

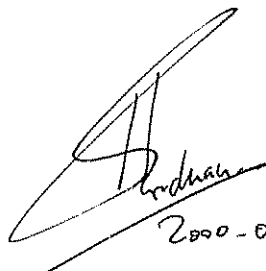
## SOUTH AFRICAN REVENUE SERVICE

No. R892)

(2000-9-07)

CUSTOMS AND EXCISE ACT, 1964  
AMENDMENT OF RULES (NO. DAR/25)

Under Sections 49 and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto.



2000-09-01

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

## SCHEDULE

By the addition of the following rule to the rules for section 13:

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

- (a) In the case of exemptions referred to in rule 49B.10(9)8 the necessary declarations may be made on the customs declaration of any parcel or on a sheet of paper attached to that document;

- (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 the Officer: Origin Administration 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 49B shall *mutatis mutandis* apply to such goods.
- (d) the Postmaster shall retain and forward to the Officer: Origin Administration at the nearest Controller's office, any SADC Certificate of Origin in respect of imported goods;
- (e) these procedures shall apply *mutatis mutandis* to goods imported under the provisions of item 460.11 of Schedule No. 4.

by the insertion of rule 49 B after rule 49 A of the Rules for Section 49 of the Act:

## RULE 49 B

### TREATY OF THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY AND PROTOCOLS CONCLUDED UNDER ARTICLE 22 THEREOF

#### RULES IN RESPECT OF ANNEX I (CONCERNING THE RULES OF ORIGIN FOR PRODUCTS TO BE TRADED BETWEEN THE MEMBER STATES OF THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY) OF THE PROTOCOL ON TRADE OF THE TREATY

- 49B.01
- (a) The rules numbered 49B are rules contemplated in section 49(6)(b) in respect of the Treaty of the Southern African Development Community and Annex I of the Protocol on Trade of the said Treaty.
  - (b) Where any rule reflects a number or numbers in brackets after a serial number, for example, 49B.01(5), the number in brackets refers to the Rule number or numbers of Annex I of the Protocol on Trade "Concerning the Rules of Origin for Products to be Traded between the Member States of the Southern African Development Community". Any additional digit or letter after the number refers to subdivisions of the rule.
  - (c) Any expression used in these rules with reference to Annex I of the Protocol on Trade shall, unless the context otherwise indicates, have the meaning assigned thereto in the said Annex or provisions of the Act relating to such Annex or Protocol or in the Notes to Part B of the Schedule to the General Notes to Schedule No. 1.

- (d) The expression –
- (i) "Annex I" includes, according to its context, Annex I and its appendixes of the Protocol on Trade;
  - (ii) "goods" as used in these rules means, depending on the context, "goods" or "products" or "material" as defined in Annex I;
  - (iii) "Member State" means a Member State of the SADC;
  - (iv) "Protocol" means the Protocol on Trade;
  - (v) "Rule" refers to the specified numbered Rule of Annex I;
  - (vi) "SCO" refers to the SADC Certificate of Origin and includes according to the context, for export purposes, the set of forms comprising the SADC Certificate of Origin (SCO), the application form and copy of the application form referred to in rule 49B.10(9)1(a);
  - (vii) "SACU", as defined in Annex I, 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;
  - (viii) "SADC" means Southern African Development Community.
- (e)
- (i) Subject to section 3(2), any power, duty or function contemplated in section 49(6), is delegated in terms of section 49(6)(b)(vi) to the extent specified in these rules to the Manager: Origin Administration, the Controller or the Officer: Origin Administration or any officer designated to perform such function;
  - (ii) For the purposes of subparagraph (i) any Officer: Origin Administration or any other officer authorised by the Manager: Origin Administration or by any Controller may exercise any power or duty or function conferred or

imposed on any authority in Annex 1 or on any officer in terms of any other provision of this Act for the purpose of verification of the originating status of goods or the fulfilment of the other requirements of Annex 1.

## ANNEX I

### 49B.02(1) RULE 1 – DEFINITIONS AND INTERPRETATION

No rule.

### 49B.03(2) RULE 2 – ORIGIN CRITERIA

#### 49B.03(2)1 General requirements (Consigned directly)

(a) Notwithstanding the requirement that originating goods must be transported directly from one Member State to a consignee in another Member State, goods imported into the Republic consisting of one single consignment may be transported through other territories with, should the occasion arise, transshipment or temporary warehousing in such territories, provided that they remain under the control of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

Originating products may be transported by pipeline to the Republic across a territory other than that of a Member State.

