

**CUSTOMS AND EXCISE ACT, 1964  
AMENDMENT OF RULES (No. DAR/34)**

Under Sections 49 and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice No. R.1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto.

  
2001-12-20  
**COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

**SCHEDULE**

By the insertion after rule 49B.16 of the following:

“49B.17.01 Customs procedures in respect of the implementation of Annex VII concerning Trade in Sugar in the Southern African Development Community of the Protocol on Trade of the Treaty of the Southern African Development Community

(a) For the purposes of this section of the rules—

- (i) “Addendum to Annex VII” means the agreement by the ICS on customs procedures entitled “Customs and Excise Rules for the Implementation of Market Access in terms of Annex VII of the SADC Trade Protocol” inserted as part of Annex VII in terms of the provisions of Notes (1)(b)(ii) and 3(b) of Part B of the General Notes to Schedule No. 1.

“Annex VII” means Annex VII, Concerning Trade in Sugar in the Southern African Development Community, inserted after Annex I and its Appendices in Part B of the Schedule to the General Notes to Schedule No 1 as provided in Note (1)(b) to that Part

“Non-SACU SADC Member State” means a net surplus sugar producing Member State which is a Member State of the SADC but is not a SACU Member State.

“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

‘SACU central coordinating authority’ (which the addendum states is SARS (the South African Revenue Service)) shall be the officer to whom any power duty or function for the purposes of administering the provisions of Annex VII and the Addendum relating to such authority is delegated in these rules.

“SADC Member State” means any SADC Member State listed in paragraph 6 of Note K of the General Notes to Schedule No. 1 (which member states according to Government Notice R 1674 of 25 October 2001 are: Botswana, Lesotho, Malawi, Mauritius, Mozambique, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe)

- (ii) (aa) any expression used in the rules with reference to Annex VII of the Protocol on Trade and the Addendum 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 of Part B of the Schedule to the General Notes to Schedule No 1 or in the Notes to item 460.04 of Schedule No. 4.

(bb) the following definitions in article 1 of Annex VII are reproduced:

“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

“MTTQ” means metric tons *tel quel*,

“Sugar” means raw sugar, refined sugar and direct consumption crystal sugar,

"Technical Committee on Sugar (TCS)" means the body comprising representatives of Member States and sugar industries in all Member States.

"Ton" means a metric ton of sugar *tel quel*

- (iii) (aa) In terms of Article 1 of Annex VII sugar must be wholly produced by the sugar producer in the non SADC Member State to qualify for a quota.
- (bb) any reference to sugar imported in these rules shall mean sugar entered under rebate item 460.04 of Schedule No. 4 in which provision is made for a rebate of duty in respect of sugar for which a quota has been allocated and a certificate of origin has been issued as contemplated in the Addendum.
- (iv) In terms of Article 6 of Annex VII -
  - (aa) quotas will be allocated to net surplus sugar producers and determined allocations are not transferable between Member States,
  - (bb) quantities will be measured in MMTQ.
  - (v) any annual quota not used in the quota year may not be transferred to a following year.
- (b) (i) Subject to section 3(2), any power, duty or function contemplated in section 49(6) including those of the SACU central coordination authority contemplated in the Addendum is delegated in terms of section 49(6)(vi) to extent specified in these rules to the Manager: Origin administration, the Controller or the Officer: Origin Administration or any officer designated to exercise such duty or 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 referred or duty or function imposed on the customs authority in terms of any provision of Annex VII or the Addendum or on an officer in terms of any other provision of this Act for the purposes of fulfilment of any requirement of Annex VII or the Addendum.
- (c) Appendix II and Appendix IV to Annex I each respectively contains the specimen SADC certificate of origin and the form of Verification of origin.
- (d) Sugar consigned to an importer in the Republic 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.

#### 49B.17.02

- (a) Any number reflected in brackets after any rule or paragraph of a rule refers to a paragraph of the Addendum on which the rule is based.
- (b) Procedures applicable to the Manager: Origin Administration (the MOA) in exercising the powers and performing the duties and functions of the SACU central coordinating authority.
  - (i) The MOA shall ensure that SARS is notified in writing by the non-<sup>SACU</sup>SADC Member State of -
    - (aa) the quota allocating authority;
    - (bb) the certificate of origin issuing authority responsible for administering the duty free access for net surplus sugar; and
    - (cc) the particulars of each exporter registered as a certified exporter to whom a quota has been allocated (paragraphs 1 and 2).

