



ANNEXES TO THE SACU AGREEMENT





ANNEXES TO THE SACU AGREEMENT

TABLE OF CONTENTS

ANNEX B

TARIFF BOARD

1. Definitions and interpretation.....	2
2. Independence of the Board.....	4
3. Functions of the Board	4
4. Constitution of the Board.....	4
5. The Chairperson and Deputy.....	6
6. Qualifications of Members.....	7
7. Conduct of Members.....	8
8. Resignation and removal from office.....	9
9. Meetings and decisions of the Board.....	10
10. Communication, procedures and documentation related to the customs tariff.....	11
11. Reporting.....	15
12. Staff of the Secretariat dedicated to serve the Board.....	15
13. Finances of the Board.....	16
14. Reviews.....	17
15. Entry into force.....	18

ANNEX C

NATIONAL BODIES

1. Definitions and interpretation.....	20
2. National Bodies' standing to appear before SACU institutions.....	21
3. Notice to the Secretariat.....	21
4. Tariff investigations and recommendations.....	22
5. Information exchange.....	23
6. Co-operative activities.....	23
7. Investigation requests by the Board or National Body.....	24

8. Consideration of Imposition of Trade Remedies	25
9. Implementation of Council Decisions.....	26
10. Reviews.....	26
11. Entry into Force.....	26

ANNEX D

SACU SINGLE ORIGIN, CUMULATION WITHIN THE COMMON CUSTOMS AREA AND PROCEDURES TO FACILITATE THE ISSUE OF CERTIFICATES OF ORIGIN

1. Scope.....	29
2. Supplier’s declarations and their use.....	29
3. Making of supplier’s declarations.....	30
4. Long-term supplier’s declarations.....	30
5. Form and making-out of supplier’s declarations.....	31
6. Information certificates.....	31
7. Preservation of declarations and supporting documents.....	32
8. Approved-exporter authorisation.....	32
9. Mutual administrative assistance.....	33
10. Checking supplier’s declarations.....	33
11. Repeal or amendment.....	34
12. Transitional provisions.....	35
13. Entry into Force.....	35
APPENDIX I.....	36
APPENDIX II.....	38
APPENDIX III.....	40
APPENDIX IV.....	43
APPENDIX V.....	46

ANNEX E

ANNEX TO THE SACU AGREEMENT ON MUTUAL ADMINISTRATIVE ASSISTANCE

ANNEX E

Article 1: <i>Definitions</i>	54
Article 2: <i>Scope of the Annex</i>	56
Article 3: <i>Communication of Requests</i>	57

Article 4: <i>Information for the Application and Enforcement of Customs Law</i>	59
Article 5: <i>Information Relating to Customs Offences</i>	60
Article 6: <i>Information for the Assessment of Customs Duties</i> ...	60
Article 7: <i>Automatic Exchange of Information</i>	62
Article 8: <i>Advance Exchange of Information</i>	62
Article 9: <i>Notification</i>	62
Article 10: <i>Technical Assistance</i>	62
Article 11: <i>Surveillance of Persons, Goods, Places and Means of Transport</i>	62
Article 12: <i>Controlled Delivery</i>	63
Article 13: <i>Experts and Witnesses</i>	64
Article 14: <i>Presence of Officials in the Territory of the Other Member State</i>	65
Article 15: <i>Arrangements for Visiting Officials</i>	65
Article 16: <i>Joint, One-stop or Juxtaposed Border Post</i>	66
Article 17: <i>Hot Pursuit</i>	67
Article 18: <i>Cross-Border Surveillance</i>	68
Article 19: <i>Covert Investigations</i>	68
Article 20: <i>Joint Control and Investigation Teams</i>	69
Article 21: <i>Means of Obtaining Information</i>	69
Article 22: <i>Use of Information</i>	70
Article 23: <i>Confidentiality of Information</i>	70
Article 24: <i>Personal Data Protection</i>	71
Article 25: <i>Exemptions from Obligation to Render Assistance</i>	72
Article 26: <i>Costs</i>	73
Article 27: <i>Territorial Application of the Annex</i>	74
Article 28: <i>Implementation and Application of the Annex</i>	74
Article 29: <i>Amendments to the Annex</i>	74
Article 30: <i>Settlement of Disputes</i>	75
Article 31: <i>General</i>	75
Article 32: <i>Entry into Force</i>	75



ANNEX B

TARIFF BOARD

ANNEX B

TARIFF BOARD

1. Definitions and interpretation

1.1 Any reference in this Annex to the Agreement, or an Article by number, is a reference to the Agreement establishing SACU, signed on 21 October 2002 or an Article in said Agreement, respectively.

1.2 In this Annex, unless the context indicates otherwise –

“Alternate Member” means a person appointed to serve on the Tariff Board by the Council to fulfil the duties and functions of a Permanent Member on an *ad hoc* basis, only if the Permanent Member is, for any reason, not able to fulfil his or her functions;

“Board” means the SACU Tariff Board established by Article 7;

“Chairperson” means the Chairperson of the Board;

“Customs Tariff” includes customs duties, anti-dumping duties, countervailing duties, safeguard duties, rebates of customs duties, refunds of customs duties and drawbacks on customs duties and the provision for rebate certificates issued in terms of industrial development programmes in force in the Common Customs Area from time to time, but excludes any duties, rebates, refunds and drawbacks referred to in Article 21;

“Deputy” means the Deputy Chairperson of the Board;

“Executive Secretary” means the Executive Secretary of

SACU, appointed by Council in accordance with paragraph 3 of Article 8;

“Member” means a Member of the Tariff Board, including the Chairperson, Deputy Chairperson, Permanent Members, and Alternate Members, appointed by the Council in accordance with paragraph 4 of Article 8 and in terms of this Annex;

“National Body” means a National Body established or an institution designated by a Member State in accordance with Article 14;

“Permanent Member” is a Member of the Board, appointed by the Council, who shall on a full time basis perform the duties and functions assigned to the Board, except if he or she is, for any reason, and only as an exception, not able to do so, in which case his or her Alternate Member performs the duties and functions on an *ad hoc* basis;

“Person” includes-

- (a) any local, statutory or similar authority;
- (b) any company incorporated or registered as such under any law;
- (c) any body of persons corporate or unincorporated.

1.3 This Annex shall be interpreted –

- (a) in a manner that is consistent with, and gives effect to the objectives set out in Article 2; and
- (b) in a manner that is consistent with the purposes and intent of the Agreement.

2. Independence of the Board

The Board shall be—

- (a) an independent institution that is responsible and accountable only to the Council; and
- (b) impartial and shall perform its functions without fear, favour or prejudice.

3. Functions of the Board

- 3.1 The Board shall carry out the functions assigned to it in accordance with paragraph 2 of Article 11.
- 3.2 Reports and recommendations received from National Bodies, shall be evaluated in accordance with guidelines and policies to be determined by the Council in accordance with paragraph 2 of Article 8.
- 3.3 The Board shall monitor, review, report to and advise the Council in respect of any matter referred to it by the Council that affects or might affect trade and industry in the Common Customs Area.
- 3.4 The Board may not recommend to the Council that a customs duty be made retrospective, if such a recommended duty on goods is higher than the duty applicable to such goods immediately before the recommendation is made.

