

GENERAL EXPLANATORY NOTE:

[] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

_____ Words that are underlined with a solid line, indicate insertions in the existing rules

DRAFT AMENDMENT OF RULES in terms of the Customs and Excise Act, 1964

The following amendments are proposed in terms of sections 13, 46A, 49 and 120:

(a) By the substitution for the heading in rule 13.03 of the following heading:

“For the purposes of application of, the reduced rates of duty in the **[EU]** SADC EPA column of Part 1 of Schedule No 1, any provision of Part A of the Schedule to the General Notes to Schedule No 1 and the rules numbered 49A, to goods imported or exported by post, as the case may be, the following procedures shall apply”

(b) By the substitution in rule 13.03 for paragraph (a) of the following paragraph:

“(a) In the case of exemptions the necessary declarations may be made on the customs declaration of any parcel or on a sheet of paper attached to that document as provided in Article **[24]** 29 of the Protocol referred to in rule 49A.**[22]** 24**[(24)]**(29).”

(c) By the substitution in rule 13.03 for paragraph (b) of the following paragraph:

“(b) (i) If goods are imported and payment of any preferential rate of duty in the **[EU]** SADC EPA column of Part 1 of Schedule No 1 is claimed, but form EUR 1 or an **[invoice]** origin declaration is not produced, the postmaster shall detain the goods concerned and deliver them together with any documents produced to the **[Officer: Origin Administration]** officer responsible to perform the

rules of origin function at the office of the nearest Controller;

- (ii) such goods shall be stored in the State warehouse and for the purposes of clearance be entered for customs duty purposes at the office of the said Controller.”

(d) By the substitution in rule 13.03 for paragraph (d) of the following paragraph:

“(d) The postmaster shall retain and forward to the **[Officer: Origin Administration]** officer responsible to perform the rules of origin function at the office of the nearest Controller any form EUR1 or **[invoice]** origin declaration in respect of imported goods.”

(e) By the substitution in rule 13.04(b) for subparagraph (i) of the following subparagraph:

“(b) (i) If goods are imported and payment of any preferential rate of duty in the SADC column of Part 1 of Schedule No. 1 is claimed, but the SADC Certificate of Origin is not produced, the Postmaster shall detain the goods concerned and deliver them together with any documents produced to **[Officer: Origin Administration]** the officer responsible to perform the rules of origin function at the office of the nearest Controller;”

(f) By the substitution in rule 13.04 for paragraph (d) of the following paragraph:

“(d) the Postmaster shall retain and forward to **[Officer: Origin Administration]** the officer responsible to perform the rules of origin function at the nearest Controller’s office, any SADC Certificate of Origin in respect of imported goods;”

(g) By the insertion after rule 13.06 of the following rule:

“13.07 For the purposes of application of, the reduced rates of duty in the MERCOSUR column of Part 1 of Schedule No. 1, any provision of Part D of the Schedule to the General Notes to Schedule No. 1 and the rules numbered 49E, to goods imported or exported by post, as the case may be, the following procedures shall apply:

(a) In the case of exemptions the necessary declarations may be made on the customs declaration of any parcel or on a sheet of paper attached to

that document as provided in Article 23 of the protocol referred to in rule 49E.22(23).

- (b) (i) If goods are imported and payment of any preferential rate of duty in the MERCOSUR column of Part 1 of Schedule No 1 is claimed, but the certificate of origin is not produced, the postmaster shall detain the goods concerned and deliver them together with any documents produced to the officer designated to perform such function at the office of the nearest Controller;
- (ii) such goods shall be stored in the State warehouse and for the purposes of clearance be entered for customs duty purposes at the office of the said Controller.
- (c) If proof of origin documents are completed in respect of goods exported by post, the documents concerned must be delivered to the nearest Controller and the provisions of the rules numbered 49E shall *mutatis mutandis* apply to such goods.
- (d) The postmaster shall retain and forward to the officer designated to perform functions in the Controller's office in respect of postal imports and exports any certificate of origin for imported goods."

