



SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

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

“Towards a World Class Customs Service”

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1. GENERAL

1.1 DEFINITIONS

- a) The terms and expressions defined in the SADC Protocol on Trade shall have the same meaning in this Procedure Manual unless the context otherwise requires.
- b) In this Procedure Manual, unless the context otherwise indicates:

“Certificate of Origin” means the SADC form identifying goods, in which the Competent Authority expressly certifies that the goods to which the certificate relates originate in a specific Member State, the specimen of which is in Appendix C of this Manual.

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

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

“CMT” means the Committee of Ministers responsible for trade matters.

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

“Customs Value” means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (World Trade Organisation Agreement on Customs Valuation);

“Competent Authority” means the Customs Authority or any designated authority mandated by a Member States to issue a Certificate of Origin;

“Designated authority” means any authority mandated by a Member State to manage matters relating to Rules of Origin;

“Ex-works Price” means the price paid for the product ex-works to the manufacturer in any Member State in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, plus the profit and minus any internal

taxes which are, or may be, repaid when the product obtained is exported;

- “Force Majeure”** means accidental incident as a result of natural disasters.
- “HS”** means the Harmonized Commodity Description and Coding System (HS) that is used in classifying goods for purposes of Customs tariffs.
- “Material”** means any ingredient, raw material, component or part and the like, whether or not originating in a SADC Member State, used in the manufacture of a product
- “Member State”** means a Member State of SADC. The members are hereinafter listed under ‘Membership’ (1.4) of this Manual.
- “MFN”** means Most Favoured Nation.
- “MFN Tariff”** means a rate of duty that is applicable in a Member State where goods are not accorded preferential treatment.
- “MMTZ”** means Malawi, Mozambique Tanzania and Zambia
- “Non-originating materials”** means materials imported from outside SADC or although processed in a Member State, do not meet the SADC Rules of Origin or the origin of which is unknown;
- “Originating materials”** means materials which have been produced in a Member State and meet the requirements of the SADC Rules of Origin;
- “Regulations”** means the SADC Rules of Origin Regulations as adopted by the CMT.
- “Security”** means the deposit or guarantee of funds, e.g. cash, bond security etc., with Customs, which ensures to the satisfaction of Customs that an obligation will be fulfilled;
- “ Sufficient working”** means manufacturing or processing of materials which fulfills the conditions listed in Appendix I to Annex I of the SADC Protocol on Trade for a specified product.¹
- “SACU”** means the Southern African Customs Union comprising of

¹ Sufficient working may be used interchangeably with the term “substantial transformation”

Botswana, Lesotho, Namibia, South Africa and Swaziland;

“SADC” means the Southern African Development Community;

“SADC FTA” means the Southern African Development Community Free Trade Area.

“Third country” means any country other than a SADC Member State;

“Treaty” means the Treaty Establishing the SADC;

“Value of materials” means the customs value at the time of importation of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in any Member State. The calculations of the Customs value of the non-originating materials will include:

- a) the cost of transport of the imported goods to the port or place of importation;
- b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and
- c) the cost of insurance, provided that the amount of any transport costs incurred in transit through Member States should be deducted from the calculations of the Customs value of the non-originating materials as provided for in the definition herein;

“Value of the originating materials” means the value of such materials as defined in “value of materials” above, applied mutatis mutandis; **“WCO”** means the World Customs Organization; and

“WTO” means the World Trade Organization.

1.2 INTRODUCTION

This Manual provides guidance to the practical application of the provisions of the SADC Rules of Origin. It covers issues relating to the administration and policing of the Rules of Origin under the SADC Protocol on Trade. It is intended to ensure the uniform interpretation and application of the provisions of Annex I of the SADC Protocol on Trade as read with the Regulations.

The Manual is not legislation or regulation but rather provides plain language explanation of the Rules of Origin. Although the Manual is based on official texts of the SADC Protocol on Trade and Regulations, wherever it is inconsistent with the provisions of these legal instruments, the SADC Protocol on Trade and the Regulations shall prevail. It will therefore have to be used in conjunction with the SADC Protocol on Trade and Regulations.

SADC Member States agreed on the Rules of Origin for products to be traded among themselves, as provided for in Annex I of the SADC Protocol on Trade. The SADC Rules of Origin are the cornerstone of the intra-SADC trade. They also serve to prevent goods originating in non-SADC Member States benefiting from preferential treatment.

The determination of the eligibility of products of SADC origin and the granting of preferential treatment to goods originating in the Member States is an important process in the implementation of the SADC Protocol on Trade and regional integration. The effective and uniform implementation of the provisions of the Rules of Origin by Member States is important as it helps in strengthening the trust among Member States and helps in industrial development.

1.3 OBJECTIVES

The specific objectives of this Manual are to:

- (a) Simplify the interpretation of the Rules of Origin as stipulated in Annex I of the SADC Protocol on Trade and the Regulations
- (b) Explain the basic origin criteria under the SADC FTA;
- (c) Provide guidance on the procedures for the registration and approval of exporters under the SADC FTA;
- (d) Provide guidance on the completion and processing of a SADC Certificate of Origin;
- (e) Provide guidance on origin verification;

The attainment of the above objectives will enhance trade facilitation in the SADC FTA.

1.4 MEMBERSHIP²

The following countries are Members of the SADC:

Angola	Botswana	DR Congo
Lesotho	Madagascar	Malawi
Mauritius	Mozambique	Namibia
Seychelles	South Africa	Swaziland
Tanzania	Zambia	Zimbabwe

Subject to exceptions in each Member State goods originating in one Member State shall be granted preferential treatment upon importation into another Member State where both Member States belong to the SADC FTA.

The following Member States belong to the SADC FTA.

Botswana	Lesotho	Madagascar
Malawi	Mauritius	Mozambique
Namibia	South Africa	Swaziland
Seychelles	Tanzania	Zambia
Zimbabwe		

² Membership to SADC and SADC FTA may change from time to time.

PART 2

2. SADC RULES OF ORIGIN

2.1 Definition of SADC Rules of Origin

SADC Rules of Origin are a set of criteria that is used to determine whether or not goods that are traded between the SADC Member States qualify as originating goods for the purpose of being accorded preferential treatment under the SADC FTA. MFN tariffs are applied to products traded between the Member States if they do not meet such criteria.

2.2 Specifications of SADC Certificate of Origin

The SADC Certificate of Origin should measure 210 mm by 297mm on a light yellow paper with a SADC watermark. It shall be not less than 25g/square meters with a guilloche pattern background to make falsification by chemical or mechanical means apparent to the eye. The approved format of SADC Certificates is attached as Appendix C.

2.3 Origin Criteria Rule 2 of Annex I of the SADC Protocol on Trade

Goods shall be accepted as originating in a Member State if they are consigned directly from one Member State to a consignee in another Member State and:

- a) They have been wholly produced in any Member State as provided for in Rule 4 of Annex I to the SADC Protocol on Trade; or
- b) They have been obtained in any Member State incorporating materials which have not been wholly produced there, provided that such materials have undergone sufficient working or processing in any Member State within the meaning of paragraph 2 of Rule 2 of Annex 1 of the SADC Protocol on Trade.

2.4 Direct Consignment Rule

Goods shall be accepted as having been consigned directly from one Member State to a consignee in another Member State where the goods are not cleared for consumption in a third country.

1. Notwithstanding the requirement that originating goods shall be transported directly from one Member State to a consignee in another Member State, goods shall be accepted as directly consigned where they have transited through a third country provided that:
 - a) The goods were under constant Customs control of that third country³;

³ For example goods may be held or stored in a Customs controlled area like a bonded warehouse, transit shed or under Customs supervision at any place authorized by a Customs Authority. A consignment may transit through a third country and should the

- b) the goods have not undergone further processing or any other operation outside the territories of the SADC countries, other than unloading, reloading or any operation necessary to preserve the goods in good condition, such as inspection, removal of dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, addition of sulphur dioxide or aqueous solutions, replacing damaged packing materials and containers and removal of units of the goods that are spoiled or damaged and present a danger to the remaining units of the goods;
 - c) have not entered the domestic market of the transiting country.
 - d) the constraints of international carriage of the goods require that they transit through a third country.
2. Originating products may also be transported by pipeline to a Member State across a territory of a third country.
 3. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied at the time of entry by the production of:
 - a) a single transport document covering the passage from the exporting Member State through the country of transit; or
 - b) a document certified by the Customs authorities of the third country.

Where originating goods transit through or are cleared for consumption in a Member State and are subsequently exported to another Member State, the exception for transiting through third party countries shall not apply. These goods shall remain goods of SADC origin.

2.5 Wholly Produced Goods

Goods are accepted as originating in a Member State when they have been wholly produced in a Member State as defined in Rule 4 of Annex I of the SADC Protocol on Trade.

The following goods are regarded as wholly produced in the Member States:

- (a) mineral products extracted from the ground or sea-bed of the Member States;
- (b) vegetable products harvested within the Member States;

occasion arise, transshipment or temporary warehousing as a result of force majeure in such territory may be allowed as long as the goods remain under Customs control in the country of transit or warehousing and do not undergo operations other than those listed in in paragraph 1(b) of 2.4 of this Manual .

- (c) live animals born and raised within the Member States;
- (d) products obtained from live animals within the Member States;
- (e) products obtained by hunting or fishing conducted within the Member States;
- (f) products of sea fishing and other products taken from the sea by the vessels of the Member States;
- (g) products made on board the factory ships of the Member States exclusively from the products referred to in sub-paragraph (f) above;
- (h) used articles collected in the Member States fit only for the recovery of materials;
- (i) scrap and waste resulting from manufacturing operations conducted in the Member States;
- (j) goods produced within the Member States exclusively from one or both of the following:
 - (i) products specified in sub-paragraphs (a) to (i) above;
 - (ii) materials containing no element imported from outside the Member States or of undetermined origin.

