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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

SOUTH AFRICAN REVENUE SERVICE

NO. R. 1240

12 OCTOBER 2016

**CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES**

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 **with effect from 10 October 2016**.



**THOMAS SWABIHI MOYANE
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

SCHEDULE

(a) By the substitution of the heading and rules numbered 49A for the following heading and rules:

**“Economic Partnership Agreement between the SADC EPA states, of the one part,
and the European Union and its member states, of the other part**

**Part A of the Schedule to general notes to Part 1 of Schedule No.1: Protocol 1:
Concerning the definition of the concept of “originating products” and methods of
administrative co-operation**

49A.01 (a) The rules numbered 49A are rules contemplated in section 49(6)(b) in respect of the Economic Partnership Agreement between the SADC EPA states, of the one part, and the European Union and its member states, of the other part.

- (b) Where any rule reflects a number or numbers in brackets after a serial number, for example, 49A.01(5), the number in brackets refers to the Article number or numbers of Protocol 1 entitled “concerning the definition of the concept of ‘originating products’ and methods of administrative co-operation” of the Agreement to which the rule relates.
- (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.
- (d) The expression—
- (i) “ACP” means African, Caribbean, and Pacific Group of States;
 - (ii) “EPA” means Economic Partnership Agreement;
 - (iii) “Agreement” means the Economic Partnership Agreement between the SADC EPA states, of the one part, and the European Union and its member states, of the other part;
 - (iv) “Article” refers to the specified numbered article of the Protocol;
 - (v) “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
 - (vi) “goods” as used in these rules means, depending on the context, “goods” or “products” or “materials” as defined in the Protocol;
 - (vii) “OCT” means Overseas Countries and Territories;
 - (viii) “producer” means a registered producer contemplated in paragraph (f) and includes a person that breeds and raises any animals, mines any minerals and grows and harvests any products, and depending

on the context, any person that manufactures, processes or assembles goods or any combination thereof;

- (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 responsible for the administration of the rules of origin section in Head Office, the Controller or any officer designated to perform such function;
- (ii) For the purposes of subparagraph (i) the Manager responsible for the administration of the rules of origin section in Head Office, the Controller or any officer designated to perform such function may exercise any power or duty or function conferred or imposed on customs authorities in the Protocol 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 this Protocol.
- (f) Registration of exporter and producer
For the purposes of section 49(6) and section 59A -
- (a) every exporter and producer of goods to be exported to any of the member states of the European Union shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of—
- (i) an exporter, Annexure DA 185.4A2 and form DA 46A.01 incorporated in Section C thereof;
- (ii) a producer, Annexure DA 185.4A7 and form DA 46A.02 incorporated in Section C thereof;
- (b) if the exporter is also the producer of the goods concerned, application for registration as exporter, as well as a producer, must be so submitted.

49A.01A Transitional arrangements for application of the procedures contemplated in these rules in respect of goods 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.

- (a) Exporters may, where applicable, apply for a movement certificate EUR1 issued retrospectively in terms of rule 49A.15(16).
- (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.
- (c) Blank EUR1 certificates issued under TDCA may be used for purposes of the Agreement.

ANNEX 1

PROTOCOL 1

TITLE I - GENERAL PROVISIONS

49A.02(1) Article 1 - Definitions

No rule.

TITLE II - DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS"

49A.03(2) Article 2 - General requirements

No rule.

49A.04(3),(4),(5),(6) Article 3 – Bilateral cumulation

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.

Article 4 - 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 list of originating materials referred to in paragraph (a) above to which this Article applies is published as Appendix 1 to these rules

Article 5 - Cumulation with respect to materials which are subject to Most Favoured Nation (MFN) duty free treatment in the European Union

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.

Article 6 - Cumulation with respect to materials originating in other countries benefiting from preferential duty-free quota-free access to the European Union

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.

49A.05 (7) Article 7 - Wholly obtained products

Goods wholly obtained must be so declared on form EUR1 or any origin declaration and any entry for export.

49A.06 (8), (9) Article 8 - Sufficiently worked or processed products
Article 9 - Insufficient working or processing operations

Any record kept to prove the originating status of goods exported shall reflect the nature of the working or processing carried out in the European Union or SADC EPA State in order to distinguish the operations for the purposes of Article 8 and 9.

