

No. R. 309

25 April 2014

CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (DAR 136)

Under sections 46A, 49, 59A 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.


VISVANATHAN PILLAY
ACTING COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

(a) By the insertion after the heading of Part 2 and before rule 46A2.01 of the following heading and rule:

"46A2A Termination of Generalised System of Preferences (GSP)

- (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)."

- (b) By the insertion after rule 49A.01 of the following rule:
- “49A.01A Transitional arrangements for application of the procedures contemplated in these rules in respect of goods to which the Generalised System of Preferences (GSP) specified in rules numbered 46A.2 applied until 31 December 2013.
- (a) For the purposes of implementing rule 46A2A –
- (i) Goods exported under the GSP for which a customs declaration for release for free circulation is accepted by the customs authorities of a European Union Member State –
- (aa) on or before 31 December 2013, the preferential rates of duty under the GSP apply;
- (bb) on or after 1 January 2014, the new preferences under the TDCA contemplated in rule 46A2A(b) will apply on complying with the requirements of items (A) and (B) of subparagraph (ii).
- (ii) (aa) For goods exported under the GSP before 31 December 2013 that arrive in the European Union Member State after 31 December 2014; and
- (bb) for goods exported under the Agreement on Trade, Development and Cooperation between the European Community and its Member States and the Republic (TDCA) on or after 1 January 2014,
- GSP preferential rates will apply if more favourable than the rates for goods exported under the TDCA, if –
- (A) the goods have originating status in accordance with Protocol 1 of the TDCA; and
- (B) a valid movement certificate EUR 1 or invoice declaration as required in terms of Protocol 1 and these rules is produced.
- (b) For goods contemplated in paragraph (a)(ii)(aa), exporters may, where applicable, apply for a movement certificate EUR 1 issued retrospectively in terms of rule 49A.15(16).
- (c) Exporters and producers, if not already registered, must register in terms of rule 49A.01(f).”

(c) By the substitution in item 202.00 of the Schedule to the rules of the following forms:

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

DA 185.4A7 Registration Client Type 4A7 - Producer”



ANNEXURE DA 185.4A2

REGISTERING CLIENT TYPE 4A2 – EXPORTER (LOCAL OR FOREIGN)

- Notes:**
- Mark the applicable box(es) with an X
 - The DA 185 should be completed for registration purposes with the South African Revenue Service (SARS)
 - If the exporter is also the producer, the Annexure DA 185.4A7 should also be completed – refer to Block 4 below for further guidance.

1. Trading Particulars:

Please supply all trade names and physical addresses if the business is conducted from a different address or under a different name as that stated in Block 6 of the application form (DA 185).

Trade name of business:

Customs client number(if already registered):

Physical address: Street name and number:

Building name and floor number:

Suburb:

City/Town:

Street code:

2. Clearance of export:

RSA exporter:

Self

Clearing agent

Foreign exporter:

Registered agent

Clearing agent

3. Please mark the applicable box(es) with an X if any goods are exported under the following:

AGOA

SADC Agreement

TDCA

SACU/EFTA

Approved Exporter - TDCA or SACU/EFTA

Other exporter

GSP:

Norway

Russia

Turkey

4. Notes:

Additionally, the following forms must be completed –

- For AGOA – form DA 46A1.02 (incorporated as Section A hereto) and/or form DA 46A1.03 (incorporated as Section A in Annexure DA 185.4A4)
- For application for approved exporter status under TDCA or SACU/EFTA - form DA 49A.02 (incorporated as Section B hereto)
- If exporter and producer under GSP - form DA 46A.01 (incorporated as Section C hereto) and form DA 46A.02 (incorporated as Section A in Annexure DA 185.4A7)
- If exporter and not the producer under GSP – form DA 46A.01 (incorporated as Section C hereto)
- If exporter and producer under the SADC, TDCA or SACU/EFTA trade agreements or any of the GSP Schemes – Annexure DA 185.4A7 with the form DA 46A.02 (incorporated as Section C thereto)
- If a foreign exporter, the registered agent must complete and submit the above additional forms applicable to that exporter.