4. Constitution of the Board

- 4.1 The Board shall consist of a Chairperson, a Deputy Chairperson and three additional Permanent Members. Each Member State shall nominate persons to serve as a

Permanent and an Alternate Member and the Council shall appoint one (1) nominee from each Member State to serve on the Board as a Permanent Member and 1 (one) nominee from each Member State to serve the Board as an Alternate Member.

- 4.2 The Chairperson of the Board shall be a Permanent Member nominated by the Member State, which at any particular time is the Chair of the Council of Ministers and has been appointed by the Council as a Permanent Member, and the Chair of the Board shall rotate on the basis provided for in paragraph 10 of Article 8.
- 4.3 The Deputy Chairperson of the Board shall be a Permanent Member nominated by the Member State, which, on the basis of rotation provided for in paragraph 10 of Article 8 is the incoming Chair of the Council of Ministers. Such Member becomes the next Chairperson of the Board.
- 4.4 If a Permanent Member is not appointed in a full-time capacity, the Member State which nominates such person and is aware that such person is engaged in another profession, occupation or business, the nominating Member State shall be confident that the nominee's activities shall not adversely affect the discharge of his or her responsibilities as a Board Member.
- 4.5 An Alternate Member shall fulfil the functions of a Permanent Member, only if such Permanent Member is, for any reason, not able to do so.
- 4.6 The Council shall determine whether a Permanent Member is appointed in a full-time or part-time capacity.

- 4.7 If a Permanent Member is appointed in a full-time capacity, such Member shall be stationed at the Headquarters of SACU.**
- 4.8 The term of appointment of a Member shall not exceed three (3) years. If the term of office of a Member has expired, the Council may reappoint such a Member. A person may not serve as a Member for more than six (6) consecutive years. If a vacancy arises as a result of the departure of a Member, the Council shall fill the vacancy.
- 4.9 The Council may change the status of a part-time Member to that of a full-time Member, but may not change the status of a full-time Member to that of a part-time Member, except if such a full-time Member makes such a request to the Council.
- 4.10 The Council shall determine the remuneration, allowances, benefits and other conditions of appointment of a Member.
- 4.11 The Council may review the constitution of the Board.

5. The Chairperson and Deputy

- 5.1 The Chairperson is responsible and accountable to the Council for the functioning of the Board in accordance with Articles 8 and 11, and this Annex.
- 5.2 In the event of the Chairperson or the Deputy resigning, being removed from office or otherwise being incapable of continuing to hold office before the end of his or her term of office, the Council shall appoint a Chairperson or Deputy, as the case may be, for the rest of the twelve month period, nominated by the Member State who is holding the Chair or Deputy Chair, as the case may be, at the time.

5.3 The Chairperson may assign another Member to perform any functions of the Chairperson when the Chairperson or the Deputy is unable to perform those functions.

6. Qualifications of Members

6.1 To be eligible for appointment and to continue to hold office as a Member, a person shall –

- (a) be resident in the Common Customs Area; and
- (b) have suitable qualifications or experience in economics, accounting, law, commerce, agriculture, industry or public affairs.

6.2 A person may not be a Member if that person –

- (a) is an unrehabilitated insolvent;
- (b) has been found mentally unfit by an order of a competent court;
- (c) has been convicted of an offence and sentenced to imprisonment without the option of a fine; or
- (d) is, during his or her term of office, in the employ of the government of a Member State; or
- (e) is a minor.

6.3 Notwithstanding the afore-going, Council may, on good cause shown, appoint a person who has only one of the disqualifications mentioned above.

7. Conduct of Members

7.1 A Member shall not –

- (a) engage in any activity that may undermine the integrity of the Board; or
- (b) participate in any investigation or evaluation regarding a customs tariff application or the evaluation of a recommendation made by a National Body in respect of which the Member has a financial interest or any similar personal interest; or
- (c) make private use of, or profit from any confidential information obtained as a result of performing that Member's official functions in the Board; or
- (d) divulge any information referred to in subparagraph (c) to any third party, except as required as part of that Member's official functions within the Board.

7.2 If, at any time, it becomes apparent to a Member that he or she has a financial or personal interest in a matter before the Board, the Member shall –

- (a) immediately and fully disclose the interest to the Board;
- (b) withdraw from any further involvement in the matter; and shall be replaced by such Member's Alternate.

7.3 A Member shall comply with any code of conduct for Members prescribed by the Council and sign an undertaking to indicate that the Member understands and shall abide by such code of conduct.

7.4 A copy of the code of conduct together with the signed undertaking referred to in paragraph 7.3 shall be kept on record by the Secretariat.

8. Resignation and removal from office

8.1 A Member may, on one (1) month's written notice addressed to the Council, resign from the Board.

8.2 The Council shall remove a Member from office if the Member –

- (a) ceases to be ordinarily resident within the Common Customs Area; or
- (b) becomes subject to any of the disqualifications referred to in paragraph 6.2.

8.3 The Council may remove a Member from office for –

- (a) serious misconduct;
- (b) permanent incapacity;
- (c) engaging in an activity that may undermine the integrity of the Board;
- (d) failure to satisfy the standards of professionalism, attendance and participation in the functions of the Board; or
- (e) failure to adhere to the requirements of paragraph 7 or to any code of conduct referred to in paragraph 7.3.

9. Meetings and decisions of the Board

9.1 Meetings of the Board shall normally take place at the Headquarters of SACU except if there are compelling circumstances or reasons to meet elsewhere.

9.2 The Chairperson shall convene ordinary meetings of the Board at least once per month, and he or she may convene extraordinary meetings when it is deemed necessary.

9.3 In the absence of the Chairperson, the Deputy may convene a meeting of the Board.

9.4 A simple majority of the Permanent Members shall constitute a quorum.

9.5 If both the Chairperson and Deputy Chairperson are not present, the Members present at the meeting shall nominate a Member to preside at that meeting.

9.6 Decisions on recommendations regarding the customs tariff as provided for in paragraph 2 of Article 11, shall be made by consensus of the Members present.

9.7 In cases where consensus cannot be reached, the Board shall immediately furnish the Council with a report on the matter, stating clearly and with full motivation in each case, the different opinions and recommendations of Members. The Council shall then make a decision.

9.8 The Board shall allow National Bodies to appear before it at its meeting when a submission or report containing a recommendation on the customs tariff is considered.

9.9 The Board may make rules of order for its proceedings, but any such rules of order shall be consistent with the spirit of the Agreement and accepted by Council at the earliest opportunity.