(b) Evidence that the conditions set out in paragraph (a) have been fulfilled shall be supplied at the time of entry by the production of:

(i) a single transport document covering the passage from the exporting Member State through the country of transit; or

- (ii) a certificate issued by the customs authorities of the country of transit,
  - (aa) giving an exact description of the products;
  - (bb) stating the dates of unloading and reloading of the products and full particulars of the means of transport used, and
  - (cc) certifying the conditions under which the products remained in the transit country, or
- (c) failing these, any substantiating documents.

49B.03(2)2 Sufficiently worked or processed products

For the purposes of paragraph 2(c) of Rule 2, Appendix V of 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 Member States) provides for procedures applicable to exportations to and importations into the SACU of goods to which the arrangements relate. Rebate item 460.11 of Schedule No. 4 provides for a rebate of duty in respect of importation of the goods concerned.

49B.03(2)3 Cumulative Treatment

Whenever originating status is claimed for any product in which materials originating in any Member State have been incorporated, the exporter shall, in addition to any other documentation that may be elsewhere specified in Annex I or in these rules keep available for inspection all appropriate records to prove the working or processing carried out in each Member State.

49B.04(3) RULE 3 – PROCESSES NOT CONFERRING ORIGIN

No rule.

49B.05(4)      RULE 4 – GOODS WHOLLY OBTAINED IN THE MEMBER STATES

Goods wholly obtained must be so declared on the SCO and any entry for export.

49B.06(5)      RULE 5 – UNIT OF QUALIFICATION

(a)      Where any importer requests approval to import goods contemplated in this Rule in more than one consignment application shall be in writing and –

(i)      in the case of any machine provided for in Additional Note 1 of Section XVI of Part 1 of Schedule No. 1, apply to the Director: Tariff and Valuation at Head Office and forward a copy of the application to the Manager: Origin Administration;

(ii)     in the case of other unassembled or disassembled goods the application shall be made to the Manager: Origin Administration stating a full description of the goods, the tariff heading, the number of consignments and include pro-forma invoices of each.

(b)      Copies of the proof of origin shall be presented with each bill of entry for the importation of consignments subsequent to the first consignment and such bill of entry shall reflect the number and date and place of entry of the first bill of entry.

49B.07(6)      RULE 6 - SEPARATION OF MATERIALS

For the purpose of this Rule, until the conditions agreed upon by the Committee of Ministers envisaged in paragraph 2 of the Rules are available and have been enacted into law as contemplated in section 49(9), any person who produces goods for export to a Member State and who intends introducing an appropriate accounting system to replace the separation of originating and non-originating materials shall comply with the following conditions:

- (a) Application shall be made to the Manager: Origin Administration in writing;
- (b) such person must produce proof –
  - (i) that he/she regularly exports the manufactured goods to Member States;
  - (ii) of the impracticability of physical separation of the goods; and
  - (iii) of the identity and interchangeability of the originating and non-originating materials concerned which means that the originating and non-originating materials must be of the same kind and commercial quality and possess the same technical and physical characteristics, and cannot be distinguished from one another for origin purposes when incorporated into the finished product on account of any markings or other identification thereon.
- (c) The accounting system and other records must –
  - (i) in accordance with the Rule, be adequate to ensure that no more goods are deemed to originate in the Republic than would have been the case if the producer had been able to physically separate the materials;
  - (ii) make a clear distinction between originating materials and non-originating materials acquired and/or left in stock; and
  - (iii) show that the manufacturer's stocks of originating materials exceeded the non-originating materials at the end of the accounting period which should date back 12 months from the time of any export, or delivery for export to, an exporter.



JB.08(7)      RULE 7 – TREATMENT OF MIXTURES

No rule.

49B.09(8)      RULE 8 – TREATMENT OF PACKING

- (a)      Where in accordance with General Rule 5 of the Harmonized System packing is included with the goods for classification purposes or it is included in the dutiable mass as contemplated in Note D of the General Notes to Schedule No. 1, it shall be included for the purposes of determining origin in terms of this Rule.
  
- (b)      Containers defined in section 1(2) of the Act or other imported containers, as the case may be;
  - (i)      shall be subject to the provisions of section 38;
  
  - (ii)     may be entered under heading 86.09 of Part 1 of Schedule No. 1 if classifiable thereunder;
  
  - (iii)    may be entered under item 480.05 of Schedule No. 4 on compliance with the provisions of the item.

