

In terms of section 48 of the Customs and Excise Act, 1964, Schedule No.1 to the said Act is hereby amended to the extent set out in the Schedule hereto.

N NENE
DEPUTY MINISTER OF FINANCE

SCHEDULE

By the substitution of Annex VII to the General Notes in Schedule No. 1 with the following:

ANNEX VII

CONCERNING TRADE IN SUGAR

PREAMBLE

The High Contracting Parties:

HAVING REGARD to the objectives of this Protocol and of its importance as an instrument for facilitating the furtherance of the aims of regional economic integration and the creation of a single market through increased harmonisation of policies and liberalisation of tariffs and removal of NTBs on trade;

NOTING, however, that the world sugar market is highly distorted and conscious of the fact that the world price for sugar is a dumped or subsidised price resulting in the continuing need for most sugar producing countries to impose tariff and non-tariff barriers against the free importation of sugar in order to protect their domestic industries;

RECOGNISING, therefore, that for as long as the world sugar market remains highly distorted, sugar will be a product requiring special dispensation within the framework of the Protocol on Trade so that no sugar industry within SADC will suffer injury;

MINDFUL of the need to establish a stable investment climate leading to both growth and development of SADC economies and of the need to maintain the SADC Region as a reliable bloc of world competitive low cost sugar producers, well positioned to take advantage of the anticipated higher world prices once global liberalisation in sugar trade occurs;

ACKNOWLEDGING accordingly the need to improve and maintain the efficiency of all sugar producers within the SADC region through the interchange of research, training and information;

HEREBY AGREE as follows:

ARTICLE 1

DEFINITIONS

In this Annex, an expression that has been defined has that meaning and, unless the context indicates otherwise:

- "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;
- "Sugar" means raw sugar, refined sugar and direct consumption crystal sugar;

- "Technical Committee on Sugar (TCS)" means the body comprising representatives of national governments and sugar industries in all Member States;
- "Ton" means a metric ton of sugar, *tel quel*.

ARTICLE 2

OBJECTIVES

The objectives of this agreement are:

- a) to promote, within the Region, production and consumption of sugar and sugar-containing products according to fair trading conditions and an orderly regional market in sugar for the survival of the sugar industries, in anticipation of freer global trade;
- b) in support of the long term objective set out in paragraph 1 of Article 3, to provide temporary measures to insulate State Parties' sugar producing industries from the destabilising effects of the distorted global market, and in this regard to harmonise sugar policies and regulate its trade within the Region during the interim period until world trade conditions permit freer trade in sugar;
- c) to create a stable climate for investment, leading to the growth and development of sugar industries in the State Parties;
- d) to improve the competitiveness of the sugar producing State Parties in the world sugar market;
- e) to facilitate the sharing of information, research and training with a view to improving the efficiency of growers, millers and refiners of sugar in the Member States;
- f) to facilitate the development of small and medium sugar enterprises, and
- g) to create stable market conditions in the Member States so as to encourage the rehabilitation and development of all sugar industries with a view to facilitating direct foreign investment and the creation of employment opportunities.

ARTICLE 3

RECIPROCAL MARKET LIBERALISATION

1. The long term objective of this Annex is to establish full liberalisation of trade in the sugar sector in the SADC region after the year 2012. Such liberalisation will be dependent on a positive review of conditions prevailing in the world sugar market five years after entry into force of this Annex in order to ascertain if the world sugar market has normalised sufficiently to make such liberalisation acceptable.
2. The liberalisation as contemplated in paragraph 1 will be on a reciprocal basis and will also involve the removal of non-tariff barriers in relation to SADC sugar trade. However, in the interim period, market access will be on a non-reciprocal basis into the SACU on the terms outlined in Articles 4 and 6.

ARTICLE 4

NON-RECIPROCAL ACCESS TO THE SACU MARKET

1. Duty free quota access to the SACU sugar market will be allocated to all non-SACU SADC sugar producing members. Access will be established through duty-free quotas allocated to each such member. The quotas will be allocated as follows:
 - a) The base market access quotas are hereby established as the average of the annual quotas allocated to each non-SACU SADC sugar producing country over the period 2001/2002 to 2007/08. These quotas would apply from the first year in which this quota system became effective. These based quotas are indicated in Appendix 1.