49A.07 (10) Article 10 - Unit of qualification
No rule.49A.08 (11) Article 11 - Accessories, spare parts and tools
No rule.

49A.09 (12) Article 12 - Sets

Any proof of origin kept of goods exported shall contain sufficient details for verification of the heading and other characteristics of the goods for the purpose of application of these Articles.

49A.10 (13) Article 13 - Neutral elements
No rule.

TITLE III - TERRITORIAL REQUIREMENTS

49A.11 (14) Article 14 - Principle of territoriality

- (a) For the purposes of this Article “exported” includes goods removed to any SACU country other than the Republic.

- (b) For the purposes of this Article “total added value” means all costs outside the European Union or SADC EPA State including the value of the materials incorporated there.
- (c) Whenever originating status is claimed for re-imported goods entered in terms of item 409.00 for which the materials were wholly obtained in the European Union or SADC EPA state or have undergone working or processing beyond the operations referred to in Article 9 prior to being exported, 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 the principle of territoriality as contemplated in Article 14.
- (d) For the purposes of this article “outward processing” means a customs procedure that allows goods to be exported from the Republic and products obtained from the processing of those goods, to be imported into the Republic and cleared and released for home consumption as outward processed compensating products.

49A. 12(15) Article 15 - Non alteration

- (a) An application for a non alteration certificate must be submitted to the Manager responsible for the administration of the rules of origin section in Head Office
- (b) Before deciding whether to issue a non alteration certificate the Manager responsible for the administration of the rules of origin section in Head Office may conduct investigations to—
 - (i) verify the statements made by the applicant in the application for a non alteration certificate; and
 - (ii) ascertain any facts relating to the originating status in respect of which the non alteration certificate will operate.

49A.13(16) Article 16 - Accounting segregation

- (a) (i) The segregation method of accounting may only be used on approval of an application submitted in writing by the exporter

or the producer to the division responsible for the administration of the rules of origin in Head Office

- (ii) The division responsible for the administration of the rules of origin section in Head office may examine the producer's records to determine opening balances of originating and non-originating materials that may be deemed to be held in stock.
- (iii) The applicant must demonstrate a need to use accounting segregation on the grounds of unreasonable costs or impracticability of holding stocks of materials physically separate according to origin.
- (iv) The originating and non-originating materials must be of the same kind and commercial quality and possess the same technical and physical characteristics. It must not be possible to distinguish materials one from another for origin purposes once they are incorporated into the finished product.
- (v) The use of the system of accounting segregation shall not give rise to more products acquiring originating status than otherwise would have been the case had the materials used in the manufacture been physically segregated.

(b) The accounting system must:

- (i) maintain a clear distinction between the quantities of originating and non-originating materials acquired, showing the dates on which those materials were placed in stock and, where necessary, the values of those materials;
- (ii) show the quantity of:
 - (aa) originating and non-originating materials used and, where necessary, the total value of those materials;
 - (bb) finished products manufactured;
 - (cc) finished products supplied to all customers, identifying separately,
 - (A) supplies to customers requiring evidence of preferential origin (including sales to customers requiring evidence other than in the form of a proof of origin), and
 - (B) supplies to customers not requiring such evidence;

- (iii) be capable of demonstrating either at the time of manufacture or at the time of issue of any proof of origin (or other evidence of originating status), that stocks of originating materials were deemed available, according to the accounts, in sufficient quantity to support the declaration of originating status.
- (c) The statement of quantities to which reference is made in paragraph 5 final indent of Article 16 shall reflect both originating and non-originating materials entered in the accounts. The stock balance shall be debited for all finished products whether or not those products are supplied with a declaration of preferential originating status.
- (d) Where products are supplied without a declaration of preferential origin, the stock balance of non-originating materials only may be debited for as long as a balance of such materials is available to support such action. Where this is not the case, the stock balance of originating materials shall be debited.
- (e) The time at which the determination of origin is made shall be the time of manufacture and must be recorded in the authorisation granted by the the Manager responsible for the administration of the rules of origin section in Head Office.
- (f) The producer must:
- (i) accept full responsibility for the way the authorisation is used and for the consequences of incorrect origin statements or other misuses of the authorisation;
 - (ii) make available to the custom authorities, when requested to do so, all documents, records and accounts for any relevant period.
- (g) The Manager responsible for the administration of the rules of origin section in Head Office must refuse authorisation to a producer who does not offer all the guarantees necessary for the proper functioning of the accounting segregation system.

