



SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

**PROCEDURES MANUAL ON THE IMPLEMENTATION OF THE RULES OF
ORIGIN APPENDIX I OF ANNEX I OF THE SADC PROTOCOL ON TRADE**

**APPROVED AT 8TH MEETING OF THE SUB COMMITTEE ON CUSTOMS
COOPERATION**

“Towards a world class customs service”

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PART 1

1. GENERAL

1.1 GLOSSARY

“**Certificate of Origin**” means the SADC form identifying goods, in which the Designated Issuing Authority expressly certifies that the goods to which the certificate relates originate in a specific Member State. The Certificate also includes a declaration by the exporter/producer/supplier;

“**C.I.F**” means cost, insurance and freight;

“**Clearance**” means the accomplishment of the Customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another Customs procedure;

“**SADC**” means the Southern African Development Community

“**Customs law**” means the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to the Customs Authorities of the member States, and any regulations made by such Authorities under their statutory powers;

“**Designated Issuing Authority**” means the governmental agency in a member State authorised to issue SADC Certificates of Origin;

“**Designated Regional/Local office**” means an office other than the Headquarters that is designated to issue SADC Certificates of Origin within the territory of a member State;

“**Member State**” means a Member State of the Southern African Development Community which comprise Angola, Botswana, Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South African, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe.

“**Non-originating materials**” means materials imported from outside SADC;

“**Originating materials**” means materials which have been produced in a member State and meet the requirements of the SADC Rules of Origin;

“**Security**” means the deposit or guarantee of funds, e.g. cash, bond security etc., with Customs, which ensures to the satisfaction of Customs that an obligation will be fulfilled;

“**Substantial transformation**” means manufacturing or processing of materials which is deemed sufficient to give the finished product its essential character;

Substantial Working or Processing means:

“**BNLS**” Botswana, Namibia, Lesotho and Swaziland

“**Exworks Price**” Means Price paid for the product ex factory works to the manufacture plus profit minus internal taxes

“**Force Majure**” means accidental incident as result of natural disasters

“**LDC**” Means Least developed country

“**MFN**” Means Most favored Nation

“**MMTZ**” Malawi, Mozambique Tanzania, Zambia

“**Regional Content**” means value added using regional materials

“**RVC**” Means regional value content

“**SACU**” means Southern African Customs Union

“**SADC FTA**” Means Southern African Development Community Free Trade Area

“**Third Country**” Means any country other than the SADC Member Countries

“**Treaty**” means the Treaty Establishing the Southern African Development Community

“**WCO**” means the World Customs Organisation; and

“**WTO**” means the World Trade Organisation.

1.2 INTRODUCTION

This manual provides guidance to the practical application of the provisions of the Rules of Origin of the Southern African Development Community (SADC). It covers issues relating to the administration and policing of the rules of origin under SADC. It is intended to ensure the uniform interpretation and application of the provisions of Annex I of the SADC Protocol on Trade as read with the SADC Rules of Origin Regulations.

Although the manual is based on official texts of the SADC Protocol on Trade and Rules of Origin Regulations, it cannot be regarded as a substitute for these texts. It will therefore have to be used in conjunction with the SADC Protocol on Trade and Rules of Origin Regulations.

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.

SADC Member States agreed on the rules of origin for products to be traded among them, as provided for under Appendix I to Annex 1 of the SADC Protocol on Trade. The SADC Rules of Origin are the cornerstone of the SADC intra trade and serve to prevent non-SADC members benefiting from preferential tariffs. The determination of the eligibility of products to SADC origin and the granting of preferential tariffs to goods originating in the Member States is an important process in the implementation of the SADC Protocol on trade and regional integration. The effective and uniform implementation of the provisions of the Rules of Origin by Member States is important as it helps in strengthening the trust among Member States and helps in industrial development.

The main objective of this manual is to:

- Simplifying the Rules of Origin as stipulated in Annex I of the SADC Protocol on Trade and the Rules of Origin Regulations
- Explain the basic origin criteria under the SADC preferential trade regime
- Provide guidance on the procedures for the approval and registration of exporters
- Provide guidance on the issuing of SADC Certificates of Origin
- Provide guidance on origin verification
- Explain the Dispute Settlement procedure under the SADC trade regime
- Give guidance on the organizational requirements for the effective implementation of the SADC Rules of Origin.

1.3 Product coverage

Goods qualify for preferential tariff treatment if they originate in the Member States. This means that all goods that meet the requirements of the SADC Rules of Origin qualify for preferential tariff treatment when they are traded within SADC.

1.4 MMTZ Derogation

While the SADC trade regime has stipulated rules of origin as listed in appendix of Annex I, clothing and textile originating from LDC countries (MMTZ) exported to BNLS countries gain preferential market access by attaining one stage transformation. The derogation is however limited to five years. (check and insert year end)

1.5 SADC Quota system

Trade under the SADC trade regime is free of tariff quotas, tariff ceilings or any other form of restriction except trade in sugar, textiles and clothing where a tariff quota system is applied.

1.5.1 MMTZ/SACU Arrangement

MMTZ countries have been given market access into SACU for textiles and clothing under a derogation on the Rules of Origin. This access is limited by a quota system. Exports of textiles and clothing above the quota should meet the standards Rules of Origin applicable to the product.

1.5.2 Sugar Arrangement

Market access to SACU by non SACU SADC Members is also subject to a quota system. Any quantities of sugar exported in excess of the quota will attract SADC Rates.

1.6 Direct consignment rule

The goods should be consigned directly from one Member State to the other without entering the commerce of any other territory.

The consignment may transit through a any country and should the occasion arise, transshipment or temporary warehousing as a result of force majeure in such territory may be allowed 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.

Where goods transit through Member States territories and have been transshipped the following documentary evidence should be produced to customs authorities:

- (a) A single transport document covering the passage from the exporting member State through the country of transit; or
- (b) Transit Documents.

1.7 Cumulation of origin [Annex I Rule 2(2) of the SADC Protocol on Trade]

For the purposes of implementing the Protocol on Rules of Origin, the member States shall be considered as one territory.

Raw materials or semi-finished goods originating in any of the member States and undergoing working or processing either in one or more States shall, for the purpose of determining the origin of a finished product, be deemed to have originated in the member State where the final processing or manufacturing takes place.

In applying this rule, the evidence of originating status of raw materials or semi-finished goods imported from another member State is given by a Certificate of Origin issued by the Designated Competent Authority in the exporting Member State.

PART 2

SADC RULES OF ORIGIN

2.1 Definition of SADC Rules of Origin

SADC Rules of Origin are a set of criteria that is used to distinguish between goods that are produced within the SADC Member States and are entitled to preferential tariff treatment and those that are considered to have been produced outside SADC region that attract MFN tariff rates imported. The Rules of Origin under SADC are products specific as specified in Appendix I of Annex I.

2.2 Specifications of SADC Certificate of Origin

The certificate should measure 210 by 297mm on a light yellow paper with a SADC watermark on paper sized for writing weighing not less than 25g/square metre with a guilloche pattern background to make falsification by chemical or mechanical means apparent to the eye. The approved format of SADC Certificates is attached as Appendix C.

2.3 Origin Criterion [Annex I - Rule 2 of the SADC Protocol on Trade]

Annex I rule 2 of the SADC Protocol on Trade as read with section 3 of the Rules of Origin Regulations sets out the origin criteria on which goods are deemed to be of SADC origin. Any goods which meet the criteria as elaborated under Appendix I of Annex I of the SADC Protocol on Trade shall be accorded preferential SADC market access.

Such products shall be considered as originating in a member State if it has either been **wholly produced** or has been **sufficiently worked or processed** in that Member State.