10. Communication, procedures and documentation related to the customs tariff

- 10.1 Members shall furnish the Secretariat with all the necessary information relating to their postal and street addresses, electronic mail addresses, telephone numbers and facsimile numbers to ensure quick, effective and efficient communication between the Secretariat and the Members and Members shall ensure that the information is kept up to date.
- 10.2 Whenever a National Body receives an application for any amendment of the customs tariff and decides to investigate such application, such National Body shall immediately notify the Secretariat of the application and furnish adequate information for the Board and other National Bodies in SACU to fully understand the nature and other details of the application. The Secretariat shall be informed whether the application should be treated as urgent and the reasons for the urgency shall be stated.
- 10.3 If a National Body, without an application having been received as contemplated in paragraph 10.2, decides to initiate an investigation into any aspect regarding the customs tariff, it may do so if it has been granted such powers by the Government of the Member State involved. In such a case the same procedures shall be followed, as would be the case in a tariff application referred to in paragraph 10.2.
- 10.4 The Secretariat shall within five (5) working days after having received a notification contemplated in paragraphs 10.2 and 10.3 inform Members and all other National Bodies of such application or initiation.
- 10.5 Member States shall within seven (7) working days after having received notification from the Secretariat referred to

in paragraph 10.4 publish all customs tariff applications or investigation initiation in accordance with their Constitutions or laws and allow interested parties to comment on such applications within a period of four (4) weeks in the case of urgent applications or investigation initiations, and six (6) weeks in the case of other applications or investigation initiations after having published such tariff applications and investigation initiations. Comments received within the relevant time limit of four (4) or six (6) weeks, as the case may be, shall be collated by National Bodies and forwarded to the Secretariat within five (5) working days after the closing date for comments. The Secretariat shall collate comments received from all Member States and forward them to Members and all National Bodies within five (5) working days.

- 10.6 National Bodies shall within two (2) weeks after having received notification of a customs tariff application referred to in paragraphs 10.2, or the initiation of an investigation referred to in paragraph 10.3 inform the Board and other National Bodies through the Secretariat if they have an interest in the application or envisaged investigation and state the nature of the interest.
- 10.7 As soon as a customs tariff investigation has been concluded and the National Body concerned is ready to make a recommendation to the Board on the matter, it shall submit the outcome of the investigation together with recommendations in the form of a report to the Board and other National Bodies through the Secretariat.
- 10.8 The report referred to in paragraph 10.7 shall contain all relevant information, and be in a format prescribed by the Board. Statistics and other data contained in such report shall pertain to the Common Customs Area, and when

SACU-wide information is not included in such report, the National Body submitting the report to the Board shall give adequate reasons why the report is lacking such information.

- 10.9 The Board shall consider the report referred to in paragraph 10.7 during its next meeting or as soon as possible thereafter.
- 10.10 In cases where a National Body submits a report with recommendations relating to remedial action against the exportation of goods into the Common Customs Area, the Board shall meet and give a recommendation to the Council within seven (7) days and the Council shall take a final decision within the timeframe provided for in the relevant WTO Agreement.
- 10.11 If a report is of an urgent nature, the National Body or National Bodies submitting the report shall inform the Board of the urgency of the report with the necessary motivation. If no consensus can be reached on an urgent matter at the first meeting of the Board considering the matter, then the provision of paragraph 9.8 of this Annex shall apply.
- 10.12 If a report is not of an urgent nature, does not contain adequate information and the Board is not able to make an informed decision on the matter, it may either return the report, only once, to the National Body or National Bodies concerned and request more information concerning the matter being considered, or request the National Body or National Bodies involved to appear before the Board.
- 10.13 After the Board has considered a report submitted by a National Body or National Bodies, the Board shall evaluate the report and submit the report to the Council together with the Board's comments and recommendations concerning

the matter contained in the report in good time before the next Council meeting. If the recommendation contains a change in the customs tariff such a recommendation shall include the envisaged date of implementation.

- 10.14 Whenever a recommendation by the Board concerning the customs tariff is of an urgent nature, the relevant Ministers of the Council shall be informed accordingly and the Council may make standing arrangements with regard to such matters to approve or reject the Board's recommendation by other means or methods than a Council meeting as contemplated in paragraph 9 of Article 8.
- 10.15 If a customs tariff related recommendation by the Board is not of an urgent nature, the Council shall approve or reject such recommendation or refer such matter back to the Board for further consideration.
- 10.16 The Council may allow the Board or National Bodies to appear before it when recommendations concerning the customs tariff are considered during a meeting of the Council.
- 10.17 The Secretariat shall, within five (5) working days after the Council has approved a change in the customs tariff, inform the Board and all National Bodies of the Council's decision. The date for the implementation of a change in the customs tariff shall be not later than the first Friday following two (2) weeks after National Bodies have been notified of such a change.
- 10.18 If the Council rejects a recommendation from the Board, which would have brought about a change in the customs tariff, the Board shall within five (5) working days, through the Secretariat, inform all National Bodies accordingly.

10.19 All communications between different SACU institutions and between National Bodies relating to the customs tariff shall normally take place through the Secretariat. The Secretariat shall be informed of any direct communication between SACU institutions, between National Bodies, and between National Bodies and other SACU institutions relating to the customs tariff.

10.20 Whenever a National Body appears before the Board, all expenditure related to such an appearance shall be defrayed from funds provided by the National Body concerned and the Board shall not be responsible to cover such costs or budget for such expenditures.

10.21 If the Board has to appear before the Council, any expenditure related to such an appearance shall be defrayed by the Secretariat from the Board's budget.

11. Reporting

11.1 The Board shall report to the Council on all matters referred to in paragraphs 3.2 and 3.3 of this Annex.

11.2 The Chairperson shall, within six (6) months after the end of the financial year, prepare and submit to the Council an annual report, including a financial report, in the form determined by the Council, containing the activities undertaken in terms of Article 11 of the Agreement and other activities undertaken in terms of this Annex, if applicable.

12. Staff of the Secretariat dedicated to serve the Board

12.1 The Board, in consultation with the Executive Secretary and with the concurrence of the Council, shall, in order to ensure the effective and efficient operation of the Board, appoint a Chief Liaison Officer. The Chief Liaison Officer shall be only

responsible and accountable to the Board. The Executive Secretary shall provide the Chief Liaison Officer with competent staff. The Executive Secretary shall provide the Chief Liaison Officer and staff with office accommodation, furniture and equipment dedicated exclusively to assist the Board in carrying out its functions in an effective and efficient manner.

- 12.2 If a Member is appointed in a full-time capacity by the Council and is stationed at the SACU Headquarters, such member shall be responsible to the Board.
- 12.3 The Executive Secretary may report to the Chairperson and to the Chairperson of the Council behaviour of staff dedicated to serve the Board that, in his or her opinion is not acceptable and does not contribute adequately to the effective and efficient operation of the Board or does not project a favourable image of SACU.
- 12.4 The Chairperson and the Chairperson of the Council shall investigate reports received in terms of paragraph 12.3 and take such action, as they may deem necessary.
- 12.5 Full time Board Members, the Chief Liaison Officer and other staff appointed to serve the Board in terms of paragraph 12.1 shall be granted the same privileges by the Government of the Republic of Namibia as those granted to other staff members of the SACU Secretariat in accordance with paragraph 3 of Article 4.

13. Finances of the Board

- 13.1 The Board shall be financed from the Common Revenue Pool as provided for in Article 34.

- 13.2 The Board shall develop, in consultation with the Executive Secretary, financial policies and procedures in accordance with the requirements of Council.
- 13.3 The Board shall submit its budget in accordance with paragraph 5 of Article 8 and Article 34.
- 13.4 The Board shall, in consultation with the Executive Secretary, and with the concurrence of the Council, determine the remuneration, allowances, benefits and other conditions of appointment of each member of the staff dedicated to serve the Board.
- 13.5 The Executive Secretary shall ensure that the Board, its Members and the staff dedicated to serve the Board, receive funds in good time to ensure the effective and efficient functioning of the Board.
- 13.6 The Executive Secretary shall include and list as a separately identifiable item in the Secretariat's budget, the anticipated annual running and fixed expenditure related to the staff employed in terms of paragraphs 12.1 and 13.5.
- 13.7 The Chairperson may, in accordance with paragraph 1 of Article 4 and with the concurrence of the Council enter into contracts with other persons or firms to assist the Board in carrying out its functions.