- (h) The Manager responsible for the administration of the rules of origin section in Head Office may withdraw an authorisation at any time if the producer no longer satisfies the conditions.

49A.14(17) Article 17 - Shipment of sugar

- (a) The exporter must keep documentary evidence of the amount of raw sugar originating from different territories, shipped by sea for the purpose of further refining of subheadings 1701.12, 1701.13 and 1701.14 of the Harmonized System as contemplated in Article 17.
- (b) Where raw sugar referred to in paragraph (a) is kept in the same store, the exporter must ensure that the amounts of sugar which could be considered as originating is the same as the amount that would have been declared for import by keeping the sugar in separate stores

49A.15 (18) Article 18 - Exhibitions

In addition to the proof of origin referred to in Article 18.2 the importer must produce on entry of the goods imported—

- (a) an invoice from the exporter in the European Union or in a SADC EPA State endorsed with the statement “these goods were consigned to you from (name and place of exhibition)”; and
- (b) a statement from—
- (i) the exporter confirming the particulars specified in 18(1)(a) to (d); and
 - (i) the customs authorities in the country of exhibition stating that the goods—
 - (aa) were consigned by the exporter from the SADC EPA State or from the European Union to the exhibition;
 - (bb) were used solely for exhibition or demonstration;
 - (cc) remained under customs control during their stay in the country of exhibition

TITLE IV - PROOF OF ORIGIN

49A.16 (19), (20)

Article 19 - General requirements

Article 20 - Procedure for the issue of a movement Certificate EUR1

- (a) Numbered sets of Movement Certificate EUR1 (pages 1 - 2) and the Application For A Movement Certificate (pages 3 - 4) with a duplicate application form (page 5) have been printed in accordance with the provisions of the Protocol and are available on application 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 European Union.
- (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 form EUR1, 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 responsible for the administration of the rules of origin section in Head Office otherwise determines.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the form EUR1 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 the Protocol 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 form EUR1 and application form and will be retained by the Controller.
- (g) Completion of a form EUR1 or origin 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 this Protocol;
- (h) Form EUR1 must be completed to be authentic in accordance with the instructions in Article 20, the notes to the certificate 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

In addition to the name and address of the exporter, also insert the registration number referred to in rule 39.08.

Box 2

Insert SADC State in the first line and the country of destination in the European Union, ACP EPA, OCT or Ceuta and Melilla (Article 44), as the case may be, in the second line.

Box 3

Insert the name of the consignee, and for exports to any exhibition outside the European Union which are later to be sent to the European Union, also insert the name and address of the exhibition.

Box 4

Insert SADC EPA State or ACP EPA State or European Union or OCT (goods imported from the European Union re-exported in the same state) or Ceuta and Melilla (Article 44) or the Republic of San Marino (to the extent applicable) or the Principality of Andorra referred to in the definition of products originating in the European Union in the Notes to Part A of the Schedule to the General Notes of Part 1 of Schedule No. 1, as the case may be.

Box 5

Insert the country of destination in the European Union.

Box 6

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

Box 7

Insert one of the following endorsements where necessary; otherwise leave the box blank –

“Cumulation” (where originating materials are incorporated into a product, worked or processed within or beyond the operations referred to in Article 9(1) as contemplated in Articles, 3,4,5 or 6

“Duplicate” (where application is made for a duplicate as contemplated in Article 22).

“Issued retrospectively” (where the goods have been exported before application is made for a certificate and application is made for retrospective issue thereof as contemplated in Article 21).

“Replacement of movement certificate EUR1 / origin declaration” - Issued in ... (insert the country in which the EUR1 / origin declaration was issued - to be issued in the circumstances contemplated in Article 23).

Box 8

- Enter item numbers and identifying marks and numbers in the space on the left-hand side of the box.
- 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.
- No space must be left between items.
- State identifying marks and numbers on the packages.
- If the packages are addressed to the consignee state the address.
- If they are not marked state "No marks and numbers".
- For goods in bulk which are not packed insert "In bulk"
- The quantity stated must agree with the quantities on the invoice, for example, 100 cartons.
- The goods must be identified by giving a reasonably full commercial description and in order that the appropriate tariff heading can be determined, for example, electric insulators (8546) or watch cases and parts (9111). The heading must be stated next to the description.
- 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 put in box 8, below the description of the goods:
 - "Goods marked * on the invoice are non-originating and are not covered by this form EUR1.
- Draw a horizontal line under the only or final item in box 8 and rule through the unused space with a Z-shaped line or otherwise cross it through.