2.3.1 SADC Rules of Origin have four independent criteria, and goods are considered as originating in a member State if they meet **any** of the four. These criteria are as follows:

2.3.1.1 Wholly obtained or produced in any Member State as provided for in Annex I, Rule 4 of the Protocol on Trade; or

2.3.1.2 The product has been obtained in one or more Member States incorporating non originating materials, provided that such non originating materials undergo sufficient working or processing in any Member State as prescribed in appendix I of annex I of the SADC Protocol on Trade Provided that:

- i) the c.i.f. value of non originating materials does not exceed the prescribed percentage of the ex-works price of the manufactured product; or

- ii) the value added resulting from the process of production accounts for the minimum percentage prescribed for the manufactured product.; or
- iii) there is a change in tariff heading of the product arising from a processing carried out on the non originating materials as prescribed for the manufactured product. Under this criteria the goods should be produced in the member States and should be classifiable, after the process of production under a tariff heading other than the tariff heading of the non-originating materials used in their production;

2.3.1.3 SACU – MMTZ DEROGATION

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 Rule of Origin and Textile and Clothing allows for one stage transformation.

2.4. Wholly produced Origin criteria - [Annex I Rule 4 of the SADC Protocol on Trade]

Goods are considered as wholly originating when they have been wholly produced in a member State as defined in Rule 4 of the SADC Protocol on Trade.

Such products must not contain any materials imported from outside the SADC region. For ease of reference Rule 4 provides a list of products that are considered as “wholly produced” in the Member States and the list includes:

Cattle born and raised in a member State;

Fish caught in a lake within a member State or with in its territorial waters;

Timber felled in the plantation of a member State; etc.

[For the full list of products, refer to Rule 3 of the Protocol]

2.5 Sufficiently worked or processed Origin criteria [Annex I Rule 2]

The conditions set out in Appendix I of Annex I cover all products and the workings or processes which must be carried out on non originating materials used in the manufacturing and apply only in relation to such materials. The conditions set fulfill either the material content criteria, value addition criteria, change in tariff heading criteria or a combination. These criteria are detailed below:

2.5.1 Material content test - [Annex I Rule 2(2) of the SADC Protocol on Trade]

The goods should be produced in a member State partially from imported materials (or from materials of unknown origin) and the c.i.f. value of materials imported from Third Countries should not exceed the set percentage designated in the list of Appendix I of Annex I for the product being imported.

In determining the Material content percentage, only the cost of the materials (domestic and imported) used in the production of the product is considered for purposes of determining origin.

Materials whose origin is unknown are considered as “imported” for purposes of this condition, and their price shall be the earliest ascertainable price paid for them in the Member State where they are used in a process of production.

The value of the imported materials shall be the c.i.f. value accepted by Customs at the time of clearance for home consumption or under temporary admission procedures.

Formula for calculation of material content (%):

Import material content =
$$\frac{\text{c.i.f. value of imported materials}}{\text{Cost of Regional materials} + \text{c.i.f. value of imported materials}}$$

This rule can also be expressed in terms of domestic materials, where a minimum local content should be achieved for the finished goods to qualify as originating in a Member State and the formula for local content is as follows:

Regional material content =
$$\frac{\text{cost of local materials}}{\text{Cost of Regional materials} + \text{c.i.f. value of imported materials}}$$

2.5.2 Value-added test - [Annex I Rule 2(2) of the SADC Protocol on Trade]

The goods should be produced in a member state wholly or partially from imported materials (or materials of unknown origin) and the value added resulting from the process of production accounts for the minimum percentage of the ex-factory price of the finished product stipulated in the list of conditions, working or processes (Appendix I of Annex I).

The value added is the difference between the ex-factory price of the finished product and the c.i.f. value of imported materials used in production.

Ex-factory price means the value of the total inputs required to produce a given product plus production cost plus factory profit margin.

In applying this criterion, domestic material content may be either low or non-existent in the composition of the products to be exported.

Materials whose origin cannot be determined shall be deemed to have been imported from outside the region.

Calculation of ex-factory price:

In calculating ex-factory price, first establish the ex-factory cost and then add the factory profit margin.

Calculation ex-factory cost

The following costs, charges and expenses should be **included** in calculating ex-factory cost:

- (a) The cost of imported materials, including the cost of waste materials and materials lost in the process of manufacture, as represented by landed cost of these materials at the factory, including any charges incidental to the delivery of such materials to the factory but excluding customs duties and other charges of equivalent effect thereon:

Provided that the cost of imported materials not imported by the manufacturer will be the delivery cost at the factory but excluding customs duties and other charges of equivalent effect thereon;

- (b) The cost of local materials, including the cost of waste materials and materials lost in the process of manufacture, as represented by their delivery price at the factory;
- (c) The cost of direct labour as represented by the wages paid to the operatives responsible for the manufacture of the goods;
- (d) The Cost of direct factory expenses, as represented by:

- the operating cost of the machine being used to manufacture the goods;
 - the expenses incurred in the cleaning, drying, polishing, pressing or any other process, as may be necessary for the finishing of the goods;
 - the cost of putting up the goods in their retail packages and the cost of such packages but excluding any extra cost of packing the goods for transportation or export and the cost of any extra packages;
 - the cost of special designs, drawings or layout; and the hire of tools, or equipment for the production of the goods.
- (e) The cost of factory overheads as represented by:
- rent, rates and insurance charges directly attributed to the factory;
 - indirect labour charges, including salaries paid to factory managers, wages paid to foremen, examiners and testers of the goods;
 - power, light, water and other service charges directly attributed to the cost of manufacture of the goods;
 - consumable stores, including minor tools, grease, oil and other incidental items and materials used in the manufacture of the goods;
 - depreciation and maintenance of factory buildings, plant and machinery, tools and other items used in the manufacture of the goods

The following costs, charges and expenses should be **excluded**:

- (a) Administration expenses as represented by:
- office expenses, office rent and salaries paid to accountants, clerks, managers and other executive personnel;
 - directors' fees, other than salaries paid to directors who act in the capacity of factory managers;
 - statistical and costing expenses in respect of the manufactured goods;
 - investigation and experimental expenses.
- (b) Selling expenses, as represented by:
- the cost of soliciting and securing orders, including such expenses as advertising charges and agents' or salesmen' commission or salaries;
 - expenses incurred in the making of designs, estimates and tenders.

- (c) Distribution expenses, represented by all the expenditure incurred after goods have left the factory, including;
- the cost of any materials and payments of wages incurred in the packaging of the goods for export;
 - warehousing expenses incurred in the storage of the finished goods;
 - the cost of transporting the goods to their destination.
- (d) Charges not directly attributed to the manufacture of the goods:
- any customs duty and other charges of equivalent effect paid on the imported raw materials;
 - any excise duty paid on raw materials produced in the country where the finished goods are manufactured;
 - any other indirect taxes paid on the manufactured products;
 - any royalties paid in respect of patents, special machinery or designs;
and
 - finance charges related to working capital.

Example:

A producer in Member State BW makes wooden tables for sale to a buyer in Member State ZW. The producer uses local timber and timber imported from Member State MW and Malaysia, respectively. The producer incurs the following costs per table, but he is not sure whether the tables qualify for preferential tariff treatment:

<u>Materials</u>	<u>Cost (currency unit)</u>
Timber:	
Local timber	500
From member State MW	400
Malaysian origin	1200
Glue (imported from Brazil)	305
Varnish (imported from Germany)	30 8
Factory overheads:	
Rent and rates	400
Depreciation of machinery	380

Direct labour		<u>600</u>
	Ex-factory cost	4093

Factory profit margin is 25% **5116**

Calculations:

$$(a)(i) \text{ Import material content} = \frac{1200+305+308}{500+400+1200+305+308} = \frac{1813}{2713} = \underline{\underline{67\%}}$$

OR

$$(ii) \text{ Local material content} = \frac{500+400}{500+400+1200+305+308} = \frac{900}{2713} = \underline{\underline{33\%}}$$

$$(b) \text{ Value added} = \frac{5116-1813}{5116} = \frac{3303}{5116} = \underline{\underline{65\%}}$$

Explanation:

It is clear from the above that the table largely satisfies the value added criterion. However, the same table would not satisfy the material content criterion, since imported materials exceed 60% of the total cost of materials used in producing the table.