These goods shall not contain materials imported from outside the SADC Member States. Examples for scenarios (a) to (e) and (h) to (j) are given in Appendix G:

2.6 Sufficiently Worked or Processed Products

Products which are not **wholly produced** in the Member States are regarded as **sufficiently worked or processed** in the Member States when the conditions set out in the list in Appendix I of Annex I of the SADC Protocol on Trade are fulfilled.

The conditions set out in the list in Appendix I of Annex I of the SADC Protocol on Trade fulfill either:

- (a) Change in tariff heading requirement; or
- (b) The material content requirement; or
- (c) The specific process undertaken; or
- (d) A combination of any of the above; or
- (e) Alternatives of any of the above.

2.6.1 Conditions for Sufficiently Worked or Processed (Rule 2 of Annex I)

2.6.1.1 Change in Tariff Heading (CTH)

Some specified products in Appendix I to Annex I of the SADC Protocol on Trade shall have an originating status in the Member States when the working or processing carried out results in a product which is classified in a heading of the HS which is different from that under which the non-originating materials used would be classified.

Example:

Margarine of tariff heading 15.17 manufactured in a SADC Member State can only qualify as a SADC originating product if it is manufactured from non-originating materials classified in any HS heading other than 15.17.

2.6.1.2 Material Content (Annex I Rule 2(2))

The material content criteria provides conditions that have to be fulfilled based on either the weight or value of the non-originating materials used in the working or processing that is undertaken in a Member State.

The goods should be produced in a Member State partially or wholly from non-originating materials or from materials of unknown origin.

2.6.1.2.1 Material Content by Value

The value of materials should be restricted to the C.I.F. value of the non-originating materials as at the first place of importation into the SADC Member States and where such materials are sourced within a SADC Member State, their price shall be the earliest ascertainable price paid for them in the Member State where they are used in a process of production.

Materials the origin of which is unknown are considered as “imported” from outside the SADC Member States for purposes of this condition.

Where such a value includes transport costs through one or more Member States such transport costs shall be excluded therefrom.

In determining the percentage of the material content the value of non-originating materials used in the manufacture of the product has to be expressed as a percentage of the ex-works price.

The value of the imported materials shall be the C.I.F. value accepted by Customs at the time of clearance for home consumption or under temporary admission procedures.

2.6.1.2.1.1 Formula for calculation of material content by value (%):

- a) Material content by value : $\frac{\text{Value of non-originating material}}{\text{Ex-works price}} \times 100$

Cotton fibers	SADC Member State	60%	\$ 40
Polyester Fibers	Non-SADC Country	40%	\$ 30
Labour, overheads, etc	SADC Member State	-	\$ 20
<u>Profit</u>	SADC Member State	=	<u>\$ 10</u>
<u>Total Ex-works Price</u>			<u>\$100</u>

Non-origination material content can be restricted to either:

- (a) The weight of the non-originating materials as a ratio to the total weight of all the materials used in producing one product; or
- (b) The value of the non-originating materials as a ratio of the ex-works price.

2.6.1.2.1.2 Calculation of ex-works price:

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

It should borne in mind that Rule 4.4 of Annex I to the SADC Protocol on Trade states that “*Electrical power, fuel, plant machinery and tools used in the production of goods shall always be regarded as wholly produced within the Region (i.e. Member States) when determining the origin of the goods*”.

2.6.1.2.1.3 Calculation of ex-works cost

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

- (a) The cost of imported materials, including the cost of waste materials and materials lost in the process of manufacture, but excluding customs duties and other taxes paid on the imported

materials which are, or may be, repaid upon exportation of the product manufactured in a Member State.

Provided that where the cost of imported materials includes transport costs through one or more Member States such transport costs shall be excluded.

Provided that the cost of non-originating materials not imported by the manufacturer will be the delivery price at the manufacturer's/producer's factory.

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

5. depreciation and maintenance of factory buildings, plant and machinery, tools and other items used in the manufacture of the goods
- (f) Factory profit.

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

- a) Administration expenses as represented by:
 - i. office expenses, office rent and salaries paid to accountants, clerks, managers and other executive personnel not directly involved in the manufacture of goods;
 - ii. directors' fees, other than salaries paid to directors who act in the capacity of factory managers;
 - iii. statistical and costing expenses in respect of the manufactured goods;
 - iv. investigation and experimental expenses.
- (b) Selling expenses, as represented by:
 - i. the cost of soliciting and securing orders, including such expenses as advertising charges and agents' or salesmen' commission or salaries;
 - ii. expenses incurred in the making of designs, estimates and tenders.
- (c) Distribution expenses, represented by all the expenditure incurred after goods have left the factory, including:
 - i. the cost of any materials and payments of wages incurred in the packaging of the goods for export;
 - ii. warehousing expenses incurred in the storage of the finished goods;
 - iii. the cost of transporting the goods to their destination.
- (d) Charges not directly attributed to the manufacture of the goods:
 - i. any customs duty and other taxes paid on the imported materials;
 - ii. any excise duty paid on the materials produced in the country where the finished goods are manufactured
 - iii. any other indirect taxes paid on the manufactured products;

- iv. any royalties paid in respect of patents, special machinery or designs; and
- v. finance charges related to working capital.

Example:

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

<u>Materials</u>	<u>Cost (currency unit)</u>
Timber:	
Local timber (Member State BW)	500
From Member State MW	400
Malaysian origin	1 200
Glue (imported from Brazil)	305
Varnish (imported from Germany)	308
Factory overheads:	
Rent and rates	400
Depreciation of machinery	380
Direct labour	<u>600</u>
Ex-works cost	4 093
Factory profit is 25%	<u>1 023</u>
Ex-works price	<u>5 116</u>

Calculations:

$$\begin{aligned}
 \text{(a)(i) Import material content} &= \frac{\text{value of non originating material}}{\text{Ex-works price}} \times 100 \\
 &= \frac{1200+305+308}{5116} \\
 &= \frac{1813}{5116} \\
 &= \underline{\underline{35\%}}
 \end{aligned}$$

Origin rule for Chapter 94 limits non-originating materials to 60% of ex-works price.

Therefore, in this instance, the tables qualify for a SADC Certificate of Origin.

2.6.1.2.2 Material Content by Weight

Formula:
$$\frac{\text{Weight of non originating material} \times 100}{\text{Weight of the finished product}}$$

Example:

A 100 gram pack of black tea (HS Code 09.02) is manufactured from:

35g of non-originating black tea valued at 55 Currency Units;	
<u>65g of originating tea</u>	<u>valued at 45 Currency Units.</u>
Totals 100g	100 Currency Units

Explanation:

The rule for Heading ex 09.02 (Black tea) states:

“Manufacture in which the weight of the materials used does not exceed 40% of the weight of the product”.

In the given example non-originating black tea weighs 35g out of 100g which equals 35%. This is within the maximum limit therefore the tea is originating in a SADC Member State.

2.6.1.3 Specific Process Rule

Introductory Notes in Appendix I to Annex I of the SADC Protocol on Trade are provided as either alternatives or additional to rules specified against each product in Appendix I to Annex I.

Example:

Introductory Notes 7 in Appendix I to Annex I of the SADC Protocol on Trade is dedicated to give alternative criterion to the rules shown against Headings in Chapters 28 through to 38 as appropriate. The rules are based on chemical processes that are regarded as sufficient working or processes for purposes of SADC Rules of Origin.

Introductory Notes 8 in Appendix I to Annex I of the SADC Protocol on Trade gives conditions to be fulfilled additional to the rules shown against Headings of Chapter 87. The conditions are based on specified working or processes that have to be undertaken in a Member State for the final product to be regarded as having undergone sufficient working or processing for purposes of SADC Rules of Origin.

2.6.1.4 Value Tolerance

The value tolerance is meant to provide relief when a product does not qualify as originating only because of restriction in the use of some non-originating material rule set out in the list

Provided that the value tolerance does not result in the value of non-originating materials exceeding the percentage limit specified in the rule.

The value tolerance is applicable on all goods other than textiles (Chapters 50 to 63 of the HS), vehicle (Chapter 87) and goods of Chapter 98, where applicable in a Member State.

Example.

(b) Curry (HS Code 09.10) manufactured in a Member State:	
Non-originating cloves	13
Wholly produced other spices in a Member State	40
<u>Wholly produced cloves in a Member State</u>	<u>47</u>
<u>Total</u>	<u>100</u>

The rule in Appendix I to Annex I requires that cloves be wholly produced. However by application of Rule 3 in Annex I to the Protocol on value tolerance the 13% of non-originating cloves can be tolerated as it is within the 15% value tolerance.

The curry would be regarded as originating in a SADC Member State.

(c) Embroidered girls' dresses of Heading 6204:	
Non-originating unembroidered fabric	38.00
Non-originating buttons, slide fasteners (Ch 96)	3.00
<u>Materials, labour etc of a Member State</u>	<u>59.00</u>
<u>TOTAL Ex-works price</u>	<u>100.00</u>

Is this a SADC originating product? No.

Explanation:

The rule states:

- Manufacture from yarn or
- Manufacture from unembroidered fabric provided the value of the **unembroidered fabric** used does not exceed 40% of the ex-works price of the product.

Whereas Introductory Note 6.2 in Appendix I to Annex I allows a tolerance of 8% for goods of Chapters 50 to 63, Introductory Note 6.3 in Appendix I to Annex I requires that all non-originating materials (including buttons and slide fasteners in this instance) be considered in the maximum content of non-originating materials.

Further in applying a value tolerance Rule 2.3 in Annex I to the SADC Protocol on Trade does not permit that application of the tolerance rule should result in the maximum content of non-originating materials being exceeded.

Therefore the product in this example would fail to fulfill the SADC Rules of Origin as specified in Annex I to the Protocol.

2.6.1.5 Cumulative Treatment

The SADC Member States are regarded as one territory for purposes of implementing the provisions of Annex I to the SADC Protocol on Trade.

That means that for purposes of determining origin of goods in SADC the Member States are treated as if they were one country.

Therefore cumulation occurs when a product is manufactured from materials or semi-finished goods that have acquired originating status in one or more Member States.

