DOCUMENTS AND INFORMATION**

1. Member States undertake to use internationally accepted standards, practices and guidelines, as a basis for designing, and standardising their trade documents and the information required to be contained in such documents.
2. Member States undertake to encourage and facilitate the use of data processing techniques in processing and transmitting trade data between the various parties and authorities involved in intra-SADC and international trade.
3. Member States shall review national legislation with a view to ensuring that its provisions allow the implementation of paragraph 2 of this Article. In particular, national legislation shall provide for:
  - a) other information transmission methods as an alternative to paper based documentary requirements e.g. magnetic media and tele-transmission;
  - b) other authentication methods as an alternative to hand-written and other paper-based signatures;
  - c) the definition of relevant terms by using internationally accepted definitions which take account of data processing media;
  - d) the possibility of using public telecommunication infrastructure and of developing and using private telecommunication lines, for trade data transmission;
  - e) provisions concerning documentary evidence appropriate to modern information technology.
4. The Secretariat shall keep Member States informed regarding trade facilitation activities, instruments, recommendations and guidelines of other international organisations, particularly of:
  - a) The UN Economic Commission for Africa (ECA) – Working Party on Trade Procedures;
  - b) The United Nations Conference on Trade and Development (UNCTAD);
  - c) The World Customs Organisation (WCO);
  - d) The International Maritime Organisation (IMO);
  - e) The International Civil Aviation Organisation (ICAO);
  - f) The International Standards Organisation (ISO);

- g) The International Chamber of Commerce (ICC) and the International Bureau of Chamber of Commerce (IBCC);
- h) The International Air Transport Association (IATA);
- i) The International Chamber of Shipping (ICS);
- j) The World Trade Organisation (WTO)

ARTICLE 5  
**TRADE FACILITATION**

Member States undertake to initiate trade facilitation programmes aimed at:

- a) reducing the cost of documents and the volume of paper work required in respect of trade between Member States;
- b) ensuring that the nature and volume of information required in respect of trade within the Community does not adversely affect the economic development of, or trade among, the Member States;
- c) adopting common standards of trade procedures within the Community where international requirements do not suit the conditions prevailing among Member States;
- d) ensuring adequate coordinating between trade and transport facilitation within the Community;
- e) keeping under review the procedures adopted in international trade and transport with a view to simplifying and adopting for use by Member States;
- f) collecting and disseminating information on international development regarding trade facilitation;
- g) promoting the development and adoption of common solutions to problems in trade facilitation among Member States; and
- h) initiating and promoting the establishment of joint programmes, for the training of personnel engaged in trade facilitation among Member States.

ARTICLE 6  
**SUB-COMMITTEE ON TRADE FACILITATION**

CMT shall appoint a Sub-Committee on Trade Facilitation which shall be responsible for the implementation of the provisions of this Annex, as provided for under Article 31(2)(c) of the Trade Protocol. It shall address matters of trade documentation and procedures, particularly those relating to:

- a) exportation and importation;
- b) export and import licensing;
- c) insurance of goods;
- d) transit operations;

- e) international transport and licensing of carriers; and
- f) statistical control and dissemination of information on trade documents.

ARTICLE 7  
**REGULATIONS**

CMT shall adopt regulations on Trade Facilitation, for the implementation of the provisions of this Annex.



**ANNEX IV**

**CONCERNING TRANSIT TRADE AND TRANSIT FACILITIES**

**PREAMBLE**

The High Contracting Parties

**HAVING REGARD** to the provision of Article 15 of this Protocol;

**HEREBY AGREE as follows,**

**ARTICLE 1  
DEFINITIONS**

“Carrier”	means the person actually transporting transit goods or in charge of or responsible for the operation of the respective means of transport;
“Customs office of commencement”	means any port, inland or frontier Customs office of a Member State where transit operations begin;
“Customs office of destination”	means any port, inland or frontier Customs office of a Member State where transit operations end;
“Customs office en-route”	means any Customs office where goods are imported or exported in the course of a Customs transit operation;
“Customs office of entry”	means office of a second or other subsequent Member States where, in relation to that State, the provisions of this Annex begin to apply, and includes any Customs office which, even when not situated on the frontier, is the first point of Customs control after crossing the border;
“Customs office of exit”	means any Customs office which, even when not situated on the frontier, is the last point of Customs control before crossing the border;
“Goods”	means all chattels personal other than things in action and includes wares, merchandise, mail, emblems, industrial products, crops and live animals;
“Means of transport include”:	<ul style="list-style-type: none"><li>a) any railway stock, containers, water going vessels, road vehicles and aircraft;</li><li>b) where the local situation so requires, porters and pack animals; and</li><li>c) pipelines and gas lines;</li></ul>
“SADC Transit control Document”	means a Customs document for transit declaration approved by the CMT to be utilised within the Community;
“Container”	means an article of transport equipment:

- a) fully or partly enclosed to constitute a compartment intended for containing goods and capable of being sealed;
  - b) of a durable nature intended for repeated use;
  - c) specifically designed for the carriage of goods by one or more modes of transport without intermediate unloading and reloading of its contents;
  - d) fitted with devices for easy handling, particularly for its transfer from one mode of transport to another;
  - e) so designed as to be easy to fill and empty; and
  - f) having an internal volume of at least one cubic metre;
- “SRCTD” means the SADC Road Customs Transit Declaration;
- “Surety” means any person who gives an undertaking to the Customs authorities of a Member State to answer for or be collaterally responsible for the debt, obligation, default or miscarriage of the transitor and for the payment to transit States of import duties and any other sums of money due and payable to them in the event of non-compliance with the terms and conditions of transit relating to transit traffic introduced into the transit State by carriers of such goods;
- “Transit traffic” means the passage of goods including unaccompanied baggage, mail, persons and their means of transport through the territories of the Member States in accordance with the itineraries set out in paragraph 1 of Article 2 of this Annex;
- “Transitor” means the person responsible for the conveyance of goods through the Customs operations;
- “Vessel” means any mechanically propelled ship, boat or craft with inboard engine power or any other craft moving through water carrying passengers or cargo.

## ARTICLE 2 GENERAL PROVISIONS

1. The Member States undertake to grant all transit traffic freedom to traverse their respective territories by any means of transport suitable for that purpose when coming from:
  - a) or bound for the Member States; or
  - b) third countries and bound for other Member States; or
  - c) other Member States and bound for third countries; or
  - d) third countries and bound for third countries.

2. Member States undertake not to levy any import or export duties on the transit traffic referred to in paragraph 1 of this Article. However, in accordance with paragraph 6 of Article 11 of this Annex, a Member State may levy administrative or service charges.
3. For the purpose of this Annex, the Member States undertake to ensure that there shall be no discrimination in the treatment of persons, mail, merchandise and means of transport coming from or bound to Member States, and that rates and tariffs for the use of their facilities by other Member States shall not be less favourable than those accorded to their own traffic.
4. Notwithstanding the provisions of paragraph 1 of this Article, a Member State may, in conformity with Article 9 of the Trade Protocol, prohibit, restrict or otherwise control the entry of goods and services.

### ARTICLE 3 SCOPE OF APPLICATION

1. The provisions of this Annex shall apply to any transitor, mail, means of transport or any shipment of bonded goods in transit between two points either in two different Member States or between a Member State and a third country.
2. The provisions of this Annex shall only apply to transit transport if it is:
  - a) operated by a carrier licensed under the provisions of Article 4 of this Annex;
  - b) performed under the conditions set out in Article 5 of this Annex by means of transport approved by the Customs office of commencement and issue with certificates which shall be in the form set up in Appendix III of this Annex;
  - c) guaranteed by a surety in accordance with the provisions of Article 6 of this Annex; and
  - d) undertaken under cover of the SADC transit control document, or any other transit document approved by CMT.
3. The provisions of this Annex shall apply to transit goods being carried by whatever means of transport, except that in the case of air, water and rail transport, the aircraft, vessel or train in transit shall be exempted from the application of the provisions of this Annex. However, the aircraft, vessel or train will be subject to the national laws and regulations of the transit country.
4. The provisions of this Annex shall cease to apply to transit traffic referred to in Article 2 (1) (a) of this Annex when the import duties have been eliminated.

### ARTICLE 4 LICENSING OF TRANSITORS AND CARRIERS

1. Any person intending to be engaged in the operation of transit traffic under the provisions of this Annex shall be licensed for that purpose by the customs authorities of the Member State in whose territory he is normally resident or established, and the customs authority shall inform all the other Member States of all the persons so licensed.
2. The conditions for the issuance of the licences referred to in paragraph 1 of this Article to person resident or established in a Member State shall be that:
  - a) the requirements of Article 5 of this Annex have been satisfied; and

- b) the applicant has not during the previous three years been convicted of a serious offence including accepting, receiving or offering bribes, smuggling, theft, destroying documents of evidence, and failing or refusing to give information relating to interstate transportation of goods.
3. The conditions for issuance of the licences referred to in paragraph 1 of this Article to applicants who are not resident or established in a Member State shall be determined by each Member State in consultation with other Member States provided that such conditions shall not be more favourable than conditions accorded to persons resident or established in that Member State.
4. Licensed carriers and transitors, who are convicted of Customs offences referred to in sub-paragraph (b) of paragraph 2 of this Article or who conceal their record of having been convicted of such offences in order to obtain a licence or who commit such offences after they have been licensed to operate transit traffic, shall have their licences suspended automatically or withdrawn by the issuing customs authorities who shall thereupon notify the Customs authorities of the other Member States and the respective sureties of the action taken.
5. For the purpose of sub-paragraph (b) of paragraph 2 of Article 3 of this Annex, means of transport, together with their cargo, shall be presented at the customs offices of commencement for examination to ensure that they comply with the technical conditions stipulated in Appendix II of this Annex before each transit traffic operation is undertaken.

#### ARTICLE 5

#### **APPROVAL OF MEANS OF TRANSPORT**

1. The means of transport used in transit traffic trade shall be licensed by the appropriate licensing authorities of the Member States in accordance with their national laws and regulations.
2. For the purpose of sub-paragraph (b) of paragraph 2 of Article 3 of this Annex, means of transport, together with their cargo, shall be presented at the Customs offices of commencement for examination to ensure that they comply with the technical conditions stipulated in Appendix II of this Annex before each transit traffic operation is undertaken.

#### ARTICLE 6

#### **BONDS AND SURETIES**

All transit traffic operations shall be covered by a customs transit bond. The principal bond holder shall provide guarantee to cover duty and other taxes payable but excluding penalties, forfeiture or other fines before goods can be released under transit procedure.

#### ARTICLE 7

#### **SADC TRANSIT DOCUMENTS**

1. All transit traffic shall be covered by specified documentation and shall be presented to customs offices of commencement, transit and destination. For the purpose of transit declaration, the SADC-CD, transit control form, transit manifest shall be the prescribed documents.
2. Subject to conditions and regulations as CMT may deem necessary, each Member State undertakes to authorise a transitor or his authorised agent, to prepare in respect of each

consignment of transit goods SADC-CD, transit control form, and transit manifest in accordance with the rules laid down in Appendix I of this Annex.

3. SADC-CD, transit control form and transit manifest shall conform to the standard form approved by the CMT. SADC-CD, transit control form and transit manifest shall be valid for only transit operation and shall contain a sufficient number of copies for Customs control and discharge required for the transport operation concerned.
4. All means of transport covered by the provisions of this Annex shall be accompanied by relevant SADC-CD, transit control form and transit manifest and such documents shall, on demand, be presented by the carriers, together with the respective means of transport and certificates to the Customs offices en-route and the Customs offices of destination for their appropriate actions.

#### ARTICLE 8

#### **EXEMPTION FROM CUSTOMS EXAMINATIONS AND CHARGES**

1. Provided the provisions of Article 4 and 5 of this Annex are satisfied, goods carried in approved sealed means of transport, sealed packages, or accepted by Customs office of commencement as goods not susceptible to tampering substitution or manipulation, and permitted to be carried unsealed shall not:
  - a) be subject to the payment of import or export duties at Customs office en-route; and
  - b) as a general rule, be subject to Customs examination at such offices.
2. However, in order to prevent abuse, the Customs authorities may, where they suspect an irregularity, carry out at such offices a partial or full examination of the goods.

#### ARTICLE 9

#### **TRANSIT PROCEDURES**

1. Means of transport, together with their cargo, supported by appropriate bonds as necessary shall be presented at the most convenient customs office in the country of commencement for compliance examination before cargo exits the country of commencement, transit offices and other destination offices for examination. The office of commencement shall decide whether means of transport to be used provides enough safeguards to ensure customs security and whether shipment may be made under cover of relevant SADC transit documentation.
2. The transitor or agent shall submit duly completed SADC-CD, transit control form and transit manifest with copies sufficient to cover offices of commencement, transit and destination.
3. Where it is not possible for goods to be transported in sealed means of transport compartments, the Customs authorities at the Customs office of commencement may authorise the transportation in such unsealed means of transport or compartments and under such conditions as they may deem necessary, and endorse the relevant SADC-CD, transit control form and transit manifest accordingly.
4. A means of transport engaged in the transport of goods under the provisions of this Annex shall not at the same time be used to transport passengers unless such passengers and their personal effects are carried in a part of the means of transport which is adequately sealed off to the satisfaction of the Customs authorities of commencement.

5. Nothing may be added or taken from or substituted for goods consigned under cover of a SADC-CD, transit control form and transit manifest at times of off-loading, trans-shipment or collecting.
6. The means of transport, together with the respective SADC-CD, transit control form and transit manifest, shall be presented to the Customs authorities at Customs offices en-route and at Customs offices of destination for such administrative action as may be required under the provisions of this Annex.
7. Except where irregularities are suspected, the Customs offices en-route within the Member States shall respect the seals affixed by the Customs authorities of other Member States. Such Customs authorities may, however, affix additional seals of their own.
8. Occasionally and acting on reasonable grounds to suspect abuse, the Customs authorities may, if they deem it necessary:
  - a) require the means of transport to be escorted through the territory of their country, at the transitor's expense, when goods are transported in unsealed means of transport; or
  - b) require that examination of the means of transport and their loads be carried out en-route in the territory of their country.
9. Any shipment covered by an appropriate SADC- CD, transit control form and transit manifest shall have only one Customs office of destination.
10. If the goods in a means of transport are examined at a Customs office en-route or anywhere in the course of transportation, the Customs authorities concerned shall affix new seals and make a certified declaration of the particulars of irregularities, if any, and of the new seals affixed by them.
11. In the event of an accident or imminent danger necessitating the immediate unloading in whole or part of a means of transport, the carrier may on his own initiative take such steps as may be necessary to ensure the safety of the goods being transported or the means of transport in which they are being transported. The carrier should, however as soon as possible thereafter, inform the nearest Customs office. The carrier shall arrange where appropriate for the goods to be transferred to other means of transport in the presence of Customs authorities concerned or any other designate authority, who shall endorse the SADC-CD, transit control form and the transit manifest with the particulars of the goods transferred to the other means of transport, and where possible apply the Customs seal.
12. On arrival at the Customs office of destination, the SADC Transit Documents shall be discharged without delay. If, however, the goods cannot be immediately entered under another Customs regime, the Customs authorities may reserve the right to discharge the document conditionally upon a new liability being substituted for that of the surety guaranteeing the said document.
13. If seal affixed by Customs authorities are broken en-route otherwise than in the circumstance set out in paragraph 10 of this Article, or if goods are destroyed or damaged without breaking such seals, the procedure laid down in paragraph 11 of this Article shall, without prejudice to the application of the provisions of national laws, be followed and a certified report drawn up in the form set out in Appendix IV of this Annex.
14. When the Customs authorities are satisfied that the goods covered by a SADC-CD, transit control form and transit manifest have been destroyed by force majeure an exemption from payment of the duties shall be granted.