49B.10(9)      RULE 9 – DOCUMENTARY EVIDENCE

49B.10(9)1     Issue of the SADC Certificate of Origin (SCO)

- (a)      Numbered sets of SADC Certificate of Origin (SCO) contained in Appendix II to Annex I (pages 1 (original) and 2 (duplicate)) and the Application for SADC Certificate of Origin (SCO) (page 3) and Declaration by the Exporter (page 4) have been printed and are available from the South African Revenue Service at the offices of Controllers specified in paragraph 200.03 of the Schedule to the rules on application by any exporter who wishes to export originating products to the Member States of the SADC.

- (b) (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller;
  - (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss;
  - (iii) The SCO, export bill of entry and supporting documents shall be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Manager: Origin Administration otherwise determines.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the SCO and the application form;
  - (d) The authorisation must be completed on the exporter's own letter-headed paper and confirm full details of the agent's name and address and the full names of the staff who will complete and sign the said forms.
  - (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in Annex I and a duplicate set, certified by him, has been furnished to the agent.
  - (f) The letter of authority shall be submitted together with the completed SCO and application form and will be retained by the Controller.
  - (g) Completion of the SCO or invoice declaration is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of the Annex.
  - (h) The SCO must be completed to be authentic in accordance with the instructions in the notes thereto and the following requirements:

- (i) If the certificate is being made out in manuscript, it must be made out in ink and capital letters must be used throughout;
- (ii) the numbered boxes of the certificate must be completed as follows:

Box 1

The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic. In addition to the name and address of the exporter, also insert the registration number referred to in rule 39.08 in the space provided.

Box 2

Insert the name and office address of the consignee in the country of destination.

Box 3

Insert one of the following endorsements where necessary:

- (i) "Duplicate" (where application is made for a duplicate SCO)
- (ii) "Issued retrospectively" (where the goods have been exported before application is made for a certificate and application is made for the retrospective issue thereof)

Box 4

Insert the details which will be inserted on the export bill of entry.

Box 5

No rule.

#### Box 6

- Enter item numbers and identifying marks and numbers on the packages in the space on the left-hand side of the box.
- If the packages are not marked, state "No marks and numbers".
- The quantity stated must agree with the quantities on the invoice, for example 100 cartons.
- If the packages are addressed to the consignee, state the address.
- No space must be left between items.
- Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate.
- The goods must be identified by giving a reasonably full commercial description and in order for the appropriate tariff heading to be determined, for example, electric insulators (8546) or watch cases and parts (9111). The heading must be stated next to the description.
- For goods in bulk that are not packed, insert "In bulk".
- If both originating and non-originating goods are packed together, describe only the originating goods and add at the end "Part contents only".

- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be marked with an asterisk (\*) on the invoice and the following statement must be inserted in box 6 below the description of the goods:

"Goods marked \* on the invoice are non-originating and are not covered by this form SCO".

- Draw a horizontal line under the only or final item in box 6 and rule through the unused space with a Z-shaped line or otherwise cross it through.

#### Box 7

Insert the tariff heading (four digit code) of Part 1 of Schedule No. 1 in respect of each line of goods described in Box 6.

#### Box 8

Insert "P" for goods wholly produced or "S" for goods with imported inputs.

#### Box 9

Insert metric measures.

#### Box 10

Invoices must –

- (a) be serially numbered and the dates and numbers reflected in this box;
- (b) reflect the SCO number or mention the office and date of issue;
- (c) contain a full description of the goods, the tariff heading and reference numbers or other particulars for identification of the goods in the exporter's records; and
- (d) state the country in which the goods originate.

Box 11

- The initials and surname and capacity of the person signing the certificate must be stated below the signature.
- If the certificate is signed on behalf of a clearing agent the name of the clearing agent must be stated below the signature.
- The signature must not be mechanically reproduced or made with a rubber stamp.

Box 12

- The officer must print his/her initials and surname below his/her signature and date-stamp the certificate in the space provided by imprinting thereon the special stamp issued to him/her for this purpose.

Box 13

- Insert the bill of entry number and date and other particulars.
- Follow the instructions in respect of Box 12.

(i) No certificate shall be valid –

- (i) If any entered particulars are incorrect and not in accordance with these rules;
- (ii) if it contains any erasures or words written over one another;
- (iii) if altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are initialled by the person who completed the certificate and endorsed by the officer who signs the certificate.