This is when two or more countries have taken part in the production of goods from either non-originating or originating materials provided that:

- i. Where non-originating materials are used the origin of the goods shall be determined according to substantial working or processing criterion.
- ii. Where originating materials are incorporated into the product they shall be considered as materials originating in the Member States.

Whenever originating status is claimed on the basis of cumulative treatment for any product, the exporter shall in addition to any other documentation that may be specified elsewhere in Annex I or its Appendices, keep available for inspection all appropriate records to prove the working or processing would have been carried out in a Member State.] Incorporate in admin procedures.

Example 1: An engine of HS heading No 8407, for which the rule may state that the value of non-originating materials which may be incorporated may not exceed a certain percentage of the ex-works price, is made from 'other alloy steel roughly shaped by forging' of heading No ex 7224.

If this forging has been forged in the Region from a non-originating ingot, it has already acquired originating status by virtue of the rule applicable to some products of HS heading 7224 in the list. The forging can then count as originating in the value calculation for the engine regardless of whether it was produced in the same factory or in another factory in another Member State. The value of the non-originating ingot is thus not taken into account when adding up the value of the non-originating materials used.

Example 2:

Fabric that is manufactured in Member State 1 from non-originating fibres will acquire originating status in that Member State if the list rules are fulfilled. When the fabric is exported to Member State 2 for the production

of garments, the garments will be accepted as originating in Member State 2 for purposes of intra-SADC trade.

2.7 Processes not Conferring Origin [Annex I Rule 3 of the SADC Protocol on Trade]

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

Where goods are wholly produced in the Member States, the following operations and processes listed below shall not affect the originating status of the goods:

1. Packing, packaging and other preparations or processes for shipping and for sales:
 - (a) packing, repacking or retail packaging, including bottling, placing in flasks, bags, cases and Boxes, fixing on cards or boards and all other simple packing operations;
 - (b) changes of packing and breaking up or assembly of consignments;
 - (c) operations to ensure the preservation of merchandise in good condition during transportation and storage, such as ventilation, spreading out, drying, freezing, making into a solution, removal of damaged parts and similar operations. This also includes loading, reloading or any other operation necessary to maintain the merchandise in good condition.

2. Mere dilution, blending and other types of mixing⁴:
 - a) simple mixing of ingredients imported from outside the Member States;
 - b) mere dilution with water or another substance that does not materially alter the characteristics of the material;
 - c) the addition of substances such as anti-caking agents, preservatives, wetting agent and the like;
 - d) diluting chemicals with inert ingredients to bring them to the standard degree of strength;
 - e) for the purposes of this sub-paragraph, dilution shall be taken not to include:
 - i. either mixing together of two bulk medicinal substances followed by the packaging of the mixed products into individual doses for retail sale; or
 - ii. the addition of water or another substance to a chemical compound under pressure which results in a reaction creating a new chemical compound.

3. Simple assembly or combining operations⁵.
4. Other minor operations:

⁴ Note exceptions provided for in Note 7 to Appendix I of Annex I to the SADC Protocol on Trade.

⁵ Note exceptions provided for in Note 8 to Appendix I of Annex I to the SADC Protocol on Trade. Refer to pp yyyy for explanation on Technical Notes in Note 8.

- a) ornamental or finishing operations incidental to textile production designed to enhance the marketing appeal or ease the product's case, such as simple hand dyeing and printing, embroidery and applique, pleating, hemstitching, stone or acid washing, permanent pressing, or the attachment of accessories, findings and trimmings. The rules of origin for products of HS chapters 50 to 63 exported to SACU by MMTZ Member States, according to the provisions of paragraph 2(c) of Rule 2, may allow minor operations that would otherwise be non-origin conferring processes;
 - b) dismantling or disassembly;
 - c) repairs and alterations, washing, laundering or sterilisation;
 - d) application of preservatives or decorative coatings, including lubricants, protective encapsulation, preservative or decorative paint or metallic coatings;
 - e) testing, sorting or grading;
 - f) marking, labeling or affixing other like distinguishing signs on products or their packages;
 - g) simple operations such removal of dust, sifting or screening, sorting, classifying and matching, including the making up of sets, goods, greasing, washing, painting or cutting up.
5. Slaughter of animals.
 6. Any process or work in respect of which it may be demonstrated, on the basis of the preponderance of evidence, that the sole objective was to circumvent these rules.
 7. A combination of two or more insufficient working or processing operations does not confer origin, regardless of whether the product-specific rules of origin have been satisfied or not.
 8. All the operations carried out in the Member States on a given product shall be considered together when determining whether they are to be regarded as insufficient within the meaning of this Rule.

2.8 Rule 5 of Annex 1 - Unit of Qualification

For purposes of determining the origin of goods each item in a consignment shall be considered separately except:

- a) Where the HS specifies that a group, set or assembly of article is to be classified within a single heading, such a group, set or assembly shall for the purposes of determining origin be treated as one article that determines classification in the HS;
- b) Tools, parts and accessories which are imported with an article, and the price of which is included in that of the article or for which no separate charge is made shall be considered as forming a whole with the article, provided that they constitute the standard equipment customarily included in the sale of articles of that kind;

Notwithstanding the provisions of sub-paragraphs (a) and (b) above, goods shall be treated as a single article if they are so treated for purposes of assessing Customs duties on like articles by the importing Member State.

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

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

2.9 Rule 6 -Separation of Materials

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

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

The accounting system to be applied shall:

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

2.10 Rule 8 - Treatment of Packing, Packaging Materials and Containers

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

2.11 Step By Step Process To Determine Origin Status Of Sufficiently Worked or Processed Goods

In determining whether a product qualifies to be considered as originating in a Member State under the SADC FTA Rules of Origin, the following Steps have to be adhered to:

Step 1

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

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

If **no**, proceed to Step 15.

Step 2

Was the process a substantial one (not one of the processes not conferring origin as listed in Rule 3 of Annex I to the Protocol)?

If **yes**, proceed to Steps 3, 4 and 5.

If **no**, proceed to Step 15.

Step 3

Determine the HS Code of the final product. The heading or at most, the six-digit subheading level is sufficient.

Step 4

Based on the HS Code, analyse the specific rule of origin in Appendix I of Annex I that applies to the product.

Step 5

Does the rule against the HS Code or Chapter in Appendix I to Annex I require a change in tariff classification?

If **yes**, proceed to Steps 8 and 9.

If **no**, proceed to Step 6.

Step 6

Does the rule against the HS Code or Chapter in Appendix I to Annex I require calculation of material content?

If **yes**, proceed to Step 10

If **no**, proceed to Step 7

Step 7

Does the rule specified against the HS Code or Chapter in Appendix I to Annex I require a specific process to be undertaken in a Member State?

If **yes**, proceed to Step 11

If **no**, proceed to Step 13

Step 8

Determine the HS Code of the materials imported from third countries.
The heading or at most, the six-digit subheading level is sufficient.

Step 9

Compare the HS Code for material used against the HS Code for the final product to determine whether change in tariff heading is met?

If **yes**, proceed to Step 14

If **no**, proceed to Step 12

Step 10

Call for cost analysis to test if the product meets the required material content.

Do the non-originating materials fall within the set limit in the rule?

If **yes**, proceed to Step 14.

If **no**, proceed to Step 12

Step 11

Does the process meet the required specific process in Appendix I to Annex I?

If **yes**, proceed to Step 14.

If **no**, proceed to Step 12

Step 12

Does the product fulfill the specified rule of origin after application of the technical notes (for example value tolerance, treatment of packaging etc) and / or Introductory Notes in Annex I and Appendix I?

If **yes**, proceed to Step 14.

If **no**, proceed to Step 13.

Step 13

Is there a valid derogation that benefits products from the exporting Member State when imported into the intended importing Member State?

If **yes**, proceed to Step 14.

If **no**, proceed to Step 15.

Step 14

The Certificate of Origin has to be completed as the product is originating in the Member State and be submitted to the Competent Authority for certification.

Step 15

The product does not qualify as originating in a SADC Member State.

The Competent Authority will reject application for a SADC Certificate of Origin.

2.12 SACU – MMTZ Derogation

MMTZ countries are exempted from fulfilling the set criteria as prescribed in Column 3 of the Appendix I of Annex I of the SADC Protocol on Trade on products of HS Chapters 50 to 63 of the HS excluding blankets when exported to SACU countries. Products under these HS Chapters have special rules provided for under Column 4 which are subject to time and quantitative limits as prescribed in Appendix V to Annex I of the SADC Protocol on Trade.

PART 3

CUSTOMS PROCEDURES

3.1 Introduction

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

The adherence to the provisions of the SADC Protocol on Trade and particularly Annex I by the Customs administrations, Traders and all stakeholders in Member States will give confidence to Member States that the SADC FTA is being effectively administered as intended. This will ensure that only goods originating in the SADC Member States benefit from preferential treatment.

To facilitate the implementation of the SADC Rules of Origin certain established procedures have to be adhered to.

3.2 Registration of Exporters and Producers

All exporters, whether being the producers of goods or not, wishing to export goods under preference in the SADC FTA should be registered with the relevant Designated Authority or Competent Authority in the Member State.

An application for registration should be submitted well in advance before any intended export is undertaken.

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

Registration of an exporter under the SADC FTA does not entitle the goods to automatic preferential treatment in the importing Member State. The Rules of Origin in Annex I must be fulfilled and normal Customs formalities must be completed and all requirements satisfied.

The following information, subject to requirements of the Member State's national legislation, should be included in the application for registration;

3.2.1 General requirement

(a) Name of the company

(b) Physical address of the company

(c) Contact details: contact person, telephone number, fax number, e-mail address, etc.