ARTICLE 10  
**OBLIGATION OF MEMBER STATES AND SURETIES**

Subject to the provisions of Article 6 of this Annex, the obligations of Member States and sureties are as follows:

- a) Each Member State undertakes to facilitate the transfer to the other Member States of the funds necessary for payment of premiums or other charges claimed from sureties under the provisions of this Annex, or for payments of any penalties which the transitor may incur in the event of an offence being committed in the course of transit transport operations.
- b) Member States' financial institutions shall facilitate transfer of funds to reimburse claims by designated representatives upon approval by the customs authority where the representative is established, such approval not to be withheld unreasonably and to be made timeously.
- c) The Member States agree to ensure that the liabilities undertaken by sureties cover import or export duties due, any interest thereon, and other charges and financial penalties incurred by the holder of SADC-CD, transit control form and transit manifest and other persons involved in the transit transport operation under the Customs Laws and regulations of the Member State in which an offence has been committed. The surety and the persons charged with the offence shall be jointly and severally liable for payment of such sums. The fact that Customs authorities might have authorised the examination of goods elsewhere than at a place where the business of the Customs office of commencement or destination is usually conducted shall not affect the liability of the surety.
- d) For the purpose of determining the duties referred to in paragraph (b) of this Article, the particulars of the goods as entered in the SADC-CD, transit control form and transit manifest shall, unless the contrary is proved, be regarded as correct.
- e) The liability of the surety to the authorities of any Member State shall commence from the time when the SADC-CD, transit control form and transit manifest are accepted by the Customs authorities of that Member State, and shall cover only the goods enumerated in the document.
- f) When the Customs authorities of a Member State have unconditionally discharged SADC-CD, transit control form and transit manifest, they may not subsequently claim from the surety payment in respect of the duties referred to in paragraph (b) of this Article unless the certificate of discharge was issued erroneously or fraudulently.
- g) The transitor and surety shall be released from their undertaking to the Customs authorities of each Member State entered when goods carried have been duly exported or have otherwise been accounted for satisfactorily to the Customs authorities of the Member State concerned.
- h) Where SADC-CD, transit control form and transit manifest have not been discharged or has been discharged conditionally, the competent authority of a Member State shall not claim from the surety the payment referred to in Paragraph (b) of this Article unless such authority has, within a period of one year from the date on which the SADC-CD, transit control form and transit manifest were taken on charge, notified the surety of the non-discharge or conditional discharge of the document:

Provided that where the certificate of discharge was obtained erroneously or fraudulently, this paragraph shall not prevent the authorities of a Member State from

taking the necessary action against the person or persons concerned at any time thereafter in accordance with their national laws.

- i) The claim for payment referred to in paragraph (b) of this Article shall be made within three years from the date when the surety was notified that the relevant SADC-CD, transit control form and transit manifest had not been discharged or had been discharged conditionally, or that the certificate of discharge had been obtained erroneously or fraudulently. However, the period of three years referred to in this Article includes a period of legal proceedings. Any claim for payment under the provisions of this Article shall be made within one year from the date when the decision of the court becomes enforceable.
- j) The Member States shall, where feasible, use the services available in other Member States in all transit traffic operations provided such services are competitive and efficient than those offered by other parties.

#### ARTICLE 11 **OTHER PROVISIONS**

1. The Member States undertake to establish or facilitate the establishment of bonded, transit or Customs areas or bonded warehouses for the temporary storage of transit goods where the direct trans-shipment of goods from one means of transport to another is not possible. The management and operation of such bonded, transit or Customs areas and such bonded warehouses shall be in accordance with the Customs rules and regulations of the Member States concerned.
2. The Member States undertake to permit and facilitate the establishment of cargo, clearing and forwarding offices in their territories by persons, organisations or associations of other Member States or their authorised agents, for the purpose of facilitating transit traffic in accordance with their national laws and regulations.
3. Each means of transport engaged in international transit traffic operations under cover of a SADC-CD, transit control form and transit manifest or any other transit document approved by CMT shall have affixed to its front and rear, a plate bearing the letters "SADC – TRANSIT", the specifications of which are laid down in Appendix V of this Annex. These plates shall be so placed as to be clearly visible, removable and capable of being sealed. The seals to such plates shall be affixed by the Customs offices of commencement and shall be removed by the authorities of the offices of destination.
4. The Member States shall communicate to each other through the Secretariat the seals, stamps and date stamps they use.
5. Each Member State's Customs administration shall send to the other Member States' Customs administrations, a list of its Customs offices and stations, including transit routes approved by it for SADC Transit Documents covered traffic and normal working hours of such offices. Contiguous Member States shall consult each other in determining the frontier Customs offices to be included in such lists and where possible such office shall be juxtaposed.
6. In all Customs operations referred to in this Annex, no charges shall be levied for Customs attendance, save where it is provided on days or at times or places other than those appointed for such operations. Whenever possible, Customs frontier offices shall remain open for business for twenty-four hours a day or shall allow execution of Customs formalities relating to the transportation of goods under the provisions of this Annex outside the normal working hours.



7. Any breach of the provisions of this Annex shall render a carrier liable in the Member States where the offence is committed to the penalties prescribed by law in that Member State.
8. Nothing contained in this Annex shall prevent the Member States from enacting special legislation in respect of transport operations commencing or terminating in or passing through their territories provided that the provisions of such legislation shall not conflict with the provisions of this Annex, are extended to other Member States or do not confer benefits on third countries that are more favourable than those enjoyed by the Member States.
9. A SADC-CD, transit control form and transit manifest may have a note explaining how that particular document should be used.

ARTICLE 12  
**REGULATIONS**

CMT shall adopt regulations to facilitate the implementation of this Annex.

**APPENDIX I TO ANNEX IV**

**NOTES FOR THE USE OF THE SADC TRANSIT CONTROL DOCUMENT**

1. The SADC Transit Control Document herein after referred to as "Document" shall be prepared in the country of commencement where the goods are first declared to be in transit.
2. The document shall be printed in the English, French and Portuguese languages, but completed in the language of the country of commencement. The Customs authorities of the other countries traversed reserve the right to require their translation into their own language. In order to avoid unnecessary delays which might arise from this requirement, carriers are advised to supply the operator of the means of transport with the requisite translations.
3. A document remains valid until completion of the transit operation at a Customs office of destination provided that it has been taken under Customs control at the Customs office of commencement within the time limit given by issuing authorities.
4. The document must be completed legibly.
5. Weights, volume and other measurements shall be expressed units of the metric system, and values in the currency of the country of commencement or in the currency determined by CMT.
6. No erasures or over-writing shall be allowed on the document. Any correction shall be made by deleting the incorrect particulars and adding, if necessary, the required particulars. Any correction, addition or other amendment shall be acknowledged by the person making it and countersigned by the Customs authorities.
7. When the document covers coupled means of transport or several containers, the contents of each means of transport shall be indicated separately on the document. This information shall be preceded by the registration of identification number of the means of transport or container.
8. If there is more than one Customs office of destination, the documents concerning the goods taken under Customs control at, or intended for, each office shall be clearly separated from each other on the manifest.
9. In the event of Customs seals being broken or goods being destroyed or damaged accidentally en-route, the operator of the means of transport shall ensure that a certified report is drawn up as quickly as possible by the authorities of the country in which the vehicle is located. The operator shall approach the Customs authorities immediately, or if not, any other designated authorities such as the police. Operators shall accordingly provide themselves with copies of the certified report form laid down in Appendix V of this Annex on Transit Facilities within the Community.
10. In the event of accident involving immediate unloading of the whole or part of the load en-route, the operator shall notify the Customs authorities immediately without awaiting intervention by the authorities mentioned in paragraph 9 above. The operator must then furnish adequate proof that he was compelled to take action in the interest of the means of transport or of the load. Having taken such preventive measures as the emergency may necessitate, the operator shall at the first opportunity notify the authorities mentioned in paragraph 9 above in order that the facts may be verified, the load checked, the means of transport sealed and report drawn up.

**APPENDIX II TO ANNEX IV**

**REGULATIONS RELATING TO TECHNICAL CONDITIONS APPLICABLE TO MEANS OF TRANSPORT OTHER THAN PORTERS AND PACK ANIMALS WHICH MAY BE ACCEPTED FOR TRANSPORT OF GOODS WITHIN THE COMMUNITY UNDER CUSTOMS SEAL**

1. Approval for the intra-Community transport of goods by means of transport under Customs seal may be granted only for means of transport constructed and equipped in such a manner that:
  - a) Customs seal can be simply and effectively affixed thereto;
  - b) no goods can be removed from or introduced into the sealed part of the means of transport without obvious damage to it or without breaking the seals;
  - c) they contain no concealed spaces where goods may be hidden.
2. The means of transport shall be so constructed that eleven (11) spaces in the form of compartments, receptacles or other recesses which are capable of holding goods are readily accessible for Customs inspection.
3. Should any empty spaces be formed by the different layers of the sides, floor and roof of the means of transport, the inside surface shall be firmly fixed, solid unbroken and incapable of being dismantled without leaving obvious traces.
4. Openings made in the floor for technical purpose, such as lubrication, maintenance and filing of the sand-box, shall be allowed only on condition that they are fitted with a cover capable of being fixed in such a way as to render the loading compartment inaccessible from the outside.
5. Doors and all other closing systems of means of transport shall be fitted with a device which shall permit simple and effective Customs sealing. This device shall either be secured by at least two bolts, riveted or welded to the nuts on the inside.
6. Hinges shall be so made and fitted that doors and other closing systems cannot be lifted off the hinge-pins, once shut; the screws, bolts, hinge-pins and other fasteners shall be welded to the outer parts of the hinges. These requirements shall be waived, however, where the doors and other closing systems have a locking device inaccessible from the outside which, once it is applied, prevents the doors from being lifted off the hinge-pins.
7. Doors shall be so constructed as to cover all interstices and ensure complete and effective closure.
8. The means of transport shall be provided with a satisfactory device for protecting the Customs seal, or shall be so constructed that the Customs seal is adequately protected.
9. The foregoing conditions shall also apply to insulated vehicles, refrigerator vehicles, tank vehicles and furniture vehicles in so far as they are not incompatible fulfil in accordance with their use.
10. The flanges (filler caps), drain cocks and manholes of tank wagons shall be so constructed as to allow simple and effective Customs sealing.
11. Folding or collapsible containers are subject to the same conditions as non-folding or non-collapsible containers, provided that the locking device enabling them to be folded or collapsed allows Customs sealing and that no part of such container can be moved without breaking the seals.

**APPENDIX III TO ANNEX IV**

**CERTIFICATE OF APPROVAL OF MEANS OF TRANSPORT**

1. Certificate No..... Date of expiry.....
2. Attesting that the means of transport specified below fulfils the conditions required for admission to intra-SADC transport of goods under Customs seals.
3. Name and address of holder (owner of carrier)
4. Make .....
5. Type.....
6. Engine No. .... Chassis No.....
7. Registration No. ....
8. Other particulars .....
9. Issued at .....(place) on .....(date) .....
10. Signature and stamp of issuing office at .....

NOTE. This licence must be framed and exhibited in the cab of the means of transport if not in use, or on a change of owner or carrier, or on expiry of the period of validity of the certificate, or if there is any material change in any essential particulars of the means of transport.

**APPENDIX IV TO ANNEX IV****FRONT OF REPORT FORM****CERTIFICED DECLARATION OF EXAMINATION OF CONTENTS OF MEANS OF SADC  
TRANSPORT**

1. SADC Transit Document No ..... Issued at.....
2. Information concerning the means of transport examined:
  - Kind of means of transport .....
  - Registration No .....

Reasons for making the examination (check where appropriate)

	Seals broken or missing
	Evidence of break-in
	Vehicle involved in an accident
	Other
4.	Results of examination (Check where appropriate)
	All packages were intact and none of their contents were missing

The following goods/packages were missing/damaged

Serial No.	Consignment and identification	Number and kind of packages	Description of goods	Remarks

**APPENDIX V TO ANNEX IV**

**SADC MARKET TRANSIT PLATES**

1. The plates shall measure 120 by 1 000 millimetres.
2. The words "SADC-TRANSIT" shall be 70 millimetres high.
3. Roman letters shall be used.
4. The letters shall be white on a blue background.
5. The letter shall be arranged as follows:



## APPENDIX VI TO ANNEX IV

### SADC REGIONAL CUSTOMS TRANSIT BOND GUARANTEE CHAIN

#### PREAMBLE

The High Contracting Parties

**RECALLING** Part three, Article 13, 14, 15 of the SADC Protocol on Trade and the provisions of Annex IV of the SADC Protocol on Trade concerning customs cooperation, trade facilitation, transit trade and transit facilities;

**BEARING IN MIND** the principles of the convention on the United Nations Conference on Trade and Development on transit of goods within landlocked countries adopted on 8<sup>th</sup> July 1965;

**CONSIDERING** that it is necessary to set up a SADC Regional Customs Transit Bond Guarantee Chain system in order to facilitate the transportation of goods between territories of Member States;

**HEREBY AGREE** as follows:

#### ARTICLE 1 DEFINITIONS

Unless the context otherwise requires, in this Appendix:

**"Authority"** means the Sub-Committee on Customs Cooperation established in terms of Article 11 of Annex II of the Protocol.

**"Certificate of guarantee"** means a customs transit guarantee certificate which is issued to the principal bond holder by the customs office of commencement;

**"Corridor"** means the route on which the goods in transit move from country of commencement to country of destination herein referring to:

- (i) Beira Corridor
- (ii) Maputo Corridor
- (iii) Trans Kalahari Corridor
- (iv) Trans Caprivi Corridor
- (v) Durban-Beit Bridge Corridor
- (vi) Dar es Salaam Corridor
- (vii) Lobito Corridor
- (viii) Mtwara Corridor
- (ix) Santa Clara Corridor
- (x) Other Corridors as may be identified by SADC

**"Customs office of guarantee"** means a customs office where a customs guarantee is lodged;

**"Goods in transit"** means goods being conveyed between two Member States or between a Member State and a third country and passing through another Member State or Member States;

**"Heavy or bulky goods"** means any heavy or bulky object which because of its weight, size or nature is not normally carried in a closed road vehicle or closed container;

**"Person"** means a natural or legal person;

**"SADC customs transit guarantee"** means a document, which the principal bondholder shall give to the customs authorities in a Member State as an undertaking, guaranteed by a surety, to pay

import duties and taxes that they become liable to pay should goods in transit go into home consumption or not be accounted for to the satisfaction of the customs authorities;

**"Witness"** means any person in whose presence the customs transit guarantee certificate is signed by the principal bondholder and the principal surety, who by his signature on the same document certifies the authenticity of the document and the signature.

## **ARTICLE 2 OBJECTIVE**

The objective of this Appendix is to provide for a common regional customs bond guarantee chain system for goods in transit.

## **ARTICLE 3 SCOPE OF APPLICATION**

1. The provisions of this Appendix shall apply to goods in transit.
2. The provisions of this Appendix shall only apply to transit movement if it is:
  - (a) operated by a carrier licensed under the provisions of Article 4 of Annex IV of the Protocol;
  - (b) performed under conditions set out in Article 4 of Annex IV of the Protocol by means of transport approved by the appropriate licensing authorities
  - (c) guaranteed by a surety in accordance with the provisions of Article 6 of this Appendix; and
  - (d) undertaken using a SADC transit document.
3. The SADC transit procedure shall not apply to the carriage of goods accompanying travellers or contained in their luggage, if the goods are not intended for commercial use.

## **ARTICLE 4 ESTABLISHMENT OF THE SADC REGIONAL CUSTOMS TRANSIT REGIME**

The SADC regional customs transit regime is hereby established among Member States for the purpose of facilitating the movement of goods between the territories of Member States.

## **ARTICLE 5 ESTABLISHMENT OF THE SADC REGIONAL CUSTOMS TRANSIT BOND GUARANTEE CHAIN SYSTEM**

1. The SADC Regional Customs Transit Bond Guarantee Chain System is hereby established for the purpose of the regional transit regime.
2. The SADC Regional Customs Transit Bond Guarantee Chain System shall consist of the Principal bond holder and designated representatives in transiting countries constituting a chain bound by an inter agency agreement for guaranteeing the payment of duties, taxes and other impositions incurred in the territory of the Member State transited within the framework of the regional transit regime.



3. The Designated representative shall be registered in the transiting Member State to represent the Principal bond holder and provide the requisite guarantee to cover goods under transit.
4. The Designated representative may also be appointed as the correspondent of other Principal bond holders registered by other Member States of the Community
5. The Principal bond holders in each Member State and their correspondents in each of the other Member States shall be linked to one another by an inter agency Agreement, which shall define the obligations between them and should be furnished to Customs.
6. The designated representative shall represent the Principal bond holder in its relations with the competent authority in the territory of the Member State of the correspondent.
7. The designated representatives may establish an inter-surety arrangement

#### **ARTICLE 6 REGISTRATION OF BOND**

1. No person shall undertake transit operation under the transit regime unless such person registers a bond with the Customs Authority in the Member State where such person is domicile.
2. The level of bond shall be determined to cover duty and taxes of the transit Member States.
3. Each guarantee chain bond shall be confined to the designated corridor bearing in mind the provisions of article 14 paragraph 13.

