GUIDE TO THE SADC PROTOCOL ON TRADE

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• This guide does not represent a legal document.
# LIST OF ACRONYMS

<table>
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<th>Definition</th>
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<tr>
<td>BLNS</td>
<td>Botswana, Lesotho, Namibia and Swaziland</td>
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<tr>
<td>CMT</td>
<td>Committee of Ministers Responsible for Trade Matters</td>
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<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<tr>
<td>FTA</td>
<td>Free Trade Area</td>
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<tr>
<td>HS</td>
<td>Harmonised System</td>
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<td>ITC</td>
<td>International Trade Centre</td>
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<tr>
<td>LDC</td>
<td>Least Developed Country</td>
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<td>MFN</td>
<td>Most Favoured Nation (Treatment)</td>
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<td>MMTZ</td>
<td>Malawi, Mozambique, Tanzania and Zambia</td>
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<tr>
<td>NTB</td>
<td>Non-Tariff Barrier</td>
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<tr>
<td>RoO</td>
<td>Rules of Origin</td>
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<tr>
<td>SACU</td>
<td>Southern African Customs Union. SACU members are Botswana, Lesotho, Namibia, Swaziland and South Africa.</td>
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<tr>
<td>SAD 500</td>
<td>Single Administrative Document 500</td>
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<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
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<td>SADC CD</td>
<td>Southern African Development Community Customs Document</td>
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<tr>
<td>SPS</td>
<td>Sanitary and Phytosanitary Measures</td>
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<td>TBT</td>
<td>Technical Barriers to Trade</td>
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<td>TCS</td>
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<td>TNF</td>
<td>Trade Negotiating Forum</td>
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<td>TRIPS</td>
<td>Trade Related Aspects of Intellectual Property Rights</td>
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<td>WCO</td>
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INTRODUCTION

The Southern African Development Community (SADC) was created in 1992 by the Treaty of Windhoek, replacing the Southern African Development Co-ordination Conference. The current 15 Members States of SADC are Angola, Botswana, the Democratic Republic of Congo (DRC), Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

SADC’s goals are broad and far-reaching, and include reducing poverty and improving the living standards of the people of Southern Africa by advancing the economic and social development of the region. The SADC Protocol on Trade is part of the SADC’s larger programme of regional co-operation, which seeks to benefit all Member States by contributing to economic development in Southern Africa.

The SADC Protocol on Trade has been in effect since January 25, 2000. It is an agreement between SADC Member States to reduce customs duties and other barriers to trade on imported products from each other. By lowering customs duties and removing other barriers to trade, the SADC Member States intend to promote economic growth and regional integration. By January 1, 2008, most customs duties (on 85% of tariff lines) had been eliminated for goods originating from SADC Member States. The SADC intends to establish a customs union in which all SADC Member States will have no tariffs on goods originating from each other and have a common external tariff.

As of August 2008, 13 SADC Member States had acceded to the Protocol on Trade – namely Angola, Botswana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. Angola, however, had not yet presented its schedule of tariff reductions for goods originating from SADC Member States. The DRC and the Seychelles have not yet acceded to the Protocol on Trade.

The SADC Member States have begun to enjoy the benefits of regional trade co-operation. For example, more than 85% of the Harmonized System (HS) tariff lines are now at zero, and waiting times for commercial traffic at several major border crossings have been reduced through a reduction in the number of documents required for imports and exports. One-stop border posts (OSBP), allowing shipments to pass through without two inspections at the same location, will soon be operational at Chirundu (Zambia-Zimbabwe) and Mamuno (Namibia-Botswana) border posts. Several others are planned. Steps have also been taken to simplify and harmonise transit documents, in order to reduce the paperwork burden on regional shippers.

The Business Guide to the SADC Protocol on Trade is designed to inform the business community in the SADC region about the terms of the Protocol.

It explains the SADC legal trade framework in simple language, following the order in which topics are presented in the Protocol on Trade. While an attempt has been made to discuss all the obligations and commitments of the Protocol, the emphasis has been on creating awareness and understanding of the increased market access that is available in the region. It is hoped that it will help businesses make informed decisions.

The guide is intended to cover all aspects of the SADC Protocol on Trade that businesses must understand in order to trade better with each other under the terms of the agreement. For completeness, it should be read together with the national tariff reduction offers, Annex 1 containing the detailed Rules of Origin and the SADC Rules of Origin Exporters Guide Manual.

These documents can be downloaded from the SADC website: www.sadc.int, which also provides information about the SADC Free Trade Area formally launched on August 17, 2008.

This guide has been produced by the USAID Southern Africa Global Competitiveness Hub (USAID – Southern Africa Trade Hub) at the request of the SADC Secretariat.
DEFINITIONS AND OBJECTIVES

Article 1 contains definitions of key terms used throughout the Protocol.

Article 2 contains the main objectives of the Protocol, which are to:

- Liberalise trade, and create a free trade area and favourable conditions for investment;
- Ensure efficient production within SADC, reflecting current and dynamic comparative advantages;
- Enhance the economic development, diversification and industrialisation of the region.
**Elimination of Import Duties (customs duties/tariffs) (Article 3)**

This Article outlines the rules for the elimination of customs duties on goods traded among Member States that meet the Rules of Origin set out in Annex 1 to the SADC Protocol on Trade.

By signing the SADC Protocol on Trade, Member States commit themselves to reducing their customs duties or tariffs, with a goal of establishing a free trade area (FTA) in 2008. An FTA is a group of countries that have agreed to eliminate customs duties on most goods traded between them. As of January 2008, 85% of the harmonised system (HS) tariff lines had customs duties eliminated for goods traded between SADC Member States. The most favoured nation (MFN) tariffs still apply to good originating from traders outside of the SADC, creating a margin of tariff preference (the difference between MFN and the SADC rates) for SADC suppliers and affording them an opportunity to increase (intra-SADC trade) their trade within the region.

A customs duty or import duty or a tariff is a customs tax that must be paid when a product enters a country. Customs duties usually take the form of a percentage (ad valorem duty), calculated on the cost of the good at either the destination port (c.i.f.) or at the port in the country of origin (f.o.b.).

**Example:** Country A applies a customs duty or tariff of 10% to imported beef. Therefore a shipment of beef valued at $1000 would be charged a tariff of $100 to the customs officials of country A.

In certain instances and for certain products the SADC Member States maintain what is known as specific duties. Such Member states will charge either a specific duty or a customs duty. A specific duty is a tax of so much local currency per unit of the goods imported.

**Example:** Country B applies a specific duty or tariff of $200 per ton of imported maize. Therefore a shipment of 10 tons of maize imported into Country B would be charged a customs duty of $2 000.

The SADC Member States that are signatories to the SADC Protocol on Trade agreed to reduce customs and specific duties over a period of 10 years, starting in September 2000. The gradual eliminations commitments by Members to the SADC Protocol on Trade are presented in their “tariff offers” or “market access offers” or “tariff phase downs”, which are sometimes referred to as national schedules of commitments. These schedules are legally binding.

At the start of the negotiations in 2000, it was agreed that the more developed Member states—such as South Africa—would eliminate customs duties/tariffs at a faster pace. South Africa and the rest of the SACU countries (BLNS) eliminated many of their customs duties when the agreement began in 2000. By 2012, all customs duties will be eliminated on all products except those applying to sugar and excluded items (arms, ivory and second-hand cars etc).

Middle-income Member States such as Mauritius and Zimbabwe agreed to reduce their customs duties each year between 2000 and 2008. These gradual annual reductions in tariff levels are called “tariff phase downs” and can be found in the tariff offer of each implementing country (which can be downloaded from the SADC website). Reductions on some few sensitive products remain and will be completed by 2012 except for those products excluded from the SADC Trade Protocol.

Least developed countries (LDCs) in the SADC—such as Mozambique, Malawi, Tanzania, and Zambia—agreed to lower their customs duties at a much slower pace than the rest. These LDC Member States back-loaded their tariff reductions for category B products and start reductions on sensitive products in 2009 to be completed in 2012. Only Mozambique, for products originating from South Africa, extended the reductions until to 2015. The sensitive products are limited to no more than 14% - 15% of imports. Angola is yet to present their tariff phase down. Products originating from Angola, DRC and Seychelles do not yet enjoy reduced customs duties under the SADC Protocol on Trade.
All goods are classified in one of four categories, and different time frames for tariff reductions apply to each category:

- Customs duties on goods in Category A were eliminated when the Protocol on Trade took effect in each country (2000-2001);
- Customs duties on goods in Category B were phased down to zero by January 1, 2008;
- Goods in Category C are sensitive products, and the elimination of customs duties on these goods will not be completed, in most cases, until 2012;
- Goods in Category E are exempt from tariff elimination, but represent a very small number of products, such as firearms and ivory.