14. Reviews

- 14.1 Annual reviews of this Annex shall be undertaken in order to improve the functioning of the Annex.
- 14.2 Council may approve a special review at the request of the Secretariat, the Tariff Board and a Member State.

15. Entry into force

This Annex shall enter into force thirty (30) days after confirmation from each Member State that national processes have been complied with.



ANNEX C

NATIONAL BODIES

ANNEX C

NATIONAL BODIES

1. Definitions and interpretation

1.1 Any reference in this Annex to the Agreement, or an Article by number, is a reference to the Agreement establishing SACU, signed on 21 October 2002 or an Article in the said Agreement, respectively.

1.2 In this Annex, unless the context indicates otherwise –

“**Board**” means the SACU Tariff Board established by Article 7;

“**Customs Tariff**” includes customs duties, anti-dumping duties, countervailing duties, safeguard duties, rebates of customs duties, refunds of customs duties and drawbacks on customs duties, and the provision for rebate certificates issued in terms of industrial development programmes in force in the Common Customs Area from time to time, but excludes any duties, rebates, refunds and drawbacks referred to in Article 21;

“**National Body**” means a National Body established or an institution designated by a Member State in accordance with Article 14;

“**Person**” includes –

- (a) any local, statutory, or similar authority;
- (b) any company incorporated or registered as such under any law;
- (c) any body of persons corporate or unincorporated.

- 1.3 This Annex shall be interpreted –
- (a) in a manner that is consistent with, and gives effect to the objectives set out in Article 2; and
 - (b) in a manner that is consistent with the purposes and intent of the Agreement.

2. National Bodies' standing to appear before SACU institutions

In accordance with Article 14, a National Body may refer customs tariff related matters and other related SACU matters to the Board, and has standing to appear before the Board and make representations to any other SACU institution, subject only to –

- (a) the authority granted to that National Body by the relevant Member State; and
- (b) the rules that govern the procedures of the relevant SACU institution.

3. Notice to the Secretariat

- 3.1 A National Body shall immediately notify the SACU Secretariat of –
- (a) every request, in terms of each Member State's relevant legislation and regulation, for customs tariff changes, or other related SACU issues, received by it as contemplated in paragraph 1 of Article 14; and
 - (b) the National Body's disposition of each such request.

3.2 The SACU Secretariat shall compile notices received by it in terms of paragraph 3.1, and shall forward each such notice to the National Body of each Member State and the Board within five (5) working days.

3.3 National Bodies shall furnish the Secretariat with the necessary up to date information relating to the names of contact persons, their postal and street addresses, electronic mail addresses, telephone and facsimile numbers.

3.4 The Secretariat shall circulate the information referred to in paragraph 3.3 amongst the National Bodies and ensure that the information is kept up to date.

4. Tariff investigations and recommendations

A National Body shall -

- (a) investigate and evaluate a request for customs tariff changes received from persons in its area;
- (b) report to the Tariff Board through the Secretariat on the investigation and evaluation contemplated in subparagraph (a) and recommend that the request be approved, or approved with amendments, or rejected; and
- (c) ensure that the format of, and the information contained in such report, evaluation and recommendation conform to the standards and requirements agreed on between the Member States and the Board from time to time.

5. Information exchange

A National Body shall -

- (a) provide, within a reasonable period of time, information to the Secretariat, or one or more Member States as required in terms of, or in the spirit of the Agreement, or procedures established in terms of the Agreement when information relevant to SACU is requested, is domestically available and may in accordance with domestic legislation be disclosed;
- (b) request information from the Secretariat, or one or more Member States, as permitted in terms of the Agreement or in the spirit, or procedures established in terms of the Agreement; and
- (c) exchange information, through the Secretariat with the National Body of any Member State, subject only to domestic legislation related to the disclosure of information and provided that such information is domestically available.

6. Co-operative activities

A National Body is authorised to -

- (a) engage with any institution of SACU, or the National Body of one or more of the Member States in co-operative activities of customs tariff related investigations, research, publication, education, staff development and training;
- (b) engage with any institution of SACU or the National Body of one or more of the Member States in staff exchanges or secondments;

- (c) provide technical assistance or expertise to, or request such assistance from, any institution of SACU or the National Body of one or more of the Member States; and
- (d) co-operate with a Member State or its National Body to ensure that the objectives of restrictions or prohibitions on the importation or exportation of goods in force in the area of such Member State are attained.

7. Investigation requests by the Board or National Body

7.1 A National Body is authorised to –

- (a) receive requests from the Board to –
 - (i) evaluate a recommendation made to the Board by another Member State or its National Body; or
 - (ii) investigate and compile information available domestically concerning such a recommendation;
- (b) receive requests from the National Body of another Member State to –
 - (i) evaluate an application for customs tariff amendments received by that other Member State; or
 - (ii) investigate and compile information available domestically concerning such an application;
- (c) make requests contemplated in subparagraph (b) to the National Body of other Member States.

7.2 A National Body shall –

- (a) evaluate every application or recommendation received by it on a request referred to in subparagraph 1(a)(i) or 1(b)(i) (above), and make a recommendation to the Board or the National Body concerned, as the case may be; and
- (b) conduct an investigation into, or compile information available domestically regarding a matter that is the subject of a request referred to it in terms of subparagraph 1(a)(ii) or 1(b)(ii), (above) and submit a report to the Board or the National Body concerned, as the case may be.

8. Consideration of Imposition of Trade Remedies

8.1 When considering and recommending duties or measures relating to trade remedies, National Bodies shall ensure that procedures followed and subsequent recommendations to the Board are consistent with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-dumping Agreement), the Agreement on Subsidies and Countervailing Measures, the Agreement on Safeguards concluded in the WTO, and any trade arrangement entered into by SACU and consistent with policy guidelines and procedures developed by the Council in accordance with paragraph 2 of Article 8.

8.2 Whenever a National Body receives an application for remedial action (anti-dumping, countervailing measures and safeguards) against the importation of goods into the Common Customs Area that are allegedly being dumped or subsidised, such National Body may decide whether it

will initiate an investigation into the allegation. If it so decides, the National Body shall notify the Secretariat of the application and its intention to investigate the matter. National Bodies shall:

- (a) report to the Tariff Board through the Secretariat on the investigation and evaluation contemplated in this paragraph and recommend that the request be approved, or approved with amendments, or rejected; and
- (b) ensure that the format of, and the information contained in such reports, as well as the evaluation and recommendation conform to the standards and requirements agreed on between the Member States and the Board from time to time.

9. Implementation of Council Decisions

It shall be the responsibility of the Member States to ensure that any amendment of the customs tariff is implemented, in terms of the legislation in force in the different Member States.

10. Reviews

Periodic reviews of this Annex shall be undertaken in order to improve the functioning of this Annex.

11. Entry into Force

This Annex shall enter into force thirty (30) days after confirmation from each Member State that national processes have been complied with.