#### **ARTICLE 7 THE REGIONAL CUSTOMS TRANSIT BOND GUARANTEE CHAIN PROCEDURE**

1. A regional customs transit guarantee shall be registered with a customs office in the country of commencement.
2. The office of commencement shall determine the amount of the guarantee, accept the surety's undertaking and issue a certificate of guarantee permitting the principal to carry out transit operation in the Member States.
3. A principal bond holder may be accorded a dispensation on the percentage of the bond cover to be applied upon accreditation and agreement by the involved Member States
4. Each person who has obtained a certificate of guarantee shall, subject to the conditions laid down by Customs Authorities in the countries concerned, be issued with one or more copies of a certificate of guarantee.
5. The regional customs transit guarantee shall either be general, covering a number of customs transit operations, or particular, for a single customs transit operation.

#### **ARTICLE 8 PERIOD OF VALIDITY**

The Customs transit guarantee shall be valid from the date it is accepted by Customs Authorities in the issuing Member State to the date the Customs Authorities in the issuing Member State approves

the cancellation of the guarantee following the satisfactory accounting in all the transit Member States of all goods carried under the guarantee in question.

#### **ARTICLE 9 CANCELLATION**

1. The guarantee may be cancelled by application by the Principal bond holder to the Customs Authorities in the issuing Member State who shall grant their approval for cancellation only after they are satisfied that all transactions carried under the guarantee have been accounted for in all member States.
2. The Customs Authorities in the issuing Member State, before granting their approval for cancellation of a certificate of guarantee, shall satisfy themselves that no goods carried under the guarantee for which an application for cancellation has been received are outstanding in any transit Member State.
3. The customs office of commencement shall notify the principal bond holder and the guarantor of the decision taken in relation to paragraphs 1 and 2.

#### **ARTICLE 10 WAIVER OF DUTIES AND OTHER CHARGES**

Without prejudice to national provisions prescribing other cases of exemption, the principal shall be exempted by the competent authorities of the Member State concerned from payment of duties and other charges in the case of goods that have been destroyed as a result of force majeure or unavoidable accident duly proven.

#### **ARTICLE 11 OBLIGATIONS OF THE PRINCIPAL BOND HOLDER AND DESIGNATED REPRESENTATIVES**

1. In order to safeguard any duties and taxes payable on goods in transit in the event that the goods have not been re-exported, the principal bond holder shall furnish a Customs regional transit guarantee to the Customs office of commencement.
2. The principal bond holder shall complete and sign the customs regional transit guarantee in the presence of a witness and obtain a guarantor who shall also sign the customs regional transit guarantee in the presence of a witness.
3. The principal bond holder and the designated representative shall be responsible for the observance of the laws and regulations relating to customs control on goods in transit in each Member State through which the transit operation is effected.
4. The principal bond holder shall be responsible for designating on the customs regional transit guarantee, a person who will stand as designated representative in each of the Member States through which the goods will be carried in the course of a customs transit operation.
5. The Principal bond holder and the designated representatives in each of the Member States through which the goods will be carried in the course of a customs transit operation shall be responsible, jointly and severally, for the payment of import duties and taxes that may be levied by Customs Authorities should transit goods go into home consumption or be not properly accounted for to the satisfaction of the Customs Authorities.

6. The designated representative shall be responsible for the payment of pecuniary penalties and other incidental expenses that may be levied by Customs Authorities of a transit Member State on any particular customs regional transit operation.
7. The liability of the Principal bond holder to the authorities of the Member State where the Customs office of commencement is situated shall begin at the time when the Customs office of commencement accepts a regional customs transit document. In the succeeding Member States through which the goods are transported, this liability shall commence at the time when the goods and means of transport enter the territory of a Member State.
8. The Principal bond holder shall be relieved of his obligations towards the Member State through which goods were carried in the course of a customs transit operation when the goods leave the territory of the Member State and the customs transit document has been certified accordingly by Customs Authorities concerned.
9. The principal bond holder and the designated representatives shall draw up an Inter-Agency Agreement. This will be the legal instrument for regulating the mutual rights and obligations between the principal bond holder and the designated representative. Such agreement shall be furnished to Customs Authorities for information.

#### **ARTICLE 12 OBLIGATIONS OF MEMBER STATES**

1. Each Member State undertakes to facilitate the transfer through its banking system to the other Member States, the funds necessary for reimbursement of import duties and taxes paid by designated representatives under the provisions of this Appendix.
2. Each Member State undertakes to facilitate the transfer through its banking system to the other Member States, the funds for the payment of penalties and other incidental expenses that may be levied by the Customs Authorities of transit Member States under the provisions of this Appendix.
3. For purposes of determining the duties referred to in Article 6 paragraph 2 the particulars of the goods entered in the SADC CD and SADC transit control documents shall, unless the contrary is proved, be regarded as correct.
4. For the purpose of this Appendix surety lodged in the Customs Office of commencement shall be recognised and enforced extra territorially and shall be valid in the transiting Member States.

#### **ARTICLE 13 OBLIGATIONS OF GUARANTOR**

1. No person shall provide surety under the transit regime unless the Competent Authority in the Member States where such person is domiciled registers such person as guarantor.
2. Each Guarantor shall undertake to facilitate the transfer through the banking system, of the funds necessary for the payment of import duties and taxes by designated representatives under the provisions of this Appendix.
3. The guarantor shall give in writing an undertaking that he will pay the duties and other charges incurred in the course of the transit procedure in the Member States of transit. Such undertaking by the guarantor shall jointly and severally bear the liability with the principal bondholder and the designated representative.

4. Where the principal bond holder or designated representative fails to pay any duties and taxes covered by the bond the guarantor shall be liable for payment to the extent of the guarantee.

**ARTICLE 14**  
**REGIONAL CUSTOMS TRANSIT PROCEDURES**

1. Any goods that are carried under the customs transit procedure shall be subject to the conditions laid down in this Appendix and the Protocol
2. A set of SADC transit documents shall be made out in respect of each means of transport and shall be valid for one customs transit operation.
3. Each set of SADC transit documents shall relate to one means of transport and the goods carried thereon.
4. The reference number of the customs regional transit guarantee shall be entered in the SADC transit document.
5. The means of transport and the goods carried thereon shall be presented to the Customs offices en-route and destination.
6. Should an offence or irregularity be committed in the course of a customs transit operation the Member State concerned shall recover the duties and taxes payable in accordance with its laws and regulations.
9. Where it is not possible to establish in which territory an irregularity has occurred, it shall be deemed to have occurred in the territory of the Member State where it is detected.
10. Should discrepancies be detected in the transit country between the particulars on the SADC transit document and the actual contents of the means of transport, such discrepancies shall not be considered as infringements by the carrier if evidence is produced to the satisfaction of Customs Authorities that the discrepancies were not due to wilful misdeclaration or negligence at the time when the goods were loaded or dispatched or when the SADC transit document was passed.
11. An unsealed shipment carried under a SADC transit document shall have only one office of destination.
12. Nothing should be added to, taken from or substituted for goods being carried in the course of a customs transit operation.
13. The customs regional transit guarantee may be corridor specific and where a Member State has the capacity to administer it centrally may have a single bond covering multiple corridors.
14. The physical end of the transit procedure shall occur at the port of destination when both goods and transit documentation are presented to the office of destination. Such physical end shall occur:
  - (a) At a Customs controlled "dry port" or other such customs controlled area of destination, or
  - (b) Where such "dry port" or other facility does not exist, at the first entry border post in the country of destination.
15. On presentation of the goods and transit documentation to the Customs office at end of the transit procedure as defined, the Customs office or officer shall endorse the final copy of the

Single Administrative Document. Such endorsement shall constitute full and final proof that the transit procedure has ended.

**ARTICLE 15**  
**DISCHARGE OF SADC TRANSIT DOCUMENTS**

1. When goods in transit reach the Customs office of destination the goods shall be entered for home consumption, warehousing transshipment or any other procedures without delay in accordance with the laws and regulations of the country of final destination.
2. Notwithstanding paragraph 1 of this Article, the obligations of the principal and surety shall cease when the SADC transit document is certified to the effect, that the goods declared thereon have reached their destination by the Customs office of destination. Any late acquittals shall attract a penalty as stipulated in the national laws of the commencement office
3. The claim for payment of the duties, taxes and penalties shall be governed by the terms and conditions set out in the Member States customs legislation where the irregularity occurs.
4. The Principal bond holder and the designated representative shall pay for a claim made upon by Customs forthwith but not later than a week. If it is established by the Customs Authorities that no irregularity was committed in connection with the transit operation in question, the sums paid shall be reimbursed as soon as possible but not later than three months following the date on which the claim for payment was made.

**ANNEX V**  
**CONCERNING TRADE DEVELOPMENT**

**PREAMBLE**

The High Contracting Parties

**HAVING REGARD** to the provisions of Article 26 of the Trade Protocol;

**RECOGNISING** that trade development among Member States and between Member States and third countries is an important element of the strategy to achieve economic development and a more equitable international economic order.

**CONVINCED** that trade development is an important tool in the integration process of the Community;

**NOTING** that trade development and promotion measures can provide access to a wider regional and international market;

**HEREBY AGREE** as follows:

ARTICLE 1  
**TRADE DEVELOPMENT**

1. Member States shall adopt coherent trade development strategies.
2. Member States shall develop internal capacities for trade development and create awareness on the role and importance of trade and economic development.
3. In order to ensure effective distribution of goods and services, Member States shall undertake to strengthen infrastructure related to trade especially in the areas of transport and storage facilities.

ARTICLE 2  
**INVOLVEMENT OF THE BUSINESS COMMUNITY**

1. Member States shall formulate and implement trade development policies in close co-operation with the private sector.
2. Member States shall facilitate the formation of private sector business associations.
3. Member States, in collaboration with the business community, shall encourage and facilitate the creation of small and medium scale enterprises and promote their participation in trade.

ARTICLE 3  
**TRADE PROMOTION MEASURES**

1. Member States shall promote the participation by the business community in SADC trade fairs, national fairs and exhibitions, specialised fairs and trade missions.

2. In collaboration with the business community, Member States shall disseminate market information on the Community and third countries.

ARTICLE 4  
**TRADE RELATED SERVICES**

Member States shall facilitate the provision of trade related services within the Community, including those relating to insurance, freight, banking, warehousing and communication.

ARTICLE 5  
**INFORMATION IN THE AREA OF TRADE**

1. Member States shall facilitate the establishment of national and regional databases and trade information networks for the Region.
2. The trade information shall be made compatible and linked to the World Trade Information System.

ARTICLE 6  
**HARMONISATION OF STANDARDS AND CONFORMITY ASSESSMENT PROCEDURES**

1. In order to improve quality and competitiveness of SADC products and achieve diversification of the market for such products, Member States shall promote the harmonisation of standards and appropriate conformity assessment systems within the Community, in accordance with the provisions of this Protocol.
2. Member States and the private sector shall take measures to ensure that SADC exports meet the quality and standards, in accordance with specifications set by International Standards Organisations.

ARTICLE 7  
**RESEARCH AND DEVELOPMENT**

Member States shall promote market research and participation in international conferences and meetings for the purposes of:

- a) ensuring that they take advantage of the provisions of international trade arrangements, inter alia GSP, the Lome Convention and the WTO;
- b) developing well articulated and coordinated community positions in international negotiations.

ARTICLE 8  
**REGULATIONS**

CMT shall adopt regulations for the implementation of this Annex.

**ANNEX VI**

**CONCERNING THE SETTLEMENT OF DISPUTES BETWEEN THE MEMBER STATES OF THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY**

**PREAMBLE**

**The High Contracting Parties**

**HAVING UNDERTAKEN** to progressively liberalise intra-regional trade in goods and services on the basis of fair, mutually equitable and beneficial arrangements;

**AND HAVING REGARD** to the provisions of Article 32 of this Protocol on the settlement of disputes;

**HEREBY AGREE** as follows;

ARTICLE 1

**SCOPE AND APPLICATION**

The rules and procedures of this Annex shall apply to the settlement of disputes between Member States concerning their rights and obligations under this Protocol.

ARTICLE 1 BIS

**FORUM SHOPPING**

If a Member State has invoked the rules and procedures of this Annex or any other applicable international dispute settlement mechanism with respect to any matter, that Member State shall not invoke another dispute settlement mechanism on the same matter.

ARTICLE 2

**COOPERATION**

The Member States shall:

- (a) at all times endeavour to agree on the interpretation and application of this Protocol;
- (b) make every attempt through cooperation to arrive at a mutually satisfactory resolution of any matter that may affect the operation of this Protocol; and
- (c) make use of the rules and procedures of this Annex to resolve disputes in a speedy, cost-effective and equitable manner.

ARTICLE 3

**CONSULTATIONS**

1. A Member State may request in writing consultations with any other Member State regarding any measure that it considers might affect its rights and obligations under the provisions of this Protocol.
2. The requesting Member State shall notify the other Member States and the CMT of the request, through the Registrar of the Tribunal. Any request for consultations shall give the



reasons for the request, including identification of the measures at issue and an indication of the legal basis of the complaint.

3. The requested Member State shall accord sympathetic consideration to and afford adequate opportunity for consultations regarding any representations made by another Member State.
4. The requested Member State shall, unless otherwise mutually agreed, reply to the request within 10 days after the date of its receipt and shall enter into consultations in good faith within a period of no more than 30 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution. If the requested Member State does not respond within 10 days after the date of receipt of the request, or does not enter into consultations within a period of no more than 30 days, or a period otherwise mutually agreed, after the date of receipt of the request, then the requesting Member State may proceed directly to request the establishment of a panel.
5. Whenever a Member State other than the consulting Member States considers that it has a substantial trade interest in consultations being held pursuant to a request made under paragraph 1, such Member State may notify the consulting Member States and the Registrar of the Tribunal, within 10 days after the date of circulation of the request for consultations, of its desire to be joined in the consultations. Such Member State shall be joined in the consultations, provided that the requested Member State agrees that the claim of substantial interest is well founded. In that event, the consulting Member States shall also inform the CMT through the Registrar of the Tribunal. If the request to be joined in the consultations is not accepted, the applicant Member State shall be free to request consultations under this Article.
6. The consulting Member States shall make every attempt to arrive at a mutually satisfactory resolution of any matter and, to this end, they shall--
  - (a) provide sufficient information to enable a full examination of how the actual or proposed measure or other matter may affect the operation of this Protocol;
  - (b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as the Member State providing the information; and
  - (c) seek to avoid any resolution that adversely affects the interests of any other Member State under this Protocol.
7. If the consulting Member States fail to resolve a matter pursuant to this Article within:
  - (a) 60 days after the date of receipt of the request for consultations; or
  - (b) such other period as they may agree,any such Member State may request in writing the establishment of a panel. The requesting Member State shall notify the other Member States and the CMT of the request through the Registrar of the Tribunal.
8. In cases of urgency, including those which concern perishable goods, Member States shall enter into consultations within a period of no more than 10 days after the date of receipt of the request. If the consultations have failed to settle the dispute within a period of 20 days after the date of receipt of the request, the requesting Member State may request the establishment of a panel.

ARTICLE 4  
**GOOD OFFICES, CONCILIATION AND MEDIATION**

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the disputing Member States so agree.
2. Procedures involving good offices, conciliation and mediation shall be confidential, and may be requested at any time by a disputing Member State. These procedures may begin at any time and be terminated at any time.
3. The Chairperson of the CMT, or any other Member of the CMT designated by the Chairperson who is not a national of a disputing Member State, may offer good offices, conciliation or mediation with a view to assisting the disputing Member States.

ARTICLE 5  
**ESTABLISHMENT OF PANEL**

1. The Registrar of the Tribunal shall establish a panel within 20 days from the date of receipt of a request made pursuant to paragraph 4, 7 or 8 of Article 3.
2. The request for the establishment of a panel shall be made in writing to the Registrar of the Tribunal and shall indicate whether consultations were held, indicate the specific measures at issue and provide a brief summary of the legal basis of the complaint in the light of the relevant provisions of this Protocol sufficient to present the problem clearly.

ARTICLE 6  
**ROSTER OF PANELISTS**

The Registrar of the Tribunal shall maintain an indicative roster of panellists nominated by Member States on the basis of their relevant expertise and qualifications as stipulated in Article 7. The roster, as well as any modifications thereto, shall be made known by the Registrar of the Tribunal to the Member States.