**The Special Case of South Africa**

Non-SACU members of SADC submitted differentiated tariff offers, one applying to South Africa and the other to all other SADC Member States, including BLNS countries. Tariff phase downs for South African suppliers did not begin in many cases until several years after the phase down for other Member States. There are instances were the margins of preference afforded to South African suppliers will be less than that offered to the other SADC suppliers during the 2009 to 2012 period, but at the end of the phase down period all SADC suppliers will be treated the same with the exception of Southern African suppliers exporting to Mozambique.

**Harmonised System**

*(Annex II, Article 3)*

Businesses planning to export goods to other countries need to know what tariffs, if any, will be applied to their products. The World Customs Organisation (WCO) has developed the Harmonised Commodity Description and Coding System, a commodity classification system used on a worldwide basis and usually referred to as the harmonised system, or HS Codes. Additional information can be found on the WCO website: [www.wcoomd.org](http://www.wcoomd.org)

The HS is a universal coding system used by more than 190 countries to facilitate international trade. This HS nomenclature comprises about 5,000 commodity groups, which are identified by a six-digit code.

The SADC Protocol on Trade requires Member States to conform to the HS. The SADC Member States have agreed to harmonise up to eight digits. An example of HS classification is provided below in table 1 – for edible vegetables and certain roots and tubers. Every good has a code, so businesses can easily determine the tariff that will apply to their good in each country by referring to the product code in each country’s published tariffs.

HS Codes are composed of a chapter level, a product level and a sub-product level, as needed.

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Product Description</th>
<th>Explanatory Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>07</td>
<td>Edible vegetables and certain roots and tubers.</td>
<td>The first two digits identify the chapter the goods are classified in (chapter or two-digit level)</td>
</tr>
<tr>
<td>0712</td>
<td>Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared.</td>
<td>The four-digit level identifies the product grouping/heading within that chapter.</td>
</tr>
<tr>
<td>0712.90</td>
<td>Other vegetables; mixtures of vegetables.</td>
<td>The six-digit level gives a description of the product at international level.</td>
</tr>
<tr>
<td>0712.90.10</td>
<td>Culinary herbs.</td>
<td>The eight-digit level gives a national level description (even more specific description of the product)</td>
</tr>
</tbody>
</table>
Elimination of Non-Tariff Barriers
(Article 6)

A non-tariff barrier (NTB) is any measure that impedes the flow of international trade, excluding import and export duties.

NTBs include—among other things—import quotas, exchange controls, customs delays, government purchase policies, subsidies, customs calculation procedures, boycotts, technical barriers, bribes and voluntary export restraints.

Quota restrictions are not permitted under the SADC Protocol on Trade. Quota restrictions on imports that existed prior to 2000 were to be phased down and no new restrictions permitted according to Article 7 of the Protocol. Export quota restrictions are prohibited except as elsewhere authorised under the Protocol such as for food security reasons. Exceptions to these prohibitions exist for trade on sugar and apparel, which are described separately below.

SADC Member States have agreed to eliminate all NTBs and not impose any new ones. SPS and TBT requirements are sometimes confused to be NTBs. The requirement for SPS and TBT are used to protect human, animal or plant health and life. These requirements become NTBs when they are used for the purpose of obstructing trade. The SADC Protocol on trade outlines specific obligations on Member States on how they can apply for example SPS, TBT, Customs Valuation trade remedies without using them to obstruct legitimate trade.

In 2005 SADC began a process of identifying potential NTBs affecting trade in the region with a view to documenting the practice and eliminating agreed barriers to trade. The SADC Secretariat has developed a mechanism to ensure that complaints about NTBs are notified on-line and resolved.

General Exceptions and Security Exceptions
(Articles 9 & 10)

The main aim of the SADC Protocol on Trade is to reduce barriers to regional trade and liberalise the conditions of regional competition. However, the Protocol allows SADC Member States to adopt measures that restrict trade if the purpose of the restriction is any of the following:

- to protect public morals;
- to protect human, animal or plant life;
- to secure intellectual property rights;
- to regulate the movement of gold, silver or precious or semi-precious stones;
- to protect national historic treasures;
- to address food shortages;
- to conserve non-renewable national resources and the environment;
- to protect national security interests or maintain peace.

However, when a Member State decides to adopt any of these measures, laid down procedures have to be adhered to, and it must ensure that when such measures are adopted they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade.

National Treatment
(Article 11)

SADC Member States have agreed that imported goods should be subject to the same laws, regulations, procedures and requirements as domestically produced like goods. This is called “national treatment”.

Example: Country A is not allowed to require that imported beef be kept frozen during transportation unless it also requires that domestic beef be kept frozen during transportation.

The national treatment provision is especially relevant for SPS regulations and technical regulations and internal taxes. Any regulations applying to trade or tax that a SADC Member State applies to foreign imports must not be more stringent or burdensome than when it is applied to domestically produced goods of the same kind.
Special Agreements

Sugar Agreement
(Annex VII)

Certain industries in the Southern African region are considered very sensitive by SADC Member States and the Protocol on Trade includes special agreements for them. Sugar is one such industry.

In order to protect regional sugar producers from the impact of artificially low world prices, and to maintain and promote sugar producers in the SADC region, the Protocol on Trade includes measures intended to increase co-operation and support for regional sugar producers.

The Protocol’s main support for sugar producers in Southern Africa comes from preferential access to the Southern African Customs Union (SACU), which is made up of Botswana, Lesotho, Namibia, Swaziland and South Africa. Each SADC Member State that has a surplus of sugar – including the countries that are also members of SACU – will be allowed to export an agreed portion of that surplus sugar to SACU member countries without paying any customs duty (duty-free). The amount of sugar that each SADC Member State may export to SACU will be proportional to that Member State’s share of the total SADC sugar surplus.

Example: In 2008, Country A produces 50 000 tons of surplus sugar. A total of 200 000 tons of surplus sugar is produced by all SADC Member States, so that Country A’s share of the total surplus is 25%. Based on the growth of demand for sugar within the SACU, SACU decides to allow 100 000 tons of surplus sugar to enter SACU duty-free from other SADC member countries. Country A has produced 25% of the total sugar surplus this year, so Country A may export 25 000 tons of sugar to SACU duty-free (25% of 100 000 tons).

The Sugar Agreement is non-reciprocal, which means that SACU countries allow some duty-free access to other SADC Member States without requiring that those other SADC members also allow duty-free access to SACU countries.

Example: The Sugar Agreement gives Mauritian sugar producers some duty-free access to the SACU market, but does not require that Mauritius give SACU sugar producers access to the Mauritian market.

This non-reciprocal system of market access into SACU is intended to provide short-term support for sugar producers in the SADC region. The long-term objective of the Sugar Agreement is to establish reciprocal market access among all SADC members by removing all barriers to regional sugar trade after 2012. The agreement established the Technical Committee on Sugar (TCS), with representatives from the sugar industry and all SADC Member States, to monitor the world and regional sugar markets and make appropriate policy changes in response to changing conditions.

MMTZ Preferences
(Annex I, Appendix V)

The MMTZ countries are the LDCs in the SADC namely Malawi, Mozambique, Tanzania and Zambia. The SADC rules of origin permit MMTZ an exception to the SADC rule, which requires double transformation (generally to start from originating thread to make apparel products) to establish origin under an annually determined quota for each country. MMTZ countries are permitted to use fabric imported from outside the region to make this apparel. These preferences apply only to export shipments delivered to SACU countries (Botswana, Lesotho, Namibia, Swaziland and South Africa). The MMTZ exception to the rule is not intended to be permanent.

Example: The rules of origin on some clothing products require that imported materials go through a two-stage transformation in order to achieve originating status. However, if the clothing is produced in an MMTZ country, the material only needs to go through a single change of tariff heading in order to achieve originating status.
Example: According to the SADC Protocol on Trade, minor operations on foreign materials do not confer origin on those materials. However, if certain minor operations are carried out in an MMTZ country, the process does confer origin on the final product, provided that the product is shipped to a SACU country.