ANNEX D

SACU SINGLE ORIGIN, CUMULATION WITHIN THE COMMON CUSTOMS AREA AND PROCEDURES TO FACILITATE THE ISSUE OF CERTIFICATES OF ORIGIN

ANNEX D

SACU SINGLE ORIGIN, CUMULATION WITHIN THE COMMON CUSTOMS AREA AND PROCEDURES TO FACILITATE THE ISSUE OF CERTIFICATES OF ORIGIN.

THE SACU COUNCIL OF MINISTERS ESTABLISHED BY ARTICLE 7 OF THE SACU AGREEMENT, HAS ADOPTED THIS ANNEX AT THE 9TH MEETING HELD ON 8TH SEPTEMBER 2006, IN GABORONE, BOTSWANA:

Having regard to the responsibility of the Council for the formulation of policy mandates, procedures and guidelines for the SACU institutions;

Having regard to existing trade relations between SACU or individual SACU Member States and third parties providing for cumulation with SACU Member States;

Having regard to Article 31 of the SACU Agreement for a common negotiating mechanism which shall be established for the purpose of undertaking negotiations with third parties, agreements concluded and future agreements to be concluded;

Having regard to other trade relations in terms of which SACU Member States could benefit from cumulation in trade with third parties;

Recognising that -

- (1) The agreements concluded provide for the correct application of the preferential origin rules in relation to exports from SACU or individual Member States to certain third parties;
- (2) In the context of the common customs area established under

the SACU Agreement, it has been found that firms exporting goods from one or more Member State other than the one in which they are established and wishing to use simplified procedures for the issue of proof of origin, sometimes have to apply for a separate authorisation for each member State of export or forgo any benefits that may be forthcoming. That it is therefore desirable to simplify this situation, while ensuring that the mechanisms of the preferential arrangement can continue to operate properly;

- (3) The authorities responsible for issuing or verifying proof of origin should be in a position to fulfil the SACU or Member State's commitments under the preferential agreements within the requisite deadlines;

1. **Scope**

This procedure lays down rules intended to facilitate -

- (a) the issue of certificates of origin by the Customs Authorities of Member States and the verification and follow up of supplier's declarations between Member States; and
- (b) the issue of approved-exporter authorisations valid in several Member States;
- (c) the functioning of the methods of administrative cooperation between the Member States.

2. **Supplier's declarations and their use**

- 2.1 Suppliers shall provide, by means of a declaration, information concerning the status of products with regard to the specific preferential rules of origin requirements.
- 2.2 Supplier's declarations shall be used by exporters as evi-

dence, in particular in support of applications for the issue of certificates of origin or as a basis for making out invoice declarations.

3. **Making of supplier's declarations**

Except in the cases provided for in paragraph 4, the supplier shall furnish a separate declaration for each consignment of goods. The supplier shall include that declaration on the commercial invoice relating to that consignment or on a delivery note or any other commercial document which describes the goods concerned in sufficient detail to enable them to be identified. The supplier may furnish the declaration at any time, even after the goods have been delivered.

4. **Long-term supplier's declarations**

4.1 When a supplier regularly supplies a particular customer with goods whose status in respect of the rules of preferential origin is expected to remain constant for considerable periods of time, he may provide a single declaration, provided that the circumstances on which it is granted remain unchanged, to cover subsequent shipments of those goods, hereinafter referred to as 'a long-term supplier's declaration'. A long-term supplier's declaration may be issued for a period of up to one year from the date of issue of the declaration.

4.2 A long-term supplier's declaration may be issued with retroactive effect. In such cases, its validity may not exceed a period of one year from the date on which it came into effect. However it is recognised that the customs authority would have the right to revoke a long term supplier's declaration, should the circumstances change, or when inaccurate or

false information has been provided.

- 4.3 The supplier shall inform the buyer immediately when the long-term supplier's declaration is no longer valid in relation to the goods supplied.

5. **Form and making-out of supplier's declarations**

- 5.1 Products may qualify for preferential originating status, on condition that the supplier's declaration shall be given in the form prescribed in Appendix I or, for long-term suppliers' declarations, in that prescribed in Appendix II.
- 5.2 For products which have undergone working or processing in SACU without having obtained preferential originating status, the supplier's declaration shall be given in the form prescribed in Appendix III or, for long-term supplier's declarations, in that prescribed in Appendix IV.
- 5.3 The supplier's declaration shall bear the original signature of the supplier in manuscript and may be made out on a pre-printed form. However, where the invoice and supplier's declaration are drawn up by computer, the declaration need not be signed in manuscript provided that the supplier gives the client a written undertaking accepting complete responsibility for every supplier's declaration which identifies him as if it had been signed in manuscript by him.

6. **Information certificates**

- 6.1 To verify the accuracy or authenticity of a supplier's declaration, the customs authorities may call upon the exporter to obtain from the supplier an information certificate, using the form shown in Appendix V.
- 6.2 The information certificate shall be issued by the customs authorities of the Member State in which the supplier is

established. The said authorities shall have the right to call for any evidence and to carry out any inspection of the supplier's accounts or any other check that they consider necessary.

- 6.3 The customs authorities shall issue the information certificate within three months of receipt of the application submitted to them by the supplier, indicating whether or not the declaration given by the supplier was correct.
- 6.4 The completed certificate shall be given to the supplier to forward to the exporter for transmission to the relevant customs authorities.

7. Preservation of declarations and supporting documents

- 7.1 A supplier who makes out a supplier's declaration shall keep all the documentary evidence proving the correctness of the declaration for at least three years.
- 7.2 Customs authorities to which an application for the issue of an information certificate has been made shall keep the application form for at least three years.

8. Approved-exporter authorisation

- 8.1 An exporter who frequently exports goods from a Member State other than the one in which he is established may obtain approved exporter status covering such exports. For that purpose, he shall submit an application to the competent customs authorities of the Member State in which he is both established and keeps the records containing the evidence of origin.
- 8.2 When the authorities referred to in paragraph 8.1 are satisfied that the conditions set out in the origin protocols or

annexes to the relevant agreements or in other legislation concerning the autonomous preferential regimes are fulfilled, and issue the authorisation, they shall notify the customs authorities of the Member States concerned.

9. **Mutual administrative assistance**

The Member States' customs authorities shall assist each other in checking the accuracy of the information given in suppliers' declarations and in ensuring that the system of approved exporter authorisations operates correctly. The authorities consulted shall furnish the relevant information indicating especially the conditions in which the rules of origin have been respected in the Member State concerned as soon as possible but not later than 12 months from the date of receiving a request for verification.

10. **Checking supplier's declarations**

10.1 Where an exporter is unable to present an information certificate within four months of the request of the customs authorities, the customs authorities of the Member State of export may directly ask the authorities of the Member State where the supplier is established to confirm the status of the products concerned in respect of the rules of preferential origin.

10.2 For the purposes of paragraph 1, the customs authorities of the SACU Member State of export shall send the customs authorities of the SACU Member State to whom the request is addressed all information available to them and give the reasons of form or substance for their enquiry. In support of their request, they shall provide all documents or information they have obtained which suggests that the supplier's declaration is inaccurate.