ARTICLE 7  
**QUALIFICATION OF PANELISTS**

All panellists shall:

- (a) have expertise or experience in international trade or international law or international economics, other matters covered by this Protocol or the resolution of disputes arising under international trade agreements, and shall be chosen strictly on the basis of objectivity, reliability and sound judgment;
- (b) be composed of governmental and/or non-governmental individuals;
- (c) serve in their individual capacities and not as government representatives, nor as representatives of any organization. Member States shall therefore not give them instructions nor seek to influence them as individuals with regard to matters before a panel; and
- (d) comply with a code of conduct and rules of procedures to be established by the CMT.

ARTICLE 8  
**PANEL SELECTION**

1. A panel shall be composed of three panellists.
2. The following procedures shall apply in the selection of panellists:
  - (a) The disputing Member States shall endeavour to agree on the chair of the panel within 15 days of the delivery of the request for the establishment of a panel.
  - (b) Within 10 days of selection of the chair, each disputing Member State shall select one panellist who is not a citizen of such Member State.
  - (c) Where there are more than two disputing Member States, the Member State complained against shall select one panellist who is not a citizen of such Member State. The complaining Member States shall jointly select one panellist who is not a citizen of such Member States. This shall take place within 10 days of the selection of the chair.
3. When a Member State or States, in the selection of panellists pursuant to paragraph 2 fails to agree on the chair of the panel or to select a panellist in the prescribed time, the Registrar of the Tribunal shall refer the matter to the Executive Secretary of SADC. Such chair or panellist shall be selected by lot by the Executive Secretary of the SADC from the list of panellists nominated in the roster referred to in Article 6; who are not citizens of the disputing Member States. The Executive Secretary shall select the chair or panellist, as the case may be, within 5 days after the expiry of the prescribed time referred to in paragraph 2.
4. When a disputing Member State is of the opinion that a panellist does not comply with the requirements set out in Article 7, the disputing Member States shall consult and, if they agree, the panellist shall be removed and another panellist shall be selected in accordance with this Article.
5. Panellists shall, as far as possible, be selected from the roster contemplated in Article 6.

ARTICLE 9  
**TERMS OF REFERENCE OF THE PANEL**

Unless the disputing Member States otherwise agree within 20 days from the date of establishment of the panel, the terms of reference for the panel shall be:

- (a) To examine, in the light of the relevant provisions of this Protocol, the matter referred to the Registrar of the Tribunal and to make findings, determinations and recommendations.
- (b) To determine whether the matter under dispute has nullified or impaired benefits of the disputing Member States according to the provisions of this Protocol.
- (c) To make findings as and when appropriate on the degree of adverse trade effects on any Member State of any measure found not to conform to the provisions of this Protocol or to have caused nullification or impairment of the complaining Member State.

- (d) To recommend that the Member State complained against brings a measure into conformity with this Protocol where such a measure is found to be inconsistent with this Protocol.

ARTICLE 10  
**PANEL PROCEDURES**

Unless the disputing Member States otherwise agree, the panel shall conduct its proceedings in accordance with the following rules of procedure:

- (a) the disputing Member States shall have a right to at least one hearing before the panel as well as the opportunity to provide initial and rebuttal written submissions;
- (b) the panel's hearings, deliberations and initial report, and all written submissions to and communications with the panel shall be confidential; and
- (c) the disputing Member States may be represented during the panel procedures by legal representatives or other experts.

ARTICLE 11  
**PROCEDURES FOR MULTIPLE COMPLAINTS**

1. Where more than one Member State requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all Member States concerned. A single panel should be established to examine such complaints whenever feasible.
2. The single panel shall organize its examination and present its findings to the CMT in such a manner that the rights which the disputing Member States would have enjoyed, had separate panels examined the complaints, are in no way impaired. If one of the disputing Member States so requests, the panel shall submit separate reports on the dispute concerned. The written submissions by each of the complaining Member States shall be made available to the other complaining Member States, and each complaining Member States shall have the right to be present when any one of the other complaining Member States presents its views to the panel.
3. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible, the same persons shall serve as panellists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonised.

ARTICLE 12  
**THIRD PARTY PARTICIPATION**

A Member State that is not a disputing Member State having a substantial trade interest in a matter before a panel and having notified its interest in writing to the CMT, through the Registrar of the tribunal, shall have an opportunity to attend all hearings, to make written and oral submissions to the panel and to receive the written submissions of the disputing Member States.

ARTICLE 13  
**ROLE OF EXPERTS**

On request of a disputing Member State, or on its own initiative, the panel may seek information and technical advice from any person or body that it deems appropriate.

ARTICLE 14  
**INITIAL REPORT**

1. Unless the disputing Member States otherwise agree, the panel shall base its initial report on the submissions of the participating Member States and on any information before it pursuant to Article 13.
2. Unless the disputing Member States otherwise agree, the panel shall, within 90 days after the last panellist is selected or 45 days in the case of urgency, including those concerning perishable goods, present to the disputing Member States an initial report containing:
  - (a) findings of fact;
  - (b) its determination as to whether the measure at issue is or would be inconsistent with the obligations of this Protocol or cause nullification or impairment, or any other determination requested in the terms of reference; and
  - (c) its recommendations for resolution of the dispute.
3. The disputing Member States may submit written comments to the panel on its initial report within 15 days of presentation of the initial report. In such an event, and after considering such written comments, the panel, on its own initiative or on the request of any disputing Member State, may:
  - (a) request the views of any participating Member State;
  - (b) reconsider its initial report; and
  - (c) make any further examination that it considers appropriate.

ARTICLE 15  
**FINAL REPORT**

1. A panel shall present to the disputing Member States a final report within 30 days of presentation of the initial report, unless the disputing Member States otherwise agree.
2. No panel shall, either in its initial report or its final report, disclose which panellists are associated with majority or minority opinions.
3. A panel shall transmit to the CMT, through the Registrar of the Tribunal, its final report.
4. Unless the CMT decides by consensus not to adopt the report, or a disputing Member State notifies the CMT of its decision to appeal, the final report of the panel shall be adopted by the CMT within 15 days after it is transmitted to the CMT and shall promptly be made public thereafter by the Registrar of the Tribunal. If a disputing Member State has notified the CMT of its decision to appeal, the report by the panel shall not be considered for adoption by the CMT until after completion of the appeal.

ARTICLE 15A  
**APPELATE REVIEW OF THE PANEL REPORT**

1. Only disputing Member States may appeal a panel report. Third parties which have notified the CMT of a substantial interest in the matter pursuant to Article 12 may make written submissions to, and be given an opportunity to be heard by, the Tribunal.

2. Subject to sub-article 4, the length of appeal proceedings shall not exceed 90 days.
3. An appeal shall be limited to issues of law covered in the panel report and legal interpretations developed by the panel.
4. Working procedures for the appellate review provided for under this Article shall be drawn up by the tribunal in consultation with the Executive Secretary of SADC and shall not be less restrictive than the Working Procedures of the Appellate Body under the WTO "Understanding on the Rules and Procedures Governing the Settlement of Disputes."

ARTICLE 16  
**PANEL RECOMMENDATIONS**

Where a panel concludes that a measure is not consistent with this Protocol, it shall recommend that the Member State complained against bring the measure into conformity with this Protocol. In addition, the panel may suggest ways in which the Member State complained against may implement the recommendations.

ARTICLE 17  
**IMPLEMENTATION OF PANEL RECOMMENDATIONS**

1. The Member State complained against shall inform the Registrar of the Tribunal of its intentions in respect of implementation of the recommendations of the panel. If it is impracticable to comply immediately with the recommendations, the Member State complained against shall have a reasonable period of time in which to do so. The reasonable period of time shall be the period of time proposed by the Member State complained against or a period mutually agreed by the disputing Member States. In any case, the period shall not exceed 6 months from the date of adoption of the panel report.
2. The provisions of paragraph 1 and Article 19 shall apply mutatis mutandis to the decisions taken by the Tribunal pursuant to Article 15A.

ARTICLE 18  
**COMPENSATION AND SUSPENSION OF CONCESSIONS**

1. Compensation and the suspension of concessions or other obligations are temporary measures available in the event that the recommendations of the panel, as adopted, or the decisions of the Tribunal in terms of Article 15A, as the case may be are not implemented within a reasonable period of time determined in accordance with Article 17. Full implementation of the panel recommendations or the decisions of the tribunal in terms of Article 15A, as the case may be to bring a measure into conformity with this Protocol shall always be preferred.
2. If the Member State complained against fails to bring the measure found to be inconsistent with this Protocol into compliance within the reasonable period of time determined in accordance with Article 17, it shall enter into negotiations with the complaining Member State with a view to developing a mutually satisfactory solution. If no satisfactory solution has been agreed within 20 days after the expiry of the reasonable period of time determined in accordance with Article 17, the complaining Member State may request authorization from the CMT, through the Registrar of the Tribunal, to suspend concessions or other obligations of equivalent effect to the level of the nullification or impairment.

3. Unless the CMT decides by consensus otherwise within 20 days from the date of receipt of the request for authorization to suspend concessions or obligations, such authorization shall be granted.
4. In considering what benefits to suspend, a complaining Member State shall first seek to suspend benefits in the same sector or sectors as that affected by the measure or other matter that the panel has found to be inconsistent with the obligations of this Protocol. A complaining Member State that considers it is not practicable or effective to suspend benefits in the same sector or sectors may suspend benefits in other sectors.
5. If the Member State complained against objects to the level of suspension proposed, the matter shall as far as possible be referred for arbitration to the original panel. Should the original panel not be available, the Executive Secretary of the SADC shall appoint a panellist. The original panel or panellist, as the case may be, shall be appointed within 10 days from the date of receipt of the request for arbitration. The arbitration shall be completed within 30 days after the date of appointment of the original panel or panellist, as the case may be. Concessions or other obligations may not be suspended during the course of arbitration.
6. The panel or panellist acting pursuant to paragraph 5 shall determine whether the level of the proposed suspension is equivalent to the level of impairment as a result of a measure not complying with this Protocol. The disputing Member States shall accept the decision of the panel or panellist as final. The CMT shall be informed, through the Registrar of the Tribunal, of the decision of the panel or panellist and shall within 20 days after the date of receipt of the decision of the panel or panellist, unless it decides by consensus otherwise, grant authorization to suspend concessions or other obligations where the request is consistent with the decision of the panel or panellist.

#### ARTICLE 19 **EXPENSES**

1. The CMT shall determine the amounts of remuneration and expenses that will be paid to panellists and experts appointed in terms of this Annex.
2. The remuneration of panellists and experts, their travel and lodging expenses and all other general expenses of panels shall be funded through the regular budget of the Community, in accordance with the criteria that the CMT may, from time to time determine, and from other sources as may be determined by the CMT.
3. Each panellist or expert shall keep a record and render a final account of his or her time and expenses and the panel shall keep a record and render an account of all general expenses. The Registrar of the Tribunal shall control such accounts and make all payments against the accounts of the disputing Member States.
4. Each disputing Member State shall be responsible for payment of its own costs arising from litigation. Where the panel determines that a disputing Member State has abused the process of the panel, it may require that disputing Member State to pay for the costs reasonably incurred under the circumstances of the particular case by the other disputing Member State arising from litigation.

#### ARTICLE 20 **REGULATIONS**

The CMT shall adopt regulations to facilitate the implementation of this Annex.

## ANNEX VII

### CONCERNING TRADE IN SUGAR

#### PREAMBLE

The High Contracting Parties:

**HAVING REGARD** to the objectives of this Protocol and of its importance as an instrument for facilitating the furtherance of the aims of regional economic integration and the creation of a single market through increased harmonisation of policies and liberalisation of tariffs and removal of NTBs on trade;

**NOTING**, however, that the world sugar market is highly distorted and conscious of the fact that the world price for sugar is a dumped or subsidised price resulting in the continuing need for most sugar producing countries to impose tariff and non-tariff barriers against the free importation of sugar in order to protect their domestic industries;

**RECOGNISING**, therefore, that for as long as the world sugar market remains highly distorted, sugar will be a product requiring special dispensation within the framework of the Protocol on Trade so that no sugar industry within SADC will suffer injury;

**MINDFUL** of the need to establish a stable investment climate leading to both growth and development of SADC economies and of the need to maintain the SADC Region as a reliable bloc of world competitive low cost sugar producers, well positioned to take advantage of the anticipated higher world prices once global liberalisation in sugar trade occurs;

**ACKNOWLEDGING** accordingly the need to improve and maintain the efficiency of all sugar producers within the SADC region through the interchange of research, training and information;

**HEREBY AGREE** as follows:

#### ARTICLE 1

##### DEFINITIONS

In this Annex, an expression that has been defined has that meaning and, unless the context indicates otherwise:

- "Marketing Year" means a period of twelve months commencing on 1 April and ending on 31 March, and "annual" and "annum" shall have a corresponding meaning;
- "Sugar" means raw sugar, refined sugar and direct consumption crystal sugar;
- "Technical Committee on Sugar (TCS)" means the body comprising representatives of national governments, sugar industries, and government accredited representatives;
- "Ton" means a metric ton of sugar, *tel quel*.

#### ARTICLE 2

##### OBJECTIVES

The objectives of this agreement are:



- (a) to promote, within the Region, production and consumption of sugar and sugar-containing products according to fair trading conditions and an orderly regional market in sugar for the survival of the sugar industries, in anticipation of freer global trade;
- (b) in support of the long term objective set out in paragraph 1 of Article 3, to provide temporary measures to insulate State Parties' sugar producing industries from the destabilising effects of the distorted global market, and in this regard to harmonise sugar policies and regulate its trade within the Region during the interim period until world trade conditions permit freer trade in sugar;
- (c) to create a stable climate for investment, leading to the growth and development of sugar industries in the State Parties;
- (d) to improve the competitiveness of the sugar producing State Parties in the world sugar market;
- (e) to facilitate the sharing of information, research and training with a view to improving the efficiency of growers, millers and refiners of sugar in the Member States;
- (f) to facilitate the development of small and medium sugar enterprises, and
- (g) to create stable market conditions in the Member States so as to encourage the rehabilitation and development of all sugar industries with a view to facilitating direct foreign investment and the creation of employment opportunities.

### **ARTICLE 3**

#### **RECIPROCAL MARKET LIBERALISATION**

1. The long term objective of this Annex is to establish full liberalisation of trade in the sugar sector in the SADC region after the year 2012. Such liberalisation will be dependent on a positive review of conditions prevailing in the world sugar market five years after entry into force of this Annex in order to ascertain if the world sugar market has normalised sufficiently to make such liberalisation acceptable.
2. The liberalisation as contemplated in paragraph 1 will be on a reciprocal basis and will also involve the removal of non-tariff barriers in relation to SADC sugar trade. However, in the interim period, market access will be on a non-reciprocal basis into the SACU on the terms outlined in Articles 4 and 6.

### **ARTICLE 4**

#### **NON-RECIPROCAL ACCESS TO THE SACU MARKET**

1. Duty free quota access to the SACU sugar market will be allocated to all non-SACU SADC sugar producing members. Access will be established through duty-free quotas allocated to each such member. The quotas will be allocated as follows:
  - a. The base quota shall be established as the average of the annual total quotas allocated to non-SACU SADC sugar-producing countries over the period 2001/2002 to 2007/2008.
  - b. From the base quota, an initial quota of 1,500 tons shall be allocated to each non-SACU SADC sugar producing country. The balance of the base quota shall then be allocated to each non-SACU SADC sugar producing country in accordance with their proportionate share of the average quota for the period 2001/2002 to 2007/2008.
  - c. The resultant quota allocations for each country are indicated in Appendix 1 and the percentages in the column 'Relative Share' reflect the countries' adjusted shares of the total base quota. The country base quotas shall apply from 2011/2012.

- d. An annual growth factor will be applied on the base quota from 2012/2013. The annual percentage growth in the quota will be equal to the actual percentage growth in the SACU sugar market in the preceding year. The SACU sugar market is defined as the combined sales of the Swaziland and South African sugar industries into SACU plus imports into SACU.
  - e. The annual percentage growth in the quota shall be applied to the balance of the quota for the preceding year in excess of 20,000 tons. A minimum annual total quota increase of 500 tons will be applicable. This quota increase shall be distributed among the quota beneficiaries on the basis of their Relative Share as indicated in Appendix 1.
2. The determined quota allocations are not transferable between countries. The principle of 'use it or lose it' will apply.
  3. Any new sugar producer in SADC will be accommodated within the total quota determined in this Annex.
  4. The modalities for the utilisation or distribution of the quota of a country would be determined by the competent sugar quota allocating authority in that country.
  5. This provision for non-reciprocal access for non-SACU SADC sugar producers will be reviewed in accordance to scheduled and/or agreed revisions of the SADC Trade Protocol.