These examples are only given to clarify how special rules may apply to MMTZ products. Businesses located in MMTZ countries must consult the SADC rules of origin to determine whether their products are granted special privilege by the SACU.
CUSTOMS PROCEDURE

Customs procedure is aimed at simplifying and harmonising customs requirements, operations and ensuring they are applied uniformly between SADC Member States.

Border Hours of Operation

The most common means of transportation for goods in the SADC Member States is by road. One of the barriers to this trade is the hours of operation of border posts and customs offices at overland border crossings. The SADC Protocol on Trade encourages Member States to keep their border hours aligned. To know when a border post closes, it is advisable to call the local customs office for specific times. SADC Member States are working towards having all major border posts open 24 hours a day whenever possible.

Rules of Origin (RoO)

Rules of origin exist in order to prevent countries that are not party to the SADC Protocol on Trade (third countries) from taking advantage of the duty free access provided by the SADC Free Trade Area. A free trade agreement gives mutual preferential or duty-free access for products produced by the countries that sign the agreement. Rules of Origin (RoO) are used to determine the origin or nationality of a product. They also serve to ensure that only products that meet the origin requirements benefit from tariff preferences, provided for under specific trade agreements.

Annex I of the SADC Protocol on Trade provide that goods shall be accepted as eligible for preferential treatment within the SADC market if they originate in the member States, and the qualification of such products shall be as provided in Appendix I of Annex I of the Protocol on Trade. Only goods that meet the SADC RoO are deemed to originate within a SADC Member State and are eligible to receive the duty free market access that the SADC Protocol on Trade provides.

Example: Zimbabwe and Mozambique have signed the SADC Protocol on Trade, and therefore give each other duty-free market access on products produced in their markets. If Mozambique also imports products from non SADC Member State and exports those products to Zimbabwe, without any substantial transformation, the Zimbabwean importer will pay Zimbabwean customs duties that apply to such products when they do not meet the origin rules.

In other words, a product does not “originate” from a country simply because it is located in that country or has been repacked in that country. It must meet specified conditions in order to acquire “originating status”. SADC has adopted specific RoO for nearly every product, and businesses should consult these to determine if their products meet the origin requirements. For additional information refer to the SADC Rules of Origin Exporter Guide on the SADC Website, www.sadc.int

Under the SADC Protocol on Trade, a product is considered to originate in a SADC Member State if it meets one of the criteria prescribed in the SADC rules of origin in Annex I. For goods to be accepted as originating they should be consigned directly from a Member State to a consignee in another Member State and

(a) They have been wholly produced/obtained,
(b) Have been produced in a Member State using non-originating materials, provided that such material have undergone sufficient working or process in one or more Member States; or
(c) There has been a change in the tariff heading of a product arising from processing carried out on the non-originating materials.

Wholly Produced/Obtained

A product originates in a SADC Member State if it is wholly produced within that state, or if imported inputs were used only to raise or grow agricultural products.

Example of wholly produced products include;

(a) mineral products extracted from the ground or sea-bed of the Member States;
(b) vegetable products harvested within the Member States;
(c) live animals born and raised within the Member States;
(d) products obtained from live animals within the Member States;
(e) products obtained by hunting or fishing conducted within the Member States;
(f) products obtained from the sea and from rivers and lakes within the Member States by a vessel of a member State;
(g) products manufactured in a factory of a Member State exclusively from the products referred to in sub-paragraph (f) above;
(h) used articles fit only for the recovery of materials, provided that such articles have been collected from users within the Member States;
(i) scrap and waste resulting from manufacturing operations within the Member State;
(j) goods produced within the Member States exclusively or mainly from one or both of the following:
   (i) products referred to in sub-paragraphs (a) to (i) above;
   (ii) materials containing no element imported from outside the Member States or of undetermined origin.

Such products contain no materials imported from outside the SADC region.

If a product is not wholly produced in a Member State, then one of the following conditions must be met in order for a product to gain originating status. Most RoO refer to either the “wholly produced” criteria described above or one of the criteria below, under which non-originating products are used in the manufacture of a final product and must undergo a “substantial transformation” or specified work processes.

**Sufficient Processing or Substantial Transformation**

Many products made within SADC countries include non-originating materials imported from outside the region. And certain production processes use materials from outside the SADC Member States, and transform those materials in a significant way to produce a final product with a distinctive name, character or use. If the materials used are already originating, the rule of origin is satisfied. The country of origin of a product is usually where the last substantial transformation takes place. Substantial transformation is usually defined by one of these three headings: value added, change of tariff heading, or performance of specific defined work processes.

**Example: Thread made from imported cotton may be required to undergo both spinning and dying in order to achieve originating status.**

As in all cases, this example is meant to illustrate a rule under the SADC Protocol on Trade, and does not reflect the actual rules of origin for thread.

Three key tests or criteria are used to establish substantial transformation:

**a) Value Added Standard**

When materials are imported from outside the SADC region and then used to make a finished product, the value of the finished product includes the cost of the imported material, the cost of any domestic material that was used, and the value that was added by the local production process. “Value added” is the increase in value that can be attributed to a certain input.

The “ex-factory” price of a good, which is sometimes called the “ex-works” price, is the price that the manufacturer receives if the good is picked up at the factory. Note that if a business uses a material of unknown origin, that material is assumed to be foreign when calculating the foreign content of the product.

Value added is usually expressed as a percentage of the ex-works price. For some products, the SADC rules of origin specify a minimum value added for the production process used to make a product in order for the good to receive preferential market access to other SADC Member States.

For some products, the SADC RoO specify the minimum amount of value that the domestic
production process must add to the product in order for that product to receive preferential or duty free market access within the SADC. This value added amount will be expressed as a percentage of the ex-factory price of the final product. The formula for value added under this rule can be expressed as follows:

\[
\text{Value-added of the production process} = \frac{\text{ex-factory price} - \text{cost of imported material inputs}}{\text{Ex-factory price}}.
\]

b) Change in tariff heading

Every product has a tariff heading, or classification, according to the HS of coding. The SADC RoO make provision for some products that contain non-SADC materials, once substantially transformed, to be originating – provided that the final product has a different tariff heading at four digits or sub-heading at a six digit level, from that of the constituent material.

Example: Country A imports material X and manufactures it into final product Y. X and Y have different tariff headings, so Y is considered to originate in SADC, assuming that the originator rule governs the originating status of Y in the SADC rules of origin in cases where products are governed by a change of tariff.

In certain cases, the SADC RoO require a “two-stage transformation”, also called a “double-stage transformation”. This means that, for a final product to receive preferential market access to SADC countries, the foreign materials used to make the product must change by two tariff headings.

Example: Country B imports yarn from outside the SADC region, turns that yarn into cloth (one transformation), and then uses the cloth to make clothes (second transformation). Country B’s clothes now qualify as originating within the SADC region and benefit from duty free treatment as provided for by the Protocol.

c) SACU–MMTZ Derogation on second stage transformation

MMTZ countries are exempted from fulfilling the set criteria as prescribed in column 4 of the appendix I of Annex I of the SADC Protocol on Trade on products of HS chapters 50 to 63 excluding blankets when exported to SACU countries. Products under these HS chapters have special rules which are subject to time and quantitative limits as prescribed in Appendix V to Annex I of the SADC Protocol on Trade, “The Regulation on the Tariff Quotas, Time periods and arrangements for the administration and enforcement in respect of products of HS chapters 50 to 63 excluding blankets exported to SACU by MMTZ Member States”. The SACU-MMTZ derogation on Rules of Origin for Textile and Clothing allows for one stage transformation. This is a temporary arrangements and exporters should always contact their Ministries of Trade for current status on the MMTZ.

d) Specific Processing (SP) or Technical Requirement

SP rules describe the specific production processes or sourcing processes that must be carried out on non-originating materials for a product manufactured to obtain originating status. Often these requirements appear where the raw material and downstream products are in the same tariff heading, or in the textile and apparel chapters.

Production processes that do not confer origin

(Annex I, Rule 3)

Some production processes are very minor, and only result in minimal changes to the products or materials in question. The SADC Protocol on Trade does not confer origin on final products that have only gone through the following kinds of processing:

- Packaging or repacking;
- “Operations to ensure the preservation of merchandise in good condition”, including drying, freezing, loading and unloading;
- Mixing, dilution or blending that does not result in a new chemical compound;
- Simple assembly or disassembly;
• “Ornamental or finishing operations” on textiles such as dying and embroidery; and
• Slaughter of animals.

This list is only given for the purpose of example. Other simple processes are also excluded from conferring origin on the products on which they are performed.