- (j) For the purposes of verification of the originating status of goods declared in the application for the SCO, the exporter, whether the manufacturer in whose undertaking the last working or processing was carried out or an exporter who has bought in the goods from a manufacturer for exportation in the same state or who re-exports in the same state goods imported from a Member State must produce to an officer at any time including at the time of presentation of such application, as the officer may require, documents proving the originating status of the goods exported, including –
- (i) accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned, the SCO or any other proof of origin document proving the originating status of materials used and declarations by the producer;
  - (ii) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
  - (iii) documents proving the value of materials used and added value;
  - (iv) costing records showing the calculation of the ex-works price defined in Annex I.
- (k) The requirements for signing the declaration on the SCO are also applicable in respect of the application form which –
- (i) must bear the original signature of the person signing the declaration;
  - (ii) must be signed by the same person who signed the declaration on the SCO;
- (l) In the space where it is stated "Specify as follows the circumstances which have enabled these goods to meet the above conditions" in the Declaration by the Exporter the exporter must state –

- (i) if exported goods are manufactured / wholly obtained by the exporter:

"The goods shown on the form SCO were manufactured / wholly obtained by the exporter and classified under \_\_\_\_\_ (four digit tariff heading). They fulfil the appropriate qualifying provisions of origin of Annex I.

- (ii) If the exporter has bought in goods for export in the same state –

- (aa) goods manufactured / wholly obtained in the Republic –

"The goods shown on the form SCO were manufactured / wholly obtained in the Republic and are classified under \_\_\_\_\_ (four digit tariff heading). Evidence of their originating status as required by Annex I is held by me"; or

- (bb) Goods manufactured / wholly obtained in a Member State –

"The goods were imported from \_\_\_\_\_ (name of Member State) under cover of attached \_\_\_\_\_ (state proof of origin form SCO) and are being exported in the same state. The goods are classified under \_\_\_\_\_ (four digit tariff heading)."

- (iii) in the case of subparagraphs (i) and (ii)(aa), the applicable list rule in Annex I.

- (m) "Supporting documents attached" must include –

- (i) a copy of the bill of lading, air waybill or other transport document, a copy of the export invoice or packing list which must bear reference numbers or other particulars sufficient to allow them to be identified in the exporter's records;



- (ii) the documents referred to in paragraph (j); and
- (iii) the document referred to in Rule 49B.10(9)9(a).

..

49B.10(9)2 SADC Certificate of Origin (SCO) issued retrospectively

- (a) An SCO may be issued exceptionally after exportation of the goods to which it relates if –
  - (i) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
  - (ii) it is demonstrated to the satisfaction of the Officer: Origin Administration that the SCO was issued but was not accepted at importation in the Member State of destination for technical reasons.
- (b) The exporter may only apply for the retrospective issue of the SCO after exportation at the office of the Controller where the goods were exported.
- (c) The application shall be in writing and shall be supported by –
  - (i) a completed SCO and its application form of which –
    - (aa) box 3 shall be endorsed "issued retrospectively"; and
    - (bb) if the SCO has not been issued previously for the goods concerned, the declaration by the exporter shall include a statement to this effect;
  - (ii) copies of the bill of entry export, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
  - (iii) proof that the goods comply with the provisions of origin of Annex I;

- (iv) full reasons of the circumstances in which a retrospectively issued SCO is required.
- (d) Before such application is considered an officer will first conduct an examination of the exporter's file for the purpose of verification that the information in such file agrees with the information supplied in the application.
- (e) The application for the issue of the SCO retrospectively shall be considered by the Manager: Origin Administration in Head Office.

49B.10(9)3 Issue of a Duplicate SCO

- (a) In the event of theft, loss or destruction of an SCO, the exporter may apply for a duplicate made out on the basis of the export documentation in possession of the Controller at the place where the goods were entered for export.
- (b) The exporter shall furnish to the Officer: Origin Administration at the office of the Controller where the original SCO was issued –
  - (i) a written statement giving reasons why a duplicate is required and the number and date of the original SCO;
  - (ii) a completed SCO and application form reflecting the word "Duplicate" and the number and date of the original form in Box 3;
  - (iii) copies of the bill of entry export, export invoice, bill of lading, air waybill or other transport documents together with any other supporting evidence produced when the original certificate was issued, as prescribed in Rule 49B.10(9)1(m).
- (c) The Officer: Origin Administration shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts or circumstances considered when the original SCO was issued.