## **ARTICLE 5**

### **CO-OPERATION IN AREAS OF COMMON INTEREST**

1. Co-operation in areas of common interest as identified by the TCS will be aimed at facilitating a balanced expansion of national industries with the ultimate objective of promoting the development of a regional competitive industry. Cooperation in the following areas will be established with a view to increasing efficiencies of all SADC sugar producers.
  - (a) The TCS established in terms of Article 9 will initiate dialogue on the usage and upgrading of infrastructure, and adopt rules on the transfer of information in relation to sugar technology and research, training, promotion and marketing.
  - (b) Recognising established official customs co-operation arrangements, the TCS will make recommendations to such bodies on issues related to cross-border trade in sugar in the region aimed at improving information flow on trade in sugar in the region and improving border control.
  - (c) Information on the nature and performance of existing national initiatives will be shared. Information on similar initiatives in other parts of the world will be collected and considered. Such information could be used to design appropriate strategies for small medium enterprise development.
  - (d) Developments occurring in the rest of the world which have implications for sugar industries in SADC will be identified and monitored, and pro- active regional strategies will be pursued.
2. The TCS will establish terms of reference relating to the implementation of actions in the identified and new areas of co-operation, and may appoint technical working groups to obtain related information and submit recommendations.

## **ARTICLE 6**

**IMPLEMENTATION**

1. Market access as provided for in Article 4 will be effected from the 2011/12 marketing year.
2. Market access as provided for in Article 4 will be maintained until the review of this Annex.
3. Co-operation in areas of common interest will be effected upon implementation of this Annex.

**ARTICLE 7****INSTITUTIONAL FRAMEWORK**

1. The TCS will be established to manage the agreed terms for market access and to co-ordinate actions in the areas of cooperation outlined in Article 5.
2. The TCS will establish and maintain a secretariat, the functions of which will be to implement and monitor the market access arrangements, procure and collate statistical information concerning sugar from State Parties, disseminate such information amongst State Parties, and supply secretarial services to the TCS and its appointed Working Groups.

**APPENDIX 1**

<b>Country</b>	<b>Quota Allocations</b>	<b>Relative Share</b>
Malawi	7,646	19.8%
Mauritius	2,342	6.1%
Mozambique	7,623	19.7%
Tanzania	1,500	3.9%
Zambia	14,444	37.3%
Zimbabwe	5,125	13.2%
<b>TOTAL</b>	<b>38,681</b>	<b>100.0%</b>

## ANNEX VIII

### CONCERNING SANITARY AND PHYTOSANITARY MEASURES (Human, Animal and Plant Life or Health)

#### PREAMBLE

The SADC Member States,

**Emphasising** the importance of human, animal and plant life or health in the SADC region and specifically their importance in relation to trade;

**Desiring** the protection of human, animal and plant life or health including protection of the environment through the employment of environmentally safe and sustainable farm production and agro-industrial methods;

**Recognising** the importance of establishing and maintaining confidence in the sanitary and phytosanitary measures of SADC Member States among agencies that apply measures to protect human or animal or plant life or health, businesses, and consumers in SADC Member States and in existing and potential third party markets;

**Recognising** the urgency of mutual recognition of the equivalence of sanitary or phytosanitary measures across the Member States in order to improve regional trade in foods, beverages, animals, animal products, plants, plant products and other regulated articles for the economic benefits of the citizens of the SADC region and to expand external trade;

**Recalling** the provision in Article 16 of the SADC Protocol on Trade which requires Member States to base their sanitary or phytosanitary measures on international standards, guidelines and recommendations and that they work towards mutual recognition of the equivalence of specific sanitary and phytosanitary measures, in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures;

**Reaffirming** that no Member should be prevented from adopting or enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail or a disguised restriction on international trade;

**HEREBY AGREE** as follows:

#### ARTICLE 1 Terms and Definitions

For the purposes of this Annex, the following definitions shall apply:

1. "Appropriate level of sanitary or phytosanitary protection" or "Acceptable level of risk" - The level of protection deemed appropriate by the Member State establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory.
2. "Area of low pest or disease prevalence" – An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease occurs at low levels and which is subject to effective surveillance, control or eradication measures.

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3. "Codex Alimentarius Commission (Codex)" – See "International Standards..." in this list of definitions.
  4. "Food Safety" – Assurance that food will not cause harm to the consumer when it is prepared and eaten according to its intended use.
  5. "Harmonisation" – The establishment, recognition and application of common sanitary and phytosanitary measures by different Member States.
  6. "World Organisation for Animal Health" (OIE)" – See "International Standards..." in this list of definitions.
  7. "International Plant Protection Convention (IPPC)" – See "International Standards..." in this list of definitions.
  8. "International standards, guidelines, and recommendations" –
    - a) for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission (Codex) relating to food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;
    - b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the World Organisation for Animal Health (OIE);
    - c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with regional organizations operating within the framework of the IPPC; and
    - d) for matters not covered by the above organizations, appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all Member States, as identified by the WTO SPS Committee.
  9. "Pest" – Any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products.
  10. "Disease" – means the clinical and/or pathological manifestation of infection, which means the entry and development or multiplication of an infectious agent in the body of humans or animals (based on the 2011 OIE Terrestrial Code, but entirely applicable to aquatic animal diseases).
  11. "Pesticide" – Any substance, mixture of substances or any biological agent intended for preventing, destroying or controlling any pest; to act as growth regulator, defoliant, desiccant, thinning agent on crops; or to prevent the fall of buds, flowers and fruits from crops.
  12. "Pest or disease-free area" – An area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest or disease does not occur. Such an identified area may surround, be surrounded, or be adjacent to an area – whether within part of a country or in a geographic region which includes parts of or all of several countries -in which a specific pest or disease is known to occur but is subject to regional control measures such as the establishment of protection, surveillance and buffer zones which will confine or eradicate the pest or disease in question.
  13. "Phytosanitary measure" – See "Sanitary or phytosanitary measure.".....in this list of definitions.

14. "Plant Genetic Resources" – Plants or collection of plants bearing certain desirable traits and used as starting material for breeding or seed multiplication programs.
15. "Regulated Article" – Any plant, plant product, storage place, packaging, conveyance, container, soil and any other organism, object or material capable of harbouring or spreading pests, deemed to require phytosanitary measures, particularly where international transportation is involved.
16. "Risk assessment" – The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member State according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.
17. "Sanitary or phytosanitary measure" – Any measure applied:
  - a) to protect animal or plant life or health within the territory of the Member State from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
  - b) to protect human or animal life or health within the territory of the Member State from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
  - c) to protect human life or health within the territory of the Member State from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
  - d) to prevent or limit other damage within the territory of the Member State from the entry, establishment or spread of pests.

Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, *inter alia*, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.

18. "WTO" means World Trade Organisation.

## **ARTICLE 2** **Objectives**

1. The objectives of this Annex are:
  - a) to facilitate the protection of human, animal or plant life or health in the territory of the Member States;
  - b) to enhance the Member States' implementation of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures;
  - c) to enhance technical capacity to implement and monitor SPS measures including promoting greater use of international standards and other matters concerning SPS;

- d) to provide a regional forum for addressing sanitary and phytosanitary matters; and
- e) to provide a regional forum for resolving trade related sanitary or phytosanitary issues.

**ARTICLE 3**  
**Scope and Coverage**

- 1. This annex applies to all sanitary and phytosanitary measures of a Member State that may, directly or indirectly, affect trade between the Member States.

**ARTICLE 4**  
**General Provisions**

- 1. The appendices are an integral part of this Annex and the SADC Protocol on Trade.
- 2. Nothing in this Annex shall affect the rights of Member States under Article 17 of the SADC Protocol on Trade, "Standards and Technical Regulations on Trade," or under the WTO Agreement on Technical Barriers to Trade and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

**ARTICLE 5**  
**Basic Rights and Obligations**

- 1. Member States affirm their existing rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.
- 2. Nothing in this Annex shall prevent a Member State from adopting or maintaining, in accordance with its international rights and obligations any measure necessary to achieve its appropriate level of sanitary or phytosanitary protection.

**ARTICLE 6**  
**Harmonisation**

- 1. The Member States shall, where appropriate, work towards harmonization of their respective mandatory requirements taking into account relevant international standards, guidelines or recommendations, in accordance with their international rights and obligations.
- 2. Member States, within the limits of their resources, shall make every effort to participate in relevant international organizations and, whenever possible, if mandated, present a common SADC position in these organizations in an effort to promote within these organizations the development and periodic review of standards, guidelines and recommendations with respect to sanitary and phytosanitary measures.

**ARTICLE 7**  
**Equivalence**

- 1. Member States shall to the extent practicable, without compromising their appropriate level of sanitary or phytosanitary protection and in accordance with guidelines developed by the WTO SPS Committee and the relevant international standard setting bodies, enter into consultations aimed at achieving bilateral or regional agreements on the recognition of equivalence of their respective sanitary or phytosanitary measures.
- 2. An importing Member State:
  - (a) shall accept a sanitary or phytosanitary measure adopted or maintained by an exporting Member State as equivalent to its own where the exporting Member State, in cooperation with the importing Member State, provides to the importing Member

State scientific evidence or other information, in accordance with risk assessment methodologies agreed on by the Members, to demonstrate objectively, that the exporting Member State's measures achieve the importing Member State's appropriate level of protection;

- (b) may, refuse to accept a sanitary or phytosanitary measure adopted or maintained by an exporting Member State as equivalent to its own where it has scientific basis to determine that the exporting Member State's measures does not achieve the importing Member State's appropriate level of protection; and
- (c) shall provide to the exporting Member State, on request, its reasons in writing for a determination made under subparagraph (b).

#### **ARTICLE 8**

#### **Assessment of Risk and Determination of the Appropriate Level of Sanitary or Phytosanitary Protection**

1. Member States shall in accordance with their international rights and obligations ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances of the risks to human, animal and plant life or health.
2. In conducting a risk assessment and in determining the sanitary or phytosanitary measure to be applied to achieve the appropriate level of protection, each Member State shall take into account:
  - a) relevant scientific evidence;
  - b) relevant risk assessment techniques and methodologies developed by international organisations;
  - c) relevant processes and production methods;
  - d) relevant inspection, sampling and testing methods;
  - e) the prevalence of relevant diseases or pests, including the existence of pest-free or disease-free areas or areas of low pest or disease prevalence;
  - f) relevant ecological and other environmental conditions;
  - g) relevant treatments, such as quarantines;
  - h) relevant economic factors such as the potential damage in terms of loss of production or sales in the event of entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing member; and the relative cost-effectiveness of alternative approaches to limiting risks.
3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a Member State conducting a risk assessment determines that available relevant scientific evidence or other information is insufficient to complete the assessment, it may adopt a provisional sanitary or phytosanitary measure on the basis of available relevant information, including from international standardizing organizations and from sanitary or phytosanitary measures of other Member States. In such circumstances Member States shall seek to obtain the additional information necessary for a more objective of risk and review the sanitary or phytosanitary measure accordingly within a reasonable period of time.
4. Where an exporting Member State is able to achieve the importing Member State's appropriate level of protection through the phased application of a sanitary or phytosanitary



measure, the importing Member State may, at the request of another Member State and in accordance with the provisions of this Annex, allow for such a phased application, or grant specified exceptions for limited periods from the measure, taking into account the requesting Member State's export interests.

**ARTICLE 9**  
**Adaptation to Regional Conditions, Including**  
**Pest or Disease-Free Areas and Areas of Low Pest or Disease Prevalence**

1. Member States shall in accordance with their international rights and obligations ensure that their sanitary or phytosanitary measures are adapted to the sanitary or phytosanitary characteristics of the area – whether all of a country, part of a country, or all or parts of several countries – from which the product originated and to which the product is destined.
2. Member States shall in assessing the sanitary or phytosanitary characteristics of a region, take into account, *inter alia*:
  - a) the level of prevalence of specific diseases or pests;
  - b) the existence of eradication or control programmes; and
  - c) appropriate criteria or guidelines which may be developed by the relevant international organizations or by the SADC Sanitary and Phytosanitary Coordinating Committee.
3. In determining whether an area is a pest-free or disease-free area or an area of low pest or disease prevalence Member States shall *inter alia*, base their determination on factors such as geography, ecosystems, epidemiological surveillance and the effectiveness of sanitary or phytosanitary controls in that area.
4. Exporting Member States claiming that areas within their territories are pest-or disease-free areas or areas of low pest or disease prevalence shall provide the necessary evidence thereof in order to objectively demonstrate to the importing Member State that such areas are, and are likely to remain, pest- or disease-free areas or areas of low pest or disease prevalence, respectively. For this purpose, each exporting Member State shall provide reasonable access to its territory to the importing Member State for inspection, testing and other relevant procedures.
5. Member States may, in accordance with this Annex:
  - a) adopt, maintain or apply a different risk assessment procedure for a pest-free or disease-free area than for an area of low pest or disease prevalence; or
  - b) make a different final determination for the disposition of a product produced in a pest-free or disease-free area than for a product produced in an area of low pest or disease prevalence, taking into account any relevant conditions, including those relating to transportation and handling.
6. Member States shall, in adopting, maintaining or applying sanitary or phytosanitary measures relating to the introduction, establishment or spread of an animal disease or plant pest, accord a product produced in a pest-free or disease-free area in the territory of another Member State no less favorable treatment than it accords a product produced in a pest-free or disease-free area, in another country, that poses the same level of risk.
7. Member States shall where appropriate adopt and use equivalent risk assessment guidelines developed by the OIE and IPPC to evaluate relevant conditions and controls in the pest-free

or disease-free area and in the area surrounding that area and take into account any relevant conditions, including those relating to transportation and handling.

8. An importing Member State may upon request, pursue an agreement with an exporting Member State, on specific requirements the fulfillment of which allows a product produced in an area of low pest or disease prevalence in the territory of an exporting Member State to be imported into the territory of the importing Member State.

#### **ARTICLE 10 Transparency**

1. Member States shall provide all required notifications and information in accordance with Appendix A to this Annex and WTO transparency guidelines.
2. Member States shall, in notifying the World Trade Organization copy the same notification to the SADC Secretariat.

#### **ARTICLE 11 Control, Inspection and Approval Procedures**

1. Each Member State shall, upon the request of any other Member State, following the procedures set down from time to time by the relevant international organisations (Appendix B), give consideration with a view to accepting the relevant control, inspection and approval procedures of another Member State, provided it is satisfied that these achieve the same outcomes as its own regulatory requirements.
2. Each Member State shall upon request and in accordance with its international obligations and applicable laws, regulations and policies, review its inspection, testing, certification and other relevant import and export approval systems or procedures to ensure these are reasonable and necessary, so as to further facilitate access of traded products to its territory.
3. Member States shall where appropriate adopt guidelines set out in SADC Seed Import/Export Procedures Manual as the relevant import and export approval systems for seed.
4. Member States shall where appropriate adapt the guidelines set out in SADC Seed Import/Export Procedures Manual as the relevant import and export approval systems for all other commodities subject to sanitary or phytosanitary measures.
5. Member States shall cooperate on a product trace back system for the notification of non-compliance of imported consignments for commodities subject to sanitary or phytosanitary measures drawing on the guidelines of relevant international organizations where available.

#### **ARTICLE 12 Technical Assistance**

1. Where substantial investment is required in order for an exporting Member State to fulfil the sanitary or phytosanitary requirements of the importing Member State, the latter shall consider providing such technical assistance that will permit the exporting Member State to maintain and expand its market access opportunities for the product involved.
2. The SADC Secretariat shall in consultation with the SADC Sanitary and Phytosanitary Coordinating Committee facilitate resource mobilisation for technical assistance to enhance Member States capacity to implement and monitor sanitary and phytosanitary measures including promoting greater use of international standards.

**ARTICLE 13**  
**Dispute Settlement**

The rules and procedures of Article 32 of the SADC Protocol on Trade shall apply to the settlement of disputes between Member States concerning their rights and obligations under this Annex.

