



GUIDELINES FOR CO-OPERATION IN EXCISE TAXES IN THE SADC REGION

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PREAMBLE

1. RECOGNISING:
 - (a) the need to take such steps as are necessary to maximise co-operation in taxation matters and to co-ordinate the tax regimes among and between Member States;
 - (b) the objective of establishing a common market in the SADC Region;
 - (c) the desirability of facilitating legitimate business and Regional trade through fair and efficient tax regimes;
 - (d) the need for Member States to sustain and enhance their domestic tax revenues on an equitable and efficient basis; and
 - (e) that excise taxes are indirect taxes that:
 - (i) are commonly applied to selected goods and services;
 - (ii) are revenue efficient; and
 - (iii) may be used to influence consumption behaviour or to compensate for the negative effects of consumption of selected goods and services;
2. RECALLING the provisions of Article 6 of Annex 3 of the SADC Protocol on Finance and Investment (FIP) that requires State Parties (Member States) to effectively co-operate in the harmonisation of the administration of indirect taxes, summarised as follows, that:
 - (a) each State Party shall gradually substitute taxes on internationally traded goods and services with broad-based indirect taxes on consumption;
 - (b) State Parties shall, collectively, explore areas of possible co-ordination for policy formulation and administration in respect of excise duties (taxes) on tobacco products; alcoholic beverages; non-alcoholic beverages; fuel products; luxury goods and services; and any other excisable goods and services;
 - (c) each State Party shall, as far as is possible, promote the use of excise duty (tax) on an *ad valorem* basis on luxury goods and services as an alternative to the application of multiple VAT rates;
 - (d) State Parties shall, in an effort to minimise incidents of smuggling, take such steps as are necessary to harmonise the application of excise duty (tax) rates, with particular regard to tobacco products, alcoholic beverages and fuel products;
 - (e) State Parties shall take such steps as are necessary to exchange information among themselves, and to engage in such programmes of mutual assistance and co-operation as may be appropriate;



- (f) State Parties shall in an effort to combat cross-border smuggling activities, identify areas of co-operation and agreement for: (i) the protection of their respective tax bases; and (ii) addressing the problem of tax leakage and gaps in tax compliance; and
 - (g) State Parties shall give consideration to entering into bilateral agreements with each other, based on the SADC model tax agreement in order to deal with, among other things, the exchange of information on VAT and sales tax and to make provision for mutual assistance on matters such as effective revenue collection;
3. ACKNOWLEDGING that these Guidelines represent a framework for co-operation in the design and application of excise taxes in the SADC Region;
 4. APPRECIATING the differing levels of economic development in the Region and that the excise tax regimes in Member States are similarly diverse;
 5. MINDFUL that these Guidelines are not binding on Member States and hence do not require Member States to undertake or refrain from any actions; and
 6. DETERMINED to co-operate with each other with regard to indirect taxes;
 7. MEMBER STATES AGREE to these Guidelines and to endeavour to implement them.



CHAPTER 1: COMMON EXCISE TAX DESIGN

GUIDELINE 1

PRINCIPLES APPLICABLE TO EXCISE TAXES IN THE SADC REGION

1. RECOGNISING that the objectives of excise taxation include to:
 - (a) raise revenue; and or
 - (b) influence consumption behaviour; and or
 - (c) compensate for the negative effects of the consumption of selected goods and services;
2. RECALLING:
 - (a) Article 1 of Annex 3 of the FIP (Definitions) that defines:
 - (i) excise duty, as a duty imposed by a country under its domestic law on certain goods manufactured or produced in the country or imported into that country, being a tax levied on a specific basis, either on the basis of the weight or volume of the goods, or on an *ad valorem* basis, or on a profit basis; and
 - (ii) levy meaning a tax in respect of specific items, transactions, or events, and which tax is levied at a fixed or flat rate;
 - (b) Paragraph 3 of Article 6 of Annex 3 of the FIP that enjoins Member States to explore areas of co-ordination for policy formulation and administration in respect of excise taxes; and
 - (c) Paragraph 4 of Article 6 of Annex 3 of the FIP that promotes the use of excise duty (tax) on an *ad valorem* basis on luxury goods and services as an alternative to the application of multiple VAT rates;
3. MEMBER STATES AGREE to:
 - (a) tax the consumption of most goods and services by a Value Added Tax (VAT) and not by excise taxes;
 - (b) allow for the taxation of non-essential or luxury goods or services by both excise tax and VAT, but to promote the use of excise tax on an *ad valorem* basis on such goods or services as an alternative to taxation by a selective high VAT rate;
 - (c) avoid subjecting any goods or services to more than one excise tax;
 - (d) avoid imposing levies on goods or services that are liable to national excise taxes; and



- (e) refrain from offering discriminatory excise tax treatment that may result in a tax benefit for domestic producers or suppliers.

GUIDELINE 2

HARMONISED APPLICATION OF EXCISE TAX RATES

1. RECOGNISING the benefits of a Regional approach to excise taxation including for revenue administrations, consumers and businesses operating in more than one Member State; and mindful of the need to deter smuggling and other illegality fuelled by price differences on excisable goods and services;
2. RECALLING that Paragraph 5 of Article 6 of Annex 3 of the FIP, in an effort to minimise smuggling, requires Member States to take such steps as are necessary to harmonise the application of excise tax rates;
3. MEMBER STATES AGREE to:
 - (a) harmonise the application of excise tax rates in the SADC Region with particular regard to tobacco products, alcoholic beverages and fuel products; and to that end
 - (b) develop as benchmarks for the Region, lists of standardised excise tax rates.

GUIDELINE 3

CLASSIFICATIONS, EXEMPTIONS, MARKING AND STANDARDS

1. RECOGNISING the benefits of a Regional approach to excise taxation including for revenue administrations and businesses operating in more than one Member State;
2. RECALLING that Paragraph 1 of Article 6 of Annex 3 of the FIP requires Member States to co-operate in the harmonisation of the administration of indirect taxes and Paragraph 3 of Article 6 of Annex 3 of the FIP that requires Member States to collectively explore areas of co-ordination in respect of excise duties, including on tobacco products, alcoholic beverages and fuel products;
3. MEMBER STATES AGREE:
 - (a) to use common definitions and classifications for the goods or services subject to excise tax;
 - (b) to adopt a co-ordinated approach to excise exemptions, rebates and reliefs;
 - (c) to co-ordinate the marking, labelling, quality standards or other such requirements for excisable goods in the Region; and



- (d) not to permit the manufacture of excisable goods for export if they do not conform to the marking, labelling, quality standards, or other such requirements of the destination Member State.

GUIDELINE 4

DESIGN CONSIDERATIONS FOR POTENTIALLY HARMFUL PRODUCTS

1. RECOGNISING that excise taxation is commonly used to:
 - (a) raise revenue; and or
 - (b) influence consumption behaviour; and or
 - (c) compensate for the negative effects of the consumption of selected goods and services;
2. RECALLING Paragraph 5 of Article 6, of Annex 3 to the FIP, that commits Member States to harmonise the application of excise duty (tax) rates, with particular regard to:
 - (a) tobacco products;
 - (b) alcoholic beverages; and
 - (c) fuel products;
3. MEMBER STATES AGREE to:
 - (a) adopt a common approach to the taxation of excisable products (goods or services) that are potentially harmful either to health, or to the environment, or which carry external social costs;
 - (b) take into consideration, in determining the excise tax rates for tobacco products and alcoholic beverages:
 - (i) the potentially harmful content of the product and therefore, to:
 - tax tobacco products on size/length/weight rather than on quantity alone as a proxy for harmfulness; and
 - tax alcoholic beverages according to the alcohol content;
 - (ii) simplicity, predictability and stability for industry;
 - (iii) revenue yield and price and cross-price elasticities and affordability for consumers;
 - (iv) ease of administration and compliance;
 - (v) the risk of high excise tax rates encouraging illicit trade; and
 - (vi) the risk of double taxation especially with regard to ethanol and alcoholic beverages; and



- (c) use excise taxation as an appropriate vehicle to curb consumption or compensate for the negative effects including external social costs of the consumption of products that are environmentally damaging.



CHAPTER 2: EXCISE ADMINISTRATION

GUIDELINE 5

HARMONISED APPROACH TO EXCISE TAX ADMINISTRATION

1. RECOGNISING the benefits to Member States of maximising domestic revenues, including by minimising opportunities for the illicit trade and by encouraging taxpayer compliance;
2. RECALLING the provisions of Paragraph 1 of Article 6 of Annex 3 of the FIP that Member States shall effectively co-operate in the harmonisation of the administration of indirect taxes;
3. MEMBER STATES AGREE to adopt a common approach to:
 - (a) the management of excise taxes; and
 - (b) revenue administration including:
 - (i) registration as an excise operator (Guideline 6);
 - (ii) excise tax points, returns and records (Guideline 7);
 - (iii) supervision by revenue administrations over the production of high revenue risk products (Guideline 8);
 - (iv) control by revenue administrations over the movement of high revenue risk products (Guideline 9);
 - (v) the powers of revenue administrations (Guideline 10); and
 - (vi) compliance (Guideline 11).

GUIDELINE 6

REGISTRATION AS AN EXCISE OPERATOR

1. RECOGNISING the benefits of a Regional approach to revenue administration including for businesses operating in more than one Member State and mindful that the registration of persons for excise tax purposes should be at the discretion of the revenue administration;
2. MEMBER STATES AGREE to adopt for the Region:
 - (a) common criteria for the registration of excise operators and for the criteria to reflect the nature of the excisable goods or services that will be produced, handled, traded or provided;
 - (b) standardised registration information requirements for all excise operators, supplemented by additional information for operators producing, handling, trading or providing high revenue risk excisable goods or services;



- (c) a Regional excise operator and bonded warehouse registration database (including a common naming and/or numbering system);
- (d) common approval requirements for bonded warehouses for excisable goods including for warehouses:
 - (i) in which excisable goods are stored after importation and before exportation; and
 - (ii) for bulk and finished products and including for production, operations, storage and distribution;
- (e) common maximum durations for the storage of excisable goods in bonded warehouses.

GUIDELINE 7

EXCISE TAX POINTS, RETURNS AND RECORDS

1. RECOGNISING the benefits of a Regional approach to excise tax administration including for businesses operating in more than one Member State and mindful that quality data is essential in informing policy, administrative and enforcement decisions;
2. MEMBER STATES AGREE to adopt standardised requirements for:
 - (a) the tax point for excisable goods and services, with the liability to excise tax arising for goods at the point of manufacture, but providing that payment of the tax may be delayed until the goods become a finished product;
 - (b) the submission of returns by excise operators including:
 - (i) the periods covered; and
 - (ii) the goods or services covered including those produced, subjected to operations, rebated, exported, or removed; and
 - (c) the records to be retained by excise operators including the type of goods or services being produced; stored; transported; or supplied; and
 - (d) the provision of key minimum data by transporters for movements of untaxed high revenue risk excisable goods.



GUIDELINE 8

SUPERVISION OVER THE PRODUCTION OF HIGH REVENUE RISK PRODUCTS

1. RECOGNISING the benefits of a Regional approach to excise tax administration and the need to achieve revenue efficiency and that high excise tax rates are commonly applied to:
 - (a) cigarettes and other tobacco products;
 - (b) ethanol and alcoholic beverages; and
 - (c) fuel products;
2. FURTHER RECOGNISING that as a consequence of high excise tax rates being applied to selected products goods this there is a high increased risk of smuggling or other tax evasion in respect of these products;
3. RECALLING the provisions of Paragraph 7 of Article 6 of Annex 3 of the FIP that requires Member States to identify areas of co-operation and agreement to combat cross-border smuggling and to address tax leakage and gaps in tax compliance;
4. MEMBER STATES AGREE that it is best practice:
 - (a) for close administrative supervision to be exercised over the production and movement of high revenue risk excisable products including:
 - (i) denaturing ethanol for use in producing a non-potable product, before it leaves the production facility;
 - (ii) marking untaxed or lower tax oil products that are capable of being used as substitutes for more highly taxed products, before they leave the production facility; and
 - (iii) marking finished tobacco, alcohol and fuel products as proof of tax payment and to facilitate the tracking and tracing of products;
 - (b) to take a common approach to the use of denaturants and marking in the Region including:
 - (i) a common list of approved denaturants;
 - (ii) common requirements with regard to the quantities of denaturants applied; and
 - (iii) a common approach to the use of chemical markers and fiscal markers, including tax stamps.



GUIDELINE 9

CONTROL OVER THE MOVEMENT OF HIGH REVENUE RISK PRODUCTS

1. RECOGNISING the benefits of a Regional approach to excise tax administration; the need to achieve revenue efficiency; and that excise tax revenue risks are greatest when excisable goods products are moved in an untaxed state.
2. MEMBER STATES AGREE that:
 - (a) the movement of untaxed high revenue risk excisable products including tobacco products, ethanol, alcoholic beverages, and fuel products from one bonded premises to another should be limited to when the product:
 - (i) has to undergo further manufacturing prior to becoming a finished product; or
 - (ii) is intended for a non-taxable use; or
 - (iii) is intended for export;
 - (b) there should be no more than one tax unpaid movement of high revenue risk excisable products; either from manufacturing bonded warehouses, or after importation;
 - (c) when high revenue risk excisable products are being moved between bonded premises or for removal for export, specified information is to be provided in advance of the removal and that sufficient security should be required to cover the tax at risk on each movement;
 - (d) the SADC Customs transit system (and the customs systems of Member States) should take account of excise tax requirements;
 - (e) a single SADC Customs bond guarantee system should be put in place and apply to all movements of goods (including excisable products) across the Region; and
 - (f) standardised Regional requirements should be adopted for data collection on and for the control of movements of high revenue risk excisable products.



GUIDELINE 10

POWERS OF REVENUE ADMINISTRATIONS

1. RECOGNISING:
 - (a) the benefits of a Regional approach to revenue administration including for businesses operating in more than one Member State;
 - (b) that in light of the risks associated with excise taxation outlined in Guideline 8 above, effective excise taxation requires close administrative oversight of the production, movement and storage of goods and of the provision of services; and
 - (c) that non-compliance poses a serious risk to domestic revenue mobilisation.
2. MEMBER STATES AGREE that it is best practice:
 - (a) for revenue administrations to have sufficient powers to effectively administer the tax including powers to:
 - (i) determine whether or not an applicant should be registered as an excise operator and have clear and transparent criteria for the application of powers to amend, suspend or cancel/revoke licences or approvals;
 - (ii) inspect records, equipment, plant and vehicles at business premises for audit and administration; to make such inspections at any time announced or unannounced; and to require CCTV or other appropriate technology to enable manufacture, storage and movements to be monitored;
 - (iii) be able to access the records of third parties including suppliers, customers and contractors;
 - (iv) enter/inspect/search premises, equipment and vehicles; to take goods as evidence; and to seize freeze bank accounts and seize freeze assets;
 - (v) arrest, either directly or in collaboration with another government agency, persons suspected of fraud;
 - (vi) detain illicit products and or any equipment used to produce illicit goods including vehicles used to transport illicit goods; and for them to be forfeited to the State; and
 - (vii) close down premises;
 - (b) to ensure that revenue administration officials comply with legislation including instituting:
 - (i) safeguards and sanctions against improper actions by officials;
 - (ii) procedures governing requests for re-consideration and appeals;
 - (iii) accessible and independent complaints procedures; and



- (c) to ensure that all legal powers, and procedures governing complaints, requests for re-consideration and appeals, are clear and transparent and published, including to industry.