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 form EUR1 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

- Insert the bill of entry number and date.
- 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 12

- 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.

(j) 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 form EUR1 (page 4 of the set of forms) the exporter, whether the producer in whose undertaking the last working or processing was carried out or an exporter who has bought in the goods from a producer for exportation in the same state or who re-exports in the same state goods imported from the European Union, an ACP EPA State or OCT 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) in accordance with the provisions of Article 31, accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or producer to obtain the goods concerned, forms EUR1 and origin declarations referred to in Article 24(3) proving the originating status of materials used and supplier's declarations;
 - (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 the Protocol.
- (k) The requirements for signing the declaration on form EUR1 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 form EUR1;

- (l) In the space where is stated "Specify as follows the circumstances which have enabled these goods to meet the above conditions" the exporter must state—
- (i) If exported goods are manufactured/wholly obtained by the exporter:
"The goods shown on the form EUR1 were manufactured / wholly obtained by the exporter and are classified under (4 figure heading). They fulfil the appropriate qualifying provisions of origin of the Protocol."
- (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 EUR1 were manufactured / wholly obtained in the Republic and are classified under (4 figure heading). Evidence of their originating status as required by the Protocol is held by me;" or
- (bb) Goods manufactured / wholly obtained in the European Union or any ACP EPA State or OCT referred to in Articles 4, 5 or 6 of the Protocol.
"The goods were imported from..... (name of country) under cover of attached.....(state proof of origin, form EUR1 / origin declaration, as the case may be) and are being exported in the same state. The goods are classified under(4 figure tariff heading)."
- (iii) In the case of subparagraphs (i) and (ii) (aa), the applicable list rule in the Annex of the Protocol.
- (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 (d)

- (n) The origin administration officer may refuse to certify form EUR1 if he has reasonable doubts about the correctness of the statements made in this form.

49A.17(21) Article 21 – Movement Certificates EUR1 issued retrospectively

- (a) The exporter may only apply for the issue of a form EUR1 after exportation at the office of the Controller where the goods were exported.
- (b) The application shall be in writing, stating fully the reasons for the request and shall be supported by–
 - (i) a completed form EUR1 and its application form of which–
 - (aa) Box 7 shall be endorsed “issued retrospectively”; and
 - (bb) If a form EUR1 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 the Protocol;
 - (iv) full reasons of the circumstances in which a retrospectively issued form EUR1 is required.
- (c) Before such application is considered an officer will first conduct an examination of the importer’s file as contemplated in Article 21(3).
- (d) The application for the issue of a Movement Certificate EUR1 retrospectively shall be considered by the Controller or any officer designated to perform such function in the Controller’s Office

49A.18 (22) Article 22 –Issue of a duplicate movement certificate EUR1

- (a) The exporter shall furnish to the Controller or any officer designated to perform such function in the Controller’s Office when the original form EUR1 was issued–

- (i) a written statement giving reasons why a duplicate is required and the number and date of the original form EUR1;
 - (ii) a completed form EUR1 and application form reflecting the word "Duplicate" and the number and date of the original form in Box No.7;
 - (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.
- (b) The Controller or any officer designated to perform such function in the Controller's Office 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 form EUR1 was issued.
- (c) If the Controller or any officer designated to perform such function in the Controller's Office decides to certify the duplicate form EUR1, he shall stamp and sign it in the same way as any other form EUR1 but in Box 11 after the word "Date" he shall insert the words "from which this duplicate movement certificate is valid" and thereafter the date of the original form EUR1.

49A.19(23) Article 23 – Issue of movement certificates EUR1 on the basis of a proof of origin issued or made out previously (herein referred to as a "Replacement Movement Certificate")

- (a) Any replacement movement certificate(s) may only be issued in respect of goods which have not been delivered for home consumption, have not undergone further processing and are under customs control.
- (b) Application for any replacement movement certificate(s) may be in respect of–
- (i) all or part of a consignment covered by the original form EUR1 or origin declaration; or
 - (ii) a collection of goods covered by several original form EUR1 or origin declarations issued in the same country of origin.