**ARTICLE 14**  
**Administration**

1. Member States hereby establish a SADC Sanitary and Phytosanitary Coordinating Committee comprising of two representatives of each National Committee on Sanitary and Phytosanitary Measures.
2. Not later than 60 days after the adoption of this Annex, each Member State will establish a National Committee on Sanitary and Phytosanitary Measures and appoint two representatives on the SADC Sanitary and Phytosanitary Coordinating Committee.
3. The National Committee on Sanitary and Phytosanitary Measures shall include the WTO SPS National Notification Authority and Enquiry Point(s).
4. The SADC Sanitary and Phytosanitary Coordinating Committee shall promote transparency in the area of sanitary and phytosanitary measures, including overseeing the implementation of the transparency provisions.
5. The SADC Sanitary and Phytosanitary Coordinating Committee will act as a consultative forum for promoting the objectives of this Annex and for strengthening cooperation between the regulatory agencies having responsibility for sanitary and phytosanitary measures.
6. The SADC Sanitary and Phytosanitary Coordinating Committee will report to the SADC Trade Negotiating Forum and shall have the following specific functions:
  - a) To act as a forum for regional liaison with corresponding organisations for consultations and exchange of technical information relating to sanitary or phytosanitary issues;
  - b) To raise awareness on SPS matters to private and public sectors in the region;
  - c) To facilitate capacity building in the region for sanitary and phytosanitary matters through cooperation and collaboration with relevant organisations;
  - d) To establish Technical Committees and ad hoc Working Groups as necessary on specific issues related to sanitary or phytosanitary Measures;
  - e) To identify regional needs/ challenges and facilitate the development and implementation of programmes to address them;
  - f) To promote the greater participation by the private sector/industry in SADC sanitary and phytosanitary related activities;
  - g) To review progress and monitor the implementation of this Annex and the WTO SPS Agreements, and provide recommendations to the Committee of Ministers.
7. The SADC Sanitary and Phytosanitary Coordinating Committee shall meet as often as required, and shall reach all its decision by consensus.

**ARTICLE 15**  
**Implementation**

Member States shall be fully responsible under this Annex for the implementation of all obligations set forth herein. Member States shall in particular formulate and take available measures to enforce positive mechanisms to support the implementation of the provisions of this Annex.

**ARTICLE 16**  
**Regulations**

The Committee of Ministers responsible for Trade, in the Member States shall adopt regulations to facilitate the implementation of this Annex, in consultation with other relevant Ministers (Agriculture/Fisheries and Health).

**APPENDIX A**  
**Transparency of Sanitary and Phytosanitary Regulations**

**Publications of regulations**

1. Member States shall ensure that all sanitary and phytosanitary regulations are published promptly in such a manner as to enable interested Member States to become acquainted with them.
2. Except in urgent circumstances, Member States shall normally allow a period of not less than six months between the publication of a sanitary or phytosanitary regulation and its entry into force to allow time for producers in exporting Member States, to adapt their products and methods of production to the requirements of the importing Member State. The entry into force of measures which contribute to the liberalisation of trade should not be unnecessarily delayed.

**Enquiry points**

3. Each Member State shall ensure that a WTO SPS Enquiry Point exists, which is responsible for the provision of answers to all questions from interested Member States as well as for the provision of relevant documents regarding:
  - a) any sanitary or phytosanitary regulations adopted or proposed within its territory;
  - b) any control and inspection procedures, production and quarantine treatment, pesticide tolerance and food additive approval procedures, which are operated within its territory;
  - c) risk assessment procedures, factors taken into consideration, as well as the determination of the appropriate level of sanitary or phytosanitary protection;
  - d) the membership and participation of the Member State, or of relevant bodies within its territory, in international and regional sanitary and phytosanitary organizations and systems, as well as in bilateral and multilateral agreements and arrangements within the scope of this Annex, and the texts of such agreements and arrangements.
4. Member States shall ensure that where copies of documents are requested by interested Member States, they are supplied at the same price (if any), apart from the cost of delivery, as to the nationals of the Member State concerned.

**Notification procedures**

5. Whenever an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on trade of other Member States, Member States shall:
  - a) publish a notice at an early stage in such a manner as to enable interested Member States to become acquainted with the proposal to introduce a particular regulation;
  - b) notify other Member States, through the WTO Secretariat, of the products to be covered by the regulation together with a brief indication of the objective and rationale of the proposed regulation. Such notifications shall take place at an early stage, when amendments can still be introduced and comments taken into account;
  - c) provide upon request of other Member States copies of the proposed regulation and, whenever possible, identify the parts which in substance deviate from international standards, guidelines or recommendations;

- d) without discrimination, allow reasonable time for other Member States to make comments in writing, discuss these comments upon request, and take the comments and the results of the discussions into account.
6. However, where urgent problems of health protection arise or threaten to arise for a Member State, that Member State may omit such steps enumerated in paragraph 5 of this Appendix as it finds necessary, provided that the Member State:
  - a) immediately notifies other Member States, through the WTO Secretariat of the particular regulation and the products covered, with a brief indication of the objective and the rationale of the regulation, including the nature of the urgent problem(s);
  - b) provides, upon request, copies of the regulation to other Member States;
  - c) allows other Member States to make comments in writing, discusses these comments upon request, and takes the comments and the results of the discussions into account.
7. Notifications to the WTO Secretariat shall be in the languages of the WTO.
8. Each Member State's National Committee on Sanitary and Phytosanitary Measures, in cooperation with its WTO SPS National Notification Authority and Enquiry Point(s), shall be responsible for the implementation at the national level of the provisions concerning notification procedures according to this Appendix.

**General reservations**

9. Nothing in this Annex shall be construed as requiring Member States to disclose confidential information which would impede enforcement of sanitary or phytosanitary legislation or which would prejudice the legitimate commercial interests of particular enterprises.

**APPENDIX B**  
**Control, Inspection and Approval Procedures**

1. Member States shall ensure, with respect to any procedure to check and ensure the fulfilment of sanitary or phytosanitary measures, that:
  - a) such procedures are undertaken and completed without undue delay and in no less favourable manner for imported products than for like domestic products;
  - b) the standard processing period of each procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body transmits as soon as possible the results of the procedure in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the applicant has deficiencies, the competent body proceeds as far as practicable with the procedure if the applicant so requests; and that upon request the applicant is informed of the stage of the procedure, with any delay being explained;
  - c) information requirements are limited to what is necessary for appropriate control, inspection and approval procedures, including for approval of the use of additives or for the establishment of tolerance levels for contaminants in food, beverages or feedstuffs;
  - d) the confidentiality of information about imported products arising from or supplied in connection with control, inspection and approval is respected in a way no less favourable than for domestic products and in such a manner that legitimate commercial interests are protected;
  - e) any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary;
  - f) any fees imposed for the procedures on imported products are equitable in relation to any fees charged on like domestic products or products originating in any other Member State and should not be higher than the actual cost of the service;
  - g) the same criteria should be used in the setting up of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents;
  - h) whenever specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned; and
  - i) a procedure exists to review complaints concerning the operation of such procedures and to take corrective action when a complaint is justified.

Where an importing Member State operates a system for the approval of the use of food additives or for the establishment of tolerance levels for contaminants in food, beverages or feedstuffs, which prohibits or restricts access to its domestic markets for products based on the absence of an approval, the importing Member State shall consider the use of a relevant international standard as the basis for access until a final determination is made.

2. Where a sanitary or phytosanitary measure specifies control at the level of production, the Member State in whose territory the production takes place shall provide the necessary assistance to facilitate such control and the work of the controlling authorities.

3. Nothing in this Annex shall prevent Member States from carrying out reasonable inspection within their own territories.



## ANNEX IX

### CONCERNING TECHNICAL BARRIERS TO TRADE

#### PREAMBLE

The SADC Member States,

**NOTING** the objectives of SADC as listed in Article 15 of the SADC Treaty, such as achieving development and economic growth, achieving complementarities between national and regional strategies and programmes and promoting and maximising productive employment and utilisation of resources in the Region;

**RECOGNIZING** the important contribution that international standards and conformity assessment systems can make in this regard by improving efficiency of production and facilitating the conduct of international trade;

**COMMITTED** to the agreed actions to achieve the objectives of the SADC Treaty, such as creating appropriate institutions and mechanisms for the mobilisation of requisite resources for the implementation of programmes and operations of SADC and its institutions to develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services, and of the peoples of the Region generally, among Member States and to improve economic management and performance through regional cooperation;

**EMPHASIZING** the obligation to protect the safety and health of the *people* of the SADC region, plant and animal life and health and the environment and specifically the importance related to trade of products and services;

**RECOGNIZING** the importance of establishing and maintaining confidence in SADC Member State technical regulations and their supporting measures;

**RECALLING** the provisions of Article 17 and Annex V of the SADC Protocol on Trade that Member States base their standards related measures on relevant international standards, make compatible their respective standards-related measures including the conformity assessment provisions, accept as equivalent technical regulations of other Member States even if these regulations differ from their own provided that they adequately fulfil the objectives of their regulations, so as to facilitate trade in goods and services within the Community;

**AWARE** of the importance of cooperation in the areas of Technical Regulations, Standardisation, Quality Assurance, Accreditation and Metrology for the elimination of technical barriers to trade, both in terms of the SADC Protocol on Trade and in terms of the commitments by Member States with respect to the World Trade Organisation (WTO) Technical Barriers to Trade (TBT) Agreement;

**REALIZING** that cooperation in Technical Regulations, Standardisation, Quality Assurance, Accreditation and Metrology is not just essential in the industry and trade Sector, where it is mainly driven by the provisions of the SADC Protocol on Trade and the WTO TBT Agreement commitments, but in all SADC Sectors;

**HEREBY AGREE** as follows:

#### ARTICLE 1 DEFINITIONS

In this Annex, unless the context otherwise requires:

Accreditation	means a procedure by which an authoritative body gives formal recognition that a body or person is competent to carry out specific tasks;
Associate Member	means an Institution of a non-SADC State which otherwise meets the criteria for Ordinary Membership of a SADC TBT Cooperation Structure, or a regional organization with objectives similar to those of a SADC TBT Cooperation Structure, with its Associate Membership having been approved by all Ordinary Members;
Calibration	means a set of operations that establish, under specified conditions, the relationship between values of quantities indicated by a measuring instrument or measuring system, or values represented by a material measure or a reference material, and the corresponding values realized by standards;
Certification	means a procedure by which a third party gives written assurance that a product, process or service conforms to specified requirements;
Common Technical Regulations	means a technical regulation that is equivalent or that incorporates SADC harmonised Text;
Conflicting Standards	means a national standard within the same scope and field of the application as a SADC Harmonized Text and with provisions such that compliance with the national standard is not compliance with the SADC Harmonised Text;
Conformity Assessment	means demonstration that specified requirements relating to a product, process, system, person or body are fulfilled;
Conformity Assessment Procedure	means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled; <i>Explanatory note</i> Conformity assessment procedures include, <i>inter alia</i> , procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity; registration, accreditation and approval as well as their combinations.
Equivalence	means technical harmonisation used to eliminate illegitimate barriers to trade where Members accept that technical regulations different from their own fulfil the same objectives;
Harmonisation	means a process by which standards on the same subject approved by different standards bodies,

	(including requirements for conformity assessments) establish interchangeability of products, processes and services, or mutual understanding of test results or information provided according to these standards;
Harmonised Text	means text developed or adopted and approved by the SADCSTAN carrying with it an obligation for implementation by SADC members as a national standard and withdrawal of any conflicting national standards as required by article 8 of the TBT Annex to the SADC Protocol on Trade;
Inspection	means conformity evaluation by observation and judgement accompanied as appropriate by measurement, testing or gauging;
Legal Metrology	means the activity which deals with the units of measurement, methods of measurement and measuring instruments in relation to the mandatory technical and legal requirements, which have the objective of ensuring a public guarantee from the point of view of the security and of the appropriate accuracy of measurements;
Member State	means a member of SADC;
National Metrology Institute	means institution designated by national decision to develop and maintain national measurement standards for one or several quantities;
National Measurement Standard	means a standard recognized by a national decision to serve, in a country, as the basis for assigning values to other standards of the quantity concerned;
National Standard	means a standard that is adopted by a national standards body and made available to the public;
National Standards Body	means a standards body recognised at the national level, that is eligible to be the national member of the corresponding international and regional standards organisations;
Ordinary Member	means an institution or government-appointed representative of a SADC member state meeting the membership conditions for the Cooperation Structure;
Quality	means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs;
Quality Assurance	means all those planned and systematic actions necessary to provide adequate assurance that a

	product or service will satisfy given requirements for quality;
Region	means the SADC region;
Regulator	means authority that carries out the mandate given under the law applicable to a specific country to oversee implementation and administration of technical regulations and includes national and provincial government departments, local authorities and regulatory agencies established by legislation;
Rules of Procedure	means a set of formally adopted rules and/or guidelines for activities undertaken by constituted cooperation structures, committees, subcommittees or working groups.
SI System of Units	means a universal, practical system of units of measurement adopted by the General Conference on Weights and Measures, which is the international authority on the metric system;  <i>Explanatory note:</i> SI is the international abbreviation for Le Système International d'Unités (International System of Units).
Standard	means document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method;  <i>Explanatory note</i> The terms as defined in ISO/IEC Guide 2 cover products, processes and services. This Annex deals only with technical regulations, standards and conformity assessment procedures related to products or processes and production methods. Standards as defined by ISO/IEC Guide 2 may be mandatory or voluntary. For the purpose of this Annex standards are defined as voluntary and technical regulations as mandatory documents. Standards prepared by the international standardization community are based on consensus. This Annex covers also documents that are not based on consensus.
Standardisation	means the activity of establishing, with regard to actual or potential problems, provisions for common and repeated use, aimed at the achievement of the optimum degree of order in a

	given context;
Standards Body	means a standardising body recognised at national, regional or international level, that has as a principal function, by virtue of its statutes, the preparation, approval or adoption of standards that are made available to the public;
Supplier	means any organization or person that brings a good or a service into circulation or onto the market place, irrespective of who the manufacturer is;
SADC TBT Cooperation	means SADC Cooperation in Standardisation, Quality Assurance, Accreditation Metrology and Technical Regulations;
TBT Cooperation Structure(s)	means one or all of the seven structures, namely SADCA, SADC MEL, SADC MET, SADC STAN, TBTEG, SADC TBTSC, and SADC TRLC;
Technical Regulation	means document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method;
	<i>Explanatory note:</i> The definition in ISO/IEC Guide 2 is not self-contained, but based on the so-called "building block" system.
Technical Regulation Framework	means a system of government policies for intervention in the market place, including impact assessments, legal instruments, technical requirements, regulatory authorities, conformity assessments, sanctions and the supporting SQAM infrastructure;
Testing	means a technical operation that consists of the determination of one or more characteristics of a given product, process or service according to a specified procedure;
Third party	means a party independent from the supplier (first party) and the purchaser (second party) in the context of conformity assessment;
Top-level measurement standard	means a measurement standard of the highest metrological quality available for a quantity in a particular country, which does not have an official national measurement standard for that quantity;

Traceability means the property of the result of a measurement or the value of a standard, whereby it can be related to stated references, usually national or international standards, through an unbroken chain of comparisons all having stated uncertainties;

## **ARTICLE 2 OBJECTIVE**

1. The objective of this Annex is to establish a common technical regulation framework, (hereafter referred to as the Framework), supported by appropriate regional TBT Cooperation Structures.

## **ARTICLE 3 COMMENCEMENT**

Once adopted, this Annex supersedes the TBT Annex approved in 2008.

## **ARTICLE 4 GENERAL PROVISIONS**

1. In order to guide the development, adoption, implementation and maintenance of technical regulations as provided for in Article 17 of the SADC Protocol on Trade, the provisions of this Annex shall apply to the SADC TBT Cooperation.
2. Nothing contained in this Annex shall affect the rights of Member States under Article 16 of the SADC Protocol on Trade, Sanitary and Phytosanitary Measures, or of the WTO Agreement on Sanitary and Phytosanitary Measures with respect to measures not within the scope of this Annex.