GUIDELINE 11

COMPLIANCE

1. RECOGNISING that modern tax administration is founded on maximising voluntary compliance and that it is important to partner with legitimate business to counter the illicit trade in excisable products.
2. RECALLING the provisions of Paragraph 7 of Article 6 of Annex 3 of the FIP that require Member States to identify areas of co-operation and agreement to combat cross-border smuggling and to address tax leakage and gaps in tax compliance.
3. MEMBER STATES AGREE that:
 - (a) it is best practice for revenue administrations to have an excise tax compliance strategy that:
 - (i) includes the promotion of voluntary compliance; and
 - (ii) describes how the administration will enforce compliance;
 - (b) it is best practice for revenue administrations to encourage excise operator compliance by:
 - (i) reducing compliance costs including by simplifying laws, policies, and administrative procedures;
 - (ii) providing quality services to taxpayers;
 - (iii) promoting and facilitating voluntary tax compliance;
 - (iv) safeguarding the revenue through requirements for security to cover all tax at risk;
 - (v) undertaking inspections and audits of excise operators;
 - (vi) utilising information and intelligence for excise tax enforcement; and
 - (vii) providing and supporting capacity-building for officials in revenue administrations;
 - (c) in addressing non-compliance, best practice is for administrations to:
 - (i) partner with legitimate business and other stakeholders in countering the illicit trade, especially for high revenue risk excisable products;
 - (ii) implement effective customs and anti-smuggling controls to deter and prevent the movement of illicit excisable products across borders;
 - (iii) put in place standardised and effective penalties and sanctions to discourage non-compliance.



CHAPTER 3: EXCHANGE OF INFORMATION AND MUTUAL ASSISTANCE

GUIDELINE 12

EXCHANGE OF INFORMATION AND MUTUAL ASSISTANCE

1. RECOGNISING that combating excise tax fraud, including smuggling, requires close co-operation between revenue administrations in the Region.
2. RECALLING Paragraph 6 of Article 6 of Annex 3 of the FIP that enjoins Member States to exchange information and mutually assist each other to prevent unlawful activities including smuggling and counterfeiting.
3. MEMBER STATES AGREE to share information and mutually assist each other to protect revenues and combat non-compliance such as fraud and smuggling, including:
 - (a) using existing agreements and mutual assistance channels;
 - (b) entering into new agreements for mutual assistance or sharing information between and amongst themselves and to use these arrangements to share information and intelligence including about the illicit trade in excisable products;
 - (c) establishing standardised excise databases and make standardised arrangements including for the:
 - (i) routine transfer of data between revenue administrations;
 - (ii) interrogation of a movements database by authorised officials in respect of individual transactions or movements of goods; and
 - (iii) verification of specific excise tax movements.



DEFINITIONS AND GLOSSARY

Note: the definitions in these Guidelines that are as in Annex 3 of the FIP are marked *

<i>Ad valorem</i>	Means, according to value, where the tax chargeable is expressed as a percentage of the value of goods or services or of a transaction.
Bond	Means, a guarantee or security obtained by an excise operator or transporter from a financial institution so that the latter guarantees the payment (to the revenue administration) of the duties and taxes at risk (up to the amount of the security).
Bonded warehouse	Means, a warehouse storing untaxed products - with the duties and taxes secured by a bond
CCTV	Means, closed Circuit Television (monitoring equipment / systems).
Cross-price elasticity	Means, the percentage change in the quantity demanded of a given product due to the percentage change in the price of another related product.
Denature/Denaturants	Means, the addition of a chemical or product (a denaturant) to make potable (drinkable) ethanol (alcohol) into a product unfit for drinking.
Double taxation (this definition differs to the definition of double taxation in the FIP)	For the purposes of these Guidelines means, imposition of excise tax on a product which is an input into another excisable product and/or imposing a national levy in addition to a national excise tax.
Ethanol	Means, ethyl alcohol.
Excise duty (tax) *	Means, a duty (tax) imposed by a country under its domestic law on certain goods manufactured or produced in the country or imported into that country, being a tax levied on a specific basis, either on the basis of the weight or volume of the goods, or on an <i>ad valorem</i> basis, or on a profit basis.
Excise operator	Means, a person registered (licensed or approved) for excise tax purposes and allowed to manufacture, store, transport and/or trade in excisable goods or services.
Exemption	Means, a legal provision that allows a product to be supplied free of excise tax (subject to the conditions of the exemption being met).
FIP	Means, SADC Protocol on Finance and Investment.
Finished product	Means, goods in their final state – usually packaged ready for retail sale
Fiscal marker/tax	Means, usually a tax stamp or banderol (but including digital markings) marked on or affixed to a taxable item as evidence that



stamp	the tax has been paid.
High revenue risk excisable goods/products	Means, goods usually liable to high excise tax rates (mainly cigarettes and other tobacco products; ethanol and alcoholic beverages, and fuel products including road fuels) in respect of which there is a high risk of smuggling or other revenue evasion.
Liability	Means, when tax becomes payable by law (although the date of payment may be later).
Levy *	Means, a tax in respect of specific items, transactions, or events, and which tax is levied at a fixed or flat rate.
Marker/chemical marker	Means, a chemical or dye added to alcohol or fuel products to show that it is tax free or tax paid or intended for a particular user or market that may be either visible or invisible.
Rebate	Means, a legal provision that allows a deduction to be made from the tax liability (subject to the conditions of the rebate being met – usually when goods have been used for non- taxable purposes).
Registration	Means, registration includes the approval of registration applications and/or the issue of licences permitting specified activities It also includes licence renewals or a decision not to renew or to amend, suspend or revoke a licence.
Relief	Means, a legal provision that permits tax not to be charged in specified circumstances.
Revenue administration	Means, the Revenue Authority/Revenue Service or Customs or Tax administration of a country (including the officials of the administration).
SADC	Means, the Southern African Development Community.
Security	Means, a bond or other form of tangible guarantee that can be called upon to pay the revenues due in the event of a default.
Tax Point	Means, the time (i.e. date) when the tax becomes legally payable on the goods or services (although physical payment may be delayed – e.g. to the end of an accounting period or until a grace period has elapsed).
Value Added Tax (VAT)	Means, a value added tax imposed on goods or services, which is levied at each stage in the production and distribution process and is borne by the final consumer of such goods or services, but, where the liability for rendering payment of such tax to the authorities is placed upon the supplier of the goods or services.

CONTACT

For more information about SADC please visit the SADC Website:
<http://www.sadc.int/>

To obtain a full copy of the Protocol on Finance and Investment (FIP) visit:
<http://www.sadc.int/documents-publications/show/1009>

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COMMENTARY ON THE SADC GUIDELINES FOR CO-OPERATION IN EXCISE TAXES IN THE SADC REGION

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COMMENTARY ON THE PREAMBLE

1. The Preamble begins with Member States recognising the need to maximise co-operation in tax matters including to:
 - (a) co-ordinate tax regimes with the long-term objective of establishing a common market in the SADC region.
 - (b) facilitate legitimate business and enhance regional trade through fair and efficient tax regimes; and
 - (c) sustain and enhance domestic tax revenues on an equitable and efficient basis.
2. At Paragraph 1(e) Member States recognise the main drivers for excise taxation which often differentiate excise taxes from other taxes, i.e. that they:
 - (a) are commonly applied to selected goods and services, which means they are often applied to a deliberately limited range of products to achieve specific objectives, rather than being broadly applied as would be the case for a Value Added Tax (VAT) or a sales tax;
 - (b) are revenue efficient, which recognises that in many cases excise taxes are relatively inexpensive to administer, e.g. they are collected very early in the supply chain (at manufacture), often from relatively few large businesses and often at relatively high rates; and
 - (c) may be used to influence consumption behaviour or to compensate for the negative effects of consumption, which refers to their sometimes pseudonym of 'sin taxes' in that they are widely applied to alcohol, tobacco and fuel products (and in some cases on gambling services), the consumption of which may entail negative social impacts.
3. Member States recall at Paragraph 2 that the instrument under which they are required to co-operate on taxation and related matters is the SADC Protocol on Finance and Investment (FIP) Annex 3 and in particular Article 6 "Indirect Taxes" that includes excise taxes. For ease of reference Annex 3 of the FIP is reproduced at Appendix 1 of this Commentary.
4. Paragraph 2 goes on to list the specific provisions of Article 6 that are most relevant to excise taxes. It should be noted that the FIP uses the term "State Parties" in describing the commitments of Member States as signatories to the Protocol. These commitments provide the mandate for the SADC Excise Guidelines and they are reflected in the detail of the Guidelines that follow. The provisions of Article 6 are summarised as follows:
 - (a) substitute taxes on internationally traded goods and services with broad-based indirect taxes on consumption;
 - (b) co-operate in the harmonisation of the administration of indirect taxes;



- (c) co-ordinate policy formulation and administration in respect of excise ¹duties (taxes);
 - (d) promote the use of excise duty/tax on an *ad valorem* basis on luxury goods and services as an alternative to the application of multiple VAT rates or sales tax rates;
 - (e) harmonise the application of excise duty/tax rates, with particular regard to tobacco products, alcoholic beverages and fuel products;
 - (f) in an effort to combat cross-border smuggling activities, identify areas of co-operation and agreement for the protection of tax bases and addressing tax leakage and gaps in compliance; and
 - (g) exchange information and engage in programmes of mutual assistance and co-operation.
5. Whilst the commitments at Paragraphs (b) to (g) above are self-explanatory, Paragraph (a) requires some clarification. Paragraph (a) refers to the commitment to substitute taxes on internationally traded goods and services with broad-based indirect taxes on consumption in line with World Trade Organisation agreements. This applies to indirect taxes generally and particularly to a VAT, that is a very broad based consumption tax, but this also relates to excise taxation that is a component of an indirect tax regime alongside a VAT. The reason that this commitment is included in the FIP is in recognition of the fact that taxes on internationally traded goods, namely: 'customs duties' (also sometimes referred to as 'tariffs'), are reducing globally as trade agreements such as customs unions proliferate. For countries that rely on customs duties as major sources of domestic revenue, alternative sources of domestic revenue need to be found to provide them with 'fiscal space' to reduce their customs duties and enable them to benefit from such trade agreements. Enhanced revenue mobilisation from indirect taxes, including excise taxes, are recognised as possible revenue alternatives to declining customs duties.
6. At Paragraph 3 Member States acknowledge that the Guidelines represent a framework for co-operation in excise taxation. This will if applied by Member States over time help achieve the ambitions of Annex 3 of the FIP by co-ordinating the administration of regional excise tax regimes, including harmonising excise tax rates and helping to counter smuggling and evasion, thereby making a positive contribution to the domestic revenues of Member States.
7. At Paragraph 4 Member States appreciate that they are at differing stages of economic development and that the excise tax regimes in Member States also vary widely. This will inevitably impact on the ability and pace at which Member States can apply the Guidelines in practice.

¹ The term "excise duty" is traditionally applied to excise taxation, as the tax is normally levied at the point of manufacture, but in practice the phrase "excise duty" and/or "excise tax" is interchangeable.



8. In stating in Paragraph 5 that they are mindful that the Guidelines are not binding and do not require Member States to take or refrain from any actions, Member States are seeking to allay concerns regarding fiscal sovereignty. This also reflects the SADC mandate that co-operation and co-ordination in tax matters will need to progress incrementally through consensus, when the timing is right for each Member State, cognisant of its circumstances.
9. In conclusion, notwithstanding the reservation above, Member States affirm in Paragraph 6 that they are determined to co-operate with regard to indirect taxes (that includes excise taxes) and in Paragraph 7 that they do agree with the Guidelines and to endeavour to implement them.



CHAPTER 1: COMMON EXCISE TAX DESIGN

COMMENTARY ON GUIDELINE 1 - PRINCIPLES APPLICABLE TO EXCISE TAXES IN THE SADC REGION

1. This Guideline sets out the best practices for the design of excise tax regimes as the basis of a common approach to excise taxation in the SADC region.
2. Member States recognise at Paragraph 1(a) that the prime objective of excise taxation is to raise revenue. Excise taxes have, historically done this in an efficient way. Excise taxes across SADC, in many cases, raise between 10% and 20% of total national revenues and are, as such, extremely important. By contrast, the numbers of revenue administration staff employed directly on the administration and collection of excise taxes are relatively few when compared to other taxes.
3. Member States recognise at Paragraph 1(b) that in addition to raising revenue, excise taxes may be used to influence consumption behaviour by virtue of the fact that they can significantly increase the cost to the consumer of selected goods or services, thereby discouraging consumption and/or promoting the consumption of alternative products or services. For example, excise taxes are widely and increasingly used to deter the consumption of selected alcoholic beverages, such as those with high alcohol content and to encourage the consumption of alternative products, such as those with lower alcohol content.
4. At Paragraph 1(c) Member States recognise that the revenue yielded by excise taxes charged on selected goods or services may be used to compensate for the negative effects of consumption. For instance, tobacco tax revenue could be used to advertise the health risks associated with the consumption of tobacco products.
5. At Paragraph 2 Member States recall the different definitions applied to excise duties (taxes) and levies in the FIP, but in essence these perform similar functions and hence levies that are proxies for excise taxes are included and considered in these Guidelines (see further notes at Paragraph 10. below). Member States also recall the intention to co-ordinate excise taxes under Paragraph 3 of Article 6 of Annex 3 of the FIP, that lists the excisable goods and services on which possible co-ordination for policy formulation and administration is desired. The list from the FIP is as follows:
 - (a) tobacco products;
 - (b) alcoholic beverages;
 - (c) non-alcoholic beverages;
 - (d) fuel products;
 - (e) luxury goods and services; and
 - (f) any other excisable goods and services.
6. The relevance of the above list of goods and services as regards the SADC region is examined in detail below.



(a) **Tobacco products**

- (i) Cigarettes are the main excisable product but, in addition, there are other tobacco products including pipe or hand rolling tobacco, flavoured tobacco (shisha), cigars, snus and snuff.
- (ii) The raw material for all of these products is leaf tobacco that is a large cash crop grown in Malawi, South Africa, Tanzania, Zambia and Zimbabwe. Cut rag' is the intermediate product of shredded tobacco leaf that is also commonly traded and sold to smaller manufacturers.
- (iii) The cigarette market in SADC is estimated to be at least 50 billion sticks per year. There are about 30 cigarette factories in SADC producing cigarettes both for home consumption and for export, within or beyond the Region. In addition, considerable volumes of cigarettes are imported into the Region.

(b) **Alcoholic beverages**

- (i) The main taxed items are:
 - **spirits** including whisky, gin, vodka, rum, cane spirit, brandy, liqueurs, etc;
 - **wines** including still, sparkling; or fortified (port/sherry, etc.);
 - **other fermented beverages** such as ciders; and
 - **beers** including clear beers, malt beers and traditional (opaque) beers.
- (ii) These beverages are made from the fermentation of sugar in (or derived from) grapes, other fruit, malt, cereals, or sugar molasses. The fermentation produces a dilute ethanol, of approximately 20% alcohol by volume (ABV). A distillation (boiling and vapour condensing) process is needed to raise the strength of the alcohol (also referred to as ethyl alcohol, or ethanol) in any product beyond about 20%. This applies both for fermented products from grapes (such as brandy); grain (such as whisky); and for commercial ethanol production from sugar cane or sugar cane molasses.
- (iii) The liability to excise tax usually arises when the distilled or fermented product reaches its essential character, i.e. when it becomes a product that contains alcohol that is drinkable (potable).
- (iv) As at 2016 approximately 600 million litres of ethanol were being commercially produced annually by about 14 large distilleries within the SADC region. About half of this is produced from the fermentation of molasses or sugar cane juice 'fermentation ethanol' with the balance being derived from coal 'synthetic ethanol'.
- (v) There is a surplus of production in the Region resulting in significant exports at about 40% of production. Domestic usage of ethanol is approximately as follows:
 - 43% is used in road fuels including E15 petrol that contains 15% ethanol; and



- 43% is used in industrial applications (chemical manufacture, paint, methylated spirits, etc.)
 - 14% in alcoholic beverages such as cane spirits, rum, vodka and gin.
- (vi) Thus, only about 50 million Litres of Absolute Alcohol (LAA) of ethanol derived from sugar cane is used for making alcoholic beverages (such as cane spirits, rum, vodka and gin). In addition, about 20 million litres (LAA) of ethanol is made annually from grapes, all of which is used in the beverage industry, for brandy, for grape spirit or for fortification of wines, etc.
- (c) **Non-alcoholic beverages**
- (i) These are subjected to excise taxes in seven of the SADC countries and include carbonated drinks, e.g. soft drinks; and bottled mineral water.
- (d) **Fuel products**
- (i) Excise taxes are levied on fuel products in all Member States (except Angola). However, the tax burden varies considerably as a result of rate variations.
- (ii) Some Member States apply levies in addition to the excise tax on fuel products that seek to cover costs such as road construction/repairs and third party vehicle insurance.
- (iii) In some Member States, petrol contains a proportion of ethanol, e.g. “E15 petrol” contains 15% ethanol.
- (iv) Biodiesel is a fuel, manufactured from vegetable oils or animal fats that has physical properties similar to petroleum diesel. It can be blended with petroleum diesel; thus B5 is 95% petroleum diesel and 5% biodiesel. B100 is thus unblended biodiesel.
- (v) Most Member states apply excise tax to petrol, diesel and kerosene for vehicles, aircraft and ships/boats and, some Member States also apply excise taxes to fuel oil, illuminating kerosene, liquid petroleum gas and electricity.
- (e) **Luxury goods and services**
- (i) Luxury goods and services are defined in the FIP as meaning “goods or services with an ²income elasticity of greater than one” and hence what falls within the definition of ‘luxury’ will vary between Member States.
- (ii) Also, the range of ‘luxuries’ subjected to excise type taxation varies widely between Member States.