2.6 Change of Tariff Heading Origin test (CTH) Rule - [Annex I Rule 2(2) of the SADC Protocol on Trade]

Under this criterion, origin is conferred if the manufacturing or processing carried out in the member States is substantial and results in a product which falls under a heading of the Harmonized Commodity Description and Coding System (HS) which is different from that under which the non-originating materials used in its manufacture fall.

Example:

Margarine of tariff heading 15.07 manufactured in a SADC Member State can only qualify as a SADC originating product if it is manufactured from imported materials classified in headings other than 15.07, 15.12 and 15.15.

2.7 Processes not conferring origin [Annex I Rule 3 of the SADC Protocol on Trade]

The Protocol contains a list of operations and processes, which shall be considered as insufficient to support a claim that goods originate from a Member State.

The list includes the following examples:

Packaging, bottling, placing in flasks, bags, cases, and boxes, fixing on cards or boards and all other simple packing operations;

Simple assembly of components and parts imported from outside the member States to constitute a complete product;

Changes of packing and breaking up or assembly of consignments;

Animal slaughter; etc.

[Refer to the Protocol for the full list] (insert full list)

Products resulting from these operations and processes retain their foreign origin and are thus not entitled to preferential tariff treatment.

2.8 Treatment for Part shipments

Disassembled or unassembled articles, which for transport or production reasons may have to be exported at different times shall for purposes of granting preference, be treated as one article.

Upon importation of the first consignment the importer should advise and agree with the Customs authorities for the goods to be treated as one shipment and a single certificate of origin should be produced.

2.9 Separation of Materials

For the purposes of determining origin of goods, the exporter who is a manufacturer of goods whose material are impractical to physically separate may apply to the Customs Authority for permission to use the accounting system provided that the exporter proves that:

- (i) he/she regularly exports the manufactured goods to Member States;
- (ii) it is impracticable to physical separate the goods; and
- (iii) the identity and interchangeability of the originating and non-originating materials concerned are of the same kind and commercial quality and possess the same technical and physical characteristics, and cannot be distinguished from one another for origin purposes when incorporated into the finished product on account of any markings or other identification.

The accounting system to be applied shall:

- (i) be adequate to ensure that no more goods are deemed to originate in the Member State than would have been the case if the producer had been able to physically separate the materials;
- (ii) make a clear distinction between originating materials and non-originating materials acquired and/or left in stock; and
- (iii) show that the producer's stocks of originating materials exceeded the non-originating materials at the end of the accounting period which should date back 12 months from the time of any export, or delivery for export.

2.10 Treatment of Packing, Packaging Materials and Containers

Packing, Packaging Materials and Containers shall be included for purposes of determining origin if by virtue of General Rule 5 of the Harmonized System such packing or packaging materials and containers are included with the goods for classification purposes or if they are included in the dutiable mass.

2.11 Treatment of Accessories, Spare Parts and Tools

When determining originating status of a product, accessories, spare parts and tools delivered with the goods that form part of the product's standard accessory, spare part or tool and included in the price and are not separately invoiced, shall be considered as one with the product and its origin shall be disregarded in determining whether all the non originating materials used in the production of the product have been sufficiently worked or processed.

2.12 Infringement and Penalties

Particulars of any untrue claim of origin shall constitute an offence and shall be dealt with in accordance with the law of the Member State as read with Rule 10 of Annex 1 of the SADC protocol on Trade.

A false certification by an exporter or a producer in the exporting Member State that the goods to be exported to another Member State qualify as originating goods shall have the same legal consequences, with appropriate modifications, to an importer in the country of importation as for a contravention of the customs laws and regulations regarding the making of a false statement or representation.

The penalties to an exporter in the exporting country shall be in accordance with national laws and such penalties shall be imposed upon notification by the authorities in an importing country that the origin of the goods exported was falsified.

Each Member State shall maintain measures of imposing criminal, civil or administrative penalties for violations of the provisions of the rules of origin.

2.13 Step by step process to determine origin status of sufficiently worked or processed goods

To determine whether a product qualifies as an originating good under the SADC FTA rules of origin, follow these steps.

Step 1

Was the product last processed in one of the Member States?

If **yes**, go to step 2.

If **no**, the product does not qualify.

Step 2

Do **any** of the materials or components used in the product originate from outside a Member States?

If **yes**, go to step 3.

(If you do not know the origin of any material, you have to assume it does not originate in a Member States)

If **no**, the product qualifies. Go to Step 8.

Step 3

Determine the HS classification number of the product being imported into Member States. Usually, the six-digit, subheading level is sufficient.

Step 4

Using the HS classification number, identify the specific rule of origin in **Appendix I** of **Annex I** that apply to the product.

Step 5

Determine the HS classification of the non-originating materials or components you used to produce the product in a Member States.

Step 6

Does the change from the HS classification of the non-originating materials to the HS classification of the product imported into the Member States meet the classification change required in the specific rule of origin you identified in Step 4 ?

If **yes**, the HS classification change requirement is met. Go to Step 7.

If **no**, the product does not qualify, unless it falls under certain exemptions. If the value of the non-originating materials that do not meet the HS classification change requirement is not more than 10% of the ex-works price of the item, the value tolerance exemption may apply, and the product may qualify as an originating product, if it meets all other requirements of the rule of origin.

Step 7

Does the specific rule contain an RVC test?

If **no**, and the HS classification change requirement is met, it qualifies as an originating product. Go to Step 8.

If **yes**, do the RVC test to establish the ex-factory price of the product been met.

Step 8

Complete the *Certificate of Origin* if the product is originating.

PART 3

CUSTOMS PROCEDURES

3.1 Introduction

Implementation of the SADC Rules of Origin requires Member States to apply common procedures in determining the eligibility of products and the granting of preferential tariffs as provided under the SADC trade regime.

The application of common customs procedures by the Member States will give confidence to fellow Member States that the SADC preferential trade regime is being effectively administered as intended. This will ensure that only goods originating in the SADC region benefit from preferential tariff treatment.

To facilitate this, SADC adopted the following procedures:

3.2 Registration of exporters

All producers of goods wishing to export under preference should be registered with the relevant Competent Authority designated in the Member State.

Registration will ensure that only approved goods originating in the Member States and exported by companies operating within the SADC region benefit from preferential tariff treatment. This will eliminate the possibility of third – country products from benefiting under the SADC trade regime.

Registration of an approved exporter of SADC originating products is only an aid to the clearance of the goods and does not entitle the goods to the automatic granting of preferential tariff rates in the importing Member State. Normal Customs procedures must be completed and all requirements satisfied.

Potential exporters under the SADC trade regime are required to register and such companies wishing to register as exporters should submit a written application to the designated competent authority (Customs, Revenue Authority, etc.) and such application should be submitted well in advance before any intended export is under taken.

The following information should be included in the application letter;

- Name of company
- Physical address of the company
- Contact details: contact person, telephone number, fax number, e-mail address, etc.
- List of products intended for export

3.3 Specific requirements for registration

3.3.1 Specific information for manufacturers:

- a. Production capacity of the company
- b. Quantity exported as percentage of total production
- c. Export markets e.g. SADC, EU, USA, etc
- d. Sketch plan of the factory showing layout of machinery
- e. Step-by-step description of the manufacturing process for each product
- f. Factual cost analysis for each product showing details of the materials used, their quantity, values, and details of how the requested criteria is being met.
- g. Certificate of Incorporation (or any other evidence) to show that the company is registered and operates within the territory of a Member State
- h. Import documents e.g. goods declaration, invoice, SADC Certificate of origin (for purposes of cumulation), etc. for materials imported by applicant
- i. Purchase invoices for local materials and for imported materials purchased locally
- j. List of employees involved in the manufacture of the product(s)
- k. Wage sheets for the employees
- l. Job descriptions for the employees
- m. Proof of overheads e.g. rent bills, electricity bills, etc.
- n. Any other documents that may be required

3.4 Specific information for Non-manufacturing Exports:

In the case of non-manufacturing exports (e.g. commodity brokers, distributors), a formal application together with Declaration by the Producer manufacturer whose products have already been approved should be submitted to the designated competent authority. [A specimen of the Declaration by the Producer is as Appendix I]

3.5 Requirements for Exporters of wholly produced goods:

Producers of wholly produced goods (e.g. farmers, miners, etc) wishing to export their products under preference should support their application with Farmers' licenses, mining licenses or any relevant supporting evidence.