(d) List of products intended for export and their HS Codes

3.2.2 Requirements for exporters of wholly produced goods:

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

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

3.2.3 Specific information required for manufacturers:

- (a) Production capacity of the company
- (b) Quantity exported as percentage of total production
- (c) Export markets (estate the Member State)
- (d) Sketch plan of the factory showing layout of machinery
- (e) Step-by-step description of the manufacturing process for each product
- (f) Factual details to support the origin criterion being applied for. (e.g. cost analysis for each product, details of the materials used)
- (g) Certificate of Incorporation (or any other evidence) to show that the company is registered and operates within the territory of a Member State
- (h) Import documents, where applicable (e.g. goods declaration, invoice, SADC Certificate of Origin for purposes of cumulation, etc. for materials imported by applicant)
- (i) Purchase invoices for locally obtained materials and for imported materials purchased locally
- (j) List of employees involved in the manufacture of the product(s)
- (k) Wage sheets and job descriptions for the employees directly involved in the manufacture of the product(s)
- (l) Proof of overhead costs (e.g. rent bills, electricity bills, other utility bills, etc.)
- (m) Proof of allocation of depreciation or lease agreement(s) for machinery used in production of the product(s)
- (n) Any other documents that may be required by the designated authority.

3.2.4 Specific information for Exporters who are not producers or manufacturers:

In the case of exporters who are not the producers or manufacturers of goods being exported (e.g. commodity brokers, distributors etc.) the following documents will be required:

- a) a formal application to the competent authority;
- b) Declaration by the Producer whose products have already been approved; and
- c) Any other documents that the competent authority may require.

A specimen of the Declaration by the Producer is in Appendix III of Annex I to the SADC Protocol on Trade.

3.3 Processing of an application for registration of exporters

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

The purpose of the visit would be to conduct a physical inspection of the establishment and witness the process of production.

3.3.1 Producers of Wholly Produced Goods

In the case of exporters of wholly produced goods, registration shall be effected there and there where the conditions/requirements stipulated under 3.3 above are fulfilled.

3.3.2 For manufacturers, who are exporters:

- a) The production process carried out shall not be one of those listed in Rule 3 of Annex I of the SADC Protocol on Trade.
- b) The requirements of the criteria being applied must be verified by the officers of the competent authority (i.e. material content percentage, Change of Tariff Heading or Specific processing).
- c) If the product(s) meet the requested criteria, the applicant will be registered in a register for exporters.
- d) A registration number will be allocated to each registered exporter.

Upon registering the exporter communication confirming the registration and the list of products to be exported will be issued.

The registration will facilitate the issuance of Certificates of Origin for all exports of the listed products by the registered exporter.

The registration confirmation will contain the following details:

- a) Exporter's name
- b) Exporter's registration number
- c) Description and HS code of the approved products
- d) Origin criterion applying to each product (e.g. Wholly Produced (P) or Substantial Processing (S))

Once an exporter is registered the details will be distributed to all offices of the designated authority and the Customs authority within the Member State.

3.4 Procedure for adding new products or amending any details after registration

It is possible for a registered exporter to add more products to the list of approved products or to change the information on which registration was based (e.g. de-listing some products, sourcing different materials or same materials but from different countries).

The exporter shall be required to apply to the competent authority for a review and confirmation of the registration. The review may entail adoption of the registration procedure detailed in 3.2 above.

Once the competent authority has approved the review an updated registration will be issued to the exporter and distributed to all Customs offices or designated regional or local office.

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

3.5 Procedure by an exporter to obtain a Certificate of Origin

An exporter in a SADC Member State intending to export goods to another Member State and desiring to have such goods granted preferential treatment in the importing Member State shall obtain a Certificate of Origin from the designated or competent authority in the exporting country.

The Certificate of Origin, when presented by the importer to the Customs Authorities in the importing Member State shall serve as evidence of the originating status of the goods and enable them to be accorded preferential treatment .

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

- a) Ensure that the product(s) for which a Certificate of Origin is requested have been approved.
- b) Complete a Certificate of Origin for each consignment based on the registration issued by the designated authority.
- c) Quote the registration number in the appropriate Box of the Certificate of Origin.
- d) The export declaration should be processed by the Customs authority to facilitate issuance of the Certificate of origin.
- e) The export declaration processed by Customs, together with the completed Certificate of Origin and other supporting documents should be submitted to the Competent Authority for certification .

3.6 Who should complete the SADC Certificate of Origin?

The exporter or authorized agents should complete the Certificate of Origin. The person completing the Certificate of Origin must enter all the information required in Boxes 1 to 11 on the Certificate of Origin, except Boxes 3 and 5. Boxes 5, 12 and 13 are reserved for official use.

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

Any unused spaces on the Certificate should be crossed out in such a manner as to prevent any unauthorised additions.

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

Box

Box 1: Exporter

Details of the registered exporter, who may be a natural or legal person a Member State., In addition to the name and address of the exporter, the registration number should be inserted.

Box 2: Consignee

Details of the consignee in the importing Member State.

Box 3: Country reference number (Leave out).

The country reference number of the Certificate will be pre-printed by the Member States.

Box 4: Particulars of Transport

Where known, the details of transport used to ferry the goods from the exporting Member State to the importing Member State must be entered Box

Box 5: For Official use

The designated competent authority can use this Box to enter any pertinent information regarding the export shipment.

For example:

- (i) where SADC originating goods are re-shipped from one Member State to another, the serial number of the Certificate of Origin issued by the first exporting Member State may be endorsed together with the word “Replacement”; or
- (ii) endorsements of whether the Certificate is a duplicate or replacement or issued retrospectively.

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

Marks and numbers

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

If the packages are not marked, state “No marks and numbers” or :”As addressed”

The quantity stated must agree with the quantities on the invoice

No space must be left between entries on the Certificate.

Number and kind of package:

This refers to, for example, 100 Boxes, 5 drums, 600 bags, e.t.c.

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

Description of goods:

Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified and classifiable in the HS.

If both originating and non-originating goods are packed together, describe only the originating goods and add at the end “Part contents only”.

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

Box 7: Customs Tariff

Insert HS code only up to the 6-digit level.

Box 8: Origin Criterion

The specific qualifying criterion under Rule 2 of Annex I of the SADC Protocol on Trade must be entered in this Box. For this purpose, the following letters should be used against each item entered in the certificate, as appropriate.

“P” – for goods wholly produced;

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

Box 9: Gross weight or other quantity

Insert weights and other measures in metric system.

Box 10: Invoice no. and Date

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

Box 11: Declaration by Exporter/Producer/Supplier

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

The signature must not be mechanically reproduced or made with a rubber stamp, as by signing the certificate, the exporter declares that the goods described in Box 6 qualify as SADC originating products. The initials and surname and designation of the person signing the certificate must be stated below the signature.

Box 12: Certification of Origin

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

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

Box 13: For Customs purposes

The Customs authority will insert the export document number and date, name of Customs office of issue, country and date, officer's signature and date stamp.

NOTE:

The SADC Certificate of Origin shall be rendered invalid –

- (a) If any entered particulars are incorrect and not in accordance with the SADC Rules of Origin;
- (b) If it contains any erasures or words written over one another;
- (c) If altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are initialed by the person who completed the certificate and endorsed by the officer who signs the certificate

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

3.8.1 Issuance of SADC Certificates of Origin

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

3.8.2 Authenticity of Origin

The SADC Certificate of Origin must be verified and issued by the Designated Authority in the exporting Member State.

A list of Member States' Competent Authorities is provided in Appendix B of this Manual. Each Member State is obliged to submit specimen signatures and date stamps of its authorized officers (signatories) to the Secretariat for distribution to other Member States.

The certificate must be signed by an authorized signatory in the exporting Member State. In addition it has to be stamped with an origin verification stamp. The Certificate of Origin should be attached to the import declaration to enable the Customs authorities of the importing Member State to grant preferential treatment to the consignment.

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

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

The designated competent authority will confirm:

- a) that the Certificate of Origin has been completed in triplicate;
- b) that the all Boxes of the Certificate are correctly completed.;
- c) that the exporter is registered;
- d) that the product(s) is/are approved and they appear on the registration record;
- e) that the exporter's registration number has been entered in the appropriate Box of the Certificate. That is in the space in the top right hand corner of the Certificate shown as "Ref. No...."
- f) that the origin criterion being claimed is correct as per registered;
- g) that the particulars entered in the Certificate are the same as those in the commercial invoice;
- h) that the authorized official authenticates the Certificate with an official date stamp, origin verification stamp and signs the certificate;
- i) The stamp to be used is the one whose impression would has been circulated to other SADC Member States. Similarly, the official signing the certificate should have had his / her name and signature circulated to other Member States.

NOTE: Endorsement by Customs in Box 13 should be the last one in the processing and issuance of the Certificate.

3.8.3 Distribution of the Certificate of Origin

Once the Certificate of Origin has been certified, it should be distributed as follows:

Original copy

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

Duplicate copy

This copy should be retained by the designated competent authority in the Member State of export.

Triplicate copy

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

3.9 Record Keeping

It is a requirement that records shall be kept as follows:

- i) Registered exporters are under legal obligation to keep adequate records of their activities. Such records include the following, among others:
 - (a) Copies of import goods declaration and supporting documents, in respect of imported materials used in the production of goods being traded in the SADC FTA;
 - (b) Orders received and fulfilled for delivery to customers in the SADC Member States;
 - (c) Records of purchases of materials from suppliers in the Member States;
 - (d) Accounting records to support application the origin criteria being claimed;
 - (d) Copies of the SADC Certificates of Origin that would have been processed by the designated authorities;
- ii) Importers and exporters are required to keep records for a minimum period of five years from the date of the transaction indicated on the Certificate of Origin to which they relate.
- iii) Competent Authorities in the exporting and importing Member States should retain copies of Certificates of Origin and other documents in respect of goods traded under the SADC FTA for a minimum of five years.

3.10 Re-consigning of SADC originating goods and issue of replacement Certificates

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

The replacement Certificate of Origin shall be regarded as the definitive Certificate for the products to which it refers. It shall be issued on the basis of a written request by the person re-consigning the goods to another Member State.

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

The name of the person re-consigning the goods to another Member State shall be entered in Box 1 of the replacement Certificate of Origin.