5. Additional Notes:

- SADC means the Southern African Development Community (as mentioned in Part 2 in Schedule No.10 to the Act)
- TDCA means the Trade, Development and Cooperation Agreement with the European Community and its member states (as mentioned in Part 1 in Schedule No.10 to the Act)
- SACU/EFTA means the Southern African Customs Union States and the European Free Trade Association States (as mentioned in the rules numbered 49C)

6. Authority to apply:
 I/We,

 (name of applicant)
 herein represented by:
 (1) (2)
 (Capacity) (Capacity)
 being duly authorised thereto by virtue of –
 (a) *a resolution passed at a meeting of the Board of Directors, held at
 on the day of (CCYY); or
 (b) *express consent in writing of all the members of the close corporation /* partners of the partnership /*
 trustees of the trust; or
 (c) * being a person having the management of any other association; or
 (d) * delegated officer of an organ of State,
 hereby apply for registration as an exporter.


7. Declaration:
 I hereby -
 (a) **declare** that the particulars in the application and all enclosures are true and correct; and
 (b) **undertake** to -
 (i) inform the South African Revenue Service immediately of any changes in the particulars furnished in
 the application;
 (ii) comply with the customs and excise laws and procedures.

.....
 (Initials and Surname) (Status / Capacity, e.g. Director)

.....
 (Signature) (Date & Place)

*

SECTION A
(of form DA 185.4A2)
African Growth and Opportunity Act (AGOA)

	Exporter's Application for Registration for the purposes of the AGOA (in accordance with the requirements of section 46A(6) of the Customs and Excise Act, 91 of 1964)	DA 46A1.02
		Customs Client Number

Textile and apparel articles manufactured in the Republic or any other beneficiary sub-Saharan country for export to the United States of America for the purposes of obtaining preferential tariff treatment as contemplated in the AGOA

Registered name:	_____		
Trade name:	_____		
Physical address:	_____		
		Postal Code:	_____
Postal address:	_____		
		Postal Code:	_____
Magisterial District:	_____		
Telephone Number:	()	Fax number:	()

- I/we the undersigned undertake to -
- (a) maintain complete books, accounts and other documents of the export of the covered articles, import documents and certificates of origin and other documents to prove the originating status of goods exported for five years from the date of export and make such books, accounts and other documents available at the request of any officer of the United States Customs Service (USCS) or the South African Revenue Service (SARS);
 - (b) ensure compliance with the provisions of origin contained in section 334 of the Uruguay Round Agreements Act, the AGOA, 19 CFR 102.21 and Annex 401 to NAFTA (enactments, as defined in section 46A.01, of the United States of America) and any other enactment governing the preferential treatment of goods exported;
 - (c) cooperate with the USCS and SARS in providing documents, correspondence and reports relevant to any investigation, permit visits to and inspections at premises and agree to personal interviews to ascertain needed facts;
 - (d) register with SARS before exportation of any articles for the purposes of the AGOA and de-register when exports cease;
 - (e) consent to information regarding exports and imports of such covered articles be made available to the USCS as required in terms of section 113(a)(1)(C) of the AGOA;
 - (f) ensure that I/we are fully conversant with the requirements of the AGOA and other related US enactments, as well as the provisions of the Customs and Excise Act and rules;
 - (g) ensure the correctness of the information furnished on the certificate of origin and application for a visa;
 - (h) notify all persons in writing to whom a certificate of origin was given which I/we have reason to believe contains information that is not correct of any change which could affect its accuracy or validity.

_____ (Authorised signature)	_____ (Date: YY/MM/DD)
_____ (Name in block letters)	_____ (Title)

NOTE:
If the exporter is also the manufacturer of the goods exported, form DA 46A1.03 (incorporated in Section A of Annexure DA 185.4A4) must also be completed.