They should also provide details of where they are located and what goods they produce

Other exporters should support their application with any relevant evidence, e.g. a purchase invoice from the producer of wholly produced goods.

3.6 How to Process application

3.6.1 for manufacturers, as exporters:

- (i) Carry out a physical inspection of the factory and witness process of production
- (ii) If satisfied that the production process carried out is not one of those listed in Annex I Rule 3 of the Protocol on Trade, verify the calculation requirements of the criteria being applied i.e. Minimum local content percentage, Maximum material content percentage or value-added percentage.
- (iii) If the product(s) meet the requested criteria, register applicant in a Register of approved exporters. Allocate registration number.

Upon registering the company an origin ruling listing the products to be exported is then issued.

- iv) The issued origin ruling will facilitate the issuance of certificates of origin for subsequent exports of originating goods made by the exporter to customers in another member State. The exporter will not have to make a written application for a certificate each time he wants to export into the SADC region. (Specimen origin ruling is as per appendix II) The registration number should be entered in the appropriate box of the Certificate of Origin.

The Origin Ruling should contain the following details:

- Exporter's name
- Exporter's registration number e.g. ZW/SADC/0001/HRE
- Origin ruling number, which should be in annual series, e.g. Origin Ruling 001/03

Where: 001 is the annual running number, and
03 is the year of issue

- Description of the approved products
- Origin criterion applying to the goods, e.g. change of tariff heading

(vii) Distribute the Origin Rulings to all offices of the designated competent authority within the Member State.

(viii) Write a letter of approval to applicant advising registration details.

3.6.2 for non-manufacturers, as exporters

Ensure that there is a Declaration by the Producer and letter of support from a registered manufacturer/producer.

If everything is in order, register the entity as an approved exporter, and follow the procedures in paragraph 3.4.

3.4.3 for producers of wholly produced goods, as exporters:

Officials from the designated competent authority should visit the establishment (e.g. farm, mine, etc) to verify its operations.

If everything is in order, register the entity as an approved exporter, and follow the procedures in paragraph 3.4.1.

3.5. Procedure for Adding products after registration

Once an exporter has been registered, it is possible to add more products to his list of approved products.

The exporter will, as before, apply to the designated competent authority, except that this time, only evidence confirming the originating status of the products in question should be produced.

Once the designated competent authority has approved the products, the Authority should issue a replacement Origin Ruling to take account of the additional products. The new ruling should also be distributed to all Customs offices.

A letter of approval should also be sent to the applicant.

Similarly, any approved products whose production has been discontinued by the registered exporter or are no longer traded under SADC should result in the issuing of a replacement Origin Ruling to take account of such changes.

3.6 Validity of registration and renewal

3.7 Issuance of SADC Certificates of Origin

The procedure for issuing certificates of origin at the time of export of the goods from one Member State to another should not be so burden some on exporters to the extent that the process of issuing becomes a non-tariff barrier. It is important that the process of issuing the certificates should be reliable and predictable as this will assist exporters in planning their exports.

3.7.1 Authenticity of Origin

Goods that have been accepted as meeting the requirements of the Rules of Origin are entitled to a SADC Certificate of Origin, a specimen of which appears at Appendix III of this manual.

The Certificate must be verified and issued by the Designated Competent Authority in the exporting Member State. [A list of member States' Designated authorities is provided at Appendix IV of this manual]

The certificate must be signed and stamped with an origin verification stamp and authenticated by the authority's date stamp.

The certificate of origin should be attached to the import goods declaration to enable the Customs authorities of the importing Member State to grant preferential tariff treatment to the consignment.

3.7.2 Procedure by an exporter to obtain a certificate of origin

3.6.1. An exporter in a SADC Member State intending to export goods to another Member State and desiring to have such goods granted preferential tariff treatment in the importing Member State must obtain a Certificate of Origin from the authority in the exporting country who has been designated to issue such certificates.

The certificate, when presented by the importer to the Customs Authorities in the importing member State will serve as evidence of their originating status and hence enable them to be accorded preferential tariff treatment that is being sought.

3.6.2 An exporter who has been registered by the designated competent authority of a Member State should do the following:

- (i) Ensure that the product(s) for which he is seeking a certificate have been approved, as per his letter of approval.
- (ii) Complete a certificate of Origin for each shipment based on his letter of approval issued by the designated competent authority.

- (iii) Quote his registration number in the appropriate box of the certificate of origin.
- (iv) Attach the certificate of origin to the export goods declaration.
- (v) The export declaration, together with the certificate of origin and other supporting documents should be submitted to the Designated Issuing Customs Authority for authorization of the export.

3.7.3 Who should Complete the SADC Certificate of Origin

The exporter or authorized agents should complete the Certificate of origin, as he is the person who has the facts about the originating status of the goods to be exported. **

The exporter must enter all the information required in boxes 1 to 11 on the certificate, except Box 5, which is reserved for official use. Boxes 12 and 13 are also reserved for official use.

The certificate may be prepared by any process, provided the entries are indelible and legible. Neither erasures nor super-impositions are allowed on the certificate, and any alterations must be made by striking out the erroneous entries and thereafter making or inserting any required additions. Any such alterations must be initialed by the person who completed the certificate and endorsed by the designated competent authority to issue the certificate.

Any unused spaces on the certificate should be crossed out in such a manner as to prevent any subsequent addition.

3.7.4 Guidelines for the completion of the SADC Certificate on Rules of Origin

Note: All boxes on the certificate of Origin are mandatory and must be completed.

Box 1: Exporter

Details of the registered exporter, who may be a natural person ordinarily resident in any of the Member State, 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: Consignee

Details of the consignee in the importing Member State must be entered in this box.

Box 3: Country reference number

The country code and the number of the certificate is presented, e.g. ZW 00001.

Box 4: Particulars of Transport

Details of transport used to ferry the goods from the exporting Member State to the importing Member State must be entered in this box, e.g. Truck reg. no. 721 – 505 P.

Box 5: For Official use

The designated competent authority can use this box to enter any pertinent information regarding the export shipment, e.g. (i) where SADC originating goods are re-shipped from one Member State to another, the number of the Certificate of origin issued by the first exporting Member State; (ii) endorsements of whether the certificate is a duplicate or certificate issued retrospectively.

Box 6: Marks and numbers; number and kind of package; description of goods.

- 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:

Number and kind of package:

This refers to, for example, boxes, drums, bags, e.t.c.

For goods in bulk, the words “in bulk” should be entered.

Description of goods:

- Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified and classifiable under the HS code.
- If both originating and non-originating goods are packed together, describe only the originating goods and add at the end “Part contents only”
- 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: Customs Tariff

Insert HS tariff code as per the Member State’s national tariff schedule

Box 8: Origin Criterion

The specific qualifying criterion under Rule 2 of the Protocol on Rules of Origin must be entered in this box. For this purpose, the following letters should be used against each item entered in the certificate, as appropriate.

“P” – for goods wholly produced;

“S” – for goods that have been sufficiently worked or processed

Box 9: Gross weight or other quantity

Insert weights and other measures in metric system.

Box 10: Invoice no.

State the number(s) and date(s) of the invoice(s) relating to the goods described in box 6.

Box 11: Declaration by Exporter/Producer/Supplier

Before signing the Declaration, the Exporter should ensure that all the particulars entered by him in the certificate are correct.