² ‘Income elasticity of demand’ refers to the relationship between a percentage changes in the quantity demanded of a product as, a result of a percentage changes in consumer income. Further information on elasticities is contained in the Commentary on Guideline 4 Paragraph 7.



(f) **Other goods and services**

(i) In addition to the categories of products outlined above, there is wide ranging excise taxation across SADC on other commodities and services. For example, as at 2014, 43 out of the 96 Chapters of the World Customs Organization's Harmonised System (HS) Harmonised Tariff, include commodities that are subject to excise taxes. However, wide differences in taxation treatment are evident, e.g. excise taxes on commodities in 28 of the 43 HS Chapters are imposed by only one or two Member States: -

- Only six commodities are taxed by seven or more Member States, these being: perfumes, cosmetics and beauty products; fireworks; fur clothing; firearms; video games; and air conditioners.
- A number of Member States also apply excise taxes to selected services including to: cell phone airtime (4 Member States); other mobile phone services (2 Member States); other electronic communication services (1 Member State); Pay TV services (2 Member States); and Financial transactions (2 Member States).
- Vehicles are subjected to wide variations in excise taxation treatment. Most Member States have *ad valorem* rates (that vary from 2% to 100%): six Member States base the *ad valorem* charge on engine size (often with different size bands for petrol and diesel passenger vehicles); and three Member States charge higher rates for older vehicles. In addition to *ad valorem*, five Member States charge excise on the CO₂ emissions of the vehicle.

7. At Paragraph 2(c) Member States recall that Paragraph 4 of Article 6 of Annex 3 of the FIP says that excise taxes on an *ad valorem* basis should be used for taxing luxury goods and services rather than multiple VAT rates. This envisages the possibility of a Member State introducing a higher rate VAT in addition to the standard rate that is intended to tax luxury goods and services. This is discouraged because where luxury VAT rates have been created, they are often found to be ineffective in revenue terms and they also complicate VAT regimes. *ad valorem* excise taxation is considered a better option and this is reaffirmed in the SADC VAT Guidelines, Guideline 3 Paragraph 3(b) "Member States agree that where the application of rates of tax higher than the standard VAT rate are desired, such as on luxury goods or services, to use as far as possible an excise tax on an *ad valorem* basis as an alternative to a higher rate VAT."

8. Paragraph 3 sets out the main areas of agreement by Member States on five principles that should be reflected in the design of excise taxes throughout the Region. These five principles are viewed as best practices that seek to strike a balance between the desire to keep the taxation regimes as simple as possible whilst maintaining the overall aims of raising revenue and deterring the consumption of products that may be harmful for the individual, society or the environment. It is also best practice that the costs to excise operators of complying with excise tax requirements ('compliance costs') should be taken into account in the detailed design of excise taxes.



9. The five agreed principles in Paragraph 3 of the Guideline are each considered as follows: -
- (a) **Paragraph 3(a)** is an agreement that in applying indirect taxes, most consumption should be taxed through VAT and not excise taxes. This recognises the key difference between excise tax and VAT, e.g. a VAT is:
 - (i) a broad-based consumption tax applied across the supply chain for most goods and services consumed in a country; whereas excise taxes are narrow-based and specifically applied on a limited number of goods and services often for specific social or revenue reasons;
 - (ii) charged on outputs (and credited on inputs) and is visible on invoices at all stages of the supply chain and is ultimately borne by the consumer, normally on the retail value; whereas excise taxes are normally applied once at the point of manufacture of a finished product (*ex-factory value*) and excise taxes imposed are not shown on invoices but are built into the price; and
 - (iii) normally applied *in addition* to excise taxes, i.e. VAT is calculated on the excise inclusive value.
 - (b) **Paragraph 3(b)** allows for excise taxation of luxury/less essential products using an *ad valorem* basis but, as the above illustrates, the coverage of excise taxes varies widely across the SADC region. If equivalence of tax treatment is to be achieved in the Region, it follows that there needs to be more standardisation on the categories of goods or services that are subjected to luxury excise taxes.
 - (c) **Paragraph 3(c)** is an agreement that no product/service should be subjected to more than one excise tax. This to avoid sub-national excise taxes, such as provincial taxes, being imposed on products/services that are also liable to national excise taxes as this would create complexity and lead to double-taxation.
 - (d) **Paragraph 3(d)** is an agreement that levies (with excise tax characteristics) should not be imposed on products or services that are already liable to a national excise tax. This is for simplicity and to avoid risks of fuelling smuggling and illicit trade through the creation of significant price differences. Imposing a levy in addition to a national excise tax that creates price differences between similar products that are sufficient to fuel smuggling, would be contrary to the FIP commitment of harmonising excise rates to combat smuggling – see Paragraph 5 of Article 6 of Annex 3 of the FIP and Guideline 2 (see also Paragraph 10 below).
 - (e) **Paragraph 3(e)** is an agreement that Member States refrain from putting in place discriminatory excise tax treatments that may favour domestic producers or suppliers. Such favourable treatment could be through the tax rates themselves or by offering selective rebates or exemptions from excise tax, or by applying preferential valuations, as a means of providing a tax benefit or incentive to local producers. The overall aim of the agreement is to avoid charging excise taxes differently on imported goods compared to goods



produced in a country. Using the excise tax regime as a method of incentivising or subsidising local production is not viewed as international best practice and any such use should also be considered in the light of Article 4 of Annex 3 of the FIP on the appropriate treatment of tax incentives in the SADC region.

10. Notes on levies as proxies for excise taxation

- (a) Paragraph 5 above illustrates the importance of definitions with regard to excise taxation and in particular in differentiating between an excise tax where the revenue may be earmarked for a specific purpose and a levy that has similar characteristics. This is explored as follows: -
- (i) Article 1 of Annex 3 to the FIP, defines an excise duty as “a duty imposed by a country under its domestic law on certain goods manufactured or produced in the country or imported into that country, being a tax levied on a specific basis, either on the basis of the weight or volume of the goods, or on an *ad valorem* basis, or on a profit basis”. A levy is defined as meaning “a tax in respect of specific items, transactions, or events and which tax is levied at a fixed or flat rate”. Thus a levy is seen as a type of tax.
 - (ii) Some excise taxes or levies might have been imposed to raise revenue for a specific purpose; for example:
 - on electricity – to fund rural electrification or to help fund cleaner electricity generation;
 - on cigarettes or alcoholic drinks – to contribute to health costs; or
 - on fuel products – to contribute to the costs of road construction or of road accidents, etc.
- (b) Depending on the public finance laws of each Member State, the revenues from these taxes or levies might go straight to the fiscus, e.g. for re-allocation to fund these initiatives, or they might be ‘earmarked’ and transferred directly to fund the initiatives. This might affect the nomenclature used for the revenue raising instrument, i.e. describing the charge as either a ‘tax’ or a ‘levy’, but if a levy contributes to the retail selling price of goods or services, it is no different in principle to an excise tax.

COMMENTARY ON GUIDELINE 2 - HARMONISED APPLICATION OF EXCISE TAX RATES

1. This Guideline focuses on the FIP commitment to harmonise excise duty/tax rates as follows: -
- (a) In Paragraph 1 Member States recognise standardisation of excise tax rates would be beneficial for consumers, administrators and businesses operating in multiple Member States. The member states are also mindful that price differences (in this context, price differences as a result of excise tax rate differences) may fuel smuggling and other illegality.



- (b) In Paragraph 2 Member States recall that Paragraph 5 of Article 6 of Annex 3 of the FIP requires Member States to harmonise the application of excise tax rates in an effort to minimise smuggling.
- (c) In Paragraph 3(a) Member States agree to harmonise the application of excise duty/tax rates in the SADC region with particular regard to:
 - (i) tobacco products;
 - (ii) alcoholic beverages; and
 - (iii) fuel products.
- (d) These items are highlighted because they are often subject to high levels of excise taxation in proportion to their total value (and as such are high revenue risk products) and that excise rate differences on these products may fuel smuggling and illicit trade (see also Guideline 8).
- (e) Member States further agree in Paragraph 3(b) to develop a list of standardised excise rates for adoption by Member States as a regional benchmark. The intention of this list is to encourage the harmonisation of excise rates in the Region.

2. Notes on the harmonisation of excise tax coverage and rates

- (a) The starting point for the harmonisation of excise tax rates in the Region is the intention of a long term movement towards regional equivalence in tax treatment as regards both the type of goods and services that are liable to excise taxes and the rates applicable.
- (b) Excise taxes are applied differently to similar products and services in different jurisdictions in the Region (and worldwide), not only in terms of the percentage or amount of the tax charged but also in terms of the basis on which the tax is charged, e.g. the weight, or volume or value, or on harmful element of a product, etc. Member States need to harmonise the basis of taxation of excisable goods and services in the Region.
- (c) One of the common variances in the SADC region is that excise taxes are either set as 'specific' or '*ad valorem*' rates. A specific rate is based on a quantity, e.g. \$1 per packet of 20 cigarettes; or \$10 per litre of alcohol. An *ad valorem* rate is a percentage of the value or price (usually the ex-factory or import value or price). In some countries the excise tax rate is applied as either specific or *ad valorem* 'whichever is the greater', this is done in order to:
 - (i) reduce the impact of undervaluation;
 - (ii) ensure that luxury higher cost products bear a higher tax burden; and
 - (iii) cushion the fiscus if delays occur in updating specific rates to reflect movements in prices (such as through inflation).
- (d) Harmonising excise tax rates will be challenging for SADC given the diversity of goods/services that are liable to excise taxation and the wide variation in the rates of excise taxes that are applied by Member States. However, the desire to



achieve equivalence is important as regards the broader SADC objective of a common market. Additionally, equivalence in excise tax rates will also have a positive impact where tax leakages occur as a result of cross border exploitation of the wide differences in the prices of excisable goods due to the excise tax rates.

COMMENTARY ON GUIDELINE 3 - CLASSIFICATIONS, EXEMPTIONS, MARKING AND STANDARDS

1. This Guideline builds upon the FIP commitment to harmonise rates (see Guideline 2) by considering a wider co-ordination of excise tax policy and administration.
2. At Paragraph 1 Member States recognise the benefits of taking a regional approach for both businesses and revenue administrations in the Region.
3. At Paragraph 2 Member States recall that the FIP requires a wide co-ordination of the administration of excise taxes in line with Paragraph 1 and 3 of Article 6 of the FIP.
4. Paragraph 3 denotes the specific agreements of Member States as follows: -
 - (a) Paragraph 3(a) indicates that where an excise tax charge needs to be framed, Member States should agree to develop and use a common system of definitions. The starting point for the recommended system is likely to be the nomenclature and wordings of the World Customs Organisation's Harmonised System (HS) but it will require some additions – most notably to cover the taxation of services (that are not included in the HS - such as airtime). Adoption of a common system will, in particular, assist business in having common chargeable definitions across SADC and it will also facilitate the collection of information and statistics in a standardised and consistent form.
 - (b) Paragraph 3(b) recommends a co-ordinated approach to exemptions,³ rebates and reliefs. Standardisation is also important in this regard, so as to make it easier for legitimate business to operate across borders and to facilitate revenue administration. For example, where a relief or rebate is conditional upon a product being⁴ denatured, i.e. made unfit to drink the same rules should apply across the Region as regards what constitutes acceptable denaturing for that product (see also Guideline 4 and Guideline 8). There should also be a common approach to the rebate conditions that apply when excisable goods

³ Rebates are commonly used in excise taxation as many products upon which excise are charged are capable of multiple uses and the tax is often only targeted at particular usage, e.g. alcohol can be consumed in beverages or used in the manufacture of other products such as paint or perfume or as road or heating fuel (methylated spirits), of these products the tax may be mostly targeted on consumption of beverage and not the manufacture of paint and different rates may be applied to perfume and fuel products and methylated spirits dependant on their usage. As the potential for its use in consumption exists in the production and storage of alcohol, to protect the potential revenue often the tax has to be paid or guaranteed on the unfinished product and is rebated, (e.g. reimbursed) when the product is put to a non-taxable or reduced tax rate use.

⁴ Denaturing of products is a common feature of excise taxation because many products upon which excise are charged are capable of multiple uses. To avoid alcohol not intended for consumption as alcoholic beverages being consumed illicitly, chemical denaturants are applied to make the products non-potable. In addition to denaturants – that may be invisible in solution, markers such as dyes are sometimes also added to readily distinguish denatured products. Methylated spirits sold with a purple or blue marker is a common example of a denatured product.



such as spirits are used in the manufacture of non-excisable products, e.g. paints or pharmaceuticals.

- (c) Paragraphs 3(c) is an agreement to co-ordinate marking labelling and quality standards, etc. This will ease compliance for businesses and facilitate administration.
- (d) Paragraph 3(d) is an agreement that a Member State should not allow the manufacture of products for export to another Member State if they are prohibited or if they do not meet that Member State's accepted standards. This would include for example instances where the alcoholic strength or nicotine content or packaging, e.g. sachets of spirits, or labelling or health warnings do not conform to the standards in the Member State of destination. Implicit in this is the need to have a database of the specific requirements of Member States.