- (c) The application must–
- (i) be made in writing to the Controller or any officer designated to perform such function in the Controller’s Office where the goods are under customs control stating the reasons for the application;
 - (ii) be accompanied by a completed form EUR1 and application form marked in Box 4 with the country of origin and endorsed in Box 7 with the statement “Replacement of Movement Certificate EUR1 _____ of (number and date) / origin declaration issued in”(the country in which the movement certificate EUR1 / origin declaration to be replaced was issued) together with any special statement which appear on the original document;
 - (iii) include a declaration that the goods are the same goods or formed part of the consignment of the goods for which the form EUR1 or the origin declaration was issued;
 - (iv) include the original form EUR1 or the origin declaration.
- (d) The original movement certificates EUR1 / origin declaration and the application form for replacement movement certificate(s) will be retained by the Controller or any officer designated to perform such function in the Controller’s Office.

49A.20(24),(25) Article 24 – Conditions for making out an origin declaration

Article 25 – Approved exporter

- (a) Any exporter referred to in Articles 24 and 25 shall–
- (i) ensure that the goods comply with the relevant provisions of origin at the time of export; and
 - (ii) be in possession of the records and documents proving the originating status of the goods exported as contemplated in the rules for Article 20 and Article 31; and
 - (iii) use serially numbered invoices;
 - (iv) insert a reference number or other particulars on any origin declaration delivery note or another commercial document according to which the goods

- can be readily identified in such records and documents;
- (v) describe the goods on such origin declaration and any delivery note or another commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff heading;
 - (vi) insert on any such document the applicable tariff heading;
 - (vii) indicate clearly on such documents by means of an asterisk and statement goods which are not of preferential origin;
 - (viii) insert on 3 copies of the origin declaration or such other document the declaration specified in Annex IV of the Protocol, which shall—
 - (aa) be dated and bear the original signature of the exporter if the declaration is not made by an approved exporter;
 - (bb) reflect the name and capacity of the person signing the declaration in capital letters below the signature;
 - (cc) in the case of an approved exporter, contain the customs authorisation number;
 - (ix) The documents referred to in subparagraph (viii) shall be dealt with by—
 - (aa) forwarding one copy of the document on which the declaration is made to the consignee;
 - (bb) including with the other export documentation one such copy and a copy of the invoice (if the declaration is not made on the invoice) for retention by the Controller;
 - (cc) creating a file for storing a copy of the origin declaration, such delivery note or other commercial document and supporting evidence to prove the origin of the goods.

- (b) No paragraph.
- (c) Application for approved exporter status must be made on forms DA 185, DA 185.4A2 and DA 49A.02.
- (d) Any exporter who issues any origin declaration in the circumstances contemplated in Article 24(1)(b) may be prohibited from issuing such declarations if he—
- (i) makes a false declaration concerning the origin or the value of any consignment;
 - (ii) does not comply with the requirements of the Protocol or these rules.
- (e) The approved exporter status contemplated in Article 25 may be withdrawn if such exporter—
- (i) makes a false declaration concerning the origin or the value of any consignment;
 - (ii) does not comply with the requirements of these rules;
 - (iii) fails to notify the Manager responsible for the administration of the rules of origin section in Head Office, the Controller or any officer designated to perform such function that—
 - (aa) the goods no longer fulfil the required origin conditions (for example, by change of sources of materials);
 - (bb) the need of approval ceases;
 - (cc) the legal identity or address changed.
- (f) If an exporter has been so prohibited from using origin declarations or approved exporter status has been so withdrawn such exporter shall apply for form EUR1 in respect of all exports for which originating status is claimed for such time as the Manager responsible for the administration of the rules of origin section in Head Office, the Controller or any officer designated to perform such function may determine.

- (g) If any origin declaration is made after exportation as contemplated in Article 24(6), the documents reflecting the origin declaration together with copies of the other documents produced at the time of export and the documents proving originating status shall be produced to the Controller or any officer designated to perform such function at the office of the Controller where the goods were entered for export or which is nearest to the post office where the goods were exported.