Declarations signed by shipping or forwarding agents and the like are not acceptable.

The signature must not be mechanically reproduced or made with a rubber stamp, as by signing the certificate, the exporter declares that the goods described in Box 6 qualify as SADC originating products. The initials and surname and designation of the person signing the certificate must be stated below the signature. If this declaration is incorrect, the exporter would have committed an offence under Customs law.

Box 12: Certification of Origin

This box should be filled in by the designated competent authority of the exporting Member State.

The Authority should endorse with its origin verification stamp in this box in the appropriate space. The impression of the stamp should be very clear to avoid raising doubt by authorities of the importing Member State as to its authenticity. The officer of the authority must print his/her initials and surname below his /her signature and date stamp the certificate. The officer's signature and the origin verification stamp should be that already circulated to all Member States.

Box 13: For customs purposes

Insert the export document number and date, name of customs office of issue, country and date, officer's signature and date stamp.

NOTE:

The SADC Certificate of Origin 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

3.8 Role of the Competent Authorizing in processing the SADC Certificates of Origin

3.8.1 The declaration furnished by an exporter claiming that the goods being exported by him are eligible for preferential tariff treatment must be authenticated by the designated competent authority in the exporting Member State, if the goods are to be accepted by the importing Member State as originating in a SADC member State.

Before such authentication (by stamping and signing the certificate) the designated competent authority should satisfy itself that the requirements of the Rules of Origin applicable to the goods for which preferential tariff treatment is being claimed have been complied with.

The designated competent authority will confirm:

- (i) that the Certificate of Origin has been completed in triplicate;
- (ii) that the certificate is completely and correctly filled out;
- (iii) that the exporter is registered;
- (iv) that the product(s) is/are approved and they appear on the Origin Ruling;
- (v) that the exporter's registration number has been entered in the appropriate box, i.e. on the top right hand corner of the certificate in the space "Ref. No..."
- (vi) that the origin criterion is correct as per the Origin Ruling;
- (vii) that the particulars entered in the certificate are the same with those in the commercial invoice;

- (viii) The official will verify and authenticate the certificate with an official date stamp, origin verification stamp and sign the certificate
- (ix) The stamp to be used is the one whose impression has been circulated to other SADC member States. Similarly, the official signing the certificate should have had his name and signature circulated to other member States.

NOTE: After the designated competent authority has signed and issued the certificate, no other body should endorse Box 12.

3.8.1 Distribution of the Certificate of Origin

Once the certificate of origin has been certified, it should be distributed as follows:

Original copy

This copy should be returned to the exporter for onward transmission to the importer in the importing Member State to which the goods are consigned to enable the importer to complete the necessary documents for entry of the goods.

Duplicate copy

This copy should be retained by the designated competent authority.

Triplicate copy

This copy should be returned to the exporter for his records.

3.8.2 Record Keeping

It is mandatory to keep records and such records shall be kept as follows:

- i) Registered exporters are under legal obligation to keep adequate records of their activities. Such records include the following, among others:
 - (a) Copies of import goods declaration and supporting documents, in respect of imported materials used in production;
 - (b) Orders received and fulfilled for delivery to customers within SADC;
 - (c) Records of purchases of local materials
 - (d) Accounting records to support application of material content and value added origin criteria;

(e) Copies of SADC Certificates of origin

Importers and exporters must keep records for a minimum period of five years (or such other time as stipulated in a member State's national legislation), from the date of the transaction indicated on the certificate of origin to which they relate.

- ii) Competent Authorities in the exporting and importing member States should retain copies of certificates of origin and other related documents issued and accepted in respect of goods traded under the SADC trade regime for a minimum of five years or such time as stipulated in the national laws of a member State.

3.9 Re-consigning of SADC originating goods and issue of replacement certificates

Where SADC originating products are placed under the control of a customs office in a member State, it shall be possible to replace the original certificate of origin with one or more certificates of origin for the purpose of sending all or some of these products elsewhere within SADC. The replacement certificate(s) shall be issued by the relevant issuing authority under whose control the goods are placed.

The replacement certificate of origin shall be regarded as the definitive certificate of origin for the products to which it refers. The replacement certificate shall be made out on the basis of a written request by the re-exporter.

Box 5 of the replacement certificate shall contain the words "Replacement certificate," as well as the date of issue of the original certificate of origin and its serial number.

The name of the re-exporter shall be entered in Box 1 of the certificate of origin.

The name of the final consignee shall be entered in Box 2 of the certificate of origin form.

All particulars of the re-exported products appearing on the original certificate must be transferred to Boxes 4 to 9 of the replacement certificate.

References to the re-exporter's invoice must be given in Box 10 of the replacement certificate.

The designated competent authority, which issues the replacement certificate, shall endorse Box 12.

The responsibility of the designated competent authority is confined to the issue of the replacement certificate. The particulars in Boxes 11 and 12 concerning the country of origin shall be taken from the original certificate.

The re-exporter shall sign Box 11. A re-exporter who signs this box in good faith shall not be held responsible for the accuracy of the particulars entered on the original certificate.

The designated competent authority, which is requested to issue a replacement certificate, should note on the original certificate the weights, numbers and nature of goods forwarded and indicates thereon the serial numbers of the corresponding replacement certificate(s). The authority shall keep the original certificate for at least five years and as stipulated in the national law of the Member State.

A photocopy of the original certificate should be attached to the replacement certificate.

This procedure should be followed irrespective of whether the goods in question will be used in further working or processing or not.

3.10 Issuance of retrospective and duplicate certificate of origin

Certificate of Origin may exceptionally be issued after exportation of the goods if it is demonstrated to the satisfaction of the Designated Authority that the certificate was not issued at the time of exportation because of errors or involuntary omissions or special circumstances or that the Certificate was issued but was not accepted at importation in the Member State of destination for technical reasons. When such a certificate is issued retrospectively the inscription 'ISSUED RETROSPECTIVELY' shall be inserted in Box 5.

A duplicate Certificate may be issued where the original has been stolen or destroyed. The certificate shall be made on the basis of the export documentation in possession of the Customs Authority at the place where the goods were entered for export. The inscription 'DUPLICATE' shall be inserted in the Certificate when such certificate is issued.

The exporter shall apply for a duplicate certificate in writing to the Issuing Authority where the original Certificate was issued and give reasons why a duplicate is required and also provide the number and date of the original Certificate.

3.11 Responsibilities of the competent authority in the importing country

3.11.1 Dissemination of information

Customs authority in the importing country should distribute information promptly to all the customs offices of the Member State, in the same way it distributes the names and specimen signatures of the authorized signatories and stamp impressions received from other Member States.

This information will facilitate the granting of preferential tariffs on goods imported from other member States.

For goods to be admitted in a SADC Member State as originating in another member State, the importer of the goods concerned must present to the customs authorities, along with the requisite goods declaration, a certificate of origin issued by the designated issuing authority of the exporting Member State.

3.11.2 Goods and documentary check

The customs authorities of the importing Member State will do the following:

- (i) Compare the impression of the stamp and signature of the certifying authority appearing in box 12 of the certificate of origin presented by the importer with those notified by the exporting Member State.

- (iii) Confirm that the particulars of goods given in the certificate of origin correspond with those shown on the invoice and the customs import goods declaration.

- (iv) If the authorities are satisfied that the goods to which the documents relate are eligible for preferential tariff treatment as claimed, they will be so admitted.

3.12 What constitutes a valid SADC Certificate of Origin at time of importation?

A valid certificate of origin should satisfy the following conditions:

- (i) It should have been issued by an approved designated Authority in the exporting Member State.
- (ii) It should contain all the particulars necessary for identifying the product(s) to which it relates.
- (iii) It should have been completed in print or legibly handwritten in ink.
- (iv) It contains no errors. An authorised signatory of the designated issuing authority of a Member State should counter initial any alterations and stamp.
- (v) It shall certify unambiguously that the product(s) to which it relates originated in a specific SADC member State.
- (vi) It should bear the official stamp and an original signature of a signatory of the designated issuing authority.
- (vii) It should bear an original signature of the exporter.