- (d) If the officer decides to certify the duplicate SCO, he shall stamp and sign it in the same way as any other SCO but in Box 13 after the word "Date" he shall insert the words "from which this duplicate certificate is valid" and thereafter the date of the original SCO.

49B.10(9)4 Verification of the Statement contained in the SADC Certificate of Origin (Rule 9(3) and (4))

- (a) Any SCO in respect of imported goods requiring verification shall be submitted on the form Verification of Origin contained in Appendix IV to Annex I to the customs authorities of the Member State where the SCO was issued by the Manager: Origin Administration.
- (b)
  - (i) If any Officer: Origin Administration has reasonable doubts about an SCO, the originating status of the goods concerned or the fulfilment of the other requirements of Annex I such officer may, unless the Manager: Origin Administration otherwise determines, allow release only on the furnishing of adequate security pending a report by the customs authorities of the Member States on the originating status of the goods
  - (ii) If the goods concerned are subject to any prohibition in terms of any other law, the goods shall be dealt with as provided in section 113(8).
  - (iii) If no reply is received within three months as provided for in Rule 9(3), the Manager: Origin Administration may refuse entitlement to preferences in respect of the goods under investigation and any future consignments of such goods
- (c) If a request is received from the customs authorities in any Member State, the exporter, producer or any other person contemplated in section 4(12A) shall produce all documents and furnish the information necessary to determine the authenticity of proofs of origin, the originating status of the goods concerned or the fulfilment of the other requirements of Annex I.

49B.10(9)6 Deposit with Secretariat of the SADC of Particulars Specified in Rule 9(6)

- (a) The stamp provided for issuing forms SCO must be used only for that purpose and only such stamp shall be used for such forms.
- (b) The Manager: Origin Administration shall be responsible for furnishing the Secretariat of the SADC with the particulars regarding the issuing of SADC Certificates of Origin specified in Rule 9(6).

49B.10(9)7 Submission of Proof of Origin

- (a) Any proof of origin in respect of imported goods must be –
  - (i) delivered to the Controller at the time the goods are entered for home consumption or deemed to have been entered for home consumption; or
  - (ii) if imported by post, delivered to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13;
  - (iii) must be in English and if not so a translation must be attached thereto;
- (b) Every SCO 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.

3B.10(9)8 Exemptions from Proof of Origin

Proof of origin is not required if the goods are sent as small packages from private persons to private persons, or form part of a traveller's personal baggage and are admissible under the provisions of rebate items 407.01 and 407.02 or 412.10, provided;

- (a) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of travellers' personal luggage;
- (b) the goods have been declared as meeting the requirements of the Protocol and there is no reason to doubt the veracity of such declaration.
- (c) The following additional conditions shall apply in the case of private postal imports –
  - (i) the goods must have been sent by one private individual to another direct from the preference country in question;
  - (ii) the sender declares in writing that the origin conditions are satisfied.

49B.10(9)9 Declaration by the Producer

- (a) The Declaration by the Producer referred to in Rule 9.2 shall, where the exporter is not the producer, be submitted by the exporter together with a copy thereof in support of the application for the SCO as referred to in 49B.10(9)1:
- (b) Where non-originating goods -
  - (i) have undergone working or processing in any other Member State; and

(ii) such goods are further worked or processed or used in the manufacture of goods in the Republic for which an SCO for originating products is made out in the Republic,

the manufacturer shall obtain and keep available for inspection by an officer, full particulars of the working and processing carried out on the goods in the other Member State in accordance with the provisions of Annex I, for the purpose of proving the originating status of the goods concerned.

(c) No person shall be entitled to the benefit of Rule 2.4 unless he is in possession of evidence regarding the working or processing materials have undergone in a Member State.

(d) (i) A separate record must be kept in respect of each consignment of goods.

(ii) Any documents relating to such goods must describe such goods in sufficient detail to be readily identifiable and to determine the tariff heading.

(iii) If goods which originate in any Member State or which have not been so worked or processed are included on any invoice, delivery note or other commercial document, such goods must be separately and clearly indicated thereon by an asterisk (\*) or other distinguishing mark.