Principle of Cumulation (Annex I, Rule 2)
Cumulation allows SADC Member States to share production processes through sourcing inputs from each other and to recognise substantial manufacturing processes conducted in other Member States towards meeting the origin requirements.

Example: A business in Malawi sources a good from Zambia as input for production of its final good. The input from Zambia contains 10% foreign material and 90% SADC material.

If the inputs from other SADC Member States have satisfied the RoO that apply to them, then the full cost of those inputs is considered to originate from within SADC when calculating the domestic content of the final product.

Example: Continuing from above, suppose that imported good has satisfied the SADC rules of origin. Therefore when the business in Malawi uses the good to produce its final product, 100% of the cost of the imported good is counted toward the domestic content requirement of the final product when determining whether the final product satisfies SADC RoO.

Value Tolerance Rule (or De Minimis Rule)
The value tolerance rule allows an exception to agreed rules in de minimus situations. For example, in a case where the rule prohibits use of a specific input, there is derogation from the rule if the cost of that input represents less than 10% of value of the product. For SADC, the value tolerance is set at 10%.
Example: A company in SADC Country A imports oil from outside the SADC region and uses it to make hand cream. Suppose this type of change of tariff heading satisfies the SADC RoO with respect to hand cream. However, the company also adds an imported coloring dye to the hand cream. Mixing the dye with the hand cream does not confer origin on the dye.

As long as the cost of these non-transformed inputs does not exceed 10% of the value, the change of tariff heading confers origin on the whole product. The SADC value tolerance threshold is 10% of the ex-factory price of the final product.

Example: Continuing from the example above, if the cost of the dye is less than 10% of the ex-works price of the hand cream, the hand cream is eligible to receive preferential market access to other SADC Member States.

**Fishing and Marine Products**
*(Annex I, Rule 4)*

Many fishing and marine products are caught outside the territorial waters of SADC Member States by companies that operate within the SADC. The SADC RoO state that marine products originate within the SADC if they are caught from a vessel of a Member State, or are produced on a vessel of a Member State.

A vessel is considered to be part of a SADC Member State as long as at least one of the following conditions is met:

- The vessel sails under the flag of a SADC member state;
- At least 75% of the officers and crew of the vessel are nationals of a SADC Member State;
- At least the majority control and equity holding of the vessel is held by nationals of a SADC Member State or institution, agency, enterprise or corporation of the government of a SADC Member State.

**Steps to obtain confirmation of origin**
*(Annex I, Rule 9)*

The following steps give an outline of how a business in a SADC Member State may obtain confirmation of origin for its products. These steps are only meant to give a general guideline, as the procedure may vary slightly in each SADC Member State.

1. Find the HS Code for the product.
2. Check the SADC RoO to see which of the rules described above apply to that HS Code.
3. If the business believes its product satisfies the SADC RoO, it should provide its exporter with a written declaration stating that the goods comply. See the Appendix to this guide for the required format of this declaration.
4. The exporter of the goods must also provide customs officials with an authenticated Certificate of Origin. The format for the certificate is provided in Appendix II to this Guide.
5. In rare cases, the customs authorities in a SADC Member State may require that the origin of certain goods be verified. When this happens, customs officials will probably inspect the production facilities and request documentary evidence from the business relating to the sources of inputs and the production processes used by the business.

**Certificate of Origin**

In addition to regular transit documents, shipments of goods that originate from within the SADC and are exported to other Member States must carry a certificate of origin. The certificate of origin includes:

- A description of the goods in the shipment;
- The name and address of the exporter;
- The delivery destination; and
- The sworn signature of the producer, declaring that the goods in the shipment meet the requirements of the SADC RoO.
**Customs Valuation**  
*(Annex II, Article 4)*

SADC Member States have committed themselves to implement the WTO Agreement on Customs Valuation. The WTO agreement permits member countries to use six methods for valuing exported goods. As a result, the SADC Protocol on Trade permits Member States to use six methods for valuing imported goods:

1. The transaction value of the imported goods;
2. The transaction value of goods identical to the goods being valued;
3. The transaction value of goods similar to the goods being valued;
4. The deductive method;
5. The computed value method; and
6. The fall-back method.

When the transaction value of the imported goods method is used, customs duties are calculated based on the value reported on the shipment invoice.

Under the WTO agreement, the value of the merchandise is most often based on the first method, the price that is paid or payable for the goods – the price indicated on the invoice. The concern most often expressed with this method of valuation is that merchandise may be undervalued to reduce the duties paid. When the FTA comes fully into effect, this concern will largely disappear since trade will be free of duty in any event.

The WTO agreement provides several options for determining whether undervaluation has occurred. Values are compared to transactions of goods that are identical to those valued or, alternatively, similar to those being valued. Customs officials are often sceptical about the invoice values of second-hand goods, especially used cars. If a Member State does not believe an invoice value is reliable, it may move to the next method of the six valuation methods – following the order in which they appear.

*Example: A shipment of used cars is sent from Country A to Country B. The customs officials in Country B believe the shipment invoice is lower than the true value of the cars. Instead of using the first method for calculating the tariff (the transaction value of the imported goods), they use method 3, the transaction value of goods similar to the goods being valued. They do this by finding out values of used cars in Country B that are similar to the used cars in the shipment. The customs officials do not use method 2 (the transaction value of goods identical to the goods being valued) because it is too difficult to find used cars that are identical.*

Exporters who feel their goods are wrongly valued by customs officials may appeal in the country in question. This appeals process varies in each Member State and may take several days.

**Transit Traffic**  
*(Annex IV, Article II)*

Under the SADC Protocol on Trade, SADC Member States have made commitments (agreed) to grant all transit traffic freedom to pass through their respective territories by any means of transport as long as they meet the requirements for that purpose when coming from or bound for the Member States. Such freedom of transit is also extended to transit – traffic from a non SADC Member State and destined for a SADC Member State or from a Member State to a non SADC Member State.

All transit-traffic (goods and means of transport) have to be presented to the Customs office at the point of starting a journey together with duly completed SADC Transit Documents and necessary customs seals. The office at which transit-traffic commences decides on whether the means of transport to be used by the exporter provides enough safeguards to ensure that it is not offloaded while on transit before reaching its final destination. Such consignments have to be accompanied by relevant SADC Transit Documents. Where it is not possible for goods to be transported in sealed means of transport compartments, the authorities at the Customs office of origin or commencement of the journey may authorise the transportation in such unsealed
means of transport or compartments.

Example: A shipment of beer from Namibia to Mauritius should have a customs seal and not be subject to import duties while on transit in Botswana, South Africa or Mozambique as it travels to Mauritius. The only tariff that may be levied on this shipment is the Mauritian tariff on beer upon arrival and verification that the seals were not tampered with.

Example II: If Zambia exports copper cathodes to Japan which is not a Member of the SADC and the cathodes have to transit through Zimbabwe and South Africa which are Members of SADC, Zimbabwe and South Africa will allow the consignment to pass through without paying duty as long as the customs seals have not been tampered with.

Businesses should be aware that SADC Member States are permitted to charge administrative and service fees on shipments passing through their territory. But these fees should be the same for both foreign and domestic traffic and equal to the service rendered.

Transportation companies that engage in transit traffic must obtain a licence from their primary country of business, and have the proper SADC transit documents available for each shipment they carry.

Warehousing and Sealing of Containers

The SADC Protocol on Trade provides for goods to be consigned directly from one Member State to the other without entering the commerce of that Member State. If while on transit as a result of force majeure, a shipment requires transshipment or temporary warehousing a Member State may allow transshipment or temporary warehousing as long as the goods remain under Customs control in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition. All transit traffic should be accompanied by relevant transit documents as provided for under the Protocol.

If a country allows a shipment to transit through its territory without paying tariffs, it must be assured that this transit traffic will not be off loaded in its territory without paying customs duties.

To prevent trans-shipments being used as a means of avoiding legitimate payment of tariffs, trans-shipments must be sealed by customs officials of a SADC Member State. Shipping companies that transport trans-shipments under the SADC Protocol on Trade are required to have their containers certified as tamper-proof by the country in which they are based.

Transit Documents

(Annex III, Articles III & IV)

In an effort to reduce the cost of regional trade, the SADC Protocol on Trade requires Member States to reduce and simplify the paperwork needed to cross borders. This is done, in part, by creating transit documents using international standards. The SADC developed SADC CD a single customs document to replace several customs documents required for different customs procedures, which is being implemented by Member States using different names such as, the Single Administrative Document (SAD 500) adopted by SACU as part of the effort to simplify and standardise transit and customs documentation. There are other SADC Member States in the process of adopting the SAD 500, namely Zambia and Mozambique.