(viii) It should bear a serial number in the top right hand corner.

3.13 Procedure for release of goods which are subject to origin verification

Where the customs authorities of the importing Member State decide to suspend the granting of preferential tariff treatment to the goods concerned while awaiting the results of the verification, the importer should be allowed delivery of the goods, provided adequate security has been given for any duty that might be found payable. The security given should be enough to cover the duty at stake only.

PART 4

ADMINISTRATION AND ENFORCEMENT

4.1 Structure and core competences of the competent authority

The effective implementation of the SADC Rules of Origin by the member States requires that the issuing of certificates of origin and the verification of the certificates be recognized as two distinct functions, which should be carried out in the Member States by appropriate authorities.

The claim of SADC originating status for any goods can be considered as beginning with the production of the goods, either from materials that are wholly produced from within SADC or wholly or partially from materials obtained from non-SADC sources.

The controls that are implemented under the SADC trade regime must, therefore extend from the very early stage of the importation of inputs going into production in member States, through the production process(es) carried out, the actual exportation and importation of the finished goods and, where the occasions require, query and verification of the evidence of origin.

If customs controls are ineffective over the importation of the goods from non-SADC sources, non-originating products may end up being misrepresented as SADC originating products. Similarly, import values may be manipulated so as to affect the application of sufficiently worked or processed origin criterion.

The efficiency and effectiveness of national system responsible for the administration of the SADC Rules of Origin cannot be over emphasized and the following organizational and core competencies are required:

4.1.1 Organizational structure

It is desirable for the effective implementation of the SADC Rules of Origin regime that Member States ensure that the following units are established within the designated competent authority administrative structures:

The designated authority should be organized in such a way that there is the Head Office as well as regional/local offices responsible for the administration of the Rules of Origin.

i) Head Office and its functions

In all Member States, the Head Office of the designated competent authority assumes overall responsibility for all SADC matters, in particular the proper implementation of the SADC Rules of Origin by a Member State.

The size of the unit in Head Office will vary from one Member State to another, depending on national requirements and the degree of centralization.

The Functions of Head Office Include:

- (a) This unit will prepare the national laws and regulations in accordance with the decision of SADC Council of ministers on SADC Rules of Origin.
- (b) The unit will also keep the laws and regulations up to date on the basis of policy decisions made by the Council of Ministers and the SADC Authority. To achieve this objective, Head Office personnel should actively participate in SADC meetings, especially, meetings of the Working Group of Experts. This ensures that national positions and requirements are taken into account.
- (c) It will also prepare national administrative guidelines on the interpretation of the laws and regulations for use by officials of the designated competent authority.
- (d) Another task of this unit is to prepare and issue instructions to ensure uniform application of the provisions of Annex I of the SADC Protocol on Trade by the Member State.
- (e) The unit will also deal with appeals against decisions taken by regional/local officials and any difficult cases regarding the SADC Protocol on trade.
- (f) The unit will also be responsible for registering exporters and issuing origin rulings. The unit also maintains the national database of all registered exporters
- (g) It will also be responsible for:
 - Ensuring that the details of stamps, signatures where Customs is ** from other designated Authorities and ** are collected.
 - Sending details of the official Origin Verification stamps (used in certification) to other Member States through SADC Secretariat. Any changes made should also be notified accordingly.
 - Sending the names and signatures of officials authorized to sign SADC Certificates of Origin on behalf of the Designated Competent Authority
- (h) the unit will carry out origin verification as requested by importing Member States.
- (i) It will also communicate with authorities in other member States and the Secretariat on matters relating to the SADC Protocol on Trade especially on Rules of Origin.
- (j) The unit will also be responsible for providing training to other officials of the designated authority as well as the private sector.

ii) Designated Regional/Local offices and their functions

To facilitate the issuance and verification of certificates of origin, designated competent authorities should establish offices in the main regions/towns within the Member State. This will ensure that exporters wishing to register with the designated authority or those seeking authentication/verification of their certificates of origin do not have to travel long distances for the service, and this assists in reducing compliance cost of doing business in SADC

The functions of the Regional/Local offices include:

- (a) Maintain regional data base of registered exporters.
- (b) Carry out inspections and verification exercises of applicants and make recommendations to Head Office
- (c) handle regional enquiries, carryout assignments as directed by Head Office
- (d) Give guidance and advise stakeholders e.g. potential exporters and registered exporters.
- (e) carry out origin verification requests from other Member States. This task is carried out with authority from Head Office and the results of such investigations should be forwarded to Head Office for onward transmission to the respective Member State.

4.1.2 Core Competences of the designated competent Authority:

The issuance and verification of the SADC Certificate of Origin by designated authorities demands that they are competent to implement all the provisions of Annex I of the Protocol on Trade with special emphasis on Rules of Origin. For purposes of determining the origin of goods under Annex I Rule 2 of the SADC Protocol on Trade, designated authorities should be competent in the use of the HS Code. Officials of such designated authorities should therefore have adequate expertise in:

- (a) Classification of goods under the Harmonized Commodity Description and Coding System (HS)
- (b) Customs Valuation of imported goods (WTO Customs Valuation)
- (c) Accounting knowledge

Officials of the designated authority should have basic Accounting knowledge, which is necessary for the application of Rule 2 on Rules of Origin.

(d) Knowledge of the SADC Protocol on Trade and Rules of Origin in particular

(e) Technical information on manufacturing processes

They should be able to collect all technical information from manufacturers, which they can use to verify if manufacturers meet the requirements of the rule of origin the bases of which will be used consider eligibility of the exporters.

(f) Investigation and control of export products

- Designated competent Authorities must have the legal authority to call for any document relating to the export of SADC originating products.
- They should also have the legal powers to inspect goods as well as records and accounts kept by the exporter to verify the originating status of goods.
- The designated authority must have the authority to request for information and exchange information in origin verification cases.
- The designated authority must also be empowered to establish offences of SADC origin fraud and prosecute offenders.
- National legal provisions relating to offences and penalties vary considerably from one Member State to another. However, the law in all Member States must have adequate penalties in case of serious irregularities or falsification of the originating status of goods in order to discourage malpractices by traders.

(g) Co-operation with other agencies

The designated authority should co-operate with other agencies that may render assistance in the implementation of the SADC Protocol on Trade and Rules of Origin in particular. For example, the Registrar of companies, who may be contacted by the designated authority to confirm that a company seeking registration as an approved exporter is registered and operates within the territory of a member State.

4.2 Mutual Assistance and Customs Cooperation

Member States should regularly exchange information on fraudulent or improper claims of SADC origin status. Such information, which is detected by any Customs Administration, should be circulated on a confidential basis through the SADC Secretariat for the information of the other SADC member Administrations

Where the responsibility for certifying SADC certificates of origin is vested in an agency other than the Customs Authorities, an effective collaborative relationship between the two bodies should be developed for the effective performance of the certification and verification function.

The certifying authority should also co-operate with other agencies, which can provide information, which may assist the authority to effectively carry out its mandate.

4.3 Post-clearance audit/examination

In view of the pressure of trade and to obviate delays, Customs administrations will authorize their local offices to clear a considerable part of all exports after a summary check only based on risk management profiling system.

Risk management presupposes that a post clearance check will be done well after the goods have been released. Post clearance examination consists of carefully checking whether the information made available at the time of clearance was accurate as far as the originating status of goods is concerned. The supporting documents for the examination are the documents presented at time of clearance, import/export registers and other documents in connection with importation/exportation of the particular goods.

In exercising risk management, over the flow of trade between member States under the SADC trade regime, Customs Administrations must strike a balance between promoting intra-SADC trade, on one hand and, the need to guard against customs fraud

After release of the goods deemed to be of SADC origin, the Customs authorities in the importing Member State select a reasonable number of consignments and subject these to thorough examination (including going all the way through the normal query and verification process) to test the authenticity of their claim to SADC originating status. In making these random post-verification checks, selection of the transactions to be investigated can be by the sensitivity of certain kinds of goods where there may be a greater inducement to evade customs controls, or by the known past record of suspect traders.