#### 49B.10(9)10 Supporting Documents

(a) The documents every exporter or other person contemplated in section 4(12A) must be able to produce in order to prove the originating status of goods, shall include, according to the circumstances, the following –

(i) direct evidence of the processes carried out by the exporter or producer to obtain the goods concerned, contained for example, in his accounts or internal bookkeeping;

- (ii) documents proving the originating status of materials used, issued or made out in any other Member State or the Republic;
  - (iii) documents proving the working or processing of materials in any other Member State or the Republic, issued or made out in the other Member State or the Republic;
  - (iv) SADC certificates of origin (SCO) proving the originating status of materials used, issued or made out in the Member States or the Republic in accordance with Annex I;
  - (v) any documents proving the working or processing undergone in any Member State of materials used, in accordance with Annex I;
  - (vi) any documents proving the originating status of goods used in working or processing issued in any country outside the SADC.
- (b) Every exporter who completes an SCO shall, if he is the manufacturer, complete, or if he bought in the goods from a manufacturer, obtain and keep, the Declaration by the Producer together with all the supporting documents necessary to prove the originating status of the goods concerned.
- (c) The invoiced price is not acceptable as the ex-works price, and may be determined by the Manager: Origin Administration, where –
- (i) different terms apply, for example, CIF price;
  - (ii) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchasers for similar goods;
  - (iii) goods are invoiced by manufacturers to purchasers at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;

- (iv) a discount has been granted subject to conditions, for example, payment to be made within 6 months of sale to a distributor, in which case it should be ignored when calculating the ex-works price.
  - (v) any other instances where the invoiced price is not an ex-factory price.
- (d) Any accounting records kept for providing evidence of the originating status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for proving the originating status of the goods and for fulfilling the other requirements of Annex I.
- (e) Documents shall be preserved as provided in rule 101.03.

49B.10(9)11 Discrepancies and Formal Errors

- (a) Slight discrepancies between the statements made in the SCO and those made in the documents submitted in terms of section 39 of the goods concerned shall not, render the proof of origin null and void if it is duly established that the SCO does correspond to the goods submitted.
- (b) Obvious formal errors such as typing errors on the SCO should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.
- (c) Slight discrepancies in documents submitted at the time of entry of imported goods may include –
  - (i) spelling or typing mistakes or other minor errors not corrected;
  - (ii) amendments which have no direct bearing on the validity of the SCO;



- (iii) that the information is valid and accurate but not inserted in the correct box;
  - (iv) that the exporter declaration box is not dated;
  - (v) other discrepancies as determined by the Manager: Origin Administration.
- (d) Any SCO submitted with the slight discrepancies or formal errors contemplated in this rule may be accepted provided the circumstances satisfy the requirements of paragraphs (a) and (b)

49B.11(10)      RULE 10 – INFRINGEMENT AND PENALTIES

- (a) Particulars of any untrue claims in respect of origin as contemplated in Rule 10 shall be reported, and all relevant documents submitted, to the Manager: Origin Administration.
- (b) The Manager: Origin Administration is responsible for informing the Member State in accordance with the provisions on Mutual Assistance and Co-operation in Customs Matters contained in Appendix I of Annex II of the Protocol.

49B.12(11)      RULE 11 – DEROGATIONS

No rule.

49B.13(12)      RULE 12 – REGULATIONS

Any regulations adopted by the Committee of Ministers (CMT) are enacted into law as provided in section 49(1)(b) and Note 5 to Part B of the Schedule to the General Notes to Schedule No. 1.

9B.14

## Internal Appeals

- (a) Any person involved in a dispute concerning any decision or determination in respect of the application or interpretation of any provision of origin may, before any appeal to court as contemplated in section 49(7)(b), submit an internal appeal to the Commissioner within three (3) months of the decision or determination concerned.
- (b) Application for internal appeal shall be made on the appeal form obtainable from the Manager: Origin Administration and shall state all the facts and circumstances relating to the dispute in such form which shall be supported by available documentary evidence including the documents in respect of the relevant customs and excise procedure and legal argument to substantiate the viewpoint expressed in application.

49B.15

Documents to be submitted and procedures to be followed on presentation of bills of entry for goods in respect of which preferential treatment is claimed

- (a) Import and export bills of entry shall be endorsed with the SCO number.
- (b) Any person entering any imported goods or goods for export for which preferential treatment is claimed shall include with the clearance documents in respect of –
  - (i) Imported goods –
    - (aa) if the goods are entered for home consumption, the SCO and a copy of the invoice and packing list, a copy of the bill of lading, air waybill or other transport document, the statement referred to in rule 49B.10(9)7(b) for retention by the Controller;
    - (bb) if the goods are entered for storage in a customs and excise warehouse for subsequent entry for home consumption, the SCO and any other document

required for allowing preferential treatment when the goods are entered for home consumption.