(h) By deletion of rule 46A2A

"[(a) On 31 December 2013 the Generalised System of Preferences (GSP) granted by the European Union and for which these rules provide, ceased to apply.

(b) With effect from 1 January 2014, the European Union will grant any GSP rates of duty that are more favourable than those under the Agreement on Trade, Development and Cooperation between the European Community and its Member States and the Republic (TDCA) on goods exported from the Republic under the TDCA if the goods have originating status in accordance with Protocol 1 to the TDCA.

(c) For the purposes of paragraph (b) –

- (i) the rules numbered 49A must be complied with in respect of any exports under the TDCA to Member States of the European Union;**
- (ii) transitional arrangements notified by the European Union that may affect exporters are prescribed in rule 49A.01A inserted after rule 49A.01(f).]"**

(ij) By the deletion in rule 49.01 (d) of the following subparagraphs:

(i) **["ACP" means African, Caribbean, and Pacific Group of States;**

(ii) **"EPA" means Economic Partnership Agreement;]**"

(k) By the substitution in rule 49.01 (d) for subparagraph (iii) of the following subparagraph:

"(iii) "form EUR1" refers to the Movement Certificate EUR1 and includes according to the context, for export purposes, the set of forms comprising the Movement Certificate EUR1, the application form and copy of the application form referred to in rule **[49A.14(14), (15)(1)(a)]** 49A.16(19).20(a); and"

(l) By the substitution in rule 49.04 for paragraph (a) of the following paragraph:

"(a) **[An accredited client as contemplated in section 64E who may clear imported goods]** Any person entering any imported goods electronically in accordance with the provisions of section 101A, the rules made thereunder and the user agreement is, subject to paragraphs (b) and (c) and, unless the Commissioner determines otherwise, in respect of any clearance of such, exempted from the requirement to submit at the time of clearance the proof of origin and any supporting documents prescribed in any rule if those goods are to qualify for the benefit of preferential tariff treatment in terms of any agreement to which the rules for section 49 relate."

(m) By deletion in rule 49.04 of paragraph (c)

"(c) **[Any expression used in these rules with reference to the Protocol or the Agreement shall, unless the context otherwise indicates, have the meaning assigned thereto in the Protocol or provisions of the Act relating to such Protocol or in the said Agreement or in the Notes to Part A of the Schedule to the General Notes to Schedule No. 1.]**"

(n) By the substitution for the heading in rule 49A.01A of the following heading:

"Transitional arrangements for application of the procedures contemplated in these rules in respect of **[goods]** procedures to which Agreement on Trade, Development

and Co-operation between the European Community and the Republic of South Africa (TDCA) specified in rules numbered 49A.01 applied.”

(o) By the substitution in rule 49A.01A for paragraph (b) of the following paragraph:

“(b) Exporters, approved exporters and producers already registered under the TDCA need not register in terms of rule 49A.01(f) and a registration under that Agreement must be regarded **[to be compliance with that rule]** as registration for the purposes of the SADC EPA.”

(p) By the insertion after rule 49A.04(3),(4),(5),(6) of the following paragraphs:

“Bilateral Cumulation

(a) Whenever originating status is claimed for any product in which materials originating in the European Union or any SADC EPA State have been incorporated, the exporter shall, in addition to any other documentation that may be elsewhere specified in this Protocol or in these rules keep, available for inspection all appropriate records to prove compliance with the conditions for bilateral cumulation as contemplated in Article 3.

(b) Bilateral cumulation with a particular country or territory will be applied from the date of entry into force of such cumulation made public by each party as contemplated in paragraph 14 Article 4.

(c) The list of materials to which Article 4 applies is published as Appendix 1 of these rules and shall be constantly revised to ensure compliance with paragraphs 15(c), 16(a) and 16(b) of this Article.”