COMMENTARY ON GUIDELINE 4 - DESIGN CONSIDERATIONS FOR POTENTIALLY HARMFUL PRODUCTS

1. This Guideline builds on the commitment to harmonise excise tax rates in Guideline 2 above, by focusing on excisable products that are potentially harmful and that typically make up a large proportion in revenue terms of an excise tax regime, namely: tobacco products; alcoholic beverages (and the ethanol from which they are produced); and fuel products.
2. At Paragraph 1 Member States recognise the main aims of excise taxation and at Paragraph 2 they recall that Paragraph 5 of Article 6 of Annex 3 of the FIP commits Member States to harmonise the application of excise duty/tax rates, with regard to these potentially harmful products.
3. These products are potentially harmful either to health or the environment or they may carry external social costs. Consequently, high levels of excise taxation are commonly applied to these products to influence consumer behaviour and to compensate for the negative effects of their consumption. Behavioural change and compensation for the negative effects of consumption are both achieved through increasing the price of the products to the consumer through additional taxation and as a result, the excise tax on these products normally constitutes a high or very high proportion of their value. This means that in addition to being seen as harmful, these products often carry high levels of revenue risk and are also referred to in these Guidelines as "high revenue risk products".
4. Paragraph 3(a) confirms that Member States agree to adopt a common approach to excise tax design policy for excisable goods that are potentially harmful either to health or the environment or which carry external social costs. Examples of external social costs are health costs from lung disease caused by smoking; or the medical and other costs of road traffic accidents caused by drunk drivers.
5. To achieve the common approach envisaged in Paragraph 3(a), harmonisation is needed of both the taxing methodology (*ad valorem* or specific rates) as well as the levels of the excise tax rates. Box 1 gives examples of the excise tax rates on selected excisable products in SADC as at March 2014



Box 1 examples of the excise tax rates as at March 2014 - \$US Dollars

Cigarettes			
	<i>Ad valorem duty/tax</i>	<i>Specific duty/tax - based on quantity</i>	
No of countries	2 countries	12 countries	
Rate Range	20% to 145%	\$0.3 to \$3.6 per pack (of 20) (mean = \$1.2)	

Spirits			
	<i>Ad valorem duty/tax</i>	<i>Specific duty/tax - based on alcohol in litres (LAA)</i>	<i>Specific duty/tax based on volume – litres</i>
No of countries	5 countries	7 countries	2 countries
Rate Range	20% to 250%	\$5 to \$50 per LAA	\$1.5 to \$10.7 per litre

Beer			
	<i>Ad valorem duty/tax</i>	<i>Specific duty/tax - based on alcohol in litres (LAA)</i>	<i>Specific duty/tax based on volume – litres</i>
No of countries	5 countries	5 countries	4 countries
Rate Range	10% to 90%	\$6.1 to 8.8 per LAA	\$0.3 to \$1.2 per litre

6. Whilst showing wide variations in the excise tax rates in the Region, Box 1 also indicates that for some excisable goods, taxes are a very large proportion of the cost to the consumer, e.g. a packet of cigarettes can cost under \$0.2 to produce but the taxes are between \$0.3 and \$36 per pack; likewise, a litre of (100%) ethanol costs about \$0.5 to produce and the excise taxes can be over \$10. With such high levels of taxes in proportion to the cost of production, the potential profits of evasion are significant. The temptations of supplying illicit untaxed goods are obvious and, indeed, worldwide, organised crime has a major focus on cigarettes, bulk ethanol and bottled spirits.
7. Paragraph 3(b) sets out the factors Member States agree to take into consideration when determining the tax rates that will be applied to tobacco products and alcoholic beverages. These are expanded as follows: -
- (a) **Paragraph 3(b)(i) - the potentially harmful content of the tobacco product or alcoholic beverage** – Members States agree that in principle the imposition of excise taxation with regard to tobacco and alcohol products should be directly related to the harmful element of the products as follows:
 - (i) for tobacco products, based on size/length/weight rather than quantity of tobacco alone, as a proxy for harmfulness; and
 - (ii) for alcoholic beverages, based on the alcohol content, i.e. in reference to the quantity of Litres of Absolute Alcohol that the product contains.
 - (b) **Paragraph 3(b)(ii) - simplicity, predictability and stability for industry** – this is designed to minimise compliance costs and to simplify revenue administration. An example of where this can be achieved is where specific taxes are index linked with automatic annual adjustment to reflect inflation to



provide transparency to industry and consumers. In some countries this predictability is achieved by adjusting rates annually to maintain the overall tax burden as a stable percentage of the selling price.

- (c) **Paragraph 3(b)(iii) - revenue yield and price and cross-price elasticities and affordability for consumers** – this seeks to ensure that when designing excise taxes or considering variations in tax rates, in addition to revenue yield, Member States should take account of the main factors that influence consumer behaviour so that an appropriate balance is maintained that achieves stability in terms of revenue collections and impacts on the national economy. These factors are considered in detail in Appendix 2
 - (d) **Paragraph 3(b)(iv) ease of administration and compliance for both businesses and for revenue administrations; and Paragraph 3 (b) (v) the risk of encouraging illicit trade** - Member States agree that when contemplating rate changes, consideration should be given to:
 - (i) the likely impact of the changes on legitimate businesses and trade in terms of fuelling potential increases in illicit production and smuggling including the additional costs of enforcement that are likely to be incurred by the revenue administration;
 - (ii) the public acceptability of rate changes on consumer behaviour and the impact this might have on compliance; and
 - (iii) conformity with Government policies on external social costs including health commitments made under the World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC).
 - (e) **Paragraph 3(b)(vi) - double taxation specifically with regard to alcohol** - Member States recognise that there is a risk of double taxation of alcohol products, e.g. of ethanol when it is produced and then again on the bottled end product and that steps will need to be taken to avoid such double taxation. However, treating ethanol as a ‘tax free’ raw material risks diversion of untaxed goods into the illegal drinks industry. Equally it is undesirable to impose excise taxes on raw materials that are to be used in making a product that is not taxable such as methylated spirits; synthetic acetic acid (vinegar), etc. These challenges can be overcome by way of rebates or by providing refunds, or through an arrangement similar to the VAT ‘input tax’ mechanism. However, whatever approach is adopted, the administrative controls need to be sufficiently robust to prevent untaxed goods leaking into the illicit trade supply chain.
8. Paragraph 3(c) refers specifically to the use of excise taxes as environmental taxes. The aim is for Member States to ensure similar requirements on business and on consumers across the Region and to have a collective approach to the use of excise taxation as an appropriate vehicle to mitigate the external social costs of products that are environmentally damaging. Taxation on these products can also be described as ‘environmental levies’ but, in principle the impact is the same.
9. Paragraph 3(c) will also require standardisation of the coverage of environmental excise taxes, including the rates of tax that are to be applied. Examples of products



with environmental external social costs that might be subjected to excise taxes and the possible methods of taxing them, include:

- (a) vehicles which can be taxed based on:
 - (i) engine size or based on CO2 emissions;
 - (ii) a banded once-off emissions tax to be applied to new vehicles; as well as
 - (iii) the age of the vehicle (to discourage the importation of older vehicles - other than veteran and vintage vehicles);
- (b) plastic bags/bottles/tyres/cans (possibly with an exemption for recyclable material) - taxed per unit or according to size or to definition, e.g. shopping bags;
- (c) electric filament lamps - taxed per unit; and
- (d) electricity - taxed per kilowatt hour.

10. **Notes on services**

- (a) As envisaged in Paragraph 1(c) of the Guideline, there are some services that are similarly taxed as (potentially 'harmful') for similar reasons such as gambling, that is widely perceived as having negative social effects. Excise taxation, either in the form of an excise tax or a levy that serves the same function, is widely applied to gambling worldwide including on casinos, gaming machines, lotteries, football pools, horse racing, etc. although this is less common in the SADC region.
- (b) Whilst the FIP is not specific with regard to the excise taxation of services or potentially harmful services such as gambling, the same considerations and aims for equivalence in the Region should apply to excisable services as for goods.



CHAPTER 2: EXCISE TAX ADMINISTRATION

COMMENTARY ON GUIDELINE 5 - HARMONISED APPROACH TO EXCISE TAX ADMINISTRATION

1. In this Guideline, Member States recognise the aim of maximising domestic revenue yield including by minimising opportunities for illicit trade and encouraging taxpayer compliance.
2. Member States Recall Paragraph 1 of Article 6 of Annex 3 of the FIP that commits Member States to co-operate in the harmonisation of the administration of indirect taxes and to this end Guidelines 5 to 11 provide a common approach for excise tax administration.
3. Paragraph 3(a) is an agreement that a co-ordinated approach should be taken with regard to the management of excise taxes. This should include the following considerations: -
 - (a) Revenue administration should, in respect of excise taxes have, *inter alia*:
 - (i) clear strategies;
 - (ii) unambiguous managerial responsibilities and accountabilities; and
 - (iii) effective enforcement interventions and strong internal controls and systems.
 - (b) Best practice is to have a national excise tax senior manager, with appropriate support, to:
 - (i) set and monitor control standards;
 - (ii) design and implement enforcement actions;
 - (iii) ensure appropriate resources are devoted to excise tax control; and
 - (iv) co-ordinate operations with customs enforcement officials.
 - (c) Management control or oversight programmes are a recommended practical methodology to reinforce the responsibilities of managers and can form part of a comprehensive approach to eliminating corruption.
4. Paragraph 3(b) summarises the agreed common approach to revenue administration and is in effect an 'index' of Guidelines 6 to 11, that each cover specific aspects of excise tax administration, namely:
 - (a) Registration as an excise operator - Guideline 6;
 - (b) Excise tax point, returns and records - Guideline 7;
 - (c) Supervision over the production of high revenue risk products - Guideline 8;
 - (d) Control over the movement of high revenue risk products - Guideline 9;
 - (e) Powers of revenue administrations - Guideline 10; and



(f) Compliance - Guideline 11.

5. It should be noted that in harmonising administrative requirements and procedures as outlined above, there will be need for exclusions and relaxations for small scale excise operators and in respect of some 'low revenue risk' excisable products.

COMMENTARY ON GUIDELINE 6 - REGISTRATION AS AN EXCISE OPERATOR

1. This Guideline seeks to ensure that a common approach is taken with regard to the registration of excise operators. It also considers the factors to be taken into account by revenue administrations in deciding whether or not a person should be registered as an excise operator, as well as related requirements with regard to the licensing and management of the storage of excisable goods.
2. Paragraph 1 notes that Member States are mindful that registration for excise tax should be at the discretion of the revenue administration. This differentiates excise from other taxes where registration would normally be a routine requirement for an entity that meets the registration criteria. As excise taxation is applied to specific products, often with high revenue risk as outlined above, registration in many instances effectively grants permission for the production to take place, e.g. a brewery cannot begin producing beer and then register for excise, beer production may only begin once registration is in place. This approach is intended to protect the revenue at risk, including the risks of illicit production of excisable products. Registration for excise is often treated similarly to approvals to operate licensed premises (such as bars or restaurants) and as such often includes consideration as to whether or not the operator is a 'fit and proper person' and in this regard, excise registration may be viewed as a privilege rather than a right.
3. It is recognised that the legal frameworks and terminologies as to what constitutes an excise operator will vary between Member States; hence registration is defined in the Guidelines as meaning the approval of registration applications and/or the issue of licences permitting specified activities. This also includes licence renewals or a decision not to renew or to amend, suspend or revoke a licence.
4. An excise operator is defined in the Guidelines as a person registered, licensed or approved, for excise tax purposes who is allowed to manufacture, store, transport and/or trade in excisable goods or services. Thus excise operators should include:
 - (a) manufacturers of excisable goods;
 - (b) importers/exporters of excisable goods;
 - (c) ⁵bonded warehouse operators where excisable goods are stored;

⁵ A bond is a guarantee or security covering revenue liability, obtained from a financial institution so that the latter guarantees the payment of duties or taxes at risk. A bonded warehouse is a warehouse storing untaxed goods with the duties and taxes secured by a bond. Securing potential revenue through bonds is a common feature of excise taxation that provides security for the revenue administration where the tax has not been paid in full by excise operators.



- (d) operators of duty-free shops and operators of ship and aircraft stores;
 - (e) approved users of alcohol, such as for industrial/pharmaceutical/food production;
 - (f) anyone otherwise involved in the custody or movement of excisable products; and
 - (g) suppliers of services subject to excise taxation.
5. Paragraph 2(a) says that common criteria should be adopted for registration as an excise operator and for these criteria to reflect the nature of the risks associated with the excise goods or services produced, handled, traded or provided. Applying this in practice may, for example, include consultation with other enforcement agencies before concluding registration.
6. Paragraph 2(b) mandates Member States to require standard registration information from all excise operators, supplemented by additional information for excise operators producing, handling (including storing), or trading in high revenue risk excisable products. This should include the following considerations: -
- (a) Registration information should be maintained in a common format and may include, but is not limited to the following:
 - (i) name of business;
 - (ii) name of owner (e.g. directors, partners, etc);
 - (iii) office address and excise tax premises address (with a separate listing for each set of premises and plot numbers);
 - (iv) taxpayer identification number;
 - (v) customs identification number (if different);
 - (vi) operations desired at each set of premises;
 - (vii) contact details (postal address, phone number and e-mail address);
 - (viii) sufficient financial background; and
 - (ix) the provision of adequate security for revenue based on the risks.
 - (b) The registration of excise operators producing or handling high revenue risk products might require additional scrutiny and is usually conditional upon additional requirements being met, including but not limited to:
 - (i) a satisfactory revenue compliance record;
 - (ii) acceptable internal and security controls and an anti-corruption policy;
 - (iii) staff experienced in revenue requirements;
 - (iv) providing plans for premises, plant and machinery and flow diagrams;
 - (v) furnishing descriptions of production processes including intended quantities and input/output ratios, etc;
 - (vi) setting out the intended sources of raw materials and other key inputs;



- (vii) incorporating minimum common standards for equipment, measurement, pipe work, etc;
 - (viii) adopting appropriate supply chain security safeguards;
 - (ix) segregating storage facilities for non-tax paid goods from tax paid goods, fuel and other items; and
 - (x) being able to interface electronically with the revenue administration.
7. Paragraph 2(c) refers to a SADC wide excise operator database including a common naming/numbering system that will store the above information. This database should be electronic and should include:
- (a) a facility to update the database every time there is a change in the data with an audit record maintained of who made/authorised the change;
 - (b) the ability to access key data at any time;
 - (c) restricting access to named authorised officials in each Member State; and
 - (d) maintaining an audit record of every instance of access to the database, by whom, which country, time and date, etc.
8. Paragraph 2 (d) sets out that there should also be common approval requirements for excise bonded warehouses, expanded by the following notes: -
- (a) The requirements will vary according to the goods being stored and the nature of the operations to be undertaken in the warehouse, e.g. blending and bottling.
 - (b) Two types of warehouses are mentioned in the Guideline:
 - (i) customs bonded warehouses in which excisable goods are stored after importation or before exportation; and
 - (ii) excise bonded warehouses for bulk and finished products (including production, operation and distribution storage warehouses).
 - (c) A standardisation of the types of warehouses and of the approval requirements and conditions applicable to each is desirable.
 - (d) The approval requirements and conditions should include:
 - (i) the physical infrastructure and security requirements;
 - (ii) the record keeping required; and
 - (iii) what operations, if any, can be carried out in the warehouse premises.
9. Paragraph 2(e) indicates that there should be common maximum time periods for storage of finished excisable goods in a bonded warehouse. Such time periods will vary according to the shelf life of the product and industry needs to be consulted on what those restrictions should be. Indicatively the shelf life is thought to be as follows:
- (a) cigarettes and other tobacco products: one year (9/10 months for menthol cigarettes);



- (b) wine (bottled): red wine – around 5 years (fine wines longer); white wine – around 3 years (less for cheaper wines, longer for some expensive wines);
- (c) spirits: no shelf life once bottled; and
- (d) beers: 6 months in bottles; 12 months in cans.

COMMENTARY ON GUIDELINE 7 - EXCISE TAX POINT, RETURNS AND RECORDS

1. The rationale for this Guideline is ensuring equal treatment of businesses across the SADC region through standardised administrative processes and that quality data is obtained to inform policy, administrative and enforcement decisions.
2. Paragraph 2(a) seeks to set a standardised time, i.e. the 'tax point' when the liability to excise tax arises, expanded by the following notes: -
 - (a) Best practice is that the liability to excise tax should arise at the earliest of when:
 - (i) the goods enter the country (and a Customs Entry is required); or
 - (ii) the goods are cleared for home consumption or home use; or
 - (iii) the goods are unaccounted for; or
 - (iv) unjustified or excessive losses are declared or are found; or
 - (v) the time limit for the storage of the goods has expired; or
 - (vi) the service is supplied; or
 - (vii) an irregularity is identified.
 - (b) Liability to excise tax should arise at the place of manufacture, i.e. 'at source' but that payment (collection) may be delayed until the goods become a finished product. The background to this is that it is more efficient in terms of excise tax collection and revenue risks are reduced if excise tax is collected at source (or at the point of importation) rather than when the goods are ready for distribution to the retail stage.
 - (c) In the case of finished products that are stored in a bonded warehouse, (i.e. tax unpaid), the source tax point normally applies but the payment is deferred until the products are removed from bond.
 - (d) The tax point for alcohol notionally arises when the product reaches its essential character, i.e. when it is drinkable; however, the collection of the excise tax can be delayed until it becomes a finished product and is ready for delivery ex-factory. For example, whisky may have reached its essential character but is then kept in casks (barrels/tanks) to mature for long periods and collection of the tax might be delayed until after bottling, etc. has taken place.