- (ii) goods for export –
  - (aa) duly completed SCO, and
  - (bb) for retention by the Controller, the application form for the SCO and a copy of the export invoice, a copy of the packing list, a copy of the bill of lading, air waybill or other transport document, a copy of the Declaration by the Producer, where applicable, and proof of origin.
- (c) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter's records.

49B.16 SADC-MMTZ tariff quotas and export certificates administered in terms of Part 1, 2 and 3 of Appendix V to Annex:

Regulation on the Tariff Quotas, Time Periods and Arrangements for the Administration and Enforcement in respect of Products of HS Chapters 50 – 63 exported to SACU by MMTZ Member States.

- (a) Provision is made in rebate item 460.11 for a rebate of duty in respect of goods for which a tariff quota is allocated and an export certificate is issued as contemplated in Appendix V.
- (b) A specimen of the draft forms SADC-MMTZ export Certificate and Request for Verification are included as Part 2 of Appendix V to Annex I of the SADC Protocol on Trade contained in Part B of the Schedule to the General Notes to Schedule No. 1.
- (c) Such goods may only be entered for customs duty purposes at the offices of Controllers at the places specified in paragraph (g) of Item

200.03 of the Schedule to the rules, unless the Manager: Origin Administration permits such entry to be made at any other customs and excise office.

- (d) The Manager: Origin Administration must make arrangements concerning liaison with the SACU central coordinating authority in respect of the matters referred to in Part 1 of Appendix V.
  
- (e)
  - (i) The Controller at the port of entry shall keep a record of the copies of the SADC-MMTZ Export Certificates transmitted by the SACU central coordinating authority as contemplated in Article 5(4) of Appendix V and shall acknowledge receipt thereof by facsimile transmission within one working day of receipt;
  
  - (ii) if the transmission is faulty a second transmission must be requested from such authority;
  
  - (iii) the record of the copies of the export certificate must include particulars of receipt of the original, a copy of the original, a statement whether the forms agreed and the original was duly authenticated, a record of despatch of the original by registered post, a copy of the bill of entry and any other documents the Manager: Origin Administration may determine;
  
  - (iv) if the contents of the original and copy of such export certificate do not agree in every material respect, the goods must be detained and examined and the matter reported immediately to the Manager: Origin Administration for submission to the SACU central coordinating authority; and
  
  - (v) if the export certificate is found to be false, the consignment must be dealt with as contemplated by Rule 10 of Annex I.
  
- (f) A copy of the original export certificate together with a copy received from the SACU coordinating authority, clearly marked as such, as well as the bill of entry number and date must be transmitted by facsimile transmission to the Manager: Origin Administration

within one working day after the clearance procedures have been completed.

- (g) The Manager: Origin Administration shall keep a record of quantities cleared and the balances of the allocated tariff quota and establish a reconciliation with the quantities advised by the SACU central coordinating authority as contemplated in Article 5(6) of Part I of Appendix V to Annex I.
- (h) When the Manager: Origin Administration is advised of the cancellation of an export certificate by the SACU central coordinating authority, all Controllers must be advised by facsimile transmission on the same day the notification is received.
- (i)
  - (i) If such cancelled certificate is produced for the purpose of entry of goods under item 460.11, the Controller must detain the goods and report the matter on the same day to the Manager: Origin Administration;
  - (ii) unless otherwise decided by the manager: Origin Administration, the Controller must treat the act as an untrue claim as contemplated in Rule 10 of Annex I.
- (j) the entry of goods under rebate item 460.11 must be accompanied by the original SADC-MMTZ export certificate, the number of which must have been endorsed on the bill of entry, and a declaration that the goods specified therein comply with the conditions contained in Appendix V.

By the amendment of the rules for section 101 as follows:

- (a) By the addition of the following:

101.03 In the case of documents relating to the origin provisions specified in Annex I, "Concerning the Rules of Origin for Products to be traded between the Member States of the Southern African Development Community", and its appendixes, of the Protocol on Trade concluded under Article 22 of the Treaty of the Southern African Development Community, and the documents referred to in such rule 101.02, the period for which the documents shall be kept shall be five (5) years, calculated as provided in paragraph (d) of the said rule.