## **ARTICLE 5 BASIC RIGHTS AND OBLIGATIONS**

1. Member States affirm their existing rights and obligations in respect of technical regulations, standards, and conformity assessment procedures with respect to each other under the WTO TBT Agreement.
2. Member States re-affirm their commitment to the WTO TBT Agreement principles of non-discrimination, necessity, prevention of trade restrictiveness, proportionality, the use of international standards, equivalence, and internationally harmonised measures, transparency and special and differential treatment.
3. Member States confirm their right to develop, adopt, implement, maintain and apply technical regulations at national level to protect human, plant and animal health and safety, protect the environment and prevent deceptive practices, provided that such technical regulations and their measures are not inconsistent with the provisions of this Annex and that all member states are notified accordingly.
4. Every Member State is responsible for the observance of all the commitments set forth in this Annex.

## **ARTICLE 6 TECHNICAL REGULATION FRAMEWORK**

1. The objective of the Framework shall be the identification, prevention and elimination of unnecessary TBTs amongst the Member States and between SADC and other Regional and

International Trading Blocks through harmonized texts, technical regulations and conformity assessment procedures in order to facilitate and increase trade. This includes:

- a) The use of consultation, participation and exchange of information processes when technical regulations are developed, amended and implemented;
  - b) The appropriate use of common performance based standards based on international standards rather than prescriptive standards as a basis for technical regulations;
  - c) The withdrawal of a conflicting national standard once the text of a regional standard has been developed and approved in accordance with the agreed SADCSTAN procedures;
  - d) The relevant use of impact and risk assessment to inform technical regulatory decisions;
  - e) The use of appropriate international measures to promote acceptance of conformity assessment results among Member States;
  - f) The review, update and modification of technical regulations to meet changing needs; and
  - g) The co-ordination amongst various institutions that are part of the technical regulation framework.
2. Member States recognize that the purpose of harmonization and equivalence is not to establish identical technical regulations, standards and conformity assessment procedures for the protection of human, animal or plant life and health, safety, prevention of deceptive practices and protection of the environment, but to facilitate and increase trade.
3. Before Member States develop, adopt and implement technical regulations, governments shall ensure that the intervention is based on objective evidence that action is justified given:
- a) the nature of the problem,
  - b) the absence of suitable alternatives for addressing the problem,
  - c) the likely socioeconomic benefits to the public and the environment,
  - d) the costs of proposed actions, and
  - e) the risks associated with proposed actions.
4. Member States shall make this evidence available on request in order to enhance the transparency of the whole process and to foster increased compliance with the objectives of the SADC Protocol on Trade.

#### **ARTICLE 7 PREPARATION AND APPLICATION OF STANDARDS**

1. Member States shall ensure that national standards are based to the greatest extent possible on the relevant international standards or harmonised texts, and that national deviations which are the result of demonstrable and scientifically proven national specifications are notified to SADCSTAN.
2. SADCSTAN harmonised text shall be, as much as practicable be based on international standards
3. Member States shall ensure that National Standards Bodies (and any other National Institutions developing standards) meet the relevant provisions of the WTO TBT Agreement, and in particular develop and publish national standards in accordance with *Annex III: Code of Good Practice for the Preparation, Adoption and Application of Standards* of the WTO TBT Agreement.
4. Member states shall ensure that once a SADC harmonized text for a standard has been developed and approved in accordance with the agreed SADCSTAN procedures, this text is adopted as a national standard and that any conflicting national standards are withdrawn.

## **ARTICLE 8 ACCREDITATION**

Member States shall recognise Accreditation Bodies (ABs) which are parts of:

- a) SADCA MRA
- b) African Accreditation Cooperation (AFRAC) MRA.
- c) ILAC MRA and IAF MLA

## **ARTICLE 9 SANCTIONS**

Member States shall ensure that the appropriate measures are in place to compel suppliers to meet their obligations in terms of the technical regulations. These measures shall include as may be relevant:

- a) Administrative sanctions whereby suppliers are required to rectify the problem identified in the market place without further penalties. Administrative sanctions could include recall of the non-complying commodities from the market place to effect repairs and replacements, recall of the non-complying commodities from the market to be destroyed, and/or advertising campaigns to inform and warn the public about the problem and what actions to take.
- b) Legal sanctions that are implemented through the judicial system should the supplier fail to respond positively on administrative sanctions.

## **ARTICLE 10 IMPLEMENTATION AND MAINTENANCE AT NATIONAL LEVEL**

1. Every Member State is responsible for the observance of all the obligations set forth in this Annex. Member States shall formulate and take all reasonable measures as may be available to them to enforce positive measures and mechanisms in support of the observance of the provisions of this Annex by central and other government bodies, businesses and non-governmental bodies involved in the development, adoption, implementation and maintenance of technical regulations.
2. Each Member State shall establish and maintain a function within government which will oversee the implementation of this Annex at national level for all future technical regulation work.

## **ARTICLE 11 THE REGIONAL TBT COOPERATION STRUCTURES**

1. In order to further the objectives of the SADC Protocol on Trade, the progressive elimination of technical barriers to trade amongst the Member States and between SADC and other Regional and International Trading Blocks and the promotion of quality and of an infrastructure for quality in the Member States, a formal framework, in which the cooperation amongst regulators, stakeholders and the national institutions in Standardisation, Quality Assurance, Accreditation and Metrology (SQAM) can take place, is established and the following structures created:
  - a) SADC Technical Regulations Liaison Committee (SADCTRLC)
  - b) SADC TBT Stakeholders Committee (SADCTBTSC)
  - c) SADC Cooperation in Accreditation (SADCA)
  - d) SADC Cooperation in Legal Metrology (SADCMEL)
  - e) SADC Cooperation in Measurement Traceability (SADCMET)



- f) SADC Cooperation in Standardisation (SADCSTAN)
  - g) SADC TBT Expert Group (TBTEG)
2. The Cooperation Structures shall be individually accountable to the CMT in relation to the functions provided for in this Annex, and shall provide an Annual Report to the CMT in this regard.
3. The objectives, aims, functions and membership of these Cooperation Structures are set out in Articles 12 to 19.

**ARTICLE 12**  
**GENERAL FUNCTIONS AND RULES OF THE COOPERATION STRUCTURES**

1. All TBT Cooperation Structures shall have the following general functions:
- a) Exchange of professional and technical information and transfer of expertise amongst Members;
  - b) Cooperation amongst themselves in the implementation of SADC regional programs related to TBTs;
  - c) Provision of a framework for collaboration among interested Members on specific projects;
  - d) Identification of technical problems which might form the subject of joint projects;
  - e) Coordination, endorsement and harmonisation of SADC regional training and development activities in TBT-related areas;
  - f) Harmonisation of training requirements and minimum qualifications for SQAM professionals;
  - g) Provision of information on regional TBT-related resources and services;
  - h) Liaison with corresponding regional and international organisations;
  - i) Establishment and operation of communication channels and dissemination of information on regional TBT resources and services;
  - j) Interaction with cooperating partners for regional SQAM facilities, equipment or training within the framework of overall SQAM programme priorities;
  - k) Establishment of Expert Working Groups in specific fields;
  - l) Optimal utilisation of the resources and services of Members and the deployment of these towards identified regional needs;
  - m) Organisation, coordination and promotion of regional conferences, workshops, seminars and exhibitions on subjects relevant for any SADC regional programme related to TBTs;
  - n) Promotion of regional TBT requirements at political level;
  - o) Participation in International and Regional Organizations, where possible; and
  - p) Promotion and facilitation of greater Private Sector/Industry participation in SADC TBT-related activities.
2. With the exception of TBTEG, all Cooperation Structures shall comply with the following general rules:
- a) They shall meet at least once a year;
  - b) They shall elect a Chairperson from amongst their Members on a rotational basis, as per their rules of procedure;
  - c) Each Ordinary Member shall have one vote;
  - d) They may define other membership categories in addition to Ordinary Members and Associate Members;
  - e) They may grant observer status to third parties to participate in a particular Committee meeting;
  - f) They may draw up their own Rules of Procedure consistent with the provisions of this Annex to guide their functions and activities; and
  - g) Delegates from Associate Members may participate in all meetings but shall have no voting rights.

3. Except for the SADCTBTSC and TBTEG, all Cooperation Structures' Secretariats, headed by a Regional Coordinator, shall be established at an institution of an Ordinary Member in order to carry out the day-to-day activities of the structure and:
  - a) Any Ordinary Member may volunteer to host the Secretariat at its own expense;
  - b) The Secretariat shall be assigned to a volunteer Member at a meeting of the structure's Committee;
  - c) The Member hosting the Secretariat shall appoint the Regional Coordinator;
  - d) The Secretariat shall not be assigned to the Member which holds the Committee chairmanship;
  - e) The term of office of the Secretariat shall be three years;and
  - f) The Secretariat may be held consecutively more than once
4. All TBT Cooperation Structures shall grant Observer Status to each other.

**ARTICLE 13**  
**SADC TECHNICAL REGULATION LIAISON COMMITTEE (SADCTRLC)**

1. The SADC Technical Regulation Liaison Committee (SADCTRLC) shall promote and facilitate implementation of the SADC Technical Regulation Framework.
2. The aims of the SADCTRLC shall be to:
  - a) Prepare recommendations regarding SADC Technical Regulation policy issues relating to this Annex;
  - b) Develop and make available guidelines and other tools for the national implementation of the SADC Technical Regulation Framework in the Member States including the guidelines for technical regulations legislative instruments , Regulatory instrument, Regulatory Agencies and Conformity assessments;
  - c) Provide a forum for the identification of common technical regulations to be implemented in the Region;
  - d) Ensure that the functions are pursued in accordance with the aims and objectives of this Annex.
3. The functions of the SADCTRLC shall, *inter alia*, be to:
  - a) Develop mechanisms to facilitate equivalence and incorporation of harmonized text in technical regulations;
  - b) Request TBT Cooperation Structures to develop appropriate standards, conformity assessment procedures, and support Conformity Assessment Services for use in the regulatory domain;
  - c) Develop a common SADC position regarding WTO TBT Agreement issues for eventual use by Member State delegations at the WTO TBT Technical Committee; and
  - d) Be involved in mediation and conciliation in respect of technical regulations, if required, before Article 32 of the Protocol is invoked
  - e) Facilitate access to current databases and information of Member States technical regulations.
4. The SADCTRLC shall consist of representatives of government departments of SADC Member States that have been given the overall responsibility for compliance with the WTO TBT Agreement and the obligations set forth in this Annex.

## ARTICLE 14

### SADC TBT STAKEHOLDERS COMMITTEE (SADCTBTSC)

1. The SADC TBT Stakeholders Committee (SADCTBTSC) shall facilitate SADC stakeholder participation in SADC TBT matters in both the voluntary and regulatory domains.
2. The aim of SADCTBTSC shall, *inter alia*, be to advise the other TBT Cooperation Structures on matters in respect to this Annex, including priority areas for inclusion in their work programmes.
3. The functions of SADCTBTSC shall, *inter alia*, be to:
  - a) Facilitate input from organised stakeholders such as industry, private sector, Conformity Assessment Bodies, NGOs, consumers, and labour;
  - b) Inform other TBT Cooperation Structures about their requirements regarding technical regulations, standards, accreditation and metrology in the region;
  - c) Provide information on regional TBT matters as they affect and regional economic integration activities;
  - d) Interact with national stakeholders in order to use them to influence national legislators on the need to develop and use harmonised texts and technical regulations in the region; and
  - e) Promote the development and capacity building of Conformity Assessment service providers.
4. Ordinary Members of the SADCTBTSC shall be national delegations of representatives of organised stakeholders such as industry, private sector, Conformity Assessment Bodies, NGOs, consumers, labour and regulators having an interest in the matters contemplated in this Annex.

## ARTICLE 15 A

### SADC COOPERATION IN ACCREDITATION (SADCA)

1. The SADC Cooperation in Accreditation (SADCA) shall coordinate accreditation activities in the region and facilitate the national, regional and international recognition and acceptance of SADC accreditation infrastructure providing Member States with accreditation as a tool for facilitating trade and the protection of health and safety of the public and the environment in both the voluntary and regulatory areas.
2. The aims of SADCA shall be to;
  - a) Develop and maintain mutual confidence amongst Accreditation Bodies in the SADC region and internationally;
  - b) Achieve and maintain uniformity of accreditation activities in the SADC region and in line with international best practice ;
  - c) Promote and facilitate the use of accreditation as a tool for national governments to promote trade in accordance with;
    - (i) WTO TBT Agreement
    - (ii) This Annex
  - d) Promote consistent application of accreditation standards and facilitate their implementation;

- e) Ensure the provision of regional accreditation cooperation services which are independent, impartial, transparent, non-discriminatory and achieve and maintain a high level of integrity and confidentiality whilst ensuring ethical operations;
  - f) Facilitate access to current databases of recognised Accreditation Bodies within the region and internationally.
3. The functions of SADCA, *inter alia*, shall be to
- a) Facilitate the implementation of effective collaboration amongst accreditation bodies and any other institutions dealing with accreditation in the region and internationally;
  - b) Coordinate SADC projects on accreditation;
  - c) Represent SADC in, participate and liaise with the African Accreditation Cooperation (AFRAC);
  - d) Facilitate capacity development in the region in the area of accreditation.
  - e) Coordinate inputs to and liaise with regional and international organisations concerned with accreditation, such as the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF);
  - f) Establish, manage and maintain a Mutual Recognition Arrangement (MRA) between Accreditation Bodies in the region within the framework of and consistent with global MRAs.
4. SADCA Membership shall comprise:
- a) **Arrangement Membership** of SADCA which shall be open to a Member Accreditation Body which has successfully met the SADCA requirements to be a signatory of the SADCA Mutual Recognition Arrangement (MRA).
  - b) **Ordinary Membership** of SADCA which shall be open to the Government recognized Accreditation Bodies of SADC Member States and to National Accreditation Focal Points (NAFPs) nominated by a Member State's Government.
  - c) **Associate Membership** of SADCA which shall be open to Accreditation Bodies of non-SADC States or regional cooperation with objectives similar to those of SADCA, subject to the prior approval of the SADCA General Assembly.
  - d) **Stakeholder Membership** of SADCA shall be open to: Organised stakeholders such as industry, private sector Associations, Government representatives, Conformity Assessment Bodies, other regional and international cooperation in accreditation and any other SADC Committee with an interest in accreditation such as the SADC SPS Coordinating Committee and the SADC sector specific committees.

#### **ARTICLE 15 B SADC ACCREDITATION SERVICE (SADCAS)**

- 1. The SADC Accreditation Service (SADCAS) is a multi-economy Accreditation Body which provides accreditation services to those SADC Member States without their own Accreditation Bodies or whose Accreditation Bodies cover limited scopes or schedules.
- 2. SADCAS shall comply with international best practice while taking into account the specific circumstances, opportunities and needs of the Region and of the Member States.
- 3. The functions of SADCAS as well as its membership shall be as defined in the SADCAS Constitution and shall comply with international standards and guides on Accreditation Bodies.

**ARTICLE 16**  
**SADC COOPERATION IN LEGAL METROLOGY (SADCMEL)**

1. The SADC Cooperation in Legal Metrology (SADCMEL) shall facilitate the harmonisation of the national Legal Metrology regulations of the Member States and between SADC and other regional and international trading blocks.
2. The aims of SADCMEL shall be to:
  - a) Develop and maintain mutual confidence amongst Legal Metrology services in the Region;
  - b) Achieve and maintain equivalence of Legal Metrology activities in the Region;
  - c) Identify and remove technical and administrative barriers to trade in the field of measuring instruments and the sale of products where measurement forms the basis of the sale; and
  - d) Promote consistent interpretation and application of normative documents and propose actions to facilitate their implementation.
3. The functions of SADCMEL shall, *inter alia*, be to:
  - a) Deal with matters relating to the inspection functions associated with Legal Metrology legislation and regulations at any level of government;
  - b) Assure traceability to the SI units of measurement, for all measurements performed in Legal Metrology in the Region through the use of traceable verification standards ;
  - c) Establish tolerances and detailed requirements for traceability to national measurement standards acceptable to SADCMET for verification standards;
  - d) Reduce existing TBTs and Administrative Barriers to Trade (ABTs) to ensure equivalence of Legal Metrology legislation in the Member States pertaining to the sale of products;
  - e) Harmonise type approval requirements and testing techniques for instruments used for legal measurements (as provided for in national legal metrology legislation) through the promotion of OIML Recommendations and where these are not available, by developing Regional requirements;
  - f) Agree on the acceptability of particular international test and type approval certificates;
  - g) Harmonise verification (assizing) test procedures for instruments used for legal measurements (as provided for in national legal metrology legislation) through the promotion of OIML Recommendations and where these are not available, by developing Regional verification procedures;
  - h) Liaise with the International Organisation of Legal Metrology (OIML), AFRIMETS and other regional and international organisations concerned with Legal Metrology;
  - i) Organise and promote intra and inter-regional laboratory test inter-comparisons where these are required and practical and lobby for the duty-free movement of metrological artefacts used for inter-comparisons; and
  - j) Promote full or corresponding membership of the OIML amongst Member States.
4. Ordinary Membership of SADCMEL shall be open to:
  - a) The Legal Metrology services / institutions of Member States; or

- b) Where such a service / institution has not been established in a Member State, any other service / institution designated by its Minister responsible for Trade and Industry.
5. Associate Membership of SADC MEL shall be open to the institutions of non-SADC States which otherwise meet the criteria for Ordinary Membership, or regional organizations with objectives similar to those of SADC MEL, subject to the prior agreement of all the Ordinary Members.
6. A SADC MEL Committee shall be set up and shall consist of a delegate from each Member as described in (4) and (5) above.