Example: A shipment of goods is being sent from Botswana to Mauritius. A truck picks up the shipment in Botswana, travels through South Africa, and on to the port of Maputo in Mozambique, where it will be shipped by boat to Mauritius. If Botswana, South Africa and Mozambique all accept the SADC-SAD, the truck driver need carry just one transit document, not three.

In addition, a Regional Customs Transit Bond Guarantee scheme designed to facilitate efficient movement of goods in transit in the SADC region has been approved by the Member States. The SADC RCTG provides a uniform basis for transit movement throughout the region, where only one guarantee is used for the transit of goods through all transit Member States.
TRADE LAWS

Sanitary and Phytosanitary Measures (SPS) (Article 16 and Annex on SPS)

The SADC Protocol on Trade allows Member States to regulate the importation of food products in order to protect consumers, plants and animals from contaminants, toxins, pests and diseases. These regulations are called Sanitary and Phytosanitary Measures (SPS). “Sanitary” refers to regulations on human and animal products, while “phytosanitary” refers to regulations on plant products. Thus, SPS measures concern the safe handling and production of food for animals and humans and plant products.

In order to make trade easier and minimise the burden of regulation, while at the same time protecting the health and welfare of citizens, the Protocol requires Member States to adopt SPS measures that are in harmony with international standards.

Example: Country A, Country B and Country C adopt SPS measures on coffee imports that are in harmony with international standards. This allows coffee growers in Country A to export coffee to each of these two countries without worrying about safety.

The requirement to base SPS measures on international standards is designed to prevent countries from adopting rules that appear to protect consumer health but are in fact meant to prevent competition from imports. The SADC Protocol on Trade allows a Member State to request a mandatory consultation with any other SADC Member State if a Member State wishes to negotiate a modification of existing SPS standards.

Example: Country A blocks imports of canned tuna from Country B, claiming concerns with sanitary standards. Country B requests consultations with Country A and secures an agreement on the conditions that need to be met in order for tuna imports to satisfy Country A’s safety standards.

SPS measures and requirements are very technical, SADC Member States have agreed to work very closely and consult in order to reach international SPS standards. Moreover, international rules of equivalence require members to accept the SPS measures of importing member countries – as long as those measures achieve the same level of SPS protection.

Example: Country A imports frozen chicken from Country B. Country A’s SPS measures are different from Country A’s, but they achieve the same level of SPS protection. The rule of equivalence requires that Country A accept Country B’s frozen chicken exports without demanding that Country B undertake additional safety requirements.

The SADC Protocol on Trade forbids the creation of SPS measures for the purpose of reducing trade and competition. Therefore SPS measures should have a scientific basis and only be adopted for health and safety reasons.

Example: Country A adopts an SPS measure on maize, requiring that maize imports only come from farms that practice a certain type of crop rotation. There is no scientific evidence that crop rotation affects the safety of corn consumers, so this measure is not permitted under the SADC Protocol on Trade.

Trade is made easier when businesses are informed of the SPS measures that apply in their export markets. Each SADC Member State has a point of enquiry that provides information on its SPS measures, technical requirements and inspection procedures. The SPS Annex to the Protocol provides for notification of all SPS measures to the SADC Secretariat. The enquiry points are listed at the end of this guide as Appendix III.

Technical Barriers to Trade (TBT) (Article 17 and Annex on TBT)

Countries often have an interest in making sure that imported products meet certain technical standards. In order to ensure that such standards are met, countries adopt technical regulations, or technical barriers to trade (TBT). For example, some countries have a regulation that toys for
children may not contain certain toxic chemicals. These regulations apply equally to imported and domestic products.

The TBT Annex to the SADC Protocol on Trade provides for regional co-operation in the area of standards, metrology, conformity assessment, accreditation and technical regulations. In order to prevent unnecessary technical barriers to trade, the Protocol encourages SADC Member States to use international standards whenever technical regulations are considered necessary. If two SADC Member States have different technical regulations for similar products, the Protocol requires both Member States to accept the standards of the other, as long as both standards are effective in achieving the same goal.

Example: Country A has a technical regulation that helps ensure the quality of fertiliser produced in Country A, and it wishes to apply the same regulation to fertiliser imports from Country B. Country B does not have the same technical regulation for its fertiliser producers as Country A. But Country B does have a different regulation that also ensures the quality of the fertiliser produced in Country B. Therefore, Country A should consider Country B’s regulation as equivalent to its own, and accept imports of fertiliser from Country B.

Each SADC Member State has an “enquiry point” that provides information on its technical regulations and inspection procedures. A list of these enquiry points is included at the end of this guide as Appendix IV.

**Anti-Dumping Measures**

(Article 18)

“Dumping” is defined as the sale of an exported good at a price that is lower than the price charged for that good in the country of origin.

Example: Peanut exporters from Country A are selling peanuts in Country B at a price that is lower than the price of peanuts in Country A. These peanuts are therefore being dumped in Country B.

Article 18 of the SADC Protocol on Trade incorporates the provisions of the WTO Anti-Dumping Agreement. The WTO agreement and the precedence established by dispute settlement rulings lay out a complex series of requirements to determine whether goods have been dumped, the margin of dumping, how to determine injury, and to establish that the injury has been caused by dumped imports.

Disputes over dumping are only negotiated between countries, not between businesses and not between a business and a country. When a business or domestic industry suspect dumping of a product, a formal request in writing should be made to the relevant Department or Ministry. Contact details of relevant Departments or Ministries are provided for as Appendix V to the Guide. Only then will a relevant Department or Ministry take necessary action based on procedures provided for by Article 18 of the SADC Protocol on Trade.

If a country wants to impose anti-dumping duties on dumped products, the country must first prove that the products are being dumped, and then show that the importation of the dumped products is causing “material injury” to a domestic industry. Material injury occurs when the following sequence of events occur:

- Imports increase significantly, relative to the size of the importing market or in absolute terms;
- Prices of the imports are lower than the prices of similar domestic products, or have forced domestic producers to lower their prices; and
- The increase of lower-priced imports has caused injury or the threat of injury to domestic producers of similar products.

Example: The government of Country A decides to take action against the peanut imports from Country B. First Country A compares the price of Country B’s peanuts in Country A to the price of the same peanuts in Country B, and finds that the price in Country A is lower. Then Country A shows that its domestic peanut farmers have been harmed. To prove this, Country A must show that:
1. Peanut imports from Country B have increased;

2. This increase of supply of peanuts has caused the price of peanuts to go down in Country A; and

3. Country A’s peanut farmers have been hurt by this decline in the price of peanuts.

Article 18 of the SADC Protocol on Trade permits provisional measures and such measures can take the form of provisional customs duties, a security—by cash deposit or bond equal to the amount of the anti-duty provisionally estimated as long as requirements provided for to apply such measures are met.

If authorities conclude that dumping is occurring, the importing country has the right to impose a tariff on the dumped goods—equal to the difference between the price in the exporting country and the price in the importing country. The importing country also has the right to impose a smaller tariff, which may occur if authorities believe a smaller tariff would be sufficient to remove the harm to the domestic industry.

**Prohibition of Subsidies (Article 19)**

The SADC Protocol on Trade strongly discourages the use of new subsidies by Member States, but SADC Member States may continue to fund subsidy programmes that were in place at the time of entry into force of the SADC Protocol on Trade.

In very simplified terms, a subsidy is any type of benefit that a government gives to a company. Subsidies are often provided in the form of cash payments from the government to a business for the purpose of helping the business produce its products. But subsidies are also defined to include goods and services that a government provides to a domestic business at reduced rates, as well as revenue that is not collected by government on the condition of export.

*Example: A clothing manufacturer in Country A has the same labour, material, and utility costs as a clothing manufacturer in Country B. However, the company in Country A receives a subsidy from the government of Country A for each garment it produces. It can therefore lower its prices by an amount equal to the amount of the subsidy, giving it an advantage over the company in Country B when negotiating with buyers.*

Countervailing duties to offset the subsidy are permitted if the provisions of the Article 19 are met. The SADC Member States agreed to follow the requirements of the WTO agreement on Subsidies and Countervailing Measures in order to deal with subsidies. Investigations of subsidy must follow the same general rules as anti-dumping investigations as provided for in the WTO agreement.