(q) By the insertion after rule 49A.04(3),(4),(5),(6) of the following paragraphs:

“Diagonal cumulation

(a) Whenever originating status is claimed for any product in which materials originating in the SADC EPA State, the European Union or other ACP EPA States or OCT have been incorporated, the exporter shall in addition to any other documentation that may be elsewhere specified in the Protocol or in these rules

keep, available for inspection all appropriate records to prove compliance with the conditions for diagonal cumulation as contemplated in Article 4.

(b) The entry into force of cumulation with a particular country or territory provided for in Article 4 shall be published, for the purposes of paragraph 14 of that Article, as an amendment to this rule.”

(r) By the insertion after rule 49A.04(3),(4),(5),(6) of the following paragraphs:

“Cumulation with respect to materials which are subject to Most Favoured Nation (MFN) duty free treatment in the European Union

(a) Whenever originating status is claimed for any product in which non-originating materials **[are subject to MFN duty free treatment in the European Union]** have been incorporated, the exporter shall, in addition to any other documentation that may be elsewhere specified in the Protocol or in these rules keep, available for inspection all appropriate records to prove compliance with the conditions for cumulation as contemplated in Article 5.

(b) (i) cumulation in terms of Article 5 may be applied when the list of materials is available from the Committee referred to in paragraph 3 of that Article; and
(ii) the list will be published as an Appendix to these rules and, unless an effective date is stated by the Committee, it will apply to the materials specified therein from the date it is so published.”

(s) By the insertion after rule 49A.04(3),(4),(5),(6) of the following paragraphs:

“Cumulation with respect to materials originating in other countries benefiting from preferential duty-free quota-free access to the European Union

(a) Whenever originating status is claimed for materials originating in other countries or territories benefiting from the special arrangement for least developed countries and duty-free quota-free access to the European Union under the general provisions of the generalized system of preferences if incorporated in products obtained in a SADC EPA State, the exporter shall, in addition to any other documentation that may be elsewhere specified in the Protocol or in these rules keep, available for inspection all appropriate records to prove compliance with the conditions for cumulation as contemplated in Article 6.

(b) Cumulation in terms of this Article may only be applied from the date and to the extent the requirements referred to in the Article have been complied with the necessary information and effective date or dates published in these rules.”

(t) By the substitution in rule 49A.11(14) for paragraph (a) of the following paragraph:

“(a) For the purposes of this Article “exported” includes goods removed to any **[SACU] SADC EPA State** other than the Republic.”

(u) By the substitution in rule 49A.12(15) for paragraph (a) of the following paragraph:

“(a) An application for a non alteration certificate if an importer or exporter wishes to perform any of the operations referred to in the Article must be submitted to the Manager responsible for the administration of the rules of origin section in Head Office.”

(v) By the substitution in rule 49A.22(27)(a) for subparagraph (i) of the following subparagraph:

“(a) **[(i)]** Any person who intends to claim preferential tariff treatment must when clearing goods reflect [-] the certificate of origin or origin declaration number and date of issue in the relevant field provided for that purpose on the bill of entry.”

(w) By the deletion in rule 49A.22(27) of the following items:

“[(aa) the certificate of origin number and date of issue or (bb) the origin declaration number and date of issue.]”

(x) By the substitution in rule 49A.22(27)(b) for subparagraph (i) of the following subparagraph:

“(b) (i) Any proof of origin including supporting documents in respect of imported goods must **[be]**, as circumstances require–

(aa) [be submitted upon request to the Controller or any officer designated to perform such function at the office of the Controller

within the time indicated in such request, if entered as contemplated in section 49(9)] be produced at the time of entry for home consumption;

(bb) [if imported by post, submitted to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13; and] if entered as contemplated in section 49(9), be submitted upon request to the Controller within the time indicated in such request; or

(cc) [in English and if not so a translation must be attached thereto.”] if a refund application as contemplated in section 76(2)(h), be submitted with the application for refund.”