SECTION B
(of form DA 185.4A2)
Agreement on Trade, Development and Cooperation
between the European Union and its Member States
and the Republic of South Africa and the Free Trade Agreement between EFTA and SACU



APPLICATION FOR APPROVED EXPORTER STATUS
 IN TERMS OF ARTICLE 20 OF THE PROTOCOL
 (RULE 49A.18(19), (20)) AND
 ARTICLE 22 OF ANNEXURE V (RULE 49D.18(19),(22))

DA 49A.02
 Customs Client
 Number

**FORM FOR THE PURPOSES OF PROTOCOL 1 CONCERNING THE DEFINITION OF THE CONCEPT OF
 "ORIGINATING PRODUCTS" AND METHODS OF ADMINISTRATION COOPERATION OF THE AGREEMENT
 ON TRADE, DEVELOPMENT AND COOPERATION BETWEEN THE EUROPEAN UNION AND THE REPUBLIC
 OF SOUTH AFRICA AND THE FREE TRADE AGREEMENT BETWEEN EFTA AND SACU**

Note:

To be completed in Triplicate

1. Exporter's Name (*hereinafter referred to as "the exporter"*)

2. Estimated number and value of consignments per annum

3. Description of goods to be exported and 4 digit tariff headings

4. Specify how the goods to be exported meet the necessary conditions of origin

5. Are you the manufacturer of the goods? If yes, briefly describe the manufacturing process

6. Do you hold evidence that the goods comply with origin criteria? Please submit with the application

7. Country of destination

8. The following means of identification of the exporter for the purposes of paragraph 9(a) is proposed:

9. If approved exporter status is granted, the exporter undertakes to –

- (a) accept full responsibility for any invoice declaration which identifies the exporter as if it has been signed in manuscript;
- (b) submit a copy of the required document with the invoice declaration and authorisation number endorsed thereon together with the other export documentation to the Controller and comply with rule 49A.18(19),(20)(g) or rule 49C.18(19),(22) if the invoice declaration is made after exportation;
- (c) state proper references or other particulars on the invoice whereby the goods exported can be readily traced in the exporter's records;
- (d) keep proper records to verify the originating status of the goods as required by the said Protocol and the rules;
- (e) comply with any conditions or obligations imposed by the Manager: Commercial Services;
- (f) inform the Manager: Commercial Services of any change in legal identity or any matter affecting the originating status of goods exported;
- (g) apply before export for approval if any goods not specified in this application will be exported or exportation of any goods will be discontinued;
- (h) ensure that the goods concerned comply with the relevant provisions of origin; and
- (i) otherwise comply fully with the requirements of rule 49A.18(19),(20) or rule 49D.18(19),(22).

Continues overleaf


I declare that –	
<ul style="list-style-type: none"> • I am duly authorised to sign the application; • the information furnished herein is true and correct; and • the goods described herein are of South African origin in accordance with the provisions of Protocol 1 or Annex V referred to in the heading of this form. 	
..... (Signed on behalf of the exporter) (Title)
..... (Name in block letters) (Status of signatory to the application)
_____ (Date)	
Please confirm who will sign preference documentation. In case of doubt or difficulty, please contact the Officer: Origin Administration _____, where the completed application should be submitted.	
Return address:	
_____	Tel. No.: _____
_____	Email Address _____

FOR OFFICIAL USE ONLY:	
*Approved / Not Approved (*Delete which is not applicable)	
Reasons if not approved:	

Customs Authorisation Number:	(rule 49A.18(19),(20)(a)(viii)(cc) or rule 49D.18(19),(22))

(Signed: Officer: Origin Administration)	(Date)