- 10.3 The verification shall be carried out by the customs authorities of the SACU Member State in which the supplier's declaration has been issued. The authorities in question may call for any evidence, carry out any inspection of the producer's accounts or conduct any other verification considered appropriate.
- 10.4 The customs authorities requesting the verification shall be informed of the results as soon as possible by means of the information certificate but not later than 12 months from the date of receiving a request for verification.
- 10.5 Where there is no reply within five months of the date of the verification request or where the reply does not contain sufficient information to demonstrate the real origin of the products, the customs authorities of the country of export shall declare invalid the certificate of origin issued or the invoice declarations made out on the basis of the documents in question.

11. Repeal or amendment

- 11.1 Any repeal of or amendment to this Annex shall be adopted by a decision of the Council in accordance with Article 43 of the Agreement.
- 11.2 The Council shall review annually or whenever a Member State so requests, the application of the provision of this Annex and their economic effects with a view to making necessary amendments or adaptations, which shall take into account among other elements the effects on the rules of origin of technological developments, of which the implementation on decisions taken shall take effect immediately.

12. Transitional provisions

Any supplier's declaration made out before the entry into force of this Annex must be replaced by a new declaration in the prescribed format.

13. Entry into Force

This Annex and its Appendixes shall enter into force (30) days after confirmation from each Member State that national processes have been complied with.

APPENDIX I

Supplier's declaration for products having preferential origin status

The supplier's declaration, the text of which is given below, must be made out in accordance with the footnote. However, the footnote does not have to be reproduced.

DECLARATION

I, the undersigned, declare that the goods listed on this document (1) originate in (State SACU,

the Member State or a partner country).....
and satisfy

the rules of origin governing preferential trade with (State partner country or countries concerned)

.....

I undertake to make available to the customs authorities any further supporting documents they require.

Place and date.....

Name and position, name and address of company (Physical and postal) and stamp (optional).....

.....

Signature.....

(1) If only some of the goods listed on the document are concerned, they should be clearly indicated or marked and this marketing entered in the declaration as follows: '.....listed on this invoice and marked.....were originating in.....'

APPENDIX II

Long-term declaration for products having preferential origin status

Declaration

I, the undersigned, declare that the goods described below:

(Description).....

(Reference).....

which are regularly supplied to (name of company to which goods are

supplied)....., originate in

country)..... and satisfy

the rules of origin governing preferential trade with (State partner country or countries

concerned.).....

This declaration is valid for all further shipments of these products dispatched

From (date).....to

(date).....

I undertake to inform.....immediately if this declaration is no longer valid.

I undertake to make available to the customs authorities any further supporting documents they require.

Place and date.....

Name and position, name and address of company (Physical and postal) and stamp (optional).....

.....

.....

Signature.....

APPENDIX III

Supplier's declaration, for products not having preferential origin status

The supplier's declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

Declaration

I, the undersigned, supplier of the goods covered by the annexed document, declare that:

1. The following materials which do not originate in SACU have been used in SACU to produce these goods.

Description of goods Supplied (1)	Description of non-originating materials used (2)	HS heading of non-origination materials used (2)	Value of non-originating materials used (3)
			Total:

2. All the other materials used in SACU to produce these good originate in SACU.

I undertake to make available to the customs authorities any further supporting documents they require.

Place and date.....

Name and position, name and address of company (Physical and postal) and stamp

(optional).....

.....

.....

.....

Signature.....

- (1) When the invoice, delivery note or other commercial document to which the declaration is annexed relates to a variety of goods, or goods not incorporating the same proportion of non-originating materials, the supplier must clearly differentiate between them.

Example:

The document covers different models of electric motor of heading 8501 to be used in the manufacture of washing machines of heading 8450. The nature and value of the non-originating materials used in the manufacture of the motors vary from one model to another. The models must be listed separately in column 1 and the information in the other columns must be given for each, so that the manufacturer of the washing machines can correctly assess the originating status of each of his products depending on the type of motor it incorporates.

- (2) To be completed only where relevant.

Example:

The rule for garments of ex Chapter 62 allows the use of non-originating yarn. Thus if a Namibia garment manufacturer uses fabric woven in Botswana from non-originating yarn, the Botswana supplier need only enter 'yarn' as non-origination materials in column 2 of his declaration, the HS heading and value of the yarn are irrelevant.

A firm manufacturing wire of HS heading 7217 from non-originating iron bars must enter 'iron bars' in column 2. If the wire is to be incorporated in a machine for which the rule of origin sets a percentage limit on the value of non-originating materials used, the value of the bars must be entered in column 4.

- (3) 'Value' means the customs value of the materials at the time of import or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in SACU. For each type of non-originating material used, specify the exact value per unit of the goods shown in column 1.

APPENDIX IV

Long-term supplier's declaration, for products not having preferential origin status

The supplier's declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

Declaration

I, the undersigned, supplier of the goods covered by this document, which is regularly sent to (Customer's name and address)..... declare that:

- 1. The following materials which do not originate in SACU have been used in SACU to produce these goods:

Description of goods Supplied (1)	Description of non-originating materials used (2)	HS heading of non-origination materials used (2)	Value of non-originating materials used (3)
			Total:

- 2. All the other materials used in SACU to produce these good originate in SACU.

This declaration is valid for all further shipments of these products dispatched

from (date).....to

(date).....(4)

I undertake to inform the customs authorities (export country)

.....immediately if this declaration is no longer valid.

I undertake to make available to the customs authorities any further supporting documents they require.

Place and date.....

Name and position, name and address of company (Physical and postal) and stamp

(optional).....

.....

Signature.....

(1) When the invoice, delivery note or other commercial document to which the declaration is annexed relates to a variety of goods, or goods not incorporating the same proportion of non-originating materials, the supplier must clearly differentiate between them.

Example:

The document covers different models of electric motor of heading 8501 to be used in the manufacture of washing ma-

chines of heading 8450. The nature and value of the non-originating materials used in the manufacture of the motors vary from one model to another. The models must be listed separately in column 1 and the information in the other columns must be given for each, so that the manufacturer of the washing machines can correctly assess the originating status of each of his products depending on the type of motor it incorporates.

(2) To be completed only where relevant.

Example:

The rule for garments of ex Chapter 62 allows the use of non-originating yarn. Thus if a Namibia garment manufacturer uses fabric woven in Botswana from non-originating yarn, the Botswana supplier need only enter 'yarn' as non-origination materials in column 2 of his declaration, the HS heading and value of the yarn are irrelevant.

A firm manufacturing wire of HS heading 7217 from non-originating iron bars must enter 'iron bars' in column 2. If the wire is to be incorporated in a machine for which the rule of origin sets a percentage limit on the value of non-originating materials used, the value of the bars must be entered in column 4.

(3) 'Value' means the customs value of the materials at the time of import or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in SACU. For each type of non-originating material used, specify the exact value per unit of the goods shown in column 1.

(4) The period should not exceed 12 months

APPENDIX V

Information certificate and application for an information certificate

Printing instructions

1. The form on which the information certificate is issued shall be printed on white paper not containing mechanical pulp, sized for writing and weighing between 40 and 65 grams per square metre.
2. The form shall measure 210 x 297 mm.
3. Printing of the forms is the responsibility of the Member States; forms shall bear a serial number by which it can be identified. The form shall be printed in English.