4.4 Origin Verification Procedures

4.4.1 Reason for verification

Subsequent verifications of SADC Certificate of Origin should be carried out at random or whenever the customs authorities of the importing Member State have reasonable doubts as to the authenticity of the document or as to the accuracy of the information regarding the originating status of the goods concerned.

A verification questionnaire, a specimen of which is provided at **Appendix V** shall be used for this purpose.

4.4.2 Procedure for Request for verification

- (i) Where the customs authorities of the importing Member State are in doubt about the correctness of the evidence furnished to them by the importer, they may request the submission of further supporting evidence from the imported.
- (ii) When requesting for further supporting evidence, the customs authorities of the importing Member State should write a letter to the exporting customs authority and attach the SADC Trade Protocol Verification of origin questionnaire. (See specimen copies of the letter and questionnaire attached as **appendix V**)
- (iii) Any documents and information obtained suggesting that the information given in the certificate of origin is incorrect should be attached to the letter and forwarded to the designated authority of the exporting member State in support of the request for verification.
- (iv) Requests for verification should be sent to the Designated Authority of the exporting Member State within 48 hours of the raising of the query of SADC origin status. A copy of the “query” form should at the same time be given to the importer. A deposit must be collected & realize the goods.
- (v) Where additional information is required, the customs authorities should clearly specify the nature of the additional information required to resolve the query.

4.4.3 Procedure for the importer if verification process is delayed

Where the customs authorities in an importing member State refuse clearance of any consignment of goods but fail to activate the verification procedure, the importer of the goods should evoke the SADC ** Procedure. contact the Ministry or agency within his government responsible for SADC matters, and at the same time advising the SADC Secretariat.

The importer should provide full details of the consignment:

- nature of the goods;
- number and kind of packages;
- value;
- country of origin and exportation;
- name and address of exporter; and
- transport details.

The importer should also indicate the reason given for refusal to release the goods.

4.4.4 Action by designated authority upon receipt of verification request

i) Where no additional information is requested

Upon receipt of the letter requesting Verification of Origin, the authority should carry out investigations and communicate its findings to the importing Member State within three months of receipt of the request.

The designated authority should complete Part B, "RESULTS OF VERIFICATION", at the back of the SADC Certificate fill in the appropriate box as to the originating status of the goods under consideration, stamp and sign the form.

ii) Where additional information is requested

Upon receipt of the request for additional information, the designated authority should:

- (a) Call upon the exporter to furnish information required in the questionnaire
- (b) Ensure that the exporter has signed the Declaration in section V of the questionnaire.
- (c) If the authority is satisfied that the form has been properly completed and signed by the exporter, the authority should stamp and sign the certificate and return the completed questionnaire promptly to the customs authorities of the importing Member State.

4.4.5 Procedure where disagreement persist about the originating status of goods

Normally, the raising of a query by an importing Member State and the provision of a response verifying the evidence of origin should dispose of the matter, either confirming or rejecting the claim of SADC origin. However where doubts persist the following can be undertaken:

i) Joint-on-the-spot investigation

Where despite the response to a query by an exporting member State affirming the original claim of SADC origin, doubts persist in the minds of the customs authorities in the importing Member State about the validity of the claim, prompt steps should be taken to resolve the matter.

At the initiative of either the importing or the exporting Member State, arrangements should be made with the minimum of delay for representatives from both sides to meet in the Member State where production is carried out to examine together "on-the-spot" evidence on which the claim of SADC originating status is based.

The two parties should do the following, among others, before carrying out the joint investigation:

- (a) Agree on the dates on which to carry out the joint investigation.
- (b) The customs authorities of the importing Member State should provide the Designated Authority in the exporting Member State with the names of the its officials who will participate in the investigation so that it can arrange for their transport and accommodation in the exporting member State. However, the visiting delegation should meet its accommodation expenses.
- (c) The Designated Authority in the exporting country should assist the visiting delegation with visas and any other travel requirements.
- (d) The Designated Authority in the exporting country should also ensure that the visiting delegation has access to its records pertaining to the registered exporter who is to be investigated.
- (e) Depending on the origin criterion that is applicable to the goods under investigation and the nature of the production process involved, the two authorities may agree to co-opt independent technical experts to assist in the investigations. The two authorities will share any costs incurred in co-opting the experts.

It is advisable for the registered exporter to be informed of the intended visit. Mutual co-operation and consultation between the Designated Authority and registered exporter is important for successful verification to be carried out.

Before leaving for the visit, the investigating officials should:

- (a) note any specific points requiring investigation.
- (b) study the bills of entry and supporting documents carefully, noting any features that may require further enquiry.
- (c) Obtain the following information regarding the registered exporter:-
 - past history of exportation
 - Origin Rulings related to the registered exporter and the goods
 - previous visit reports (if any) concerning the registered exporter
 - information from other sources, e.g. Customs Investigations
 - any other relevant information.

ii) Results of the joint investigation

At the conclusion of the investigations, the officials from the two authorities involved in the investigations should discuss and agree on the outcome of the investigation.

The customs authorities of the importing Member State should advise the SADC Secretariat of the outcome of the investigation.

The SADC secretariat should, in turn, notify the other SADC member States of the results.

Normally, such joint-on-the-spot investigations should help in resolving the origin query, however, where the two parties fail to agree, member States should follow dispute settlement procedures covered in paragraphs that follow.

iii) Report of visit

The investigating officials should write a report after concluding the investigation. The report of visit may include the following items:

- (i) Date(s) of visit
- (ii) Name and position in company of person(s) seen.
- (ii) Registered exporter's function, e.g. distributor.
- (iv) Confirmation that the signature in box 11 of the Certificate of Origin was made by an officer or authorized representative of the company investigated, and that the signatory was in full possession of the facts and entitled to sign the certificate.
- (v) Principal countries to which the goods are exported
- (vi) Main types of goods imported by the registered exporter, e.g. raw materials, finished goods, etc.
- (vii) Purposes for which the goods are imported, e.g. own use, further manufacture, resale as imported
- (viii) Details of procedures undertaken in auditing records and documents, whether held in computer or not.
- (ix) Details of any irregularities found in the course of the investigation.
- (x) Any specific action taken against the registered exporter
- (xi) Any other relevant information.

4.5 Verification results

Verification results should be forwarded to the authorities of the importing Member State, as soon as possible, but not later than twelve weeks. However, if no response is received within the twelve weeks, the SADC Secretariat should be notified.

If the further check in the exporting Member State establishes that the goods do not meet the requirements of the SADC Rules of Origin, the verification responses and the questionnaire should be sent to the importing Member State under cover of a confidential note explaining the results of the further check and indicate action taken, if any against the exporter. In such a case, preferential tariff treatment is denied by the importing Member State.

4.6 Dispute settlement procedure

Any dispute between Member States relating to the application of the provisions of the Rules of Origin shall, in so far as is possible, be settled by negotiation between the customs authorities of the member states concerned. However, in all cases, the settlement of disputes between the importer and the customs authorities of the importing Member State should be dealt with under the laws of that Member State.

A dispute, which has not been settled by negotiation between the parties, shall be referred to an Arbitration Panel comprising three members. Each party to the dispute shall appoint one member to the Panel while the parties to the dispute shall mutually agree upon the third member of the Panel.

The parties to the dispute shall supply all documents and/or information to the Arbitration Panel. The documents and/or information so supplied shall also be supplied, at the same time, to the other party to the dispute and the Executive Secretary of SADC.

The Arbitration Panel shall conduct the arbitration in such manner, as it considers appropriate provided that the parties to the dispute shall be treated with equality and that during the proceedings, each party shall be given a full opportunity of presenting its case.