- (e) Payments can be made in a variety of ways. The selling of ⁶tax stamps is one method; but if payments are to be made with returns or declarations, it is best practice that, wherever possible, such payments should be made electronically (e.g. by electronic funds transfer).
3. In the light of the above, a common approach to when excise tax is payable (albeit with different arrangements for different types of goods) across Member States, especially in respect of cross border movements, is desirable.
4. Paragraph 2(b) seeks commonality in respect of the submission of returns (tax declarations) by excise operators including the periods covered, the products covered and the records to be retained. In this respect Member States should:
 - (a) ensure that returns (including electronic returns) have standard time periods and standardised layouts and key minimum data requirements, whilst recognising that these are likely to vary for different classes of excisable products; and
 - (b) develop common data requirements on returns to facilitate the electronic exchange of information between Member States and to reduce compliance costs for businesses operating in more than one Member State.
5. Paragraph 2(c) notes that excise operators should be required to keep standardised records and produce the records to revenue officials as and when required. This is expanded by the following notes: -
 - (a) Revenue administrations require records to be maintained and produced for other taxes (and customs) but for excise tax purposes they are likely to require additional record keeping including detailed information on production processes. The additional record keeping requirements will depend on the risk inherent in the excisable goods or services being produced, stored, transported or supplied but should be standardised for each type of goods or services. These records are likely to include:
 - (i) excise tax returns or accounts (preferably submitted electronically direct to the revenue administration);
 - (ii) records of all raw materials and other inputs to the production and operations processes and equipment purchased;
 - (iii) production, stock and handling records including:
 - machinery counts – cigarette or bottling lines;
 - fermentations - breweries and distilleries;
 - by-product production and stock movements;

⁶ A tax stamp or marker affixed to or incorporated into the packaging of a taxable item as evidence that the tax has been paid. Tax stamps are increasingly used for excisable products as visible proof of tax payment in order to readily distinguish the products from illicit substitutes.



- operations such as racking, fining, bottling, packaging; and
 - wastage and production losses.
- (iv) records of destructions (under official supervision) and allowable losses;
 - (v) records of movements of goods to home consumption/use on payment of tax;
 - (vi) receipts for tax unpaid movements (under bond) of goods to other licensed premises (bonded warehouses) or to approved users of rebated goods;
 - (vii) proof of export (customs cross border documentation) such as:
 - orders;
 - contracts;
 - delivery notes; and
 - proof of payments, etc.
 - (viii) details of all suppliers, customers and transporters (including when transporters are required to be licensed) for goods moved and tax unpaid (under bond) including orders, contracts, etc; and
 - (ix) records of all product manufacturing components and equipment purchased or sold (and equipment servicing records, calibration certificates, etc).
- (b) Best practice is for all records to be kept for at least five years with all electronic records being backed-up.
 - (c) Legal powers should be put in place so that electronic records are admissible as evidence in court, e.g. for prosecutions.
 - (d) Special provisions may be needed for small excise operators (or for producers of 'low revenue risk' products) including permitting a longer return period; simplified return information; and reduced record keeping.
6. Paragraph 2(d) is an agreement to have standardised requirements with regard to the provision of minimum data by transporters for their movements of untaxed high revenue risk products, e.g. movements under bond/in transit. Such requirements could include the data required from:
- (a) excise producers/warehouse-keepers - to submit information on transporters used by them for all movements of such goods; and
 - (b) transporters - to provide revenue administrations with facilities to enable the real-time tracking of movements of high revenue risk products.

COMMENTARY ON GUIDELINE 8 - SUPERVISION OVER THE PRODUCTION OF HIGH REVENUE RISK PRODUCTS



1. This Guideline addresses the risks of excise tax leakage relating to the production of high revenue risk excisable products, i.e. tobacco products (mainly cigarettes), ethanol and alcoholic drinks and fuel products (depending on the tax structure applicable). At Paragraph 4, Member States agree best practice in this regard.
2. Paragraph 4(a) notes that close supervision is needed over the production of high revenue risk products. Factors for Member States to consider in supervising the production of high revenue risk products include the following: -
 - (a) The nature of the supervision should vary depending on the risk factors inherent in the goods being produced, on the nature of the operations being performed and on the revenue compliance record of the excise operator.
 - (b) In some cases, periodic audit based supervision by the revenue administration will be adequate but in other cases, the permanent on-site presence of revenue officials, to closely monitor the production and removal processes (around the clock, in respect of the highest risk excise operators), will be a necessary revenue enforcement and compliance cost.
 - (c) CCTV or other suitable technologies may also provide a means of enhanced supervision without an on-site 24/7 presence.
 - (d) Revenue officials need to fully understand the production or manufacturing processes and frame their inspection programmes and controls to identify and address the revenue risks.
3. Paragraph 4(a) also details supervision and control over high risk products, including the following specific interventions:
 - (a) denaturing ethanol to make it non-potable before it leaves the production facility;
 - (b) marking untaxed oil products to distinguish them from taxed products before it leaves the production facility; and
 - (c) marking finished tobacco products as tax paid to distinguish them from illicit products
4. Paragraph 4(b) is an agreement that Member States take a common approach to the application of denaturants chemical markers and fiscal markers including tax stamps, in the Region, expanded in the following notes: -
 - (a) **Notes on denaturants**
 - (i) Member states are seeking to take a common approach to make ethanol that is not taxed for consumption (as it is intended for industrial or other uses) unfit for human consumption as liquor. This will be primarily achieved through the use of denaturants that are additives that make the ethanol non-potable. Paragraph 4(b) recommends that a common list of approved denaturants is established for the Region as well as common requirements for the procedures and quantities used be adopted and applied across the Region.



- (ii) Distilleries present a particular revenue risk as the ethanol produced, whilst being a raw material, is drinkable 'as is' (or will be with the simple addition of water). Ethanol is normally moved in bulk (under bond) from distilleries to drinks bottlers (ethanol is the main source alcohol for cane spirits, gin and vodka); to manufacturers of products that are not liable to excise tax (as they are non-drinkable/non-potable), i.e. industrial solvents, methylated spirit, paints, pharmaceuticals, vinegar, etc; and for export.
- (iii) For a denaturant to be effective it should either form an azeotropic with the ethyl alcohol or have a boiling point not deviating more than 5°C from that of the ethyl alcohol and not be able to be separated from the ethyl alcohol by simple distillation or any other simple process. Box 2 is a specimen list of denaturants that might be adopted by SADC.

Box 2 Specimen list of denaturants

Specimen list of approved denaturants

- (a) Di-ethyl phthalate (> 0.5%)
- (b) Isopropyl alcohol (>3%)
- (c) Brucine Sulphate (> 9 g per 100 litres spirit)
- (d) Tertiary Butyl Alcohol (>0.12% + 10 g per 100 litres spirit Brucine Sulphate or >0.01% Tertiary Butyl Alcohol + 10 ppm Bitrex)
- (e) Ethyl Acetate (>2%)
- (f) Acetaldehyde (>0.2%)
- (g) n-Butanol (> 3.5% or > 3.5% + 1.5% Benzine)
- (h) Ethyl Acrylate (>140 g per 100 litres spirit in the manufacture of ether or similar substances where the ethanol undergoes a chemical change (ethyl acrylate)
- (i) Methylated spirits (coloured and non-coloured) to comply with specific formula: 3.5% n-Butanol: 1.5% Benzine + 2 g Bitrex + 0.15 g Methyl violet or Chrystal violet/100 litres)
- (j) Feints + >1% Fusel oils

(b) Notes on marking for fuel products

- (i) The use of chemical markers is to address the main revenue risks that taxed fuel products may be:
- substituted by tax free or reduced tax rate alternative products, e.g. diesel for industrial or agricultural use; or kerosene for cooking/illuminating use; or
 - adulterated (mixed) with tax free (or reduced tax rate) alternative products that are either -
 - intended for particular uses, (e.g. for diesel for industrial or agricultural use; or kerosene for cooking/illuminating use); or
 - obtained by smuggling, transit diversions, etc.
- (ii) Illegal adulteration of products can take place on a vehicle-by-vehicle basis or at a storage or distribution level, where large stored quantities can be substituted or mixed.
- (iii) A fuel marker can be simply a coloured dye or it can be a colourless additive that alters the chemical structure of molecules. Markers can be added to fuel products at the wholesale distribution stage or at



importation to indicate the market (use) that the fuel is intended for, or markers can be added to all possible adulterants, e.g. to kerosene for cooking; to diesel for industrial or agricultural use; to solvents, etc.

- (iv) Whilst markers can be used just to indicate that adulteration has taken place, e.g. the presence of untaxed products in the road fuel supply chain, it is more effective to use more complex marking technology in a quantitative manner, so that by measuring the dilution it is possible to establish the extent of any mixing that has occurred. All such marking programmes rely on:
- sampling by the revenue administration, or other government agencies, of vehicles and fuel storage depots or filling stations, etc. to deter and detect non-compliance;
 - forensic testing to produce evidence for enforcement, prosecution, etc; and
 - effective enforcement programmes with appropriate penalties and sanctions should non-compliance be found (see also Guideline 10 below).

(c) **Notes on marking for other liquids**

- (i) In addition to applying denaturants to make tax free alcohol non-potable chemical markers and dyes can be added as a mandatory requirement for other liquids, e.g. for ethanol, so that a revenue administration is able to trace the source of illicit liquor found to be on sale.

(d) **Notes on fiscal markers for taxable products, especially for cigarettes**

- (i) Whereas chemical markers are used to identify tax free or reduced tax products, fiscal markers or 'tax stamps' are used to indicate that tax has been paid on products for consumption. Fiscal markers come in many forms and are being continually developed to be increasingly sophisticated to counter counterfeiting and facilitate tracking and tracing of products.
- (ii) It is common practice for a fiscal marker to be applied to cigarette packets so that there is assurance that excise tax has been paid on the product. Subject to adoption by Member States, it is envisaged that there will be a gradual movement from a dye imprint marker or affixing a paper based tax stamp towards a digital tax stamp, i.e. a joint industry revenue administration system that issues and applies a unique identification code to each packet as well as recording the tax liabilities.
- (iii) In time such a unique digital identification system should allow for products to be tracked as the packets are aggregated into master cases and pallets and move through the entire supply chain. This will also assist the revenue administration's control of other taxes such as VAT and Income Tax on business profits.
- (iv) A similar approach to that envisaged for cigarettes could be applied to other tobacco products and to alcoholic drinks, particularly bottled spirits.



COMMENTARY ON GUIDELINE 9 - CONTROLS OVER THE MOVEMENT OF HIGH REVENUE RISK PRODUCTS

1. This Guideline addresses the risks around the movement of high revenue risk excisable products, i.e. tobacco products (mainly cigarettes), ethanol and alcoholic drinks and fuel products, taking account of the aims of the Paragraph 7 of Article 6 of Annex 3 of the FIP, of reducing revenue losses.
2. In the absence of a mechanism that enables excise tax to be collected at source, i.e. the place of manufacture or first importation into the SADC Region and passed to the country of consumption (as would be the case under a full customs union), removals of untaxed goods, within or between SADC Member States, will need to be allowed. However, recognising the high revenue risks that untaxed products could be diverted into the illicit market during such movements, these require close monitoring and control by the revenue administration.
3. Paragraph 2(a) seeks to limit and standardise the movement of untaxed products and says that the best practice is not to allow the movement of untaxed products, i.e. tax free movement unless:
 - (a) the product has to undergo further manufacturing prior to becoming a finished product; or
 - (b) the product is intended for a non-taxable use and denaturing or marking at source is not possible; or
 - (c) the product is intended for export.
4. Paragraph 2(a) has the effect of restricting movements of finished products in an untaxed state between bonded warehouses and ideally in light of the risk, no such movements should be allowed.
5. Paragraph 2(b) recognises however that such movements may be unavoidable in some situations, e.g. when goods are transferred between Member States and in such instances only one such movement should be allowed. This should also apply to imported alcohol and cigarettes between customs warehouses with, again, a maximum of one movement (see Guideline 6 that refers to Member States adopting common time limits for the storage of finished goods in an untaxed state).
6. Paragraph 2(c) requires that when untaxed high revenue risk products are being transported between bonded premises or are being removed for export, specified information is to be required in advance of the removal and sufficient security (bond) should be required to cover the tax at risk on each shipment. This is further expanded as follows: -
 - (a) Ideally, the revenue risk should be the responsibility of the excise operator from whom the goods are being removed rather than from the transporter. It is, however, also good practice for a revenue administration to require that the transporter:
 - (i) is approved;



- (ii) provides sufficient security; and
 - (iii) carries the goods in an approved means of transport.
 - (b) Minimum standards should be set for the type of transport, e.g.:
 - (i) a sealed shipping container, or a calibrated bulk tanker that is approved; and
 - (ii) the routes and times of the movement to be specified.
 - (c) There should also be a common approach to the requirements for the sealing and security of vehicles used, i.e. smart seals and/or the satellite tracking of trucks should become mandatory.
 - (d) Standardised allowances for in-transit losses of goods transported in bulk, e.g. between bonded facilities are *discouraged*. Whilst losses can be expected when bulk liquids are transported, e.g. pumping losses or from temperature changes (evaporation), to avoid abuse the allowable losses should be based on *recorded and proven actual losses* with maxima laid down and above which losses are considered unacceptable and tax called for.
7. Paragraph 2(d) notes that the SADC customs transit system and the customs systems of Member States should take account of excise tax requirements, including, but not limited to, bonds, minimum security standards for the means of transport, acquittal documents, etc. expanded by the following notes: -
- (a) For ease of administration and compliance, the principle should be to encourage the development of appropriate and harmonised documentation and transit systems which limit the risks of illicit trade and ease requirements for compliant excise operators.
 - (b) The movement of goods in transit may involve transit countries as well as the receiving and sending Member States and the revenue at risk may be quite different in each Member State.
 - (c) Clear and uniform procedures are required to determine what constitutes valid proof that goods have exited or entered a country.
8. Paragraph 2(e) seeks a single customs bond or security guarantee system applicable to all movements of goods including excisable goods that is valid across the SADC region. A single SADC wide security guarantee or bond will:
- (a) improve the ability of a revenue administration to recover unpaid revenues from an excise operator or transporter located in another Member State; and
 - (b) reduce costs for excise operators and transporters.
9. Paragraph 2(f) commits Member States to standardise requirements for data collection of movements of untaxed high revenue risk products expanded as follows:
-



- (a) Pursuant to the obligations of the FIP to reduce incidents of smuggling, including through diversion of untaxed products into the illicit trade, the following information should be required in advance of any movement of untaxed high revenue risk excisable products:
- (i) proposed date and time of loading;
 - (ii) specific route intended to be taken including the main planned stopping points;
 - (iii) maximum duration of transit;
 - (iv) time and place of any proposed transshipment;
 - (v) proposed places of making a customs entry when in transit or for export; and
 - (vi) shipments with seal details or other markings/security features.
- (b) In respect of the above, Member States might additionally:
- (i) utilise an electronic record system;
 - (ii) explore the feasibility of making balancing stock adjustments in warehouse accounts for cross border intra-SADC movements of excisable goods;
 - (iii) link/integrate excise tax data with customs, VAT and income tax data for each excise operator;
 - (iv) maintain quality control and credibility checks of collected data and ensure data is up-to-date; and
 - (v) exchange such information with other Member States (see also Guideline 12).
- (c) When high revenue risk products move in an untaxed state between bonded warehouses and/or Member States, the receipt of goods at the final destination should be notified by the destination revenue administration office to the originating revenue administration office within an agreed time period.
- (d) For movements within a Member State, a standardised system could require a revenue administration to ensure that the office of destination confirms the arrival of the goods to the originating revenue administration office. This confirmation should be conveyed directly between revenue administration staff and not via shipping agents, transporters or excise operators.
- (e) It is also desirable for revenue administrations to work with legitimate industry to improve supply chain security from production through to final sale to consumers and to jointly devise track and trace systems for goods, including:
- (i) for tobacco products, adopting a consistent approach across Member States to:
 - the implementation of the World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC) track and trace requirements;



- the implementation and application of all other WHO FCTC requirements; and
 - the application of costs for the implementation of the WHO FCTC track and trace requirements; and
- (ii) taking a similar approach for the supply chain control of other high revenue risk products, i.e. alcohol and fuel products by using chemical markers, approved denaturant practices, etc.