The name of the final consignee shall be entered in Box 2 of the Certificate of Origin .

All particulars of the products as shown on the initial Certificate must be transferred to Boxes 4 to 9 of the replacement Certificate.

Details of the reissued invoice(s) must be given in Box 10 of the replacement Certificate.

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

The responsibility of the competent authority is confined to the issue of the replacement Certificate. The particulars in Boxes 11 and 12 concerning the country of origin shall be taken from the initial Certificate being replaced.

The person re-consigning the goods to another Member State shall sign Box 11. The person re-consigning the goods to another Member State who signs the replacement Certificate of Origin Box in good faith shall not be held responsible for the accuracy of the particulars entered on the initial Certificate.

The competent authority, which is requested to issue a replacement Certificate, should ensure details such as weights, marks and numbers and nature of goods shown on the initial Certificate of Origin correspond to those on the replacement Certificate(s).

The designated authority shall keep the original copy of the initial Certificate of Origin attached to the duplicate copy of the replacement Certificate of Origin for at least five years.

3.11 Issuance of retrospective and duplicate Certificates of Origin

Certificate of Origin may, in exceptional circumstances, be issued after exportation of the goods if it is demonstrated to the satisfaction of the Designated Authority that the Certificate was not issued at the time of exportation because of errors or involuntary omissions or special circumstances or that the Certificate was issued but was not accepted at importation in the destination Member State for any reasons.

When such a Certificate is issued retrospectively the inscription 'ISSUED RETROSPECTIVELY' shall be inserted in Box 5.

A duplicate Certificate may be issued where the original would have been stolen or destroyed. The Certificate shall be made on the basis of the export documentation in possession of the Customs Authority at the place where the goods were entered for export. The inscription 'DUPLICATE' shall be inserted in in Box 5 of the Certificate of Origin.

The exporter shall apply for a duplicate Certificate of Origin in writing to the Designated Authority where the initial Certificate had been issued and give reasons why a duplicate Certificate is requested. He shall also provide the number and date of the initial Certificate of Origin.

3.12 Responsibilities of the competent authority in the importing Member State

3.12.1 Dissemination of information

The designated authority in each Member State should promptly distribute information about the SADC FTA to all Customs offices in the same way it distributes the names and specimen signatures of the authorized signatories and stamp impressions received from other Member States.

This information will facilitate the granting of preferential treatment on goods certified to be originating in other Member States.

For goods to be admitted in a SADC Member State as originating in another Member State, the importer of the goods concerned must present to the Customs authorities, along with the requisite goods declaration, a Certificate of Origin issued by the designated authority of the exporting Member State.

3.12.2 Goods and documentary check

The Customs authority of the importing Member State will undertake the following:

- i. Compare the impression of the stamp and signature of the designated authority appearing in Box 12 of the Certificate of Origin presented by the importer with those notified by the exporting Member State.
- ii. Confirm that the particulars of goods given in the Certificate of Origin correspond to those shown on the invoice and the Customs goods declaration.
- iii. Where the authorities are satisfied that the goods to which the documents relate are eligible for preferential treatment as claimed, they will be so admitted.

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

A valid certificate of origin should satisfy the following conditions:

- (a) It should have been issued by a Designated Authority in the exporting Member State.
- (b) It should contain all the particulars necessary for identifying the product(s) to which it relates.
- (c) It should have been completed in print or legibly handwritten in ink.
- (d) It contains no errors. An authorised signatory of the designated issuing authority of a Member State should counter initial and date stamp the Certificate to validate any cancellations.
- (e) It shall certify unambiguously that the product(s) to which it relates originated in a specific SADC Member State.
- (f) It should bear the official stamp and an original signature of an authorised signatory of the designated authority.
- (g) It should bear an original signature of the exporter.
- (h) It should bear a serial number in the top right hand corner.

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

Where the Customs authority of the importing Member State decides to suspend the granting of preferential treatment to the goods concerned while awaiting the results of the verification, the importer should be allowed to take delivery of the goods, provided adequate security would have been given for any duty that might be payable. The security given should be enough to cover only the duty at stake.

3.18 Infringement and Penalties

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

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

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

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

PART 4

4. ADMINISTRATION AND ENFORCEMENT

4.1 Structure and core competences of the competent authority

The effective implementation of the SADC Rules of Origin by the Member States requires that the issuing of Certificates of Origin and the verification of these Certificates be recognized as two distinct functions.

These functions should be carried out in the Member States by appropriately designated authorities.

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

The controls that are implemented under the SADC FTA must, therefore extend from the very early stage of the importation of inputs going into production in Member States, through the production process(es) carried out and the actual exportation and importation of the finished goods.

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

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

4.1.1 Organizational structure

It is desirable, for the effective implementation of the Rules of Origin in the SADC FTA that Member States endeavour to have the following units established within the designated competent authority's administrative structures.

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

i. Head Office and its functions

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

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

The functions of Head Office include:

- (a) Preparing the national laws and regulations in accordance with the decision of SADC Council of Ministers on SADC Rules of Origin.
- (b) Maintaining the laws and regulations up to date on the basis of policy decisions made by the Council of Ministers. To achieve this objective, Head Office personnel should actively participate in SADC meetings, especially, meetings of the Working Groups of Experts. This ensures that national positions and requirements are taken into account.
- (c) Preparing national administrative guidelines on the interpretation of the laws and regulations for use by officials of the designated authorities..
- (d) Preparing and issuing instructions to ensure uniform application of the provisions of Annex I of the SADC Protocol on Trade in the Member State.
- (e) Handling appeals against decisions taken by regional or local officials and any difficult cases regarding the SADC Protocol on Trade.
- (f) Registration of exporters and issuing origin rulings, where applicable.
- (g) Maintaining the national database of all registered exporters

- (h) Ensuring that the details of stamps and signatures of authorized signatories are maintained up to date.
- (i) Sending details of the official Origin Verification stamps (used in certification) to other Member States through the SADC Secretariat. Any changes made should also be notified accordingly.
- (j) Sending the names and signatures of officials authorized to sign SADC Certificates of Origin on behalf of the Designated Authority
- (k) Conducting origin verification as requested by importing Member States.
- (l) Communication with designated authorities in other Member States and the Secretariat on matters relating to the SADC Protocol on Trade especially on Rules of Origin.
- (m) Providing or arranging training to other officials of the designated authority as well as the private sector.

ii. Designated Regional / Local offices and their functions

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

The functions of the Regional / Local offices include:

- (a) Maintaining regional data bases of registered exporters;
- (b) Conducting inspections and verification exercises of applicants and submitting recommendations to the Head Office Origin Unit;
- (c) Handling regional enquiries; ,
- (d) Carrying out assignments as directed by Head Office;
- (e) Giving guidance and advice to stakeholders e.g. potential and registered exporters.
- (f) Conducting origin verification requests from other Member States. This task is carried out with authority from Head Office and the results of such investigations should be forwarded to Head Office for onward transmission to the requesting Member State.

4.1.2 Core Competences of the Competent Authority:

The issuance and verification of the SADC Certificates of Origin by designated authorities demands that their officials are competent to implement all the provisions of Annex I of the SADC Protocol on Trade with special emphasis on Rules of Origin.

For purposes of determining the origin of goods in Rule 2 of Annex I of the SADC Protocol on Trade, designated authorities should be competent in the use of the HS and the WTO Agreement on Customs Valuation. Officials of such designated authorities should therefore have adequate expertise in:

- (a) Classification of goods using HS;
- (b) Customs Valuation of imported goods; (WTO Agreement on Customs Valuation);
- (c) Accounting knowledge
- (d) Officials of the competent authority should have basic Accounting knowledge, which is necessary for the application of Rule 2 on Rules of Origin.
- (e) Knowledge of the SADC Protocol on Trade and its Annex I on Rules of Origin in particular;
- (f) Technical information on manufacturing processes

They should be able to collect all technical information from manufacturers, which they can use to verify if manufacturers meet the requirements of the Rules of Origin the bases of which will be used consider eligibility of the exporters' products when being imported into other Member States.

- (g) Investigation and control of export products

National legislation should provide competent Authorities with the legal authority to call for any document relating to the export of SADC originating products.

They should also have the legal powers to inspect goods as well as records and accounts kept by the exporter to verify the originating status of goods.

The designated authority must have the authority to request for information and exchange such information in origin verification cases with other designated authorities in other Member States.

The designated authority must also be empowered to investigate and establish offences of origin fraud and prosecute offenders.

National legislation provisions relating to offences and penalties vary considerably from one Member State to another. It is recommended that national legislation in all Member States make provision for deterrent penalties in cases of serious irregularities or falsification of the originating status of goods in order to discourage malpractices by traders.

(h) Co-operation with other agencies

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

4.2 Mutual Assistance and Customs Co-operation

Competent authorities in Member States are expected to regularly exchange information on fraudulent or improper claims of SADC origin status by traders. Such information, which may be detected by any Customs Administration, should be circulated on a confidential basis and compliance with national laws through the SADC Secretariat for the information of the other SADC Member Administrations.

Where the Competent Authority responsible for certifying SADC Certificates of Origin is an agency other than the Customs Authorities, an effective collaborative relationship between the two bodies should be developed for the effective performance of the certification and verification function.

The Competent Authority shall also co-operate with other agencies which can provide information and assist it to effectively carry out its mandate.

4.3 Post-clearance audit / examination

In the spirit of trade facilitation Customs administrations may authorize their local offices to clear a considerable part of all exports after a summary check only based on risk management profiling system.

Risk management pre-supposes that a post clearance check may be conducted well after the goods would have been released. Post clearance audit or examination consists of carefully checking whether the information made available at the time of clearance would have been accurate as far as the originating status of goods, based on the SADC Rules of Origin, is concerned.

The documents to be perused during the audits would include those presented at time of clearance, import and export registers and all other documents connected with the importation and exportation of the particular goods.