- b) An annual growth factor will be applied from the second year of implementing the new quota system. The annual percentage growth in the quota will be equal to the actual growth percentage in the SACU sugar market in the preceding year, and will only be applied to quota tonnage in excess of 20,000 tons. A minimum annual total quota increase of 500 tons will be applicable. This total quota increase shall be distributed among the quota beneficiaries on the basis of their relative base quota allocations. The relative shares in the base quota allocations are indicated in Appendix 1.
 - c) The annual percentage growth in the SACU sugar market is computed as the growth in the combined SACU sales of the South African and Swaziland sugar industries plus imports into SACU.
 - d) From the total annual base quota, an initial quota of 1,500 tons will be allocated to each non-SACU SADC sugar producing country. The balance of the quota will then be allocated to each beneficiary country in accordance with that country's calculated relative share of the average annual quota allocated to non-SACU SADC countries over the period 2001/2002 to 2007/08.
2. The determined quota allocations are not transferable between countries. The principal of "use it or lose it" will apply.
 3. Any new sugar producer in SADC will be accommodated within the total quota determined in this Annex.
 4. The modalities for the utilisation or distribution of the quota of a country would be determined by the competent sugar quota allocating authority in that country.
 5. This provision for non-reciprocal access for non-SACU SADC sugar producers will be reviewed in accordance to scheduled and/or agreed revisions of the SADC Trade Protocol.

ARTICLE 5

CO-OPERATION IN AREAS OF COMMON INTEREST

1. Co-operation in areas of common interest as identified by the TCS will be aimed at facilitating a balanced expansion of national industries with the ultimate objective of promoting the development of a regional competitive industry. Cooperation in the following areas will be established with a view to increasing efficiencies of all SADC sugar producers.
 - a) The TCS established in terms of Article 7 will initiate dialogue on the usage and upgrading of infrastructure, and adopt rules on the transfer of information in relation to sugar technology and research, training, promotion and marketing.
 - b) Recognising established official customs co-operation arrangements, the TCS will make recommendations to such bodies on issues related to cross-border trade in sugar in the region aimed at improving information flow on trade in sugar in the region and improving border control.
 - c) Information on the nature and performance of existing national initiatives will be shared. Information on similar initiatives in other parts of the world will be collected and considered. Such information could be used to design appropriate strategies for small medium enterprise development.
 - d) Developments occurring in the rest of the world which have implications for sugar industries in the SADC will be identified and monitored, and pro-active regional strategies will be pursued.
2. The TCS will establish terms of reference relating to the implementation of actions in the identified and new areas of co-operation, and may appoint technical working groups to obtain related information and submit recommendations.

ARTICLE 6

IMPLEMENTATION

1. Market access as provided for in Article 4 will be effected from the 2011/12 marketing year.
2. Market access as provided for in Article 4 will be maintained until the review of this Annex.
3. Co-operation in areas of common interest will be effected upon implementation of this Annex.

ARTICLE 7

INSTITUTIONAL FRAMEWORK

1. The TCS will be established to manage the agreed terms for market access and to co-ordinate actions in the areas of cooperation outlined in Article 5.
2. The TCS will establish and maintain a secretariat, the functions of which will be to implement and monitor the market access arrangements, procure and collate statistical information concerning sugar from State Parties, disseminate such information amongst State Parties, and supply secretarial services to the TCS and its appointed Working Groups.

By the insertion of Appendix 1 to Annex VII to the General Notes in Schedule No. 1:

APPENDIX 1

Country	Base Quota	Relative Share
Malawi	7,646	20.7%
Mauritius	2,342	2.9%
Mozambique	7,623	20.6%
Tanzania	1,500	0.0%
Zambia	14,444	43.6%
Zimbabwe	5,125	12.2%
TOTAL	38,681	100.00%