49A.21(26) Article 26 - Validity of proof of origin

- (a) Any goods imported for which originating status for the purpose of qualifying for a preferential rate of duty specified in Part 1 of Schedule No.1 is claimed shall, if no proof of origin is available, be subject to the provisions of section 49(9).
- (b) Any application for acceptance of proof of origin after the final date of presentation for the purpose of applying preferential treatment as contemplated in Article 26.2 shall be in writing addressed to the Manager responsible for the administration of the rules of origin section in Head Office stating fully the exceptional circumstances on which the application is based.
- (c) For the purposes of Article 26.3, 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 ten months from the date of issue referred to in Article 26.1

49A.22(27) Article 27 - Submission of proof of origin

- (a) (i) Any person who intends to claim preferential tariff treatment must when clearing goods reflect—
- (aa) the certificate of origin number and date of issue or
- (bb) the origin declaration number and date of issue

in the relevant field provided for that purpose on the bill of entry.

- (ii) Any proof of origin including supporting documents in respect of imported goods must be—
 - (aa) 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);
 - (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
 - (cc) in English and if not so a translation must be attached thereto.”
- (b) Every proof 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 the Protocol.

49A.23(28) Article 28 - Importation by instalments

- (a) Where any importer requests approval to import goods contemplated in this Article 28 by instalments 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 Manager responsible for the administration of the tariff section in Head Office and forward a copy of the application to the Manager responsible for the administration of the rules of origin section in Head Office;
 - (ii) in the case of other dismantled or non-assembled products referred to in this Article, the application shall be made to the Manager responsible for the administration of the rules of origin section in Head Office stating a full description of the goods, the tariff heading, the number of consignments and include[s] *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 instalment and such bill of entry shall reflect the number and date and place of entry of the first bill of entry.

49A.24(29) Article 29 - Exemptions from proof of origin

- (a) 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.
- (b) According to the Article the following general conditions apply to the exemption from production of proof of origin in respect of the importations concerned, where—
- (i) the value of such goods does not exceed the limit of EURO 500 in the case of small packages or EURO 1200 in the case of goods forming part of travellers' personal luggage;
 - (ii) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of traveller's personal luggage;
 - (iii) 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 apply for private postal imports—
- (i) the goods have been sent by one private individual to another direct from the preference country in question;
 - (i) the sender declares in writing that the origin conditions are satisfied.
- (d) The provisions apply *mutatis mutandis* to such goods sent or taken to the European Union.

49A.25(30) Article 30 - Information procedure for cumulation purposes

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

- (a) movement certificate EUR1 in respect of the originating status of the materials coming from a SADC EPA State, from the European Union, from another ACP EPA State or from OCT.
- (b) supplier's declaration in respect 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 single long term supplier's declaration, valid for a period of one year must reflect the suppliers contact details and full description of the goods.
- (d) Where the long-term supplier's declaration is issued with retroactive effect, full details of the circumstances as to why should be provided to the customs authority by the supplier together with a valid contract between the supplier and the exporter

49A.26(31) Article 31 - Supporting documents

- (a) In addition to the documents referred to in the Article and in the rules for articles 19 to 20 every exporter who completes a movement certificate EUR1 or an origin declaration in respect of goods exported shall, if he is the producer, complete or if he bought in the goods from a producer, obtain and keep a supplier's declaration together with all the supporting documents necessary to prove the originating status of the goods concerned.
- (b) The invoiced price is not acceptable as the ex-works price, and may be determined by the Manager responsible for the administration of the rules of origin section in Head Office, 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 producers 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.
- (c) 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 the Protocol.

49A.30(32) Article 32 - Preservation of proof of origin and supporting documents

Documents shall be preserved as provided in rule 101.02.

49A.27(33) Article 33 - Discrepancies and formal errors

- (a) Slight discrepancies in proof of origin documents referred to in Article 33(1) 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 declaration of origin;
 - (iii) information valid and accurate but not in correct box;
 - (iv) exporter declaration box not dated;
 - (v) other discrepancies as determined by the Manager responsible for the administration of the rules of origin section in Head Office.
- (b) Any proof of origin document submitted with slight discrepancies or formal errors as contemplated in this Article may be accepted provided the documents comply with the conditions contemplated in this Article.

49A.29(34) Article 34 - Amounts expressed in EURO

Any rule for the purposes of this Article will be made under the provisions of section 73(3).