In exercising risk management, over the flow of trade between Member States in the SADC FTA, Customs Administrations will endeavour to strike a balance between promoting intra-SADC trade, on one hand and, the need to guard against Customs fraud.

After release of the goods that would have been accepted to be originating in a SADC Member State, the Customs authorities in the importing Member State may select a reasonable number of consignments and subject these to thorough examination. This may include going all the way through the origin verification process to test the authenticity of the claim to SADC originating status. In making these random or targeted post-verification checks, selection of the transactions to be investigated can be by the sensitivity of certain kinds of goods where there may be a greater inducement to evade Customs controls, by the known past record of suspect traders or any other compliance risks .

4.4 Origin Verification Procedures

4.4.1 Reason for verification

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

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

4.4.2 Procedure for Request for verification

- a) Where the Customs authorities of the importing Member State desire to verify the correctness of the evidence furnished to them by the importer, they may request the submission of further supporting evidence from the importer in that Member State.
- b) When requesting for further supporting evidence from the exporting Member State, the Customs authorities of the importing Member State will write a letter to the Customs authority in the exporting Member State and attach the SADC Protocol on Trade Verification of Origin Questionnaire. (See specimen copies of the letter and questionnaire attached as **Appendix E**)
- c) Any documents and information obtained suggesting that the information given in the Certificate of Origin is incorrect will be attached to the letter and forwarded to the designated authority of the exporting Member State in support of the request for verification.

- d) Requests for verification will be sent to the competent Authority of the exporting Member State within 48 hours of raising a query on SADC origin status. A copy of the “query” form should at the same time be given to the importer. A security for duties at stake may be collected upon release of the goods.
- e) Where additional information will be required, the Customs authority shall clearly specify the nature of the additional information required to resolve the query.

4.4.3 Procedure for the importer if verification process is delayed

Where the Customs authority in an importing Member State decline to accord preferential treatment on goods claiming origin status in a Member State but fail to activate the verification procedure, the importer of the goods may invoke the SADC Origin Verification Procedure. That is to say the importer may approach a designated authority, or lead agency within government that co-ordinates SADC matters for intervention. At the same time the importer shall advise the SADC Secretariat of the complaint.

The importer shall provide full details of the consignment including:

- a. The nature of goods;
- b. The number and kind of packages;
- c. The value;
- d. The country of origin and country of exportation;
- e. The name and address of exporter; and
- f. The transport details.

The importer shall also indicate the reason given for refusal to release the goods under preferential treatment on goods claiming origin status in a Member State.

4.4.4 Action by designated authority upon receipt of verification request

i) Where no additional information is requested

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

The Customs authority shall complete Part B, “RESULTS OF VERIFICATION”, at the back of the SADC Certificate of Origin and fill in the appropriate Box as to the originating status of the goods under consideration, stamp, sign and return the form.

ii) Where additional information is requested

Upon receipt of the request for additional information, the Customs authority shall:

(a) Call upon the exporter to furnish information required in the questionnaire;
and

(b) Ensure that the exporter has signed the Declaration in section V of the questionnaire.

(c) If the authority is satisfied that the form has been properly completed and signed by the exporter, the authority shall stamp and sign the Certificate of Origin and return the completed questionnaire promptly to the Customs authority of the importing Member State.

4.4.5 Procedure where disagreement persist about the originating status of goods

Normally, the raising of a query by the Customs authority of the importing Member State and the provision of a response by the Customs authority of the exporting Member State verifying the evidence of origin should dispose of the query. This will either be by confirming or rejecting the claim of originating status in the exporting Member State. However where doubts persist the following may be undertaken:

4.4.5.1 Joint-on-the-spot investigation

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

At the initiative of either the importing or the exporting Member State, arrangements shall be made within reasonable time⁶ for representatives from both sides to meet in the Member State where production is carried out to examine together “on-the-spot” evidence on which the claim of SADC originating status is based.

The two parties shall undertake the following, among others, before carrying out the joint investigation:

- a) Agree on the dates on which to carry out the joint investigation.
- b) The Customs authority of the importing Member State should provide the Designated Authority in the exporting Member State with the names of the its officials who will participate in the investigation so that it can arrange for their transport and accommodation in the exporting Member State. However, the visiting delegation shall meet its accommodation and other travel expenses.

⁶ Reasonable time that constitutes minimum of delay shall generally be taken as 30 days from the date the exporting Member State receives a request for verification of origin. See Article 6.3 and 6.4 of Appendix I of Annex II for guidelines on time lags.

- c) The Designated Authority in the exporting country shall assist the visiting delegation with visas and any other travel requirements.
- d) The Designated Authority in the exporting country shall also ensure that the visiting delegation has access to its records pertaining to the registered exporter whose products are to be investigated.
- e) Depending on the origin criterion that would have been claimed for the goods under investigation and the nature of the production process involved, the two Customs authorities may agree to co-opt independent technical experts to assist in the investigations. The Customs authorities will share any costs incurred in co-opting the experts in any agreed format.

Mutual co-operation and consultation between the competent Authority and registered exporter is important for successful verification to be carried out. It is a requirement that the registered exporter be informed of the intended visit. The exporter shall furnish the Customs Authority in the exporting Member State of their concurrence, in writing, for the joint-on-the-spot verification exercise.

Before leaving for the visit, the investigating officials shall:

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

4.4.5.2 Results of the joint investigation

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

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

The SADC Secretariat should, in turn, notify the other SADC Member States of the results.

Normally, such joint-on-the-spot investigations should help in resolving the origin query. However, where the two Customs authorities fail to agree, Member States should adopt the dispute settlement procedures covered in paragraphs that follow.

4.4.5.3 Verification Visit Report

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

- (a) Date(s) of visit
- (b) Name and position in the exporting company of person(s) met.
- (c) Registered exporter's line of business e.g. manufacturer, distributor, retailer etc.
- (d) Confirmation that the signature in Box 11 of the Certificate of Origin was made by an officer or authorized representative of the exporting company being investigated, and that the signatory was in full possession of the facts and entitled to sign the certificate.
- (e) Principal Member States and other countries to which the goods are exported
- (f) Main types of goods imported by the registered exporter, e.g. raw materials, finished goods, etc.
- (g) Purposes for which the goods are imported, e.g. own use, further manufacture, resale as imported;
- (h) Details of procedures undertaken in auditing records and documents, whether held in computer or not.
- (i) Details of any irregularities found in the course of the investigation.
- (j) Any specific action taken during engagement with the registered exporter
- (k) Any other relevant information.

4.5 Verification results

Verification results should be forwarded to the Customs authority of the exporting Member State, as soon as possible, but not later than twelve weeks from the date of concluding the joint investigation. Where the results are not received within the twelve weeks, the SADC Secretariat should be notified.

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

on the goods in question will forthwith be denied by the Customs authorities of the importing Member States.

4.6 Dispute settlement procedure

Any dispute between Member States relating to the application of the provisions of the Rules of Origin shall, in so far as is possible, be settled by negotiation between the Customs authorities of the Member states concerned.

In all cases, the settlement of disputes between the importer and the Customs authorities of the importing Member State should be dealt with under the laws of that Member State.

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

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

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

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

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

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

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

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

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

Role of the SADC Secretariat

The SADC Secretariat provides technical support and advice regarding the interpretation of the SADC Protocol on Trade and the SADC Rules of Origin. Member States are obliged to submit lists of their authorized signatories as well as date stamp impressions for certification of origin to the Secretariat. Once received from a Member State these will be circulated to other Member States for use in confirming validity of SADC Certificates of Origin accompanying goods into the importing Member State.

The Secretariat should be kept aware of the instances of the queries and subsequent results of verification initiatives among Member States. This will be through the provision of copies of all query forms, investigation reports and final results thereof that are exchanged by the Customs authorities in the Member States., This information will be circulated to other Member States by the Secretariat.

Appendix A

SADC ORIGIN REGISTRATION FORM (referred to in Part 3.2)

Origin Ruling Number (optional):/SADC/.../... **Effective Date:**

Exporter: **Registration number:**

Exporter's address:

<u>Description of goods</u>	HS Code	<u>Origin criteria</u>

New Ruling (insert in index) / Replaces Origin Ruling number:.....
(Delete inapplicable)

Appendix B

DESIGNATED COMPETENT AUTHORITIES OF MEMBER STATES

Member State	Designated Authority	Competent Authority
Angola		Customs Authority
Botswana		Customs Authority
Congo (DRC)	Ministry for Trade	
Lesotho		Customs Authority
Madagascar		
Malawi		Customs Authority
Mauritius		Customs Authority
Mozambique		Customs Authority
Namibia		Customs Authority
Seychelles		
South Africa		Customs Authority
Swaziland		Customs Authority
Tanzania		Chamber of Commerce
Zambia		Customs Authority
Zimbabwe		Customs Authority

SADC CERTIFICATE OF ORIGIN

Registration NO:..... 1. Exporter (Name and Office Address)		3. Country Ref. No. (e.g. ZW 000001) SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) CERTIFICATE OF ORIGIN			
2. Consignee (Name and Office Address)		4. Particulars of transport: (Optional)			
5. For official use only					
6. Marks and numbers; number and kind of package, description of goods:		7. Customs Tariff No.	8. Origin Criterion (See overleaf)	9. Gross weigh other quantity	10. Invoice No. and date
(i) Marks and Nos	(ii) Description of goods				
11. DECLARATION BY EXPORTER/SUPPLIER I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate, and are originating in (Country) Place and date: Signature		12. CERTIFICATION OF ORIGIN Declaration Certified: <div style="border: 1px solid black; width: 100px; height: 80px; margin: 0 auto;"></div> (Origin Stamp and Signature) Certificate of Customs or Other Designated Authority		13. FOR CUSTOMS PURPOSES Export Document No & Date: Customs Office: Country: Date: Full Name: Signature <div style="border: 1px solid black; width: 100px; height: 40px; margin: 0 auto; text-align: center;"> Stamp </div>	

<p>A. REQUEST FOR VERIFICATION</p> <p>Verification of the authenticity and accuracy of this Certificate is requested for the following reasons:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p style="text-align: center;">..... (Place and date)</p> <p style="text-align: center;">..... (Signature and Stamp)</p>	<p>B. RESULT OF VERIFICATION</p> <p>Verification carried out shows that this certificate was issued by the Customs Office or designated authority indicated and that the information contained therein:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 10%; border: 1px solid black; height: 20px;"></td> <td style="text-align: center;">is accurate: or</td> </tr> <tr> <td style="border: 1px solid black; height: 20px;"></td> <td>does not meet the requirement as to the authenticity/accuracy</td> </tr> </table> <p style="text-align: center;">(delete whichever not applicable)</p> <p style="text-align: center;">Insert X in the appropriate Box</p> <p style="text-align: center;">..... (Place and date)</p> <p style="text-align: center;">..... (Signature and Stamp)</p>		is accurate: or		does not meet the requirement as to the authenticity/accuracy
	is accurate: or				
	does not meet the requirement as to the authenticity/accuracy				

4. If both originating and non-originating goods are packed together, describe only the originating goods and add at the end "Part contents only"

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

INSTRUCTIONS FOR COMPLETION OF THE SADC CERTIFICATE OF ORIGIN

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

Box 1
The exporter must be a natural or legal person in any of the Member States. In addition to the name and address of the exporter, the registration number should be inserted as well.