*

		SECTION C (of form DA 185.4A2) Generalised System of Preferences (GSP)			DA 46A.01	
Exporter's Application for Registration for the purposes of the GSP (in accordance with the requirements of section 46A(6) of the Customs and Excise Act, 91 of 1964 and the relevant rules for section 46A)					Customs Client Number	
Notes: <ul style="list-style-type: none"> Mark the applicable box(es) with an X The DA 185 should be completed for registration purposes with the South African Revenue Service (SARS) If the exporter is also the producer, the DA 46A.02 (incorporated as Section A in Annexure DA 185.4A7) should also be completed 						
Goods produced for export to Norway, Russia or Turkey for the purposes of obtaining preferential tariff treatment as contemplated in the relevant enactments						
Countries granting GSP Preferences (Mark applicable boxes with an X)						
Norway	<input type="checkbox"/>	Russia	<input type="checkbox"/>	Turkey	<input type="checkbox"/>	
Business / Person Particulars:						
Registered Name of Business or Name of Applicant						
Business Address: Street Name and Number						
Suburb & City				Postal Code		
Postal Address						
Suburb & City				Postal Code		
Business contact numbers (including area code)		Telephone			Facsimile	
Business email address						
General Declaration: I/we the undersigned undertake to –						
(a) maintain and keep complete books, accounts and other documents (as specified in the rules) of the export of the covered articles, import documents and certificates of origin and other documents to prove the originating status of goods exported for five years from the date of export and make such books, accounts and other documents available at the request of any officer of the SARS;						
(b) ensure compliance with the provisions of origin contained in the enactments of the country contemplated in the rules governing the preferential treatment of goods exported to(insert country granting the preferential treatment);						
(c) cooperate with the SARS in providing documents, correspondence and reports relevant to any investigation; permit visits to and inspections at premises and agree to personal interviews to ascertain needed facts;						
(d) register with SARS before exportation of any articles for these purposes and de-register when exports cease;						
(e) ensure that I/we are fully conversant with the requirements of the relevant enactments as well as the provisions of the Customs and Excise Act and rules;						
(f) ensure the correctness of the information furnished on the Certificate of Origin Form A;						
(g) notify all persons in writing to whom a Certificate of Origin was given which I / we have reason to believe contains information that is not correct of any change which could affect its accuracy or validity.						
I hereby-						
(a) declare that the particulars in the application and all enclosures are true and correct; and						
(b) undertake to-						
(i) inform the SARS immediately of any changes in the particulars furnished in the application;						
(ii) comply with the customs and excise laws and procedures.						
Initials and surname:				Status (e.g. Director):		
Signature:			Date:			Place:

ANNEXURE DA 185.4A7**REGISTRATION CLIENT TYPE 4A7 – PRODUCER****Notes:**

- Mark the applicable box(es) with an X
- The DA 185 should be completed for registration purposes with the South African Revenue Service (SARS)
- If the producer is also the exporter, the DA 185.4A2 with its relevant Sections should also be completed – refer to the Notes below for guidance.

Trading Particulars:

Please supply all trade names and physical addresses if the business is conducted from a different address or under a different name as was stated in Block 5 of the application form (DA 185).

Trade name of business: _____

Customs Client Number (if already registered): _____

Physical address: Street name and number: _____

Building name and floor number: _____

Suburb: _____

City/Town: _____

Street code: _____

Please mark the applicable box(es) with an X if any goods are exported under the following:

(¹) SADC	<input type="checkbox"/>	(²) TDCA	<input type="checkbox"/>	(³) SACU/EFTA	<input type="checkbox"/>	Other Producer	<input type="checkbox"/>
GSP:	Norway	<input type="checkbox"/>	Russia	<input type="checkbox"/>	Turkey	<input type="checkbox"/>	

Notes:

- If producer and exporter under SADC, TDCA or SACU/EFTA Trade Agreements, or any of the GSPs, please also complete Annexure DA 185.4A2 and form DA 46A.01 (incorporated as Section C thereof); as well as form DA 46A.02 (incorporated as Section A hereto).
- If producer and not the exporter under any of the GSPs please complete the DA 46A.02 incorporated as Section A hereto.
- If applying for approved exporter status under the TDCA or SACU/EFTA, please also complete the DA 185.4A2 and form DA 49A.02 (incorporated as Section B thereto).