**ARTICLE 17**  
**SADC COOPERATION IN MEASUREMENT TRACEABILITY (SADCMET)**

1. The SADC Cooperation in Measurement Traceability (SADCMET) shall coordinate metrology activities and services in the Region, in order to provide regional calibration and testing services, including regulatory agencies, with readily available traceability to the SI units of measurement, through legally defined and regionally and internationally recognized equivalent national measurement standards.
2. The aims of SADCMET shall be to:
- a) Promote closer collaboration amongst its Members in their work on measurement standards within the present decentralised regional metrology structure;
  - b) Improve existing national measurement standards and facilities and make them accessible to all Members;
  - c) Ensure that new national measurement standards and facilities developed in the context of SADCMET collaborations are accessible to all Members;
  - d) Contribute to the formulation of and participate in intra- and inter-regional systems to maintain equivalence to International Measurement Standards and to maintain traceability to the National Measurement Standards of the Member States to the SI units of measurement; and
  - e) Encourage the harmonisation of legislation relating to National Measurement Standards.
3. The functions of SADCMET shall, *inter alia*, be to:
- a) Coordinate SADC projects on the development of new national measurement standards;
  - b) Provide a forum for cooperation with regard to major investments in National Metrology Institutes in the Region;
  - c) Operate a database containing details of National Metrology Institutes services, technical personnel and the results of inter-comparisons of national measurement standards in the region;
  - d) Liaise with the International Bureau of Weights and Measures (BIPM) and other regional and international organisations concerned with measurement traceability, equivalence and the use of measurement units;
  - e) Represent SADC in AFRIMETS and participate in its activities
  - f) Organise and promote participation in both intra- and inter-regional laboratory test inter-comparisons; lobby for the duty free movement of metrological artefacts and samples for inter-comparisons and proficiency testing, and
  - g) Create an environment for the conclusion of Mutual Recognition Arrangements (MRAs) amongst qualifying National Metrology Institutes in Member States within the framework of and consistent with global MRAs being prepared by various international organisations in these fields.

4. Ordinary Membership of SADC MET shall be open to:
  - a) The National Metrology Institutes (NMIs) of Member States; or
  - b) Where such an institute has not been established in a Member State, any other institution holding custody of the top-level measurement standards in that Member State; or
  - c) Any other institution as designated by its Minister responsible for Trade and Industry.
5. Associate Membership of SADC MET shall be open to the institutions of non-SADC States which otherwise meet the criteria for Ordinary Membership, or regional organizations with objectives similar to those of SADC MET, subject to the prior agreement of all the Ordinary Members.
6. A SADC MET Committee shall be set up and shall consist of a delegate from each Member as described in (4) and (5) above.

**ARTICLE 18**  
**SADC COOPERATION IN STANDARDISATION (SADCSTAN)**

1. The SADC Cooperation in Standardisation (SADCSTAN) shall promote the coordination of standardisation activities and services in the Region, with the purpose of achieving harmonisation of texts in support of the objectives of the SADC Protocol on Trade.
2. The aims of SADCSTAN shall be to:
  - a) Promote regional cooperation in the development of harmonised texts;
  - b) Facilitate the exchange of information on existing standards and draft standards among Member States;
  - c) Facilitate the adoption of harmonised texts as national standards by Member States;
  - d) Promote the adoption of relevant international standards that are of interest to SADC Member States;
  - e) Facilitate the adoption of a common position by Member States in regional and international standardisation bodies; and
  - f) Encourage the harmonisation of legislation relating to Standards.
3. The functions of SADCSTAN shall, inter alia, be to:
  - a) Develop and adopt mechanisms for the formulation of harmonised texts;
  - b) Develop mechanisms to facilitate the adoption of harmonised texts as national standards;
  - c) Examine the needs for and develop regional product specifications;
  - d) Consult with relevant TBT Cooperation Structures and with industry in the development of relevant harmonised texts;
  - e) Develop harmonised texts in support of equivalent technical regulations;
  - f) Coordinate inputs to and liaise with ISO, IEC, ARSO and similar regional and international standardisation organisations;
  - g) Provide technical assistance and training in the management and planning of standards development, as well as standards information services;
  - h) Devise means to disseminate standards information, whilst respecting and adhering to the intellectual property rights and obligations of International standards setting bodies and other National Standards Bodies;
  - i) Develop regional mechanisms to facilitate compliance with the WTO TBT Agreement requirements; and
  - j) Facilitate access to current databases of the Member States National Standards Bodies in respect of standards and draft standards.
4. Ordinary Membership of SADCSTAN shall be open to:

- a) The National Standards Bodies of Member States; or
  - b) Where a National Standards Body has not been established in a Member State, any other institution designated by its Minister responsible for Trade and Industry.
5. Associate Membership of SADCSTAN shall be open to the institutions of non-SADC states which otherwise meet the criteria for Ordinary Membership, or regional organizations with objectives similar to those of SADCSTAN, subject to the prior agreement of all the Ordinary Members.
  6. A SADCSTAN Committee shall be set up and shall consist of a delegate from each Member State as described in (4) and (5) above.
  7. List of harmonised texts shall be submitted to the Committee of Ministers of Trade (CMT) for noting.
  8. Member States shall withdraw a conflicting standard and adopt the Harmonised Text within eighteen 18 months from submission to CMT.
  9. Where a Member State is developing a new standard and there is an existing harmonised text, it shall adopt the harmonised text.
  10. Should any Member State not adopt a harmonised text due to reasons specific to that State, the Member State shall give prior notice with sound justification to SADCSTAN, within three (3) months of finalisation of the Harmonised Text.
  11. Upon adoption by Member States, the Harmonised Text shall be revised, amended or withdrawn in accordance with SADCSTAN procedures as need arises, taking into consideration the latest developments.

**ARTICLE 19**  
**SADC TBT EXPERT GROUP (TBTEG)**

1. The SADC TBT Expert Group (TBTEG) shall support the SADC Secretariat in an advisory capacity in dealing with;
  - a) TBT matters not covered by the other TBT Cooperation Structures, and / or
  - b) Overlapping TBT issues in both the voluntary and regulatory domain.
2. The functions of SADC TBTEG shall, inter alia, be to:
  - a) Provide recommendations to the SADC Secretariat on any common TBT issues affecting the region either in respect of policy or operational issues;
  - b) Provide recommendations to all TBT Cooperation Structures on any relevant TBT issues either in respect of policy or operational issues;
  - c) Identify and initiate actions on TBT issues not directly addressed by the other SADCTBT Cooperation Structures; and
  - d) Facilitate the implementation, monitoring and reviewing of the obligations in terms of this Annex by SADC Member States and TBT Cooperation Structures;
3. The members of SADCTBTEG shall include:
  - a) The Chairpersons and Regional Coordinators of the TBT Cooperation Structures, and



- b) A country representative from each SADC Member State.
4. SADC TBTEG shall have no Associate Members.
5. The Chairperson shall be a representative of the Member State having the Chair of SADC in any particular year;
6. The SADC Secretariat shall act as the Secretariat of TBTEG.

### **ABBREVIATIONS**

In this Annex, unless the context otherwise requires:

AB	means Accreditation Body
ABT	means Administrative Barriers to Trade
AFRAC	means African Accreditation Cooperation
AFRIMETS	means Intra-Africa Metrology System
AFSEC	means African Electrotechnical Standardisation Commission
ARSO	means African Organization for Standardization;
BIPM	means Bureau International des Poids et Mesures (International Bureau of Weights and Measures);
CMT	means Committee of Ministers of Trade and Industry
IAF	means International Accreditation Forum;
IEC	means International Electro-technical Commission;
ILAC	means International Laboratory Accreditation Cooperation;
ISO	means International Organisation for Standardisation;
MOU	means Memorandum of Understanding;
MLA	means Multilateral Recognition Arrangement
MRA	means Mutual Recognition Arrangement
NGO	means Non-Governmental Organisation
NMI	means National Metrology Institute;
NSB	means National Standards Body;
NTB	means Non-Tariff Barrier;
OIML	means Organisation Internationale de Métrologie Légale (International Organisation of Legal Metrology);

SADC	means Southern African Development Community;
SADCA	means SADC Cooperation in Accreditation;
SADCAS	means the SADC Accreditation Service
SADCMEL	means SADC Cooperation in Legal Metrology;
SADCMET	means SADC Cooperation in Measurement Traceability;
SADCSTAN	means SADC Cooperation in Standardisation;
SADCTBTSC	means SADC TBT Stakeholders Committee;
SADCTRLC	means SADC Technical Regulations Liaison Committee;
SQAM	means Standardisation, Quality assurance, Accreditation and Metrology;
SADC TBTEG	means SADC TBT Expert Group;
TBT	means Technical Barrier to Trade;
WTO	means World Trade Organisation;
WTO TBT Agreement	means WTO Agreement on Technical Barriers to Trade

**DRAFT ANNEX X**

**CONCERNING CRITERIA FOR CONSIDERATION OF APPLICATIONS UNDER ARTICLE 3(1)(C)**

**PREAMBLE**

The High Contracting Parties

HAVING REGARD to the provisions of Article 3 (1) (c) of this Protocol;

HEREBY AGREE as follows;

**ARTICLE 1  
DEFINITIONS**

- "Applicant" means a Member State applying for a grace period
- "Grace period" means a measure which allows for a delay in implementation of a tariff phase down commitment by a Member State
- "like product" a product which is identical, that is to say alike in all respects, to the product under investigation; or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under investigation.

**ARTICLE 1  
OBJECTIVE**

The objective of this Annex is to elaborate criteria to be used by the CMT in consideration of applications for grace period made under the provisions of Article 3(1) (c) of this Protocol.

**ARTICLE 2  
PROCEDURE FOR APPLICATIONS**

- 1 The Applicant shall submit a written application to the Executive Secretary. The Executive Secretary shall circulate the application within fourteen (14) days of receipt.
- 2 Information contained in the application for grace period shall include:
  - (a) The reason for which the Applicant is applying, which shall be related to the implementation of the tariffs phase down commitment;
  - (b) Any information in support of the application, which shall include data on production and trade data showing the imports by value and volumes, prices and country of origin, both from within and outside SADC of the products and like products<sup>1</sup> for which the grace period is sought, covering at least the last three years;

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<sup>1</sup> *In determining whether the product has characteristics closely resembling those of the product under investigation, the CMT may consider any or all of the following factors, with no one or several of these factors necessarily giving decisive guidance –*

- (i) *the raw materials and other inputs used in producing the products;*
- (ii) *the production process;*
- (iii) *physical characteristics and appearance of the product;*

- (c) Tariffs applicable to those imports from third parties;
  - (d) The duration for which the grace period is sought and a proposal of how the new tariff phase down schedule will be implemented ;
  - (e) Detailed elaboration on how the threat to the product is being addressed in other preferential arrangements to which the Applicant is party;
  - (f) Indication of other initiatives undertaken or strategies to be implemented by the Applicant to address challenges faced by the industry concerned; and
  - (g) Additional information as required in Appendix 1.
- 3 Any Member State wishing to object to an application for grace period shall submit a written notification indicating the reasons for the objection to the Executive Secretary. The objection shall be communicated within thirty (30) days of circulation of the application. The application and objection received shall be submitted for consideration to the CMT at its next meeting.
- 4 In the event of an objection the Secretariat shall undertake or facilitate an independent assessment to determine the need for and conditions for granting grace period and possible impact of the grace period on other Member States and intra-SADC trade. The assessment should be completed within 30 days of receipt of an objection and the report availed to Member States ahead of a CMT meeting.
- 5 Should there be no written objection by any Member State in the manner provided in paragraph 3 above, the grace period shall be deemed to be provisionally granted as requested and the grace period shall be adopted by the CMT at its next meeting.
- 6 An application for extension of a grace period shall be submitted to the Executive Secretary 90 days before expiry. The Executive Secretary shall circulate the application within fourteen (14) days of receipt for consideration at the next CMT.
- 7 The provisions in paragraphs 2, 3, 4 and 5 respectively shall also be used in consideration of applications for extension of a grace period.

ARTICLE 3  
**CONSIDERATION OF APPLICATION**

- 1 The CMT shall consider the application, objections and the assessment report in arriving to a decision.
- 2 When considering applications for grace period, CMT shall take the following into account:
- (a) The extent and nature of injury and/or threat of injury to an existing industry in the applicant Member State, in terms of output levels, prices, profits, employment, return on investment;
  - (b) The causal link between imports from SADC member states and injury and/or threat of injury to the applicant's industry;

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- (iv) *the end-use of the product;*
  - (v) *the substitutability of the product with the product under investigation;*
  - (vi) *tariff classification; and/or*
  - (vii) *any other factor proven to the satisfaction of the CMT to be relevant."*

- (c) The likely injury to existing industries of the like products in other SADC Member States, should the grace period be granted, and ensure that other Member States would not be worse off as a result thereof;
- (d) The ability and willingness of the applicant to offer a tariff offer re-fit to affected Member States with a view to maintain the balance of offers in this Protocol; and
- (e) Any other relevant considerations.

ARTICLE 4

**CONDITIONS FOR GRANTING GRACE PERIODS**

- 1 A grace period shall be applied in a manner that does not discriminate between the Member States.
- 2 A grace period shall not be applied for to address fiscal budget or unnecessarily protect domestic industries.
- 3 In the event that a Member State applies for grace period for more than one product or tariff lines, separate applications shall be submitted for different products or tariff lines. A Member State shall not be granted grace period for a whole HS Chapter or Heading or more than five product lines at HS eight (8) digit level.
- 4 A grace period shall not be granted for a period exceeding three years.
- 5 Upon approval of grace periods by CMT, a Member State granted grace period shall submit annual reviews outlining status of the industry in question, progress on implementing measures to counter the measures necessitating request for grace period, and progress on implementing the decision of the CMT.
- 6 Extension will be considered only in exceptional circumstances and will be granted only once for the same application or tariff line.
- 7 A Member State may not make fresh applications for grace period for products that have been granted grace period before under this Annex.
- 8 Upon adoption, these criteria shall form an integral part of the protocol.

ARTICLE 5

**NON COMPLIANCE**

In the event of non-compliance with the terms and conditions of the derogation, a Member State that is adversely affected, may seek compensation or institute remedial measures.

**Appendix 1****SADC FORM FOR APPLICATION FOR GRACE PERIOD**

Name of Applicant Country:
Date:
1. Commercial description of product : a. Customs Classification Code (HS: Code) b. Category of product (as per the SADC Protocol on Trade tariff commitment schedules)
2. Reason for seeking a grace period:
3. Data Analysis: a. Annual quantity of domestic production b. Domestic prices of the product - at factory gate, wholesale and retail level c. Domestic production cost of the product (supported by company records) d. Annual quantity of imports, per supplying country <sup>2</sup> e. Sources of annual quantity of imports f. Annual quantity of imports from SADC, per supplying country g. If (a) SADC country(ies) supply more than 5% of the imports of this product, please attach jointly agreed records of consultations with such member state/s. h. Applied tariff rate from third parties (MFN and all other preferential arrangements) i. Statistical analysis to prove a link between SADC imports and injury to the domestic industry
4. Proposed duration of the Grace period:
5. Implementation Plan for the new tariff phase out, under the Grace period:
6. Action taken against third parties ( all other preferential arrangements):
7. Statistical analysis of how the proposed grace period would impact intra-SADC trade:

<sup>2</sup>Imports of the product from all countries globally.