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

Box 3
Indicate the country code and the registration reference number.

Box 4
Where known, insert particulars of transport that will consign goods from exporting Member State.

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

Box 6
Enter item numbers and identifying marks and numbers on the packages in the space on the left-hand side of the Box.
▪ if the packages are not marked, state "No marks and numbers"; or
▪ "As addressed"
▪ the quantity stated must agree with the quantities on the invoice
▪ No space must be left between items.

NOTE:
1. Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate.
2. The goods must be identified by giving a reasonably full commercial description and in order for the appropriate HS Code to be determined.
3. For goods in bulk that are not packed, insert "in bulk"

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

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

Box 9
Insert unit of metric measurement applicable to the product in question as specified in the Customs Tariff Handbook.

Box 10
Invoice numbers and the dates must be reflected in this Box.

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

Box 12
This must be filled by Customs or any Designated Authority in the exporting Member State. The officer of the designated authority must print his/her initials and surname below his/her signature and date-stamp the Certificate in the space provided by imprinting thereon the special stamp issued to him/her for this purpose and has been circulated to the Customs Administrations in all Member States.

Box 13
The Customs Authority will insert the export document number and date and other particulars as required.

NOTE:
The officer must print his/her initials and surname below his signature and date

stamp the certificate.

6. The Certificate of Origin shall be rendered invalid –
- a) If any entered particulars are incorrect and not in accordance with the SADC Rules of Origin;
 - b) If it contains any erasures or words written over one another;
 - c) If altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are initialed by the person who completed the certificate and endorsed by the officer who signs the certificate

DECLARATION BY THE PRODUCER

I, _____ the undersigned, exporter of the goods described overleaf,
(Names in full)

do hereby:

DECLARE that the goods meet the conditions required for the issue of the attached SADC Certificate of Origin;

SPECIFY as follows the circumstances which have enabled these goods to meet the conditions for the issuance of the SADC Certificate of Origin:

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

SUBMIT the following supporting documents ⁽¹⁾

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

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

REQUEST the issue of the SADC Certificate of Origin for these goods.

.....
(Place and date)

.....
(Signature)

⁽¹⁾ For example, import documents, movement certificates, manufacture's declarations, etc. referring to the products used in manufacture or to the goods to be re-exported in the same state.



SADC PROTOCOL ON TRADE
QUESTIONNAIRE FOR THE VERIFICATION OF ORIGIN

This questionnaire is sent to you pursuant to the provisions of the SADC Protocol on Trade and its Regulations. The questionnaire will be used in determining if the

_____ (description of goods)

described on the SADC Certificate of Origin (number _____ dated _____ qualify under SADC FTA⁷.

Exporter of the imported goods.

- If you relied upon a Declaration by a Producer from the Producer to prepare the Certificate of Origin, please provide a copy and proceed to complete Section V.
- If you relied upon your knowledge of the goods, please complete the whole questionnaire.

Exporter / Producer of the imported goods.

Complete the questionnaire.

⁷ Additional information may be requested.

Section I ►

Production Process

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

Section II ► Non-Originating /Unknown Materials or Components

Provide the following information for each non-originating material or component or whose origin is unknown, used to produce the goods being verified⁸. If none were used, state NONE.

Description of material or component

HS Code⁹

Description of material or component	HS Code ⁹

⁸ Non-originating means a material or component which does not qualify under Rule 4 of Annex I of SFTA Rules of Origin.

⁹ Provide the six digit Harmonized System number.

Provide the following information for each material or component used to produce the goods being verified¹⁰. If none were used, state NONE.

Description of the material or component	Basis of Originating Status	Name and Address of the Supplier or, if known, Name and Address of the Manufacturer

Description of the material or component:

If the material or component is self-produced (self-produced material or component is a material or component that is produced by the producer of the good and used in the production of that good) and designated as an intermediate material¹¹, (intermediate material is self-produced material or component, designated by the producer, that meets the rules of origin of SADC FTA) and that is incorporated into the final good and place the letter “D” before the name of the material or component in the table. If the material or component is self-produced but not designated as an intermediate material, then each material used in the production of this self-produced material or component must be identified separately.

Basis of Originating Status:

¹⁰“Originating” means a material or component which does qualify under Annex I, Rule 4 of SADC Protocol on Trade.

¹¹ Intermediate material is self-produced material or component, designated by the producer that meets the rules of origin of SADC FTA.

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

Section IV ► Additional Questions	
1. Was the sale of the goods / material to a related person?	<input type="checkbox"/> yes <input type="checkbox"/> no
2. Was the value tolerance provision (SADC Protocol on Trade Rule 2.3) used to determine whether the goods being verified were originating?	<input type="checkbox"/> yes <input type="checkbox"/> no If yes, _____ %
3.	
4.	
5. Was the value of the goods calculated using accumulation? If yes, provide the name and address of each supplier	<input type="checkbox"/> yes <input type="checkbox"/> no

Section V ► Certification

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

Name(Print or Type)	Telephone Number / E-Mail	Company Name (Print or Type)

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

Appendix F

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

Reference:

Date:

Name and address of exporter/producer

SUBJECT:

Dear Sir/Madam

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

goods / material exported to _____, in (name of consignee) _____ on or about (name of country)

_____ accompanied by a SADC (specify date on declaration)

Certificate of Origin No. _____ dated _____ claiming the benefits of the Southern African Development Community Free Trade Area.

You have until _____ to return the completed and signed questionnaire to this office. You may fax or e-mail your response.

If you are unable to furnish a response by this date, please contact this office by mail, telephone, or by fax and advise accordingly.

If additional space is needed for your response, attach additional pages as may be needed.

When the verification is completed you will receive a written determination of the findings.

Where applicable, the producer of a verified material will also be notified of the results of the verification enquiry.

The confidential business information collected on the questionnaire may only be disclosed to those authorities responsible for the administration and enforcement of determinations of origin, and of Customs and revenue matters.

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

Yours faithfully,

Names in Full and Signature

(for : Name of Competent Authority in the Member State).

**EXAMPLES OF GOODS THAT ARE CONSIDERED ORIGINATING UNDER
DIFFERENT CRITERIA**

Part A

Examples and explanatory notes of goods that are regarded as wholly produced in the Member States:

Appendix I to Annex I - Rule 4 Paragraph 1

**(a) mineral products extracted from the ground or sea-bed of the
Member States;**

Example:

Mineral oils extracted at a location 10 sea (nautical) miles into the Indian Ocean off the coast of Member State X.

Can a SADC Certificate of Origin be issued in this instance?

Yes. The mineral oils, in this instance, shall be regarded as wholly produced in Member State X.

Explanation:

The territory of each Member State includes its territorial waters. This stretches 12 nautical miles (22.5 km) into the sea measured from the base lines determined in accordance with the UN Convention on the Law of the Sea.

(b) vegetable products harvested within the Member States;

Examples:

- (i) Vegetables grown in Member State S from seeds of non-SADC origin.
- (ii) A company in Member State X imports black carrot seeds from Europe. The company then plants the seeds, fertilizes and sprays them to make sure they grow. This is all done in the Member State X. The product are then harvested and dried to become Black Carrots which are exported to another company in Member State Y.

Can SADC Certificates of Origin be issued in these instances?

Yes. The in both instances the vegetables are regarded as wholly produced in the SADC Member States.

Explanation:

These are products of Section II (Chapters 6 to 14) of the HS. Examples are flowers, plants, fruits, grains etc. what matters is that product which is “harvested” in a Member State which in these case is the vegetable not the seed that was imported from a non-SADC Member State.

The same principle applies where plant cuttings, tubers, potato seed are imported for production of vegetables in a Member State. The final product being harvested in a Member State would be wholly produced there.

The term “there” means in the or that Member State.

(c) **live animals born and raised within the Member States;**

Examples:

- (i) One year-old live swine being exported to other SADC Member States. The swine was born in Member State A and imported into Member State B as one month old piglets for fattening and export thereafter.
- (ii) Day-old chicken hatched in Member State C, raised and slaughtered in Member state D for export to other SADC Member States after six weeks.

Can SADC Certificates of Origin be issued in both instances?

Yes. In both examples above the products being exported into other SADC Member States are regarded as wholly produced in the SADC Member States.

A SADC Certificate of Origin can be issued by the Competent Authority of Member States B and D.

Explanation

Both conditions of “born and raised” are mandatory. They have to be fulfilled within the Member States.

In terms of Annex I to the SADC Protocol on Trade all Members States are regarded as a single territory. Therefore the movements among Member States do not tamper with the origin of the goods or products.

The Certificate of Origin will show the origin as “wholly produced in the Member State in which the products were last grown”. That is the Member State in which the last stage of production took place.