**Safeguards (Article 20)**

The SADC Member States committed to establish a FTA under the assumption that the free flow of goods across international borders contributes to economic growth and prosperity thus alleviating poverty. Consumers benefit when they can buy a product more cheaply from an importer than they can from a domestic producer, and when competition from foreign producers forces domestic industries to be more productive, efficient and competitive. However, sometimes a product is imported in large quantities at a price that domestic producers have difficulty meeting. If these imports “cause or threaten to cause serious injury” to the domestic industry, the importing country may impose temporary safeguard measures on imports of the product.

Safeguard actions have different requirements from the actions to counter dumped and subsidised imports described above. As in the case of unfair trade injury, the threat to a domestic industry must be found. The standard for “serious” injury is sterner, however, than “material injury” because imports must be the most important cause of injury. Relief can either be in the form of additional tariffs or quantitative restrictions, but these restrictions must be progressively relaxed. Generally, temporary relief
must be for less than four years, and in exceptional circumstances for no longer than eight years. The domestic industry is expected to use the period of protection to prepare for the removal of the safeguards by becoming more competitive. The ultimate purpose of a safeguard is not to protect a domestic industry, but to enhance competition in regional markets.

Safeguards are not quickly or easily implemented. Industries are permitted to request safeguard protection from their government. A SADC Member State that is considering implementing a safeguard is required to conduct an investigation into the alleged harm caused to the domestic industry. The SADC follows procedural requirements for the investigation set out by the WTO agreement on Safeguards, which allows the foreign governments and producers that will be affected by the safeguard to present evidence and arguments against the restriction of trade.

If a safeguard is applied, it must be applied to all importers of the product in question. Unlike dumping and countervailing measures, safeguard actions restrict all exporters into the market and are applied on a most favoured nation basis in the region, not solely the source country for the injury. It is not necessary to establish that unfair trade has occurred, as in the case of dumping and subsidy action.

**Infant Industries**

(Article 21)

In special cases, an industry may only be able to become competitive if it is protected by customs duties during its early development.

Such cases are rare and, like safeguards, infant industry protection must be temporary. To raise customs duties on the grounds of infant industry protection, the SADC Member State must demonstrate to the SADC Committee of Ministers Responsible for Trade Matters (CMT) that the industry will become globally competitive after a reasonable period of time. Such protective customs duties would have to be eliminated once the industry is competitive. Furthermore, the Member State must also show the CMT that trade protection is the only policy available for developing the industry.
OTHER TRADE RELATED ISSUES

Intellectual Property
(Article 24)

Intellectual property is property such as patents, copyright material and trademarks. Countries provide legal protection for intellectual property.

Example: Music, movies, software programs and the trademark for Coca Cola are all intellectual property.

The SADC Protocol on Trade requires Member States to abide by international rules with respect to the protection of intellectual property as provided for under the WTO agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). It prescribes minimum standards and periods for which protection should be granted to different intellectual property rights and countries are required not to discriminate among foreign nationals – and between foreign nationals and their own nationals – in the acquisition and maintenance of intellectual property rights.

TRADE RELATIONS AMONG MEMBER STATES AND WITH THIRD COUNTRIES

Bilateral Agreements
(Article 27)

A bilateral agreement is a treaty between two parties, whereas the SADC Protocol on Trade is a multilateral agreement, signed between several parties. Many SADC Member States have signed bilateral trade agreements with other SADC Member States. These agreements govern the conditions of trade between the two Member States. The SADC Protocol on Trade allows Member States to maintain bilateral agreements that pre-date the entry into force of the SADC Protocol on Trade (2000-2001). The Protocol does not prohibit bilateral agreements among SADC Member States as long as such bilateral arrangements do not offer better access and treatment than what each of those parties offer to the rest of the SADC Member States. In other words any new bilateral agreements must be consistent with the rules of the Protocol and in particular the most favoured nation treatment.

Example: A SADC Member State signs a bilateral trade agreement with a country that is not a SADC member. This trade agreement allows the non-SADC country to export bread to the SADC member duty-free. This SADC member must therefore allow duty-free access to bread originating from all SADC Member States.

The Protocol permits exception to the MFN rule. Member States that were members of other trading blocs at the time the Protocol was signed and came into force are allowed to give preferential access to members of those blocs without extending the same privileges to SADC Member States.

Example: Country A was a member of SACU at the time the SADC Protocol on Trade was signed. Country A is allowed to give other SACU Member States greater market access than it gives to non-SACU SADC Member States.

Most Favored Nation (MFN) Treatment
(Article 28)

The SADC Protocol on Trade allows Member States to maintain bilateral trade agreements and to sign new agreements. However, a SADC Member State that has signed a preferential trade agreement with any other country including a SADC Member State subsequent to entry into force of the SADC Protocol on Trade must extend the same benefits, privileges or immunities to all SADC Member States. This is known as most favoured nation (MFN) treatment.

Example: A SADC Member State signs a bilateral trade agreement with a country that is not a SADC member. This trade agreement allows the non-SADC country to export bread to the SADC member duty-free. This SADC member must therefore allow duty-free access to bread originating from all SADC Member States.

The Protocol permits exception to the MFN rule. Member States that were members of other trading blocs at the time the Protocol was signed and came into force are allowed to give preferential access to members of those blocs without extending the same privileges to SADC Member States.

Example: Country A was a member of SACU at the time the SADC Protocol on Trade was signed. Country A is allowed to give other SACU Member States greater market access than it gives to non-SACU SADC Member States.
**Dispute Settlement**

**(Article 32 Annex VI)**

Trade disputes may occur for a variety of reasons, such as when a SADC Member State does not lower its customs duties in accordance with its commitment under the Protocol on Trade, or if a Member State raises customs duties in violation of the Protocol. The Protocol establishes procedures for settling disputes between Member States. National enquiry points to which a business can report any barrier to trade encountered on day-to-day transactions have been established.

**Example:** SADC Country A believes SADC Country B is discriminating against its products in violation of the Protocol on Trade. Country A can begin a dispute settlement procedure with Country B.

It is important to note that disputes are settled between Member States, not between businesses and Member States. Businesses that feel their goods are not being treated properly by another SADC Member State should inform their home country’s relevant office as provided for under Appendix V.

The first step in the dispute settlement process is for the Member State bringing the complaint to request negotiation or consultations with the Member State allegedly violating the provisions of the Protocol on Trade or maintaining a barrier to trade. The requested member must respond to the request within a specified number of days, and consultations must begin within a specified number of days of the request as provided for under the SADC Trade Monitoring and Compliance Mechanism.

**Example:** Country A requests consultations with Country B on July 1. Country B must respond to this request for consultations by July 11, and consultations must begin by July 31.

If the consultations fail to reach an agreement that is satisfactory to the Member States within a specified number of days of the request for consultations, one of the Member States may request that a panel be convened to resolve the dispute. The three-person panel will be created within 20 days of the request. Panel members may be government or non-government experts in international trade, international law and dispute settlement.

The panel will hold hearings and the disputing Member States will present evidence in support of their positions. If the panel decides that a Member State is in violation of the Protocol on Trade, that Member State should implement the panel recommendations immediately. However, if this is not possible, then the Member State will have up to six months to implement the recommendations.

**Example:** The panel finds that Country B has a tariff on oranges in violation of the Protocol on Trade, and recommends that Country B remove this tariff. Country B does not implement the panel recommendations within the required time. Country A and Country B then begin negotiations on a settlement. The result is that Country A raises customs duties on oranges imported from Country B. The customs duties are raised by an amount equal to Country B’s violation of the Protocol on Trade.

This kind of retaliation is called a “suspension of concessions” and is only taken as a last resort.
**Institutional Structures**

*(Article 31)*

The SADC has created several different groups of experts and government officials to oversee and implement the terms of the SADC Protocol on Trade.

**Committee of Ministers (CMT)**

The CMT supervises the implementation of the Protocol on Trade. It provides oversight of the Committee of Senior Officials and sub-committees established under the Protocol. The CMT appoints the panels that resolve trade disputes between Member States.

**Committee of Senior Officials**

The Committee of Senior Officials acts as a technical advisory body and is composed of permanent secretaries responsible for trade. It reports to the CMT on matters relating to provisions of the Protocol on Trade, monitors the implementation of the Protocol and supervises the Trade Negotiation Forum.