Additional Notes:

(¹) SADC means the Southern African Development Community (as mentioned in Part 2 in Schedule No. 10 of the Act)

(²) TDCA means the Trade, Development and Cooperation Agreement with the European Community and its member states (as mentioned in Part 1 in Schedule No. 10 of the Act)

(³) SACU/EFTA means the Southern African Customs Union States and the European Free Trade Association States (as mentioned in the rules numbered 49C)

*Delete whichever is not applicable

Authority to apply:

I/We _____ (name of applicant) herein represented by

(1) _____ Capacity _____

(2) _____ Capacity _____

being duly authorised thereto by virtue of –

(a) * a resolution passed at a meeting of the Board of Directors

held at _____ on the _____ day of _____ ccy _____; or

(b) * express consent in writing of all the members of the close corporation /* partners of the partnership /* trustees of the trust; or


(c) * being a person having the management of any other association; or

(d) * delegated officer of an organ of state,

hereby apply for registration as a Producer.

Continues Overleaf

Declaration:				
I hereby-				
(a) declare that the particulars in the application and all enclosures are true and correct; and				
(b) undertake to-				
(ii) inform the South African Revenue Service immediately of any changes in the particulars furnished in the application;				
(i) comply with the customs and excise laws and procedures.				
Initials and surname:				Status (e.g. Director):
Signature:		Date:		Place:

		SECTION A (of form DA 185.4A7) Generalised System of Preferences (GSP)		DA 46A.02	
Producer's Application for Registration for the purposes of the GSP (in accordance with the requirements of section 46A(6) of the Customs and Excise Act, 91 of 1964 and the rules thereto)					Customs Client Number
Notes: <ul style="list-style-type: none"> • Mark the applicable box(es) with an X • The DA 185 should be completed for registration purposes with the South African Revenue Service (SARS) • If the producer is also the exporter, the DA 46A.01 (incorporated as Section C in Annexure DA 185.4A2) must also be completed 					
Goods produced for export to Norway, Russia or Turkey for the purposes of obtaining preferential tariff treatment as contemplated in the relevant enactments					
Countries granting GSP Preferences (Mark applicable box(es) with X)					
Norway	<input type="checkbox"/>	Russia	<input type="checkbox"/>	Turkey	<input type="checkbox"/>
Business / Person Particulars:					
Registered Name of Business or Name of Applicant					
Business Address: Street Name and Number					
Suburb & City				Postal Code	
Postal Address					
Suburb & City				Postal Code	
Business contact numbers (including area code)		Telephone		Facsimile	
Business email address					
General Declaration: I/we the undersigned undertake to –					
(a) maintain and keep complete books, accounts and other documents (as specified in the rules) relating to the originating status, importation, production and exportation of the goods produced for five years from the date of production or export or sale to an exporter and make such books, accounts and other documents available at the request of any officer of the SARS;					
(b) ensure compliance with the provisions of origin of the country governing the preferential treatment of goods exported to (insert country granting the preferential treatment) as contained in the enactments contemplated in the rules;					
(c) cooperate with the SARS in providing documents, correspondence and reports relevant to any investigation; permit visits to and inspections at premises and agree to personal interviews to ascertain needed facts;					
(d) register with SARS before production begins and de-register when production is closed or ceases;					
(e) ensure that I / we are fully conversant with the requirements of the relevant enactments as well as the provisions of the Customs and Excise Act and rules;					
(f) ensure the correctness of the information furnished on the Certificate of Origin Form A;					
(g) notify all persons in writing to whom a Certificate of Origin was given which I / we have reason to believe contains information that is not correct of any change which could affect its accuracy or validity.					
I hereby-					
(c) declare that the particulars in the application and all enclosures are true and correct; and					
(d) undertake to-					
* (i) inform the SARS immediately of any changes in the particulars furnished in the application;					
(ii) comply with the customs and excise laws and procedures.					
Initials and surname:				Status (e.g. Director):	
Signature:		Date:		Place:	