INFORMATION CERTIFICATE

1. Supplier	Information certificate No A 000.000
	See notes overleaf before completing this form
2. Consignee (name, full address, country)	Information certificate to facilitate the issue of certificates of origin and the making-out of invoice declarations
3. Invoice Nos (1) (2)	4. Observations – e.g. value of imported material, HS code, etc.
5. Item number – Marks and numbers – Number and kind of packages – Description of goods (3)	6. Gross weight (kg) or other measure (l, m ³ , etc)
7. CUSTOMS ENDORSEMENT Declaration certified (4): <input type="checkbox"/> ...correct <input type="checkbox"/> ...not correct (see box 5) Issuing country..... (place and date) (Signature) Stamp	7. DECLARATION BY THE SUPPLIER I, the undersigned, declare that the declaration(s) concerning the originating status of the goods described in box 5 (4) <input type="checkbox"/> on the invoice(s) shown in box 3 and attached to this certificate (1) <input type="checkbox"/> on my long-term declaration(s) of(date) is/are correct (Place and date..... (Signature)

-
- (1) The term ‘invoice’ also includes delivery notes or other commercial documents relating to the shipment concerned on which the declaration(s) are intended.
 - (2) This box need not be completed in the case of long-term declarations.
 - (3) Describe the goods entered in box 5 in accordance with commercial practice and in sufficient detail to enable them to be identified.
 - (4) Place a cross in the appropriate box.

Notes

1. Certificates must not contain erasures or overwriting. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the customs authorities of the issuing country or territory.
2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.
3. Goods must be described in accordance with commercial practice and in sufficient detail enable them to be identified.
4. The form shall be completed in English.

APPLICATION FOR AN INFORMATION CERTIFICATE

<p>1. Supplier</p>	<p>Information certificate No A 000.000</p>
	<p>See notes overleaf before completing this form</p>
<p>2. Consignee (name, full address, country)</p>	<p>Information certificate to facilitate the issue of certificates of origin and the making-out of invoice declarations</p>
<p>3. Invoice Nos (1) (2)</p>	<p>4. Observations – e.g. value of imported material, HS code, etc.</p>
<p>5. Item number – Marks and numbers – Number and kind of packages – Description of goods (3)</p>	<p>6. Gross weight (kg) or other measure (l, m³, etc)</p> <p>7. DECLARATION BY THE SUPPLIER</p> <p>I, the undersigned, declare that the declaration(s) concerning the originating status of the goods described in box 5 (4)</p> <p><input type="checkbox"/> on the invoice(s) shown in box 3 and attached to this certificate (1)</p> <p><input type="checkbox"/> on my long-term declaration(s) of(date) is/ are correct</p> <p>(Place and date.....</p> <p>.....</p> <p>(Signature)</p>

- (1) The term ‘invoice’ also includes delivery notes or other commercial documents relating to the shipment concerned on which the declaration(s) are intended.
- (2) This box need not be completed in the case of long-term declarations.
- (3) Describe the goods entered in box 5 in accordance with commercial practice and in sufficient detail to enable them to be identified.
- (4) Place a cross in the appropriate box.

DECLARATION BY THE SUPPLIER

I,, the undersigned, supplier of the goods described overleaf,

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

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

SUBMIT the following supporting documents (5):

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

REQUEST the issue of the attached certificate for these goods.

(Place and date)

(Signature)

(5) For example import documents, movement certificates, invoices, manufacturers' declarations, etc. referring to the processed products or goods re-exported in the unaltered state.



ANNEX E

ANNEX TO THE SACU AGREEMENT ON MUTUAL ADMINISTRATIVE ASSISTANCE

ANNEX E

ANNEX TO THE SACU AGREEMENT ON MUTUAL ADMINISTRATIVE ASSISTANCE

Article 1

Definitions

In this Annex, unless the context otherwise requires:

- (a) **“Controlled Delivery”** means an operation during which the Customs Administrations of the Member States, in accordance with their domestic law, shall maintain surveillance on or allow to pass through their territories narcotic drugs or psychotropic substances or substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances, with a view to detecting offences linked to the importation or exportation of these products and to identifying Persons involved in the commission of such offences;
- (b) **“Customs Administrations”** means the administrative authority responsible for administering Customs Law;
- (c) **“Customs Law”** means all the legal and administrative provisions applicable or enforceable in the territories of the Member States in connection with the importation, exportation, transshipment, transit, storage, and movement of goods, including:
 - (i) the collection, guaranteeing or repayment of duties, taxes and other charges;
 - (ii) action in relation to measures of prohibition, restriction or control; and
 - (iii) action in relation to illegal trafficking in narcotic drugs and psychotropic substances;

- (d) **“Customs Offence”** means any violation or attempted violation of Customs Law;
- (e) **“Information”** means any data, whether or not processed or analysed, any documents, reports, and other communications in any format, including electronic, or certified or authenticated copies thereof;
- (f) **“Official”** means any Customs officer or other government agent designated by the Customs Administration of a Member State;
- (g) **“International Trade Supply Chain”** means all processes involved in the cross-border movement of goods from the place of origin to the place of final destination;
- (h) **“Narcotic Drugs and Psychotropic Substances”** means the products and substances defined as such by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988;
- (i) **“Person”** means both natural and legal Persons;
- (j) **“Requested Administration”** means the Customs Administration of a Member State from which assistance is requested;
- (k) **“Requested Member State”** means the Member State whose Customs Administration is requested to provide assistance;
- (l) **“Requesting Administration”** means the Customs Administration of a Member State that requests assistance;
- (m) **“Requesting Member State”** means the Member State whose Customs Administration requests assistance;
- (n) **“Substances Frequently Used in the Illicit Manufacture**

of Narcotic Drugs or Psychotropic Substances” means substances listed in the Annex to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988.

Article 2

Scope of the Annex

1. The Member States shall, through their Customs Administrations and in accordance with the provisions set out in this Annex, afford each other mutual administrative assistance:
 - (a) to ensure that the Customs Law in force in their respective territories is properly observed;
 - (b) to prevent, investigate and combat Customs Offences;
 - (c) to facilitate the simplification and harmonisation of their Customs procedures; and
 - (d) to ensure the security of the International Trade Supply Chain.
2. Assistance within the framework of this Annex shall be rendered in accordance with the domestic law and administrative provisions of the requested Member State and within the competence and available resources of its Customs Administration.
3. This Annex shall not provide for the recovery in the territory of the requested Member State of Customs duties, taxes and any other charges incurred in the territory of the requesting Member State.
4. This Annex is intended solely for mutual administrative assistance between the Member States. The provisions of this Annex shall not give rise to a right on the part of any Person

to obtain, suppress or exclude any evidence or to impede the execution of a request for assistance.

5. The Member States may, by mutual arrangement, co-operate in the exchange of Information taking into account the Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization.

Article 3

Communication of Requests

1. Requests for assistance under this Annex shall be exchanged directly between the Customs Administrations concerned. Each Customs Administration shall appoint a central co-ordination unit for this purpose and shall provide details thereof to the Executive Secretary of SACU who shall communicate this Information and any updates thereof to the other Customs Administrations.
2. The central co-ordination unit shall be responsible for:
 - (a) receiving all requests for assistance;
 - (b) co-ordinating all requests for assistance; and
 - (c) maintaining contact with the central co-ordination units of the other Member States.
3. The activities of the central co-ordination units shall not exclude, particularly in an emergency, direct contact or co-operation between operational areas of the respective Customs Administrations, provided that the central co-ordination units shall be informed without delay of such direct contact or co-operation.
4. Requests for assistance under this Annex shall be made in writing or electronically, and shall be accompanied by any Information deemed useful to comply with the request. The

Requested Administration may require written confirmation of electronic requests. Where the circumstances so require, requests may be made orally. Such requests shall be confirmed in writing as soon as possible or, if acceptable to the requested and Requesting Administrations, by electronic means.