**Trade Negotiating Forum (TNF)**

The TNF is responsible for conducting SADC trade negotiations, monitoring the effects of trade liberalization, and linking trade liberalisation to regional co-operation in other sectors. This forum reports to the Committee of Senior Officials.

A number of technical committees and sub-committees have been established for specific technical areas. These committees and sub-committees monitor the operations of specific provisions and elements of the Protocol on Trade.

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**THE SADC PROTOCOL ON TRADE AND THE WORLD TRADE ORGANISATION (WTO)**

Regional trading arrangements such as the SADC Protocol on Trade constitute an important exception to the MFN treatment rule. The General Agreement on Tariffs and Trade (GATT) and the World Trade Organisation (WTO) lay down conditions for forming such trading arrangements. All SADC Member States are also members of the WTO, the rules of which allow its member states to join regional trade agreements such as the SADC Protocol on Trade, provided that the Members do not violate their commitments to other WTO members in doing so. Such arrangements are required to meet two basic conditions:

- Members of regional arrangements must remove customs duties and other barriers to trade affecting substantially all trade among themselves (SADC settled for at least 85% of its trade).
- The arrangement should not result in the creation of new barriers to trade.

The SADC Protocol on Trade is therefore designed to be in conformity with the rules of the WTO, and SADC Member States may grant greater market access to other SADC Member States than they do to non-SADC WTO members. The SADC Protocol on Trade was notified to the WTO under Article XXIV of GATT 1994, a provision that provides exemption from extending MFN treatment to all WTO members as required under WTO.
## APPENDIX I: SADC CERTIFICATE OF ORIGIN

<table>
<thead>
<tr>
<th>Registration NO:……….</th>
<th>3. Country Ref. No.  (e.g. ZW 000001)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Exporter (Name and Office Address)</td>
<td>SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)</td>
</tr>
<tr>
<td>2. Consignee (Name and Office Address)</td>
<td>CERTIFICATE OF ORIGIN</td>
</tr>
<tr>
<td>4. Particulars of transport:</td>
<td></td>
</tr>
<tr>
<td>5. For official use only</td>
<td></td>
</tr>
<tr>
<td>6. Marks and numbers; number and kind of package, description of goods:</td>
<td></td>
</tr>
<tr>
<td>(i) Marks and Nos.</td>
<td>(ii) Description of goods</td>
</tr>
<tr>
<td>7. Customs Tariff No.</td>
<td>8. Origin Criterion (See overleaf)</td>
</tr>
<tr>
<td>9. Gross weigh other quantity</td>
<td>10. Invoice No. and date</td>
</tr>
<tr>
<td>11. DECLARATION BY EXPORTER/SUPPLIER</td>
<td></td>
</tr>
<tr>
<td>I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate, and are originating in</td>
<td></td>
</tr>
<tr>
<td>……………………………………………………….(Country)</td>
<td></td>
</tr>
<tr>
<td>Place and date: ……………………………………</td>
<td></td>
</tr>
<tr>
<td>12. CERTIFICATION OF ORIGIN</td>
<td></td>
</tr>
<tr>
<td>Declaration Certified:</td>
<td></td>
</tr>
<tr>
<td>…………………………………………………………</td>
<td>(Origin Stamp and Signature)</td>
</tr>
<tr>
<td>Certificate of Customs or Other Designated Authority</td>
<td></td>
</tr>
<tr>
<td>13. FOR CUSTOMS PURPOSES</td>
<td></td>
</tr>
<tr>
<td>Export Document No: ………</td>
<td></td>
</tr>
<tr>
<td>Date: …………………………………</td>
<td></td>
</tr>
<tr>
<td>Customs Office:</td>
<td></td>
</tr>
<tr>
<td>Country: ………………………………………..</td>
<td></td>
</tr>
<tr>
<td>Date: …………………………………</td>
<td></td>
</tr>
<tr>
<td>Signature</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>A. REQUEST FOR VERIFICATION</td>
<td></td>
</tr>
<tr>
<td>Verification of the authenticity and accuracy of this certificate is requested for the following reasons:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>B. RESULT OF VERIFICATION</td>
<td></td>
</tr>
<tr>
<td>Verification carried out shows that this certificate was issued by the Customs Office or designated authority indicated and that the information contained therein:</td>
<td></td>
</tr>
<tr>
<td>is accurate: or</td>
<td></td>
</tr>
<tr>
<td>does not meet the requirement as to the authenticity/accuracy (delete whichever not applicable)</td>
<td></td>
</tr>
<tr>
<td>Insert X in the appropriate box</td>
<td></td>
</tr>
<tr>
<td>………………………………………..</td>
<td>(Place and date)</td>
</tr>
<tr>
<td>………………………………………..</td>
<td>(Signature and Stamp)</td>
</tr>
</tbody>
</table>
INSTRUCTIONS FOR COMPLETING THE SADC CERTIFICATE OF ORIGIN

The numbered boxes of the certificate must be completed as follows:

Box 1
The exporter must be a natural person ordinarily resident in any of the Member States, a person whose place of business or the place of business of which is in that Member State. In addition to the name and address of the exporter, the registration number should be inserted.

Box 2
Insert the name and office address of the consignee in the country of destination.

Box 3
Indicates the country code and the certificate reference number.

Box 4
Insert particulars of transport from export bill of entry.

Box 5
To be completed by the issuing authority inserting one of the following endorsements where necessary:
(i) “Duplicate” (where application is made for a duplicate SCO)
(ii) “issued retrospectively” (where the goods have been exported before application is made for a certificate and application is made for the retrospective issue thereof)

Box 6
Enter item numbers and identifying marks and numbers on the packages in the space on the left-hand side of the box.

- if the packages are not marked, state “No marks and numbers” or “as addressed”
- the quantity stated must agree with the quantities on the invoice, for example 100 cartons.
- no space must be left between items.

NOTE: 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.

1. The goods must be identified by giving a reasonably full commercial description and in order for the appropriate tariff heading to be determined.
2. For goods in bulk that are not packed, insert “in bulk”.
3. If both originating and non-originating goods are packed together, describe only the originating goods and add at the end “Part contents only”.

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

Box 7
Insert the tariff heading (six digit code) in respect of each line of goods described in Box 6.

Box 8
Insert “P” for goods wholly produced or “S” for goods with imported inputs.

Box 9
Insert metric measures.

Box 10
Invoices must be serially numbered and the dates and numbers reflected in this box.

Box 11
a) The initials and surname and designation of the person signing the certificate must be stated below the signature.
b) The certificate is signed on behalf of an exporter or supplier, the name of the clearing agent must be stated below the signature.
c) The signature must not be mechanically reproduced or made with a rubber stamp.

Box 12
This must be filled by Customs or any Designated Authority. The officer of the authority 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 and has been circulated to the Customs Administration in all Member States.

Box 13
Insert the export document number and date and other particulars.

NOTE: The officer must print his/her initials and surname below his signature and date stamp the certificate. The SCO shall be rendered invalid:

a) If any entered particulars are incorrect and not in accordance with these rules;
b) If it contains any erasures or words written over one another;
c) If altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are initialed by the person who completed the certificate and endorsed by the officer who signs the certificate.
APPENDIX II: DECLARATION BY PRODUCER

I the undersigned, exporter of the goods described overleaf,

DECLARE that the goods meet the conditions required for the issue of the attached certificate;

SPECIFY as follows the circumstances which have enabled these goods to meet the above conditions:

..................................................................................................................................................
..................................................................................................................................................
..................................................................................................................................................
..................................................................................................................................................

SUBMIT the following supporting documents (1)

..................................................................................................................................................
..................................................................................................................................................
..................................................................................................................................................
..................................................................................................................................................

UNDEARKE to submit, at the request of the appropriate authorities, any supporting evidence which these authorities may require for the purpose of issuing the attached certificate, and undertake, if required, to agree to any inspections of my accounts and to any check on the processes of manufacture of the above goods, carried out by the said authorities;

REQUEST the issue of the attached certificate for these goods.

..................................................................................................................................................
..................................................................................................................................................

(Place and date)

..................................................................................................................................................
..................................................................................................................................................