Where the day-old chicken are hatched in a non-SADC Member State the live chicken and products thereof cannot be certified as originating in any of the SADC Member States.

(d) products obtained from live animals within the Member States;

Example:

Frozen pork obtained from swine described in (c) above.

Can a SADC Certificate of Origin be issued in this instance?

Yes. The pork is regarded as wholly produced in Member State B.

Explanation:

Where the live animal is accepted as wholly produced the products obtained from it are also wholly produced **unless** the list rules in Appendix I to Annex I require originating status based on a different criteria.

(e) products obtained by hunting or fishing conducted within the Member States;

Examples:

- (i) A fisherman has been fishing in a lagoon four nautical miles from the shore of a Member State X on his fishing boat. He has been using a fishing line of Asian origin and shrimps of unknown origin as baits. He intends to export the fish to Member State Y and has applied for a SADC Certificate of Origin.

Can a SADC Certificate of Origin be issued in this instance?

Yes. The products are obtained by fishing conducted there* (in a Member State).

Explanation:

Since fish was caught within 12 nautical miles from the seashore of a Member State, the catch is considered as wholly produced in that Member State.

* In determining the place from which goods originated, marine, river or lake products taken from the sea, river or lake or goods produced therefrom at sea or on a river or lake shall be regarded as having their origin in the territory** of a Member State and have been brought directly to the territory of the Member State.

** In Annex I to the SADC Protocol on Trade “territories” includes territorial waters.

- (iii) Trophy obtained from elephants that stampeded off a National Park in in non-SADC country into Member State T the same day some of them were shot by hunters.

Can a SADC Certificate be issued in this instance?

Yes. The products are obtained by hunting conducted there* (in a Member State).

Explanation:

International practice dictates that wild animals originate in a territory where they are found.

In this instance the hunting took place in a Member State. The trophy is thus obtained from the hunting that took place "there" – in a Member State.

- (f) products obtained from the sea and from rivers and lakes within the Member States by a vessel of a Member State;**

Example:

A fishing vessel registered in Member State M, sailing under a Member State N's flag, has been carrying fishing activities in the Pacific Ocean. The fishing vessel then lands in Member State N with a cargo of tuna that is intended for export to other SADC Member States.

Can a SADC Certificate be issued in this instance?

Yes. The tuna will be considered as wholly produced in the SADC Member States.

Explanation:

The vessel is registered in a Member State M

In addition the vessel has satisfied one of the optional requirements in that it is sailing under a flag of a Member State N,

Having satisfied the mandatory condition of registration in a Member State, the vessels also fulfilled any additional requirement as prescribed in Rule 2.1(a) as read with Rule 4.1(f); 4.2 and 4.3(a).

The fish (tuna) is regarded as originating in a Member State in this instance.

- (g) products manufactured in a factory of a Member State exclusively from the products referred to in sub-paragraph (f) above;**

Example:

A factory ship registered in Member State M, hosting a flag of and wholly controlled in Member State N, has been carrying fishing activities on off the coast

of in West Africa. The catch consisting of sardines which have then been gutted and chilled are then landed in Member State K.

Can a SADC Certificate be issued in this instance?

Yes. The sardines will be considered as wholly produced in the SADC Member States.

Explanation:

The sardines thus processed aboard that factory ship are considered as wholly produced even if they have been fished outside the SADC territory.

(h) used articles fit only for the recovery of materials, provided that such articles have been collected from users within the Member States;

Examples:

(i) Waste paper collected within Member State V for purposes of re-cycling into usable paper. All the paper is confirmed to have been originally imported from Asia.

(ii) A4 bond paper obtained from waste paper collected described in (i) above.

Can SADC Certificates of Origin be issued in both instances?

Yes. The waste paper and the A4 bond paper will be considered as wholly produced in the SADC Member States.

Explanation:

International practice dictates that waste materials originate in a territory where they are found.

In this instance the waste paper is collected in a Member State.

Products obtained from the waste paper that is considered “wholly produced” will automatically fall to be wholly produced products in terms of paragraph (n)(ii) below.

(i) scrap and waste resulting from manufacturing operations within the Member State;

Example:

Non-usable textiles , fibres, of no commercial value. The fibres were a result of the spinning of cotton fibres into yarn. The fibres for spinning into yarn were imported into Member State L from Europe.

Can a SADC Certificate be issued in this instance?

Yes. The non-usable textile fibres are will be considered as wholly produced in Member State L.

Explanation:

International practice dictates that waste and scrap that is a result of some manufacturing processes be considered as originating in a territory where the manufacturing took place.

In this instance the non-usable textile fibres are scrap and waste resulting from manufacturing operations within the Member State.

(j) goods produced within the Member States exclusively or mainly from one or both of the following:

- (i) products referred to in sub-paragraphs (a) to (i) above;
- (ii) materials containing no element imported from outside the Member States or of undetermined origin

Part B

Examples and explanatory notes of goods that are regarded as substantially worked or processed in the Member States.

a) Change of Tariff Heading Criterion

Example:

A company in Member State G imports metal sheets in rolls from Europe (HS Heading 72.12). The company has a manufacturing plant in Member State G that makes metal tins (HS Heading 73.10) for packing paint in varying sizes ranging from 1 Litre to 20 Litres.

The company in Member State G then exports the tins to a company in Member State H.

Can a SADC Certificate be issued in this instance?

Yes. The tins qualify for preference under the Change of Tariff Heading (CTH) criteria.

Explanation

Rule 2.2(b) of Annex I to the SADC Protocol on Trade requires that goods be “considered to be sufficiently worked or processed when the conditions set out in the list in Appendix I of this Annex are fulfilled.”

In Appendix I to Annex I of the Protocol the conditions are:

HS HEADING No.	DESCRIPTION OF PRODUCTS	WORKING OR PROCESSING CARRIED OUT ON NON-ORIGINATING MATERIALS THAT CONFERS ORIGINATING STATUS
(1)	(2)	(3)
ex Chapter 73	Articles of iron or steel; except for:	Manufacture from materials of any heading except that of the product
ex 7303	Tubes, pipes and hollow profiles, of cast iron; with a layer of Asphalt / bitumen, reinforcement materials and concrete; coated inside with a layer of polyurethane and outside with a layer of polyurethane or asphalt/bitumen	Manufacture by coating
ex 7312	Armoured steel stranded wire, ropes and cables	Manufacture by armouring

The interpretation of the rules in the table above is that for the whole of Chapter 73 (except products extracted from Headings 73.03 and 73.12 as described in the Annex) the working or processing to be carried out on non-originating materials should result in a product that would have been “manufactured from materials of any heading except that of the product”.

Thus where materials of HS Heading 72.12 are used in manufacturing a product of HS Heading 73.10, then the SADC Rules of Origin would have been fulfilled.

b) Change of Tariff Heading and Material Content Criteria

A company in Member State D imports PVC granules (HS Heading 3904) from South Asia. It also sources a smaller portion of PVC granules from a supplier in

Member State D. From the PVC granules they make plastic trays (HS Heading 39.24) and plastic doors (HS Heading 39.25).

The company applies to a Competent Authority for registration as an exporter using the SADC Rules of Origin when exporting to other Member States in SADC. The information availed to the Competent Authority shows the following:

Description	Origin	Cost	% of Ex-Works Price
PVC Granules	Korea	60	60%
PVC Granules	Member State D	15	15%
Other Materials	Member State D	10	10%
Labour	Member State D	5	5%
Overhead Costs	Member State D	5	5%
Profit	Member State D	5	5%
Ex-Works Price	Member State D	100	100%

Can SADC Certificates of Origin be issued in both instances?

No for trays of HS Heading 39.24; and

Yes for doors of HS Heading 39.25.

Explanation

In both instances two rules have to be fulfilled for the product to be considered originating in a SADC Member State:

The CTH rule has to be met.

In this case both products do fulfill this rule as the final products (Headings 39.24 and 39.25) were obtained from materials of HS Heading 39.04.

The non-originating material content is restricted to 55% of ex-works price for trays and 60% of ex-works price for the doors.

Under Heading 39.24 the trays contain more than 55% of the non-originating materials. Therefore they do not fulfill the specified rule. A SADC Certificate of Origin cannot be issued for the trays.

For the doors (ex 3925.20) the non-originating materials do not exceed the 60% restriction. Therefore they fulfill the specified rule. A SADC Certificate of Origin can be issued for the doors.

It should be noted that the use of a semi-colon between the two rules does not denote an option between them. Each of them is independent of the other. Effectively both have to be fulfilled.

c) Material Content and Processes Criteria

A Toyota Fortuner SUV vehicle (Heading 87.03) is manufactured from:

Description	Origin	Cost	% of Ex-Works Price
Semi knocked down (SKD) kits	Japan	55	55%
Other components	Member State D	15	15%
Tyres, upholstery, paint etc	Member State D	10	10%
Labour	Member State D	10	10%
Overhead Costs	Member State D	5	5%
Profit	Member State D	5	5%
Ex-Works Price	Member State D	100	100%

Can a SADC Certificate of Origin be issued in this instance?

Yes subject to fulfillment of conditions set out in Introductory Note 8 to Appendix I of Annex I.

No if any of the conditions set out in Introductory Note 8 to Appendix I of Annex I is not fulfilled.

Explanation:

For a vehicle of Chapter 87 to be certified as originating in a SADC Member State the rules to be fulfilled are:

“Manufacture in which the value of all the materials used does not exceed 60% of the ex-works price of the product **and** subject to the manufacture or assembly as per Appendix I of Annex I, Introductory Notes, Note 8”.

Therefore as much as the non-originating materials are within the content allowable, the Competent Authority has to be satisfied that the working specified in Introductory Note 8 to Appendix I of Annex I is undertaken in the Member State.

For example if the SKD form means that the floor panels, body sides and roof panels have already been attached to each in Japan then the vehicle would not have fulfilled the rules specified in the Annex 1 – that is Introduction Note 8.1 to Appendix I of Annex I.