Upon request by any party to the dispute during the arbitration proceedings, the Panel shall hear evidence, oral or written, from any witness including experts invited by any party to the dispute.

The general terms of reference of the Arbitration Panel shall be: -

“ to examine, in accordance to the provisions of the SADC Protocol on trade Annex I, the matter presented to it and to establish findings and make such recommendation(s) as would resolve the dispute in a manner consistent with the

overall development objectives of the region and to the satisfaction of the parties to the dispute.”

The Arbitration Panel shall consider the submissions from the parties to the dispute and any witness(es) and may request additional information or clarification from the parties to the dispute and make its recommendations.

In making its recommendations, the Panel shall, in addition refer to any relevant authorities and provisions whether or not cited by the parties to the dispute.

The Arbitration Panel shall hold its first sitting within a period of fourteen (14) days from the date of acceptance to serve on the Panel by the last panelist and shall, unless otherwise constrained, complete its task and submit its findings and recommendation(s) to the parties to the dispute and the Executive Secretary of SADC within a period of thirty (30) days from date of its first sitting.

If the Arbitration Panel is unable, through its findings and recommendation(s) to resolve the dispute in a manner which is consistent with the overall development objectives of the region and to the satisfaction of the parties to the dispute, it shall refer the matter, through the Executive Secretary of SADC, to the Tribunal for a final ruling which shall be binding on all parties.

Each party to the dispute shall bear the costs attributable to the member it appointed to the Panel while the costs attributable to the third member of the Panel shall be borne in equal part by the parties to the dispute.

4.7 Role of the SADC Secretariat

The SADC Secretariat should provide adequate technical support or advice regarding the interpretation of the Protocol on Rules of Origin. where this is required by a member State

The Secretariat should also be kept aware of the instances of the query and subsequent verification of evidence of SADC origin by being provided with copies of all query forms that are sent by the authorities in the member States, as well as copies of the verification responses by the exporting member States. This information should be circulated to other member States by the Secretariat.

Appendix B

DESIGNATED COMPETENT AUTHORITIES OF MEMBER STATES

Member State	Ministry of Trade	Customs/Revenue Authority	Chamber of Commerce and Industry
Angola		•	
Botswana		•	
Congo (DRC)	•		
Lesotho	•		
Malawi		•	•
Mauritius		•	
Mozambique		•	
Namibia		•	
South Africa		•	
Swaziland	•		
Tanzania			•
Zambia		•	
Zimbabwe		•	

SADC CERTIFICATE OF ORIGIN

Registration NO:..... 1. Exporter (Name and Office Address)		3. Country Ref. No. (e.g. ZW 000001) SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) CERTIFICATE OF ORIGIN			
2. Consignee (Name and Office Address)		4. Particulars of transport: 5. For official use only			
6. Marks and numbers; number and kind of package, description of goods:		7. Customs Tariff No.	8. Origin Criterion (See overleaf)	9. Gross weigh other quantity	10. Invoice No. and date
(i) Marks and Nos	(ii) Description of goods				
11. DECLARATION BY EXPORTER/SUPPLIER I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate, and are originating in (Country) Place and date:		12. CERTIFICATION OF ORIGIN Declaration Certified: <div style="border: 1px solid black; width: 100px; height: 100px; margin: 0 auto;"></div> (Origin Stamp and Signature) Certificate of Customs or Other Designated Authority		13. FOR CUSTOMS PURPOSES Export Document No: Date: Customs Office: Country: Date: Signature <div style="border: 1px solid black; width: 100px; height: 100px; margin: 0 auto; text-align: center;"> Stamp </div>	
..... Signature					

<p>A. REQUEST FOR VERIFICATION</p> <p>Verification of the authenticity and accuracy of this certificate is requested for the following reasons:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p style="text-align: center;">..... (Place and date)</p> <p style="text-align: center;">..... (Signature and Stamp)</p>	<p>B. RESULT OF VERIFICATION</p> <p>Verification carried out shows that this certificate was issued by the Customs Office or designated authority indicated and that the information contained therein:</p> <div style="border: 1px solid black; width: 100px; height: 30px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; width: 100px; height: 30px; margin-bottom: 5px;"></div> <p style="text-align: center;">..... (Place and date)</p> <p style="text-align: center;">..... (Signature and Stamp)</p>
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INSTRUCTIONS FOR COMPLETING THE SADC CERTIFICATE OF ORIGIN
b. 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 State 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:

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

5. 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.

2. 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 initiated by the person who completed the certificate and endorsed by the officer who signs the certificate

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⁾

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

UNDERTAKE 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.



**SADC TRADE PROTOCOL VERIFICATION OF ORIGIN
QUESTIONNAIRE**

This questionnaire is sent to you pursuant to the Regulations on the STP Free Trade Agreement (SFTA), The questionnaire will be used in determining if the

_____ (description of goods)
described on the SFTA Certificate of origin (CO) number _____ dated
_____ qualify under SFTA¹.

√Exporter of the imported good.
- If you relied upon a producer declaration from the Producer to prepare your Certificate of Origin, provide a copy and then go directly to Section V and complete it.
- You relied upon knowledge of the good, complete the questionnaire.

√Exporter/Producer of the imported good.
Complete the questionnaire.

Section I ► Production Process

Provide a brief description of the production process for the goods/materials being verified.

¹ Additional information may be requested.

Description of the material or component:

If the material or component is self-produced (self-produced material or component is a material or component that is produced by the producer of the good and used in the production of that good) and designated as an intermediate material⁵, (intermediate material is self-produced material or component, designated by the producer, that meets the rules of origin of SFTA) and that is incorporated into the final good and place the letter “D” before the name of the material or component in the table. If the material or component is self-produced but not designated as an intermediate material, then each material used in the production of this self-produced material or component must be identified separately.

Basis of Originating Status:

Describe type of information (i.e., certificate of origin, affidavit etc.) which was relied upon to determine the originating status of the material component.

Section IV ► Additional Questions	
1. Was the sale of the good/material to a related person?	yes no
2. Was the Value tolerance provision (STP Rule 2 Par. 3) used to determine whether the good being verified was originating?	yes no If yes, _____%
3. In the case of Value Added, state the value of ex-factory price of the product and c.i.f. value of material used.	Ex-factory _____ c.i.f. value _____
4. What was the estimated percentage of Value Added	_____%
5. Was the value of the goods calculated using accumulation? If yes, provide the name and address of each supplier	yes no

Section V ► Certification	
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I certify that the information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or relevant omissions made on or in connection with this document.

Name(Print or Type)	Telephone Number	Company Name (Print or Type)

Title (Print or Type)	Date (DD/MM/YY)	Signature

⁵ Intermediate material is self-produced material or component, designated by the producer, that meets the rules of origin of SFTA.

Appendix

DRAFT LETTER OF REQUEST FOR VERIFICATION TO EXPORTER/PRODUCER IN THE EXPORTING COUNTRY.

Reference:

Date:

Name and address of exporter/producer

SUBJECT:

Dear Sir/Madam

This request is forwarded to you at the demand of the _____ to establish the admissibility of the (name of Customs Administration)

goods/material exported to _____, in (name of consignee)

_____ on or about (name of country)

_____ accompanied by a (specify date on declaration)

Certificate of Origin No. _____ dated _____ claiming the benefits of the Southern Africa Free Trade Agreement.

You have until _____ to return the completed and signed questionnaire to the under signed. You may fax your response. If a reply cannot be made by this date, please contact the Customs office by mail, telephone, or by fax. If additional space is needed for your response, attach additional pages as needed. When the verification is completed you will receive a written determination of the findings. The producer of a verified material will also be notified of the results of the verification of the material. The confidential business information collected on the questionnaire may only be disclosed to those authorities responsible for the administration and enforcement of determinations of origin, and of customs and revenue matters.

The questionnaire must be signed and dated by the individual who can certify as to the accuracy of the information provided in the questionnaire.

Yours truly,

(Name of Competent Authority in the Member State).