- (ii) (aa) Such Member State is only allowed one quota allocating authority and one certificate of origin authority (paragraph 1.3).
  - (bb) Only imports of sugar from certified exporters notified as contemplated in subparagraph (i)(cc) may be entered under the provisions of item 460.04 (paragraph 2.3).
  - (cc) Quota allocations and adjustments thereof must be notified by the quota allocating authority in writing as contemplated in paragraph 3.3 of the Addendum.
  - (dd) Unless the quota allocations, the particulars of the quota allocating authority, the origin authority and the registered certified exporter concerned have been notified that MOA may not process any certificate of origin as provided in paragraph 4 of the Addendum.
- (iii) In accordance with the requirements of paragraph 4 of the Addendum in respect of certificates of origin issued and copies transmitted by the certificate of origin issuing authority the MOA must ensure compliance with the following -
- (aa) receipt of the facsimile transmission of the certificate of origin must be acknowledged within two working days of receipt;
  - (bb) if the transmitted copy is not clearly legible or otherwise faulty a second transmission must be requested;
  - (cc) if the certificate of origin reflects any material error or omission the issuing authority must be requested to cancel it and issue a new certificate;
  - (dd) a copy of the certificate received by facsimile transmission must be so transmitted to the customs office at the port of entry of the importing SACU Member State indicated on the certificate within one working day after receipt of such certificate;
  - (ee) upon receipt of the original certificate from the customs office at the port of entry after clearance of the consignment, the MOA must deduct the quantities appearing on the certificate of origin from the quotas of the non-SACU SADC net surplus producing Member State from whose territory the sugar was consigned and notify all SACU customs authorities accordingly, (of the quantity imported and the balance remaining for the marketing year);
  - (ff) whenever notification is received from the certificate of origin issuing authority that a certificate of origin has been cancelled, the MOA must advise all customs offices in SACU by facsimile transmission within one working day after receipt of such notice;
- (iv) All notifications received from authorities in the non-SADC Member States must be acknowledged without delay, but within two working days by facsimile transmission (5)<sup>SACU</sup>.
- (v) In terms of paragraph 6 of the Addendum, the MOA must submit quarterly reports to the TCS on the following:
- (aa) "Number and details of certified exporters per Member State";
  - (bb) "Number, volume and value per certificate of origin issued by each Member State";
  - (cc) "Number, volume and value of certificates of origin utilized by each qualifying Member State"; and
  - (dd) "Quantities still available in terms of allocated quantitative limits per qualifying Member State".
- (v) The MOA must keep complete records of all documentation relating to the administration of the sugar quotas including all notifications to and from the relevant authorities and the TCS, originals and copies of certificates of origin, copies of the bills of entry import and correspondence with the customs office at the port of entry for a period of five years from the date any consignment is entered for home consumption.

- (c) Procedures applicable to the clearance of sugar at the port of entry.
- (i) A record must be kept of the copies of the export certificates of origin transmitted by the MOA and receipt thereof must be acknowledged within one working day after receipt (4.4),
  - (ii) If the transmission is faulty in any respect another transmission must be requested from the MOA,
  - (iii) Upon presentation of an original certificate, such certificate must be compared with the copy received from the MOA.
  - (iv) If the contents of the original and copy of such certificate of origin do not agree in every material respect, the consignment entered in terms thereof must be detained and examined, if necessary, and the particulars reported immediately to the MOA.
  - (v) If the certificate of origin is found to be false the consignment must be dealt with as contemplated in Rule 10 of Annex I.
  - (vi) The number of the certificate of origin must be endorsed on the bill of entry concerned and a declaration made therein that the sugar complies with the requirements of Annex VII and the Addendum.
  - (vii) The original export certificate together with a copy of the bill of entry must be submitted by registered post to the MOA within one working day after the clearance procedures have been completed (4.6).
  - (viii) (aa) Where the MOA has advised cancellation of any certificate of origin and such certificate is produced for the purposes of entry under item 460.04, the consignment must be detained and the particulars reported on the same day to the MOA.
  - (bb) Unless the MOA otherwise determines, such act must be treated as an untrue claim as contemplated in Rule 10 of Annex I.
  - (ix) Where sugar for which the certificate of origin has been issued is not exported within 20 working days from the date of issue duty must be collected at the general rate of duty specified in Part 1 of Schedule No 1 as contemplated in Note 4(d) to item 460.04.
  - (x) Records of such imports must include copies of the originals and copies of the certificates of origin, a statement whether the forms agreed and the original was duly authenticated, the despatch of the original by registered post, a copy of the bill of entry and such other documents as the MOA may determine."