TITLE V – ARRANGEMENTS FOR ADMINISTRATIVE CO-OPERATION

49A.30 Article 35- Administrative conditions for products to benefit from the SADC EPA-
EU EPA

No rule

49A.31(36) Article 36- Notification of customs authorities

No rule

49A.32(37) Article 37 - Mutual assistance

(a) The stamp provided for issuing forms EUR1 must be used only for that purpose and only such stamp shall be used for such forms.

(b) The Manager responsible for the administration of the rules of origin section in Head Office shall be responsible for rendering the assistance contemplated in this Article to the customs administrations of the European Union.

49A.33(38) Article 38 - Verification of proof of origin

(a) Any proof of origin in respect of imported goods shall be submitted for verification to the customs authorities of the European Union for verification by the Manager responsible for the administration of the rules of origin section in Head Office.

(b) If any origin administration officer has reasonable doubts about form EUR1 or origin declaration, the originating status of the goods concerned or the fulfilment of the other requirements of the Protocol such officer may, unless the Manager responsible for the administration of the rules of origin section in Head Office otherwise determines, allow release only on the furnishing

of adequate security pending a report by the customs authorities of the European Union on the originating status of the goods.

- (c) If a request is received from the customs authorities in the European Union, the exporter, supplier 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 the Protocol.

- (d) The Manager responsible for the administration of the rules of origin section in Head Office shall determine whether or not to refuse entitlement to preferences in the circumstances contemplated in Article 38(6).

49.34(38) Article 39 - Verification of suppliers' declarations

For the purpose of verifying suppliers' declarations a risk based analysis may be carried out at random or whenever there are reasonable doubts in respect of authenticity or the correctness of the movement certificate EUR1 or origin declaration information by the Manager responsible for the administration of the rules of origin section in Head Office, the Controller or any officer designated to perform such function.

49A.35(40) Article 40 - Dispute settlement

- (a) Any person involved in a dispute as contemplated in Article 40 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 3 months of the decision or determination concerned.

- (b) Application for internal appeal shall be made on the appeal form obtainable from the Manager responsible for the administration of the rules of origin section in Head Office 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 the application.

49A.36(41) Article 41 - Penalties
No rule.

49A.37(42) Article 42 - Free zones

If a certificate of origin is issued for goods which use a free zone in the course of transport, the exporter must, include with the supporting documents referred to in rule 49A.26(31) a declaration to this effect and stating that the goods were not substituted by other goods and did not undergo handling other than normal operations designed to prevent their deterioration.

49A.38(43) Article 43 - Derogations
No rule.

TITLE VI – CEUTA AND MELILLA

49A.40(44) Article 44 - Special conditions
No rule.

TITLE VII – FINAL PROVISIONS

49A.42(45) Article 45 - Revision and application of rules of origin
No rule.

49A.43(46) Article 46 - Annexes
No rule.

49A.44(47) Article 47 - Implementation of the protocol
No rule.

49A.45 General

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.

- 49A.46.01 (a) Import bills of entry shall be endorsed–
- (i) whether form EUR1 or an origin declaration is produced;
 - (ii) with the number of the form EUR1 if applicable;
 - (iii) whether application is made for a tariff quota.
- (b) Export bills of entry shall be endorsed -
- (i) whether form EUR1 or an origin declaration is produced;
 - (ii) whether a tariff quota is applicable;
 - (iii) with the number of the EUR1 and export permit number, if applicable.
- 49A.47.02 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–
- (a) imported goods–
- (i) if the goods are entered for home consumption, form EUR1 and a copy of the invoice or a copy of the invoice endorsed with an origin declaration, an application for a quota where appropriate, a copy of the bill of lading, air waybill or other transport document, for retention by the Controller;
 - (ii) if the goods are entered for storage in a customs and excise warehouse for subsequent entry for home consumption, the proof of origin and any other document required for allowing preferential treatment when the goods are entered for home consumption.
- (b) goods for export–
- (i) duly completed form EUR1 where required; and
 - (ii) for retention by the Controller, the application form for form EUR1 and a copy of the export invoice, or a copy of any invoice containing an origin declaration, a copy of the packing list, a copy of the bill of lading, air waybill or other transport document, and except in the case of an approved exporter, the proof of origin;
 - (iii) if an origin declaration is produced after export a copy of the relevant export bill of entry shall be submitted therewith to the Manager responsible for the administration of the rules of origin section in Head Office.