(y) By the substitution in rule 49A.22(27) for paragraph (c) of the following paragraph:

“(c) Every certificate of origin produced in respect of imported goods shall have attached to it a statement by the importer to the effect that the goods specified therein meet the conditions required for fulfilment of the requirements of **[Protocol] Annex I.**”

(z) By the substitution in rule 49A.25(30) of the following rule:

(a) For the purposes of cumulation as contemplated in Article 30, the exporter of the originating materials shall provide evidence in the form of:

(i) Movement Certificate EUR1,

(ii) an origin declaration, or

(iii) the suppliers' declaration, a specimen of which appears in Annex VA given by the exporter in any of these countries or territories or in the EU from which the materials came. When article 6(1) is applied the evidence of originating status shall be given by Form A or a statement of origin.

(b) A supplier's declaration a specimen of which appears in Annex VB shall be provided as evidence of the working or processing carried out in a SADC EPA State, in the European Union, in another ACP EPA State or in an OCT.

(c) A supplier's declaration may either be in print or electronic format, shall bear the signature of the responsible official of supplying company approved by the

customs authorities and comply with any conditions imposed by the customs authorities.

(d) A supplier's declaration must reflect the suppliers contact details and full description of the goods.

(e) An application to issue a long term suppliers declaration valid for a period not exceeding one year must be accompanied by a valid long term contract and submitted to the Manager responsible for the administration of the rules of origin section in Head Office.

(f) An application to issue a retroactive long term supplier's declaration stating any valid reasons may be made to the Manager responsible for the administration of the rules of origin section in Head Office.

(g) The customs of authority may revoke any long term supplier's declaration issued with retroactive effect if circumstances under which it was issued have changed or when inaccurate or false information was provided."

(aa) By the insertion in rule 49A.30(35) of the following rule:

"The date of compliance for originating products to benefit from the preferential tariff treatment in terms of the Agreement at the time of import declaration shall be notified in a rule amendment."

(bb) By the insertion after rule 49A.31(36) of the following paragraph:

"The SADC EPA States and the EU must provide EUR1 stamp impressions through the European Commission which shall then inform all the Parties for the purpose of the Agreement."

(cc) By the substitution in rule 49.34(38) of the following rule number:

"49A.34(38)."

(dd) By the substitution in rule 49A.47.02 for paragraph (d) of the following paragraph:

"(d) Where goods are invoiced in a foreign currency the rate of exchange for the

purposes of determining whether they qualify under the rules of origin shall be that applying at the time of shipment as contemplated in **[section 73] rule 120.09A.**”

(ee) By the substitution for the heading in rule 49A.48.03 of the following heading:

“Export to the European Union of goods subject to tariff quotas as contemplated in [Annex I], Section B of Part I of Annex I to [Protocol 4 of] the Agreement –

(ff) By the substitution in rule 49A.48.03 (a)(ii) for (aa) of the following item:

“(aa) approved exporter status is granted on application form DA 185.4A2 and Annexure DA 49A.02; and”

(gg) By the deletion in rule 49A.48.03(a)(iii) of item (bb):

“[(bb) in the case of cut flowers referred to in paragraph (b) any balance is available and allocated at the time of presentation of a valid bill of entry export and a duly completed form EUR1 at the office of the Controller;]”

(hh) By the deletion in rule 49A.48.03 of paragraph (b):

“[(b)Permits for flowers of heading 06.03 which are required to be applied for to customs and excise as stated in the notice shall be issued at the office of the Controller where the export bill of entry is presented.]”

(ii) By the substitution in rule 49A.48.03 for paragraph (a) of the following paragraph:

“(a) Any allocations shall be made under the control of an officer designated by the Manager responsible for the administration of the rules of origin section in Head Office on the first come first served basis according to the electronically stored balances available at the time a valid bill of entry export and a valid export permit with a duly completed form EUR1 are presented.”

(jj) By the deletion in rule 49A.48.03 of paragraph (d):

“[(d) The information regarding the allocation of the tariff quota and balance

available shall be printed and filed with the application form EUR1 in respect of each export bill of entry at the office of the Controller.]”