(Signature)

(1) For example, import documents, movement certificates, manufacture’s declarations, etc. Referring to the products used in manufacture or to the goods re-exported in the same state.
APPENDIX III: SADC ENQUIRY POINTS FOR SPS INFORMATION

ANGOLA
Francisco Antonio Jacinto
Ministério do Comércio
Largo 4 de Fevereiro
Palácio de Vidro, R/C
Tel/Fax: + (244 2) 31 11 91, + (244 2) 31 11 95

BOTSWANA
The Permanent Secretary
Ministry of Agriculture
Private bag 003
Gaborone
Tel: + (267) 39 50 500
Fax: + (267) 39 56 027

DEMOCRATIC REPUBLIC OF CONGO
Not Available

LESOTHO
Not Available

MADAGASCAR
Gabriel Rasoloariveloa Rasamoelina
Directeur de la Protection des Végétaux
Ministère de l’Agriculture
Antananarivo 101
Tel: + (261 20) 224 1613 / 224 1614
Fax: + (261 20) 225 08
Email: spcplabo@dts.mg

MALAWI
Animal health:
The Director of Animal Health
Department of Animal Health and Industry
PO Box 2096
Lilongwe
Tel: + (265) 1 750 455 / 751 349
Fax: + (265) 1 755 912

Plant protection:
Head of Plant Protection Services
Ministry of Agriculture and Irrigation
Bvumbwe Research Station
PO Box 5748
Limbe
Tel: + (265) 1 471 206 / 207 / 527
Fax: + (265) 1 471 527
Email: pesticideboard@malawi.net

Food safety including testing and analysing of additives and contaminants:
The Director General
Malawi Bureau of Standards
P.O. Box 946
Blantyre
Tel: + (265) 1 670 488 / 672 657
Fax: + (265) 1 670 756
Email: mbs@malawi.net

1 Source: International Portal on Food Safety, Animal & Plant Health
MAURITIUS
The Permanent Secretary:
Ministry of Agriculture, Food Technology and Natural Resources.
Attn: Mrs Neeta Rye Leckraz
Head, Division of Plant Pathology and Quarantine (DPPQ)
Agriculture Services
Réduit
Tel: + (230) 464 48 72
Fax: + (230) 465 95 91

NAMIBIA
Phytosanitary issues:
Mr GB Rhodes
Division Law Enforcement
Directorate of Extension and Engineering
Private Bag 13184
Ministry of Agriculture, Water & Rural Development
Windhoek
Tel: + (264 61) 202 21 35 / 208 71 11
Fax: + (264 61) 23 56 72
Email: agrlaw@iafrica.com.na

Zoosanitary issues:
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Directorate of Veterinary Services
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Ministry of Agriculture, Water & Rural Development
Windhoek
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Fax: + (264 61) 208 77 79
Email: smithg@gov.na

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Eng José Varimelo
Departamento de Sanidade Vegetal (Plant Health Department)
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Fax: + (230) 465 95 91

SOUTH AFRICA
Ms Gerda Van Dyk
Private Bag X250
Pretoria
0001
Tel: + (27 12) 319 61 20
Fax: + (27 12) 326 65 41
Email: ditr@nda.agric.za or secitr@nda.agric.za
SWAZILAND

Sanitary Measures:
Dr Bernard Dlamini (Senior Vet Officer)
Ministry of Agriculture and Cooperatives
PO Box 162
Mbabane
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Fax: + (268) 404 9802

Phytosanitary Measures:
Research Officer
Malkerns Research Station
PO Box 4
Mbabane
Tel: + (268) 528 3017
Email: malkernsresearch@africaonline.co.sz

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Mr Arundel Sakala
National Coordinator
Phytosanitary Services
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pqpsmt@zamtel.zm

TANZANIA
Dr Rose-Anne Mohamed
Head Plant Quarantine and Phytosanitary Services
Ministry of Agriculture, Food Security and Cooperatives
PO Box 9071
Dar-Es-Salaam
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Fax: + (255 22) 286 5642
Email: Roseanne.Mohamed@kilimo.gov.tz
rose_mohamed@yahoo.com

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Permanent Secretary
Ministry of Agriculture
P/Bag 7701
Causeway Harare
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Fax: + (263 04) 734646 / 704058

Dr Mguni Cames
Head Plant Protection Research Institute
Box CY550
Harare
Tel: + (263) 470 0339
Email: zpq@gta.gov.zw or ppri@gta.gov.zw
APPENDIX IV: SADC ENQUIRY POINTS FOR TECHNICAL REGULATIONS AND STANDARDS

ANGOLA
Not Available

BOTSWANA
Botswana Bureau of Standards
Private Bag BO 48
Gaborone
Tel: + (267) 390 32 00
Fax: + (267) 390 31 20
Email: infoc@hq.bobstandards.bw

DEMOCRATIC REPUBLIC OF CONGO
Not Available

LESOTHO
The Standards and Quality Assurance Section
Ministry of Industry, Trade and Marketing
PO Box 747
Maseru, 100
Tel: + (266) 317 454 / 320 695
Fax: + (266) 311 075 / 310 326
Email: Lessqa@leoco.ls

MADAGASCAR
Direction de la Normalisation et de la Qualité (DNQ)
Service Normalisation et Règlementation (Centre Documentation)
6 bis, rue Rainandriamampandry Soarano
BP 454 Antananarivo (101)
Tel: + (261 20) 22 238 60 / 22 237 99
Fax: + (261 20) 22 666 45 / 22 264 26 / 22 566 01
Email: dnq@wanadoo.mg

MAURITIUS
Mauritius Standards Bureau
Villa Road
Moka
Tel: + (230) 433 36 48
Fax: + (230) 433 50 51 / 433 51 50

MALAWI
Malawi Bureau of Standards
PO Box 946
Blantyre
Tel: + (265) 670 488
Fax: + (265) 670 756

MOZAMBIQUE
Instituto Nacional de Normalização e Qualidade
Av. 25 de Setembro, 1179 2º andar
PO Box 2983
Maputo
Tel: + (258) 21 303822; + (258) 21 303823
Fax: + (258) 21 304206
Email: innoq@emilmoz.com

2 Source: International Portal on Food Safety, Animal & Plant Health
NAMIBIA
Namibia Standards Information and Quality Office (NSIQO)
Private Bag 13340
Windhoek
Tel: + (264) 61 283 7111
Fax: + (264) 61 220 227

SWAZILAND
Quality Assurance Unit
Ministry of Enterprise and Employment
PO Box 451
Mbabane
Tel: + (268) 432 01
Fax: + (268) 447 11

ZAMBIA
Zambia Bureau of Standards
The Director
Box 50259
ZA 15101
Ridgeway
Lusaka
Tel: + (260 1) 291 038 / 231 385
Fax: + (260 1) 238 483
Email: zabs@zamnet.zm

SOUTH AFRICA
South African Bureau of Standards (SABS)
Standards Information Centre
Private Bag X191
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Fax: + (271 2) 428 6928
Email: info@sabs.co.za

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Tanzania Bureau of Standards
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Dar es Salaam
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Fax: + (255) 22 2450 983 / 059
Email: tbsinfo@uccmail.co.tz

ZIMBABWE
Standards, technical regulations and certification schemes:
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Standards Association of Zimbabwe
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Northend Close, Northridge Park
Borrowdale
Harare
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Fax: + (263 4) 882 020
Email: info@saz.org.zw
APPENDIX V: SADC TRADE CONTACT POINTS

ANGOLA

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Cerqueira Lukoki 25, 8th Floor
LUANDA
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Ministry of Trade
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Luanda
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CC. Director: Department of International Trade; Tel: +267 3190243
Fax: +267 3188380
E-mail: lphuti@gov.bw & alternates: lmafatlane@gov.bw

DEMOCRATIC REPUBLIC OF CONGO

Ambassador, Embassy of the Democratic Republic of Congo
P. O. Box 28795, Sunnyside 0132, PRETORIA
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Fax: +27 12 344 40 54
Email: rdcongo@lantic.net

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Fax: +266 22 310644/310326/310644
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Ministère du Commerce
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101-Antananarivo
Tel: + 261 32 04 603 51/ 33 11 326 39
Fax: +261 20 22 28025
E-mail: driie@meci.gov.mg/e_razafimandimby@yahoo.fr/razanaseta@yahoo.fr

MALAWI

Principal Secretary
Ministry of Industry and Trade
P O Box 30366,
Lilongwe 3
Tel: +265 1 774709/ +265 1 770244
Fax: +265 1 770680
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MAURITIUS
Director, Trade Policy, International Trade Division,
Ministry of Foreign Affairs, Regional Integration and International Trade
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Tel: +230 213-8236
Fax: +230 213-8273
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abhuglah@mail.gov.mu
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Fax +264 61 253 865
Other contacts: Mr. Willem Nekwiyu, Deputy
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