COMMENTARY ON GUIDELINE 10 - POWERS OF REVENUE ADMINISTRATIONS

1. This Guideline sets out the areas for which the revenue administration and its officials, should have administrative powers.
2. Paragraph 1(b) recognises that unlike other taxes that may rely on self-assessment, the revenue and other risks associated with excise taxation requires close administrative oversight of the production movement and storage of products and the provision of excisable services.
3. Paragraph 1(c) recognises the serious risk to domestic revenue mobilisation posed by non-compliance with excise taxation.
4. Paragraph 2(a) provides an agreed non-exhaustive best practice list of powers that revenue administrations should have at their disposal to administer excise taxes efficiently and effectively and to address non-compliance. The context and options in this regard are expanded as follows: -

(a) Notes on ensuring effective administration

- (i) A range of legal powers is needed to enable effective revenue administration (management/control) of the production of excisable products and the provision of excisable services including of high revenue risk products. Administrative oversight needs to be robust at all stages of the production, distribution and sale of excisable products including over registration as an excise operator (See in particular Guidelines 6 and 8). Such oversight may include requirements for:
- producers to provide details of production processes to revenue officials;
 - standardised labelling of production equipment and storage facilities;
 - safe access for revenue officials including any health and safety measures and the provision of health and safety equipment for revenue officials;
 - basic office facilities for revenue officials; and
 - unencumbered access to premises including production and storage sites.
- (ii) Powers should include powers to:



- determine whether or not an applicant should be registered as an excise operator;
- specify clear and transparent criteria for the application of powers to amend, suspend or cancel/revoke licences or approvals;
- inspect records, that may be considerably beyond those needed for other taxes;
- inspect equipment, plant and vehicles at business premises for audit and administration and be able make such inspections at any time announced or unannounced;
- require CCTV or other appropriate technology to enable the monitoring of manufacture, storage and movements of products; and
- access records of third parties including suppliers, customers and contractors, e.g. maintenance engineers.

(b) Notes on deterring and addressing non-compliance

- (i) The sanctions for non-compliance need to be effective so as to disrupt illegal operations and make them financially unattractive.
- (ii) Such sanctions need to reflect the seriousness of the noncompliance (such as criminal behaviour), e.g. the relationship between illicit excise goods and organised crime and aggravating circumstances such as corrupt relationships with officials or the use of violence, etc.
- (iii) The exact nature of the powers for search, seizure, forced entry, taking goods as evidence and arrest, must be in accordance with each Member State's legislation.
- (iv) Given the specific risks associated with these products, revenue administrations must ensure that they are able to take enforcement action against the producers, distributors and transporters of illicit alcohol and cigarettes, including powers to:
 - require bonds or guarantees sufficient to cover excise tax at risk;
 - assess and recover tax and interest;
 - quantify, curtail and recover tax debt;
 - impose administrative penalties for non-compliance;
 - prosecute (either criminally or civilly), e.g. directly by the revenue administration or through the Attorney General or National Prosecuting Authority or Police;
 - compound criminal proceedings by issuance of a penalty *in lieu* of criminal prosecution (see also Guideline 11 below);
 - apply penalties *in lieu* of civil proceedings, e.g. in a tax court; for the restoration to an offender of seized equipment vehicles, etc. (see also Guideline 11 below);
 - enter/inspect/search premises, equipment and vehicles;
 - take records, goods, equipment, etc. as evidence;
 - freeze bank accounts and seize assets;



- arrest suspected offenders (this may be by revenue officials, the police or officials of another government law enforcement agency);
 - detain illicit products, equipment used to produce illicit goods and vehicles used to transport illicit goods and for them to be forfeited to the State (see Guideline 11 below including notes on the disposal of forfeited items); and
 - revoke licences and close down premises.
5. Paragraph 2(b) requires responsible administration of the excise tax laws by revenue administrations including safeguards against improper actions by revenue officials and providing for requests for reconsideration, appeals and complaints. expanded as follows:
- (a) Under Paragraph 2(b)(i) revenue officials should comply with the relevant legislation and sanctions should be instituted with regard to improper actions by officials. This should include:
- (i) the revenue administration having a code of ethics that officials have to adhere to; and
 - (ii) zero-tolerance for corruption including prosecutions of officials if corruption is proven.
- (b) Under Paragraph 2(b)(ii) procedures should be put in place to facilitate requests for reconsideration and appeals (primarily by excise operators). These are important in ensuring the rights of taxpayers are protected in respect of any administrative function. The following are general notes for consideration by revenue administrations that may apply equally to other tax types and the procedures envisaged should be standardised across other tax types: -
- (i) **Request for reconsideration** is the first point of action for a taxpayer who wishes for a decision of the revenue administration to be reviewed. This could be on the basis that the decision is thought to be incorrect, unlawful, unreasonable or unfair, etc. This is an important first step as it provides both sides an opportunity to reconsider a situation before further action is taken and effective reconsideration may avoid lengthy and costly appeals. Requests for reconsideration may initially be informal and normally requests for reconsideration should be addressed to the person making the decision or their direct superiors. A clear and reasonable process is needed to ensure that due consideration of the request for reconsideration is given by the revenue administration and that decisions are notified in a clear and timely manner.
 - (ii) **Appeals** should be allowed with regard to the application of any legal power or the imposition of any sanction or penalty or any decision by the revenue administration. Appeals need to be supported by a more formal process than requests for reconsideration. Appeals normally have time limits enshrined in legislation and as such procedures for receiving and considering appeals need to be carefully constructed and managed. Appeals may also have multiple stages: a first appeal may be to the administrator who made the decision; and if the appellant is not satisfied,



subsequent appeals on the same issue could be made to an internal review panel or tribunals, tax courts and even civil courts where provided for. Appeal decisions may award costs against the revenue administration and provide precedents that could impact important aspects of revenue administration, therefore, appeals handling needs careful attention.

- (c) Under Paragraph 2(b)(iii) revenue administrations should institute accessible and independent complaints procedures, expanded by the following notes:
 - (i) **Complaints** are notably different from appeals and reconsiderations as complaints normally relate to behaviour and actions of revenue administration officials rather than decisions made or imposed. Complaints are however no less important in terms of effective revenue administration and ensuring taxpayer rights are respected. Complaints are important in providing feedback to the revenue administration with regard to the actions of officials, including countering corruption and other improper actions and in this regard complaints should be viewed positively. Revenue administrations should ensure that procedures are in place for taxpayers and other customers to make complaints without fear of retribution. A key principle is that complaints are made to persons other than the person who is the subject of the complaint and that due and unbiased consideration is given by the revenue administration to all complaints and that decisions in respect of complaints are notified in a clear and timely manner.
- (d) Paragraph 2(c) states that all legal powers and procedures governing complaints, requests for reconsideration, or appeals, should be clear and transparent and should be published. This is important and is intended to encourage voluntary compliance as well as deterring improper behaviour by revenue officials.

COMMENTARY ON GUIDELINE 11 - COMPLIANCE

1. This Guideline recognises that although measures need to be in place to deter and address non-compliance, modern tax administration is based on voluntary compliance and that it is important to partner with legitimate business to counter the illicit trade in excisable products.
2. Member states recall that Article 6 Paragraph 7 of Annex 3 of the FIP refers to combating cross-border smuggling activities and addressing the problem of tax leakage and gaps in tax compliance, i.e. non-compliance (see below).
3. Paragraph 3(a) is an agreement that it is best practice for revenue administrations to have an excise compliance strategy that addresses the revenue risks in relation to excisable products. Additional notes on revenue risks are contained in Appendix 2. Such a strategy is likely to include actions to secure voluntary compliance including the following aspects, the strategy should:
 - (a) positively influence consumers and the public including reducing the demand for illegal goods by raising public awareness of the implications of purchasing illicit



product including the involvement of criminal and terrorist organisations and the possible health consequences of consumption of illicit alcohol and cigarettes; and

- (b) clearly explain how the revenue administration will enforce compliance including working closely with other agencies (police, military, consumer protection agencies, etc.) to increase the detections of illegal goods and with the Ministries responsible for Health, Social Welfare and Education.

4. Paragraph 3(b) states that best practice is for revenue administrations to encourage excise operator compliance by:

- (a) reducing compliance costs by simplifying laws, policies and administrative procedures including:
 - (b) providing quality services to taxpayers;
 - (c) promoting voluntary compliance;
 - (d) safeguarding the revenue by requiring appropriate security to cover all tax at risk;
 - (e) undertaking inspections and audits of excise operators;
 - (f) utilising information and intelligence for excise tax enforcement; and
 - (g) capacity-building for excise tax officials in the revenue administrations of each Member State.

5. **Each of the above are discussed in turn below: -**

(a) Reducing compliance costs

- (i) Best practice is to assess the compliance costs to excise operators when considering any change to laws, policies or administrative procedures, ensure that procedures and requirements are as simple and clear as is possible including to:
 - avoid unnecessary costs to legitimate business; and
 - reduce the likelihood of opportunities for taxpayer mistakes.
- (ii) The over-riding principle should be that information should only be required from excise operators if it is essential for policy making or for tax administration or enforcement.

(b) Providing quality services to taxpayers

- (i) This should include:
 - educating excise tax operators on excise tax requirements and providing training when requested by industry;
 - issuing guidance that, for example, explains legislation, official procedures and requirements; and how to challenge a tax demand or penalty;



- providing a call centre or a telephone help desk to answer queries by excise tax operators;
- providing a website to explain legislation, procedures and provide details of local office and call centre/help desk contact details;
- presenting all material (including forms) in user-friendly formats/language by testing drafts with excise tax trade representatives;
- making sure all material is easily accessible to excise tax operators;
- publishing clear and transparent standards for revenue administration and taxpayer behaviours in charters; and
- developing in-country and regional partnerships with trade associations and industry representatives for producers, importers, exporters, warehouse keepers and transporters.

(c) Promoting voluntary compliance

(i) This can be achieved, *inter alia*, by:

- requiring/allowing excise operators to self-assess and make declarations and payments (electronically if possible);
- working with industry to promote good corporate governance and development of MOUs, etc;
- requiring excise operators to be accountable for all their actions and those of their employees and third party contractors, (e.g. transporters) in connection with their excise tax operations including taking steps to know their customers (particularly when goods are being supplied untaxed, i.e. removed under bond or rebate); and
- providing excise operators with information on what is expected from them as regards tax compliance including training in revenue requirements.

(d) Safeguarding revenue

- (i) The safeguarding of revenue is primarily to be achieved through requirements for security (bonds, guarantees, etc.) to cover all excise tax at risk but these should take account of the activities and compliance history of each excise operator.
- (ii) Bonds covering the full excise tax at risk should be required from the start of business but these may be reduced subsequently in accordance with compliance demonstrated by the excise operator and an assessment of the risk inherent in the operator's excise tax activities, suppliers and customers. Bonds/security should be required from:
- manufacturers and all excise operators who handle excisable goods up to and including the tax point (including un-denatured goods supplied under a rebate);
 - duty free shops, aircraft and ships' stores warehouses;



- customs bonded warehouses handling excisable goods; and
 - transporters of excisable products.
- (iii) Where a tax debt arises, early action should be taken by the revenue administration to quantify, curtail and recover the debt. Where the debt cannot be recovered within an acceptable period, the bond should be called upon to recover the revenue.

(e) Inspections and audits

- (i) In order to achieve the compliance objectives, revenue administrations should consider:
- tailoring inspection, audit and other assurance work to risk;
 - in cases of highest risk placing staff full time (and even 24/7) at the manufacturer's premises (CCTV or other technologies can also be considered to contribute to the required levels of supervision);
 - ensuring that inspections and audits of excise operators take place across all sizes of excise operator and across all areas of the country;
 - conducting spot checks at the retail level to confirm that the goods on sale are tax paid;
 - co-ordinating audits with VAT/import/export/other domestic tax teams as far as possible to facilitate taxpayers and ideally, avoid taxpayers having to deal with several different audit teams;
 - comparing excise operators' declarations/returns, etc. across all tax types (including direct taxes) and tracking financial transactions;
 - ensuring adequate controls, including that audits and unannounced spot check visits are made to all businesses who have access to tax free goods, e.g. businesses that receive (un-denatured) alcohol under a rebate for use in the manufacture of non-excisable products, e.g. pharmaceuticals;
 - contributing to customs risk assessments for excise operators and excisable goods;
 - providing an interface between customs, excise, VAT, etc. data to facilitate audit and enforcement;
 - using electronic compliance records including access to all excise, import, export and transit declarations by excise operators (all access to such records should be recorded and auditable); and
 - providing excise tax audit reports/feedback to customs and domestic tax officials.

(f) Use of information and intelligence - for excise tax enforcement



- (i) Whilst inspections and audits are the routine parts of the control of excise taxes, revenue leakage frequently occurs from smuggling, illicit manufacture or diversion of untaxed goods.
- (ii) If such malpractice is not detected during inspections and audits, then the next recourse will be border anti-smuggling staff or investigation teams. These teams will need mechanisms to be in place that capture, analyse and disseminate intelligence. Assistance may also need to be provided to other revenue administrations to confirm excise tax movements (and amounts paid).
- (iii) A key part of an effective strategy to combat illicit production is the systematic tracing of raw material inputs, e.g. for cigarettes - importations of cigarette making machinery, 'cut rag' tobacco, cigarette papers, etc; or for alcoholic drinks, flavourings, bottle tops, labels, etc.

(g) **Capacity-building for officials in revenue administrations**

- (i) Best practice is to build capacity by providing training and knowledge to excise tax officials in the revenue administrations of each Member State and in particular to:
 - implement the provision of common specialist excise tax guidance manuals to ensure effective inspection, audit and enforcement controls;
 - train audit/inspection staff so that they are competent to manage the voluntary compliance approach;
 - provide excise tax awareness training of excise tax revenue procedures and implications to customs and to officials auditing other taxes;
 - provide excise operators with user friendly training modules to enable them to train their staff in revenue requirements; and
 - require excise tax producers to provide excise tax officials with awareness training on their business processes and information on industry or product developments as they occur.