- (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.
- (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.
- (e) (i) If used and second hand goods exported should bear marks or origin, such marks may be accepted.
- (ii) If such goods bear no mark of origin, a declaration about the country of manufacture by an acknowledged expert in the trade may be accepted.
- (iii) (aa) Form EUR1 for second hand motor vehicles and boats exported by private persons must reflect where appropriate the make and type, chassis or body number, engine number and registration number.
- (bb) The exporter must in addition produce for inspection the invoice or a copy covering the purchase.
- (cc) The export declaration of the application for form EUR1 need not be completed and in such a case, the exporter may be shown as resident outside the Republic, if applicable.

Tariff rate quotas

49A.48.03 Export to the European Union of goods subject to tariff quotas–

- (a) (i) The goods subject to tariff quotas, the conditions relating to the issue of export permits and the requirements of the European Union are specified as determined by the National Department of Agriculture, Forestry and Fisheries.

- (ii) No exporter of goods, subject to tariff quotas, may issue an origin declaration contemplated in Articles 24 and 25 instead of form EUR1, except if—
 - (aa) approved exporter status is granted on application form DA 185. 4A2 and Annexure DA 49.02; and
 - (bb) a quota is approved by the Department of Agriculture, Forestry and Fisheries
- (iii) When form EUR1 is used for the purpose of proof of origin it may not be completed by the exporter, or if completed, certified by an officer unless—
 - (aa) a valid permit issued by the National Department of Agriculture, Forestry and Fisheries is available; or
 - (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;
 - (cc) the circumstances in paragraphs (g) and (h)(iv) are applicable.
- (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
- (c) 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 duly completed form EUR1 are presented.
- (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.
- (e) The particulars on the bill of entry shall, for the purposes of allocation of the tariff quota, be deemed to be the application therefore by the exporter concerned.

- (f) (i) If a tariff quota is allocated, Box 7 of the form EUR1 shall be endorsed "export tariff quota allocated".
- (ii) Below the description in box 8 of form EUR1, the word "subject to export tariff quota" shall be inserted.
- (g) If a lesser quantity of the quota is available, the lesser quantity only shall be endorsed on the form EUR1, supplemented by the words "only, quota exhausted".
- (h) (i) Any permit issued by the Department of Agriculture, Forestry and Fisheries shall be delivered to the Controller together with the export bill of entry and completed form EUR1.
- (ii) The permit number shall be endorsed on the bill of entry export and in the remarks column of the form EUR1.
- (iii) The quantity exported shall be written off the permit and the permit retained if the quantity is exhausted.
- (iv) The provisions of paragraph (9) 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.

49A.49.04 Imports from the European Union of goods subject to tariff quotas—

- (a) Tariff quotas for imported goods are specified in Note IJ 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, Forestry and Fisheries, if applicable, and an application for such quota.
- (b) Any allocation shall be made under the control of any officer designated by the Manager responsible for the administration of the rules of origin section in Head Office according to the electronically stored balances available at the time the bill of entry is processed.
- (c) If the balance of the tariff quota is inadequate, duty at the general rate of duty specified in Part 1 of Schedule No. 1 shall be brought to account in

respect of the goods for which no such quota is available before release thereof is granted.”

(b) By the substitution in item 202.00 of the Schedule to the rules for forms DA 185, DA 185.4A2, DA 185.4A7, DA 185.4A11, DA 185.4B9 and DA 185.4B10 of the following forms:

DA 185 Application form: Registration/Licensing of Customs and Excise Clients

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

DA 185.4A7 Registration Client Type 4A7 - Producer

DA 185.4A11 Client type 4A11 - Special Economic Zone Operator (SEZ) and/or designation of a Customs Controlled Area (CCA) - (Sections 21A, 59 and Rule 21A.04)

DA 185.4B9 Client type DA 185.4B9 - Special Storage Warehouse (Customs Controlled Area Enterprise) - (Sections 19A, 21, 21A, 60, 61 and Rule 21A.10)

DA 185.4B10 Client type DA 185.4B10 - Manufacturing Warehouse (Customs Controlled Area Enterprise) - (Sections 19A, 21A, 27, 59A and Rule 21A.10)