5. Requests made pursuant to paragraph 4 of this Article, shall include the following details:
 - (a) the name of the Requesting Administration;
 - (b) the Customs matter at issue, type of assistance requested, and reason for the request;
 - (c) a brief description of the case under review and its administrative and legal elements;
 - (d) the names and addresses of the Persons to whom the request relates, if known;
 - (e) a reference in accordance with paragraph 2 of Article 25, if applicable;
 - (f) the verifications made in accordance with paragraph 2 of Article 6.
6. Where the Requesting Administration requests that a certain procedure or methodology be followed, the Requested Administration shall comply with such a request subject to its domestic law and administrative provisions.
7. In serious cases that could involve substantial damage to the economy, public health, public security or any other vital interest of any Member State, the Customs Administration of any Member State shall, wherever possible, supply such Information on its own initiative without delay.

Article 4

Information for the Application and Enforcement of Customs Law

1. The Customs Administrations shall supply to each other, either on request or on their own initiative, with Information that may help to ensure proper application of Customs Law and the prevention, investigation and combating of Customs Offences and to ensure the security of the International Trade Supply Chain. Such Information may include:
 - (a) new Customs Law enforcement techniques having proved their effectiveness;
 - (b) new trends, means or methods of committing Customs Offences;
 - (c) goods known to be the subject of Customs Offences, as well as transport and storage methods used in respect of those goods;
 - (d) Persons known to have committed a Customs Offence or suspected of being about to commit a Customs Offence;
 - (e) categories of goods known to be the subject of illicit trafficking;
 - (f) the application of the rules concerning the origin of goods;
 - (g) the assessment of customs duties and the correct determination of Customs value and tariff classification of goods; and
 - (h) any other data that may assist Customs Administrations with risk assessment for control and facilitation purposes.

2. On request, the Requested Administration shall provide the Requesting Administration, who has reason to doubt the accuracy of Information supplied to it in a customs matter, with Information on:
 - (a) whether goods that are imported into the territory of the requesting Member State have been lawfully exported from the territory of the requested Member State;
 - (b) whether goods that are exported from the territory of the requesting Member State have been lawfully imported into the territory of the requested Member State and the nature of the Customs procedure, if any, under which the goods have been placed.

Article 5

Information Relating to Customs Offences

The Customs Administration of a Member State shall, on its own initiative, or upon request, supply to the Customs Administration of any other Member State concerned, reports, records of evidence, or certified copies of documents giving all available Information on transactions, completed or planned, that constitute or appear to constitute a contravention of the Customs Law of the Member State concerned. All relevant Information for the interpretation or utilisation of the material shall be supplied at the same time.

Article 6

Information for the Assessment of Customs Duties

1. On request, the Requested Administration shall, without prejudice to Article 25, in support of the proper application of Customs Law or in the prevention of Customs fraud, provide Information to assist the Requesting Administration that has reasons to doubt the truth or accuracy of a declaration.

2. The request shall specify the verification procedures that the Requesting Administration has undertaken or attempted and the specific Information requested.

Article 7

Automatic Exchange of Information

Member States may, by mutual arrangement in accordance with Article 28, exchange any Information covered by this Annex on an automatic basis.

Article 8

Advance Exchange of Information

Member States may, by mutual arrangement in accordance with Article 28, exchange specific Information in advance of the arrival of consignments in the territory of any other Member State.

Article 9

Notification

1. On request, the Requested Administration shall take all necessary measures to notify a Person, residing or established in the territory of the requested Member State of any decision concerning that Person taken by the Requesting Administration, in application of Customs Law, that fall within the scope of this Annex.
2. Such notification shall be made in accordance with the procedures applicable in the territory of the requested Member State, subject to its domestic law and administrative provisions.

Article 10

Technical Assistance

1. Member States shall provide each other with technical assistance in Customs matters including:
 - (a) exchange of Customs Officials when mutually beneficial for the purposes of advancing the understanding of each other's techniques;
 - (b) training and assistance in developing specialised skills of Customs Officials;
 - (c) exchange of experts knowledgeable about Customs matters;
 - (d) exchange of professional, scientific and technical data relating to Customs Law and procedures;
 - (e) Information on the computerisation of customs procedures including e-customs and Electronic Data Interchange applications; and
 - (f) trade facilitation measures and simplification of Customs procedures.

Article 11

Surveillance of Persons, Goods, Places and Means of Transport

1. The Customs Administration of a Member State shall on its own initiative or on written request from the Customs Administration of another Member State, subject to its domestic law and in accordance with its administrative practices, maintain special surveillance over:

- (a) the movements and, in particular, the entry into and exit from its territory, of Persons suspected of being occasional or habitual contraveners of the Customs Law of the requesting Member State;
 - (b) suspect storage or movements of goods and means of payment notified by the Requesting Administration as giving rise to substantial illicit trade in the territory of that Member State;
 - (c) premises used for storing goods that may be used in connection with substantial illicit trade in the territory of the requesting Member State;
 - (d) means of transport that are suspected of being used in contravening Customs Law in the territory of the requesting Member State.
2. Each Customs Administration shall, on written request or in meeting the requirements of any other agreements between the Member States, subject to its domestic law and in accordance with its administrative practice, maintain routine monitoring over the movement of specified goods and any agreed quantitative restrictions or quotas that may apply to those specified goods.
3. The results of such surveillance shall be communicated to the Customs Administration of the requesting Member State as soon as is reasonably possible.

Article 12

Controlled Delivery

1. Subject to the domestic law of each Member State, the Customs Administrations of the Member States shall cooperate, as necessary, in the context of international controlled deliveries of narcotic drugs, psychotropic substances or

substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances, in order to detect offences relating to such goods and identify Persons committing such offences.

2. Illicit shipments subject to Controlled Delivery may, by mutual agreement of the competent authorities of the Member States, be intercepted and allowed to continue their journey either intact, or after the narcotic drugs or substances mentioned in paragraph 1 of this Article have been removed or replaced in whole or in part.
3. Decisions concerning the use of Controlled Delivery are to be taken on a case-by-case basis, and may, if necessary, take into account financial arrangements and understandings between the competent authorities of the Member States.
4. If such movements cannot be carried out under the control of the Customs Administration, that Customs Administration shall endeavour to initiate co-operation with the national authorities that have such competence or shall transfer the case to them.

Article 13

Experts and Witnesses

At the request of the Customs Administration of a Member State, the Customs Administration of another Member State may authorise its Officials to appear before a court or tribunal in the territory of the requesting Member State as experts or witnesses in the matter of a Customs Offence. Such Officials shall give evidence regarding facts established by them in the course of their duties. The request for appearance shall specify, in particular, in what case and what capacity the Official is to be heard.

Article 14

Presence of Officials in the Territory of the Other Member State

1. Officials specially designated by the Requesting Administration of a Member State may, on written request, with the authorisation of the Requested Administration of a Member State and subject to conditions the latter may impose, for the purpose of investigating