6. Paragraph 3(c), in addressing non-compliance, Member States agree that best practice is for revenue administrations to:

(a) **Partner with legitimate business** and other stakeholders, particularly to counter the illicit trade in high revenue risk products. Such co-operation may include:

- (i) encouraging business to take action to improve the security of the supply chain;
- (ii) sharing of information and intelligence;
- (iii) training of revenue officials in the production processes and training the excise operator's staff in excise tax requirements and procedures;
- (iv) ensuring that revenue administrations are equipped and trained to monitor and measure production and to utilise any available tracking and tracing technologies and practices;



- (v) working with key stakeholders to make estimated measurements of the extent of illicit trade in alcohol and cigarettes and, e.g. in estimating revenue losses through the extent of the illicit trade; and
 - (vi) discussing with other stakeholder's issues affecting illicit trade.
- (b) **Implement effective customs and anti-smuggling controls** to prevent the movement of illicit excisable goods across borders. Such controls could include:
- (i) the routine customs search of persons and vehicles at border posts;
 - (ii) utilising appropriate equipment which may include basic tools (screwdrivers, torches, spanners, tape measures, mirrors, ladders, etc.) and scanners; fibre scopes; testing equipment; sniffer dogs, etc;
 - (iii) the use of border patrols, etc; mounting special exercises (at borders or at road blocks) to test risks (either by the revenue administration alone or with other law enforcement agencies and also on occasion, in co-operation with neighbouring Member States); and
 - (iv) the effective use of local or regional intelligence;
 - (v) apply controls at other places, such as:
 - at airport duty free shops or ships store warehouses;
 - in free zones;
 - at airports or ports where goods are in transit or are being transhipped; and
 - (vi) apply close supervision at export points, to ensure that the goods have been exported intact and that the contents match the declared quantities, etc.
- (c) **Put in place harmonised and effective penalties and sanctions** to discourage non-compliances that may include the following:
- (i) Registration/Licensing offences:
 - failure to register/seek licence;
 - breach of licence conditions / improper use of licence;
 - failure to seek approval for changes in premises and plant/machinery, etc; and
 - late or non-renewal of licences.
 - (ii) Records and payments offences:
 - late return/no return (or declaration);
 - late payment/no payment;
 - incorrect or false return/declaration;
 - no or inadequate manufacturing records; and
 - failure to keep records for the prescribed period.
 - (iii) Unauthorised actions:
 - manufacturing whilst unlicensed;



- unauthorised operations in warehouse;
 - conducting operations without official supervision;
 - conducting operations without authority;
 - unauthorised breaking of seals;
 - storage of non-excisable goods in bonded warehouse;
 - storage of excisable goods in unapproved premises;
 - improper use of fiscal markers; and
 - illegal/unapproved removals.
- (iv) Other (fraudulent) actions such as:
- having no appropriate documentation to substantiate excisable goods on hand;
 - having illicit goods on the premises / in possession;
 - smuggling and evasion;
 - diversions of products;
 - adulteration of goods (including removal of markers);
 - false losses; and
 - false claims.



CHAPTER 3: EXCHANGE OF INFORMATION AND MUTUAL ASSISTANCE

COMMENTARY ON GUIDELINE 12 - EXCHANGE OF INFORMATION AND MUTUAL ASSISTANCE

1. The background to this Guideline is contained in Paragraphs 6, 7 and 8 of Article 6 of Annex 3 of the FIP. The Guideline sets out the desired arrangements for practical and close co-operation between the revenue administrations of Member States, to combat excise tax fraud and smuggling.
2. At Paragraph 3 Member States agree to share information and mutually assist each other to protect revenues and combat non-compliance.
3. Paragraphs 3(a) and (b) describe that this co-operation can be accomplished by using existing agreements, mutual assistance channels and/or entering into new agreements such as Memoranda of Understanding (MoUs).
4. **Notes on agreements**
 - (a) It is important to ensure that any tax agreements, e.g. bilateral Double Taxation Avoidance Agreements (DTAAs) and or MoUs, etc, are allowable under the laws of Member State/revenue administration. Also, in order to ensure that these kind of agreements are as useful as possible, Member States should try to ensure that any information shared using them is admissible in Court as evidence.
 - (b) Many Member States have bilateral DTAAs and MoUs with each other. Member States should examine these to ascertain if they can be used to exchange excise tax information and if they can, they should be utilised fully. If agreements exist but do not make specific provision for exchange of information on excise taxation, Member States should first seek to amend them rather than seek new agreements.
 - (c) In addition to bilateral DTAAs and MoUs between Member States, there are two broader agreements under which information may be able to be passed: -
 - (i) The International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences. This Convention (known as the 'Nairobi Convention' - 1977) covers breaches of Customs Law in respect of any Customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation or exportation of goods and the mutual assistance (including exchange of information) between signatories. As at 2016⁷ seven SADC Member States are signatories to this convention.
 - (ii) The SADC Agreement on Assistance in Tax Matters (AATM) - This agreement was signed by the SADC Heads of State and Government in

⁷ Malawi, Mauritius, Seychelles, South Africa, Swaziland, Zambia, Zimbabwe.



August 2012 and is currently undergoing ratification by Member States. The AATM covers the exchange of information in tax matters (all taxes, except customs duty). Once ratified it will apply to all Member States, opening the way for rapid exchange of tax information and mutual assistance between Member states on a solid legal basis without the need for a network of bilateral agreements.

5. Paragraph 3(c) seeks standardised information exchange, specifically excise tax databases and arrangements for data transfer including of excisable movements.

6. **Notes on standardised information exchange**

- (a) Member States should put in place standardised arrangements for sharing with other Member States information and intelligence including:
 - (i) about the illicit trade;
 - (ii) on 'new' methods, routes and persons involved in illicit activities; and
 - (iii) on excise operators with a poor compliance history.
- (b) Member States should establish and keep up to date standardised excise tax databases. These should include:
 - (i) excise tax rates, (e.g. in the SADC Tax database);
 - (ii) key designatory data for all licensed/registered excise operators in the revenue administrations;
 - (iii) a list of approved bonded warehouses (and the goods and operations they are approved for) together with contact details for the local excise tax office; and
 - (iv) a current list of key excise tax contact points in each revenue administration.
- (c) Member States should provide appropriate information to their domestic excise tax operators, e.g. so they can confirm that the destination warehouse exists and is approved to receive the product.
- (d) Member States should also:
 - (i) develop standardised arrangements for the routine transfer of data. This concerns, primarily, information on movements of high revenue risk products as envisaged in Guideline 7, between revenue administrations in source, transit and destination countries in advance of and on completion of, high revenue risk movements;
 - (ii) establish and maintain a movement's database for use by authorised officials in respect of individual transactions or movements of high risk products and especially untaxed products; and
 - (iii) establish arrangements for day-to-day verification of movements of specific excisable products such as untaxed products between Member States.



DEFINITIONS AND GLOSSARY

Note: the definitions in this Commentary that are as in Annex 3 of the FIP are marked *

<i>Ad valorem</i>	Means, according to value, where the tax chargeable is expressed as a percentage of the value of goods or services or of a transaction.
At source	Means, assessing Excise duty/tax as close as possible to the point of manufacture of the product.
Bond	Means, a guarantee or security obtained by an excise operator or transporter from a financial institution so that the latter guarantees the payment (to the revenue administration) of the duties and taxes at risk (up to the amount of the security).
Bonded warehouse	Means, a warehouse storing untaxed products – with the duties and taxes secured by a bond.
CCTV	Means, Closed Circuit Television (monitoring equipment / systems).
Compounding	Means a financial settlement as an alternative to prosecution.
Cross-price elasticity of demand	Refers to the percentage change in the quantity demanded of a given product due to the percentage change in the price of another related product.
Denature/Denaturants	Means, the addition of a chemical or product (a denaturant) to make potable (drinkable) ethanol (alcohol) into a product unfit for drinking
Double taxation (this differs to the definition of double taxation in the FIP)	For the purposes of this Commentary means, imposition of excise tax on a product which is an input into another excisable product and/or imposing a national levy in addition to a national excise tax.
Environmental taxes	Means, taxation of supplies of goods or services that are held to be harmful to the environment and that are designed to change behaviour or to compensate negative consequences of the supply.
Ethanol	Means, ethyl alcohol.
Excise duty (tax)*	Means, a duty imposed by a country under its domestic law on certain goods manufactured or produced in the country or imported into that country, being a tax levied on a specific basis, either on the basis of the weight or volume of the goods, or on an <i>ad valorem</i> basis, or on a profit basis.
Excise operator	Means, a person registered, licensed or approved, for excise tax purposes who is allowed to manufacture, store, transport and/or trade in excisable goods or services
Exemption	Means, a legal provision that allows a product to be supplied free of excise tax (subject to the conditions of the exemption being met).
FIP	Means, the SADC Protocol on Finance and Investment.



Finished product	Means, goods in their final state – usually packaged ready for retail sale.
Fiscal marker/tax stamp	Usually a tax stamp or banderol (but including digital markings) marked on or affixed to a taxable item as evidence that the tax has been paid.
Fiscus	Means, the treasury of the state (from Latin meaning “the basket” or “moneybag”).
High revenue risk excisable goods/products (High revenue risk products)	Means, goods usually liable to high excise tax rates (mainly cigarettes and other tobacco products; ethanol and alcoholic beverages and fuel products including road fuels) in respect of which there is a high risk of smuggling or other revenue evasion.
Income elasticity of demand	Refers to the percentage change in the quantity demanded of a product as a result of a percentage change in consumer income
Liability	Means, when tax becomes payable by law (although the date of payment may be later).
Levy*	Means, tax in respect of specific items, transactions, or events and which tax is levied at a fixed or flat rate.
Marker/chemical marker	Means, chemical or dye added to alcohol or fuel products to show that it is tax free or tax paid or intended for a particular user or market that may be either visible or invisible.
MoU	Means, a Memorandum of Understanding.
*Mutual assistance	Means, such arrangements as are made between two countries or jurisdictions in order to improve the efficiency of their respective taxation systems.
Price elasticity	Refers to a percentage change in the quantity demanded, (i.e. sales volumes) of a specific product as a result of a percentage change in its price.
Rebate	Means, a legal provision that allows a deduction to be made from the tax liability (subject to the conditions of the rebate being met – usually when goods have been used for non-taxable purposes).
Registration	For the purposes of these Guidelines registration includes the approval of registration applications and/or the issue of licences permitting specified activities. It also includes licence renewals or a decision not to renew or to amend, suspend or revoke a licence.
Relief	Means, a legal provision that permits tax not to be charged in specified circumstances.
Revenue administration	Means, the Revenue Authority/Revenue Service or Customs or Tax administration of a country (including the officials of the administration).
SADC	Means, the Southern African Development Community.
Security	Means, a bond or other form of tangible guarantee that can be



	called upon to pay the revenues due in the event of a default.
*Tax agreement	Means, any bilateral or multilateral agreement concluded by State Parties between or amongst themselves or with countries outside the Community, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital or for mutual assistance with regard to indirect taxes.
*Tax incentive	Means, fiscal measures that are used to attract local or foreign investment.
Tax Point	Means, the time, (i.e. date) when the tax becomes legally payable on the goods or services (although physical payment may be delayed – e.g. to the end of an accounting period or until a grace period has elapsed).
Value Added Tax (VAT)	Means, a Value Added Tax imposed on goods or services which is levied at each stage in the production and distribution process and is borne by the final consumer of such goods or services, but, where the liability for rendering payment of such tax to the authorities is placed upon the supplier of the goods or services.



APPENDIX 1

ANNEX 3 OF THE SADC PROTOCOL ON FINANCE AND INVESTMENT

CO-OPERATION IN TAXATION AND RELATED MATTERS

PREAMBLE

The High Contracting Parties:

RECALLING the provisions of Chapter Four of the Protocol which require co-operation on taxation and related matters;

RECOGNISING the need to take such steps as are necessary to maximise the co-operation of State Parties in taxation matters and to co-ordinate the tax regimes of the State Parties; and

DETERMINED to take such steps as are necessary to maximise the co-operation of the State Parties in taxation matters;

HEREBY AGREE as follows:

ARTICLE 1

DEFINITIONS

1. In this Annex, terms and expressions defined in Article 1 of the Protocol shall bear the same meaning unless the context otherwise requires.
2. In this Annex, unless the context otherwise requires:

“customs duty”	Means a tax normally applied to imported goods.
“direct tax”	Means, a tax levied under its domestic laws, by a country on persons (including juristic persons), in respect of income, capital gains, net worth, property, donations and gifts and includes estate duties.
“double taxation”	Means, an imposition of similar taxes by two or more tax jurisdictions on the same taxpayer in respect of the same income or capital.
“e-Customs Clearance” or “e-commerce, e-billing”	Means, the conduct of financial transactions, or customs clearance, by electronic means.
“exceptional cases”	Means, in relation to tax incentives, those exceptions to the guidelines envisaged in Article 4 agreed to by State Parties.



“excise duty”	Means, a duty imposed by a country under its domestic law on certain goods manufactured or produced in the country or imported into that country, being a tax levied on a specific basis, either on the basis of the weight or volume of the goods, or on an <i>ad valorem</i> basis, or on a profit basis.
“harmful tax competition”	Means, a situation where the tax systems of a jurisdiction are designed in such a way that they erode the tax bases of other jurisdictions and attract investments or savings which originate elsewhere, facilitating the avoidance of taxes in such other jurisdictions.
“indirect tax”	Means, any tax (other than a direct tax) that a country imposes on consumption or transactions under domestic law and includes VAT, sales taxes, excise duties, stamp duties, services taxes, registration duties and financial transaction taxes
“levy”	Means, a tax in respect of specific items, transactions, or events and which tax is levied at a fixed or flat rate.
“luxury goods and services”	Means, goods and services with an income elasticity of greater than one.
“mutual agreement”	Means, the procedure envisaged in Article 25 of the Model Tax Convention on Income and on Capital of the Organisation for Economic Co-operation and Development.
“mutual assistance”	Means, such arrangements as are made between two countries or jurisdictions in order to improve the efficiency of their respective taxation systems
“SADC Tax Database”	Means, the tax database into which State Parties shall deposit information on tax on a continuous basis, as contemplated in Article 2.
“SADC Model Tax Agreement”	Means, templates, as adopted by the Committee of Ministers for Finance and Investment, for bilateral agreements for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, or agreements for mutual assistance with regard to indirect taxes, to be used by State Parties between or amongst themselves or with countries outside the Community as contemplated in Article 5 (4)



“sales tax” means	a tax imposed as a percentage of the price of goods or services and which is ordinarily borne by the buyer but the liability for rendering payment of the tax to the authorities is placed on the supplier of the goods or services.
“tax”	Means, a compulsory unrequited financial contribution imposed by a government or jurisdiction.
“tax incentives”	Means,, in relation to a State Party, fiscal measures that are used to attract local or foreign investment capital to certain economic activities or particular areas in a country and, without limiting the generality of the foregoing, includes those measures contemplated in Article 5(2)
“Tax Sparing Arrangement”	Means, an arrangement in terms of which the government of residence of an international investor recognises tax incentives granted by a host country for purposes of attracting investments and providing relief from income tax under the domestic laws of that government, as if normal tax had been imposed in respect of that investor in the host country.
“Tax Agreement”	Means, any bilateral agreement concluded by State Parties between or amongst themselves or with countries outside the Community, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital or for mutual assistance with regard to indirect taxes
“VAT”	Means, a value added tax imposed on goods or services, which is levied at each stage in the production and distribution process and is borne by the final consumer of such goods or services, but, where the liability for rendering payment of such tax to the authorities is placed upon the supplier of the goods or services.

ARTICLE 2

SADC TAX DATABASE



1. In the interests of SADC, State Parties shall put in place a comprehensive SADC Tax Database which is publicly accessible within the Region.
2. State Parties shall, collectively, take such steps as are necessary to further develop the SADC Tax Database and to provide the Secretariat with such information as is required to maintain the SADC Tax Database.
3. The developed SADC Tax Database shall, in relation to each State Party, include details in respect of that State Party of:
 - (a) all direct taxes, indirect taxes and levies, including applicable rates, implementation dates, exemptions and allowances;
 - (b) all tax incentives offered, including implementation dates and conditions imposed;
 - (c) all Tax Agreements and their respective implementation dates; and
 - (d) appropriate statistics on revenue collection and the revenue importance of various instruments including:
 - (i) the sales volumes or value of products and services that are subject to Indirect Taxes and the revenue collected from such products and services; and
 - (ii) the revenue collected from direct taxes.
4. Each State Party shall provide at least on an annual basis and when significant changes occur, information in regard to that State Party as is required by the Secretariat to update the SADC Tax Database.