(kk) By the substitution in rule 49A.48.03(h) for subparagraph (iv) of the following subparagraph:

“(iv) The provisions of paragraph [(9)] (g) apply *mutatis mutandis* in respect of permits issued by the National Department of Agriculture, Forestry and Fisheries of which the quantity is insufficient for the consignment concerned.”

(ll) By the substitution for the heading in rule 49A.49.04 of the following heading:

“Imports from the European Union of goods subject to tariff quotas as contemplated in [Annex II], Section B of of Part I of Annex II to [Protocol 4 of] the Agreement –“

(mm) By the substitution in rule 49B.10(9)7 of the following rule:

“(a) Any person who intends to claim preferential tariff treatment must when clearing goods reflect the certificate of origin number and date of issue in the relevant field provided for that purpose on the bill of entry.

(b) (i) Any proof of origin including supporting documents in respect of imported goods must, as circumstances require–

(aa) be produced at the time of entry for home consumption;

(bb) if entered as contemplated in section 49(9), be submitted upon request to the Controller within the time indicated in such request; or

(cc) if a refund application as contemplated in section 76(2)(h), be submitted with the application for refund.

(c) Every certificate of origin produced in respect of imported goods shall have attached to it a statement by the importer to the effect that the goods specified therein meet the conditions required for fulfilment of the requirements of Annex I.”

(nn) By the substitution in rule 49B.15 for the words preceding paragraph (b) of the following words:

“Any person **[entering any goods or goods for export for which preferential treatment is claimed shall include in the clearance documents]** who intends to claim preferential treatment must submit clearance documents as contemplated in rule 49A.22(27) in respect of-“

(oo) By the substitution of rule 49D.22(24) of the following rule:

“(a) Any person who intends to claim preferential tariff treatment must when clearing goods reflect the certificate of origin number and date of issue in the relevant field provided for that purpose on the bill of entry.

“(b) (i) Any proof of origin including supporting documents in respect of imported goods must, as circumstances require-

(aa) be produced at the time of entry for home consumption;

(bb) if entered as contemplated in section 49(9), be submitted upon request to the Controller within the time indicated in such request; or

(cc) if a refund application as contemplated in section 76(2)(h), be submitted with the application for refund.

“(c) Every certificate of origin produced in respect of imported goods shall have attached to it a statement by the importer to the effect that the goods specified therein meet the conditions required for fulfilment of the requirements of Annex V.”

(pp) By the substitution in rule 49D.36(02) for the words preceding paragraph (a) of the following words:

“Any person **[entering any goods or goods for export for which preferential treatment is claimed shall include in the clearance documents]** who intends to claim preferential treatment must submit clearance documents as contemplated in rule 49A.22(27) in respect of-“

(qq) By the substitution in rule 49E.19(20) for paragraph (c) of the following paragraph:

“(c) For the purposes of paragraph 3 of Article 20, any proof of origin belatedly presented will be accepted only if the goods have been duly entered before expiry of the period of validity of **[four]** six months from the date of issue referred to in paragraph 1 of Article 20.”

(rr) By the addition in rule 49E.36 after paragraph (c) of the following paragraphs:

“(d) Tariff rate quotas for imported goods are specified in Note M of the General Notes to Schedule No. 1 and are, as provided, allocated on the first-come-first-served basis at the time of presentation of a valid bill of entry entering the goods for home consumption supported by the required proof of origin document, any permit from the National Department of Agriculture, if applicable, and an application for such quota.

“(e) Any allocation shall be made under the control of any officer designated to perform such function in the office of the Controller according to the electronically stored balances available at the time the bill of entry is processed.”

(ss) By the substitution in item 202.00 of the Schedule to the rules for form DA 185.4A2 of the following form:

“DA 185.4A2 Registration Client Type 4A2 - Exporter (Local or Foreign)”