ARTICLE 3

CAPACITY BUILDING

1. State Parties shall, in the interests of SADC, develop the professionalism and expertise of tax officials throughout the Region and develop an effective enabling environment that:
 - (a) is supportive of life-long training, development of skills and learning for the State Parties' personnel in respect of tax design, policy development and revenue administration;
 - (b) will effectively equip such personnel to utilise their expertise to protect the respective individual tax bases of State Parties against the practices of tax avoidance or evasion by domestic and international taxpayers operating within their respective jurisdictions; and
 - (c) will enable such personnel to introduce, develop, maintain and engender taxation best practices in their respective State Parties.



2. In order to fully implement the wide-ranging steps envisaged in this Annex, each State Party shall:
 - (a) actively support initiatives aimed at developing skills and taxation best practices across the Region, including the exchange of personnel and information and the provision of mutual assistance, training workshops, seminars and training events; and
 - (b) (make provision (from the internal budget of that State Party and/or appropriate co-operating partner support) for resources to defray the costs of ongoing training development and the interaction of the tax officials of that State Party across all capacities or disciplines.
3. State Parties shall meet the information technology and digital challenges faced by State Parties and work together in responding to such challenges, including the review of issues relating to e-commerce, e-billing or e-customs clearance and the impact that e-commerce, e-billing, or e-customs clearance may have on tax revenue collection and on the flow of goods and services.

ARTICLE 4

APPLICATION AND TREATMENT OF TAX INCENTIVES

1. State Parties shall endeavour to achieve a common approach to the treatment and application of tax incentives and shall, amongst other things, ensure that tax incentives are provided for only in tax legislation.
2. Tax incentives may include any one or more of the following:
 - (a) investment allowances in addition to full depreciation allowances;
 - (b) an investment tax credit where a certain percentage of the acquisition cost is deducted, in addition to normal depreciation deductions, from the tax liability;
 - (c) the full cost of acquisition of the asset is allowed as a deduction from the taxable profits of the year in which the relevant investment was made;
 - (d) accelerated depreciation allowances;
 - (e) declining balance depreciation allowances;
 - (f) tax privileged export processing or enterprise zones; and
 - (g) tax holidays.
3. State Parties shall, in the treatment and application of tax incentives, endeavour to avoid:
 - (a) harmful tax competition as may be evidenced by:
 - (i) zero or low effective rates of tax;



- (ii) lack of transparency;
 - (iii) lack of effective exchange of information;
 - (iv) restricting tax incentives to particular tax payers, usually non-residents of that State Party;
 - (v) promotion of tax incentives as a vehicle for tax minimisation; or
 - (vi) the absence of substantial activity in the jurisdiction of that State Party to qualify for a tax incentive; and
- (b) introducing tax legislation that prejudices another State Party's economic policies or activities of, or the regional mobility of goods, services, capital or labour.
4. State Parties shall, collectively, through the Committee of Ministers responsible for Finance and Investment, develop and adopt guidelines for tax incentives in the Region, including provision for exceptional cases.
5. In order to advance a competition policy within the Region, State Parties shall collectively develop a fiscal framework for tax incentives that will, among other things, focus on:
- (a) the effectiveness of proposed tax incentives in achieving their stated policy goals;
 - (b) the revenue costs likely to be suffered by the fiscus of each of the State Parties as a result of the application of proposed tax incentives;
 - (c) the extent to which the absence of Tax Sparing Arrangements in Tax Agreements between State Parties reduce the effectiveness of tax incentives, particularly those aimed at attracting foreign direct investments;
 - (d) the impact that proposed tax incentives will have on the collective costs of, or collective burden on, tax administration in the Region; and
 - (e) the effects that tax incentives have on the overall distribution of the tax burden within each State Party.

ARTICLE 5

TAX AGREEMENTS

1. State Parties shall, collectively, develop a common policy for the negotiation of Tax Agreements between or amongst themselves or with countries outside the Region.
2. Each State Party shall, in accordance with its constitutional procedures, strive to ensure the speedy negotiation, conclusion, ratification and effective implementation of Tax Agreements.
3. State Parties shall, collectively, take such steps as are necessary to establish amongst themselves a comprehensive network of agreements for the avoidance of



double taxation that will assist in expediting the effective exchange of information, mutual agreement procedures and co-operation amongst themselves.

4. State Parties shall, in pursuit of a common policy for dealing with Tax Agreements, develop a Model Tax Agreement for SADC that, among other things, takes account of the particular socio-economic development needs of each State Party.
5. State Parties shall, on completion of the Model Tax Agreement referred to in Paragraph 4, draw up guidelines for the effective exchange of information, the implementation of Mutual Agreement procedures.

ARTICLE 6

INDIRECT TAXES

1. State Parties shall effectively co-operate in the harmonisation of the administration of indirect taxes.
2. Each State Party shall, in line with the World Trade Organisation agreements, gradually substitute taxes on internationally traded goods and services with broad-based indirect taxes on consumption.
3. State Parties shall, collectively, explore areas of possible co-ordination for policy formulation and administration in respect of excise duties on:
 - (a) tobacco products;
 - (b) alcoholic beverages;
 - (c) non-alcoholic beverages;
 - (d) fuel products;
 - (e) luxury goods and services; and
 - (f) any other excisable goods and services.
4. Each State Party shall, as far as is possible, promote the use of excise duty on an *ad valorem* basis on luxury goods and services as an alternative to the application of multiple VAT rates or sales tax rates; provided that it is accepted that the classification of goods and services as being luxury goods and services may, due to shifts in economic and social conditions, change from time to time.
5. State Parties shall, in an effort to minimise incidents of smuggling, take such steps as are necessary to harmonise the application of excise duty rates, with particular regard to tobacco products, alcoholic beverages and fuel products.
6. State Parties shall take such steps as are necessary to exchange information among themselves and to engage in such programmes of mutual assistance and co-operation as may be appropriate, in order to prevent unlawful activities and, in particular, the smuggling of goods and the importation of counterfeit items.



7. State Parties shall in an effort to combat cross-border smuggling activities, identify areas of co-operation and agreement for: (i) the protection of their respective tax bases; and (ii) addressing the problem of tax leakage and gaps in tax compliance.
8. State Parties shall give consideration to entering into bilateral agreements with each other, based on a SADC model tax agreement in order to deal with, among other things, the exchange of information on VAT and sales tax and to make provision for mutual assistance on matters such as effective revenue collection.
9. State Parties shall identify and explore areas of possible co-ordination and co-operation in the formulation of policy on and the administration of, VAT and sales tax.
10. State Parties shall take such steps as are necessary to harmonise their VAT regimes and shall:
 - (a) set minimum standard VAT rates; and
 - (b) harmonise, over time, the application of zero-rating and VAT exemption of goods and services.

ARTICLE 7

SETTLEMENT OF DISPUTES

1. State Parties shall develop mechanisms and procedures for the settlement of tax disputes between State Parties, including the establishment of a SADC body for the settlement of such tax disputes.
2. Until such time as the mechanisms and procedures for the settlement of tax disputes between State Parties are developed and the SADC body for the settlement of such tax disputes is established, as envisaged in paragraph 1, State Parties shall settle any dispute or difference arising from the interpretation, application or implementation of this Annex 3 in accordance with Article 24 of the Protocol.



APPENDIX 2

NOTES ON PRICE AND CROSS-PRICE ELASTICITIES AND AFFORDABILITY

1. The demand for excisable products is influenced by prices, income levels and consumption or usage patterns within and across broad product categories. Other variables such as gender, age, cultural norms, consumer preference, household spending patterns, geographical location and alcohol/tobacco addiction may also influence sales volumes.
2. In economics the effects on supply and demand as a result of changes in price and income are estimated using price and income elasticities (see below). The extent to which purchasing behaviour is affected by price varies from product to product. Some products are highly price sensitive, (i.e. highly elastic), whilst others are relatively unaffected by price changes and are inelastic. Broadly, non-essential products such as appliances, cars, confectionary and luxury goods are generally price elastic whilst essential products such as food, medicine and basic clothing are generally price inelastic. Other factors affecting the elasticity of products include: the availability of substitutes; the proportion of consumer's income needed to make the purchase; commodities which have become habitual necessities such as alcoholic beverages and tobacco products, etc.
3. Estimating 'elasticities' for excisable products is therefore critical; as such an estimation process helps to uncover the possible linkages and substitution effects of products. The main economic tools for analysis are: 'price elasticity of demand', 'cross-price elasticity of demand', 'income elasticity of demand and 'affordability'. These are considered in turn below: -



- (a) **'Price elasticity of demand'** refers to a percentage change in the quantity demanded (i.e. sales volumes) of a specific product as a result of a percentage change in its price, as detailed in Box 1

Box 1 Price Elasticity of demand

Price Elasticity of demand (or supply) measures how much the quantity demanded (or supplied) of a product changes as a result of a change in its price, (i.e. how the price of a good influences its demand).

The formula - Price Elasticity of Demand = % change in quantity purchased divided by % Change in price.

The elasticity co-efficient indicates the nature of elasticity of demand. The value ranges are outlined below:

Perfectly inelastic (E=0): the quantity demanded does not change, regardless of the change in price.

Inelastic (E > 0 but < 1): the quantity demanded will change by less than the change in price

Unit elastic (E=1): the quantity demanded will change by the same proportion of the change in price

Elastic (E > 1): the quantity demanded will change by a greater proportion than the change in price.

Price elasticity is usually negative as it follows the law of supply and demand - as price increases quantity demanded decreases. As petrol prices increase the quantity demanded goes down.

Price elasticity that is positive is uncommon but examples include high cost items purchased by wealthy individuals who believe that the more expensive the item the better it must be, thus, as the price goes up, the quantity demanded (by wealthy people) goes up as well.

Elastic goods:

- If the quantity demanded changes a lot when prices change a little, a product is said to be **elastic** - such as products or services for which there are many alternatives, or for which consumers are relatively price sensitive, e.g. if the price of Cola rises 10% and the quantity demanded decreases by 15% price elasticity is $15\% / 10\% = -1.5$

Inelastic goods

- If the quantity demanded changes a little when prices change a lot, the product is said to be inelastic, e.g. for petrol - if the price rises 30% and demand decreases by 5%, i.e. as the price increases, the quantity demanded doesn't decrease much. This is because there are very few substitutes and consumers are still willing to buy the product even at relatively high prices, e.g. price elasticity is $-5\% / 30\% = -0.167$



- (b) '**Cross-price elasticity of demand**' refers to the percentage change in the quantity demanded of a given product due to the percentage change in the price of another related product (see details in Box 2).

Box 2 Cross-Price Elasticity of demand

Cross-price elasticity of demand measures the responsiveness of the quantity demanded of one good when compared with a change in the price of another related good.

The formula - Cross-Price Elasticity of Demand = % change in quantity demand for good A divided by % Change in price for good B. This assumes that the price of Good A is constant; therefore, the only influence on its demand is the change in price of Good B.

The elasticity co-efficient indicates the nature of elasticity of demand. The value ranges are outlined below:

Substitute goods (E>0): *for goods that can be used instead of another*

- If the quantity demanded of apples increased by 12% in response to a 15% increase in price of oranges.
- Cross price elasticity of demand = % change in quantity demanded apples /% change in price of oranges = $12\%/15\% = 0.67$
- The fact that the cross elasticity of demand is positive illustrates that these are substitute goods.

Complementary goods (E<0): *for goods that tend to be consumed together or hand-in-hand*

- If the price of Cinema Tickets increases by 25% and the demand for Popcorn decreases by 15% = $-15\% / 25\% = -0.6$
- The fact that the cross price elasticity of demand is negative illustrates that these are complementary goods. They are used together and if the price of one goes up we will buy less of both goods, e.g.: -
 - If the price of DVD players goes up we will buy less DVD players and also there will be a decrease in demand for DVD disks.
 - If the price of mobile phones goes down, we will buy more related products such as phone apps.

- (c) '**Income elasticity of demand**' refers to the percentage change in the quantity demanded of a product as a result of a percentage change in consumer income (see details in Box 3).



Box 3 Income Elasticity of demand

Income Elasticity of Demand measures the responsiveness of demand due to an increase or decrease in consumer income.

The formula - Income Elasticity of Demand = % change in quantity demanded / % change in income

As an economy grows and expands, people will enjoy a rising income. In most cases, the demand for goods and services is likely to increase as well, e.g. income rises by 15% and the demand for fridges rises by 5% Income Elasticity = 5% / 15% = 0.33

Interpreting income elasticity.

- **Normal Goods (E>0 but <1):** These are goods whose consumption increases with an increase in income meaning that as a consumer's income rises more is demanded. **Normal goods have an income elasticity of between 0 and 1** An example is clothing - while income is low consumers may be purchasing inexpensive clothes from cut price stores, but as income increases, purchases may be of more expensive clothes from higher end retailers - in other words, consumption increases as income increases, e.g. a 20% increase in income might lead to a 15% increase in demand for clothing that would equal an income elasticity of 0.75
- **Luxury Good (E>1):** These are goods whose consumption increases proportionately larger than an increase in income. **They typically have an income elasticity of greater than 1** meaning that demand rises more than in proportion to a change in income, e.g. an 8% increase in income might lead to a 10% rise in the demand for new kitchens. The income elasticity of demand in this example is +1.25
- **Inferior Good (E<0):** These are goods whose consumption decreases with an increase in income. **Inferior goods have negative income elasticity (less than 0)**. This is because as income increases consumers buy less of the product. An example is bicycles, in many parts of the world, bicycles are an inferior good because as income rises, demand for bicycles decreases as people trade up to cars, e.g. income rises 30% and the quantity of bicycles demanded decreases by 10%. The income elasticity of bicycles = -10% / 30% = - 0.33
- **Income elastic goods/services** - As incomes rise, demand for income elastic goods/services will increase because people will have more money to spend. Income elastic goods include luxuries like airline travel, movies, restaurant meals and automobiles.
- **Income inelastic goods/services** - As income rises, demand for income inelastic goods/services tends to increase only marginally. Consumer staples like toothpaste and 'sin' items like tobacco and alcohol tend to fall into this category.

- (d) **'Affordability'** refers to the ability of consumers to buy products and is a function of a product's price and a consumers' income. As price increases through excise taxation make taxed products less affordable to consumers and reduce consumption as intended by policy, it may potentially have negative (or less often, positive) consequences, e.g. consumers switching to smuggled or illicit brands; or to cheaper and potentially more harmful brands. Consumers could also change behaviour by changing between types of alcohol such as switching from spirits to wine, beers or ciders.



APPENDIX 3

NOTES ON REVENUE RISKS

1. There are many ways that revenue leakages can occur. In simplistic terms the main risks come from evasion of the tax payable through illicit production and illicit (undeclared) movements; but there are also other ways that excise duty/tax can be evaded. These risks can be summarised as follows:
 - (a) evasion through illicit production of taxable products including: -
 - (i) Unregistered manufacturers producing excisable goods.
 - (ii) Registered manufacturer's under-declaring production.
 - (b) evasion through Illicit movements of taxable products including: -
 - (i) Fictitious sales or removals (duty/tax not paid) to domestic customers entitled to a duty/tax free supply; to bonded warehouses (including to non-existent bonded warehouses); or for export ('ghost exports').
 - (ii) False paperwork to cover goods removed from bonded warehouses, duty free shops, etc.
 - (iii) Smuggling including products brought in from neighbouring countries; exports leaving the country tax free but coming back undeclared to be sold in the domestic market; the smuggling of products brought in by air or sea freight; and tax free transshipments not being re-shipped but diverted for domestic consumption.
 - (c) Other sources of revenue loss including:
 - (i) Thefts of taxable products from manufacturers, bonded warehouses, or when in transit, etc;
 - (ii) Leakages from duty/tax free users (diplomats, armed forces, etc.);
 - (iii) Undervaluation; and
 - (iv) Origin fraud (including counterfeit goods).
2. Best practice is for these risks to be addressed as part of an overall (excise tax) compliance strategy instituted by the revenue administration.

CONTACT

For more information about SADC please visit the SADC Website:
<http://www.sadc.int/>

To obtain a full copy of the Protocol on Finance and Investment (FIP) visit:
<http://www.sadc.int/documents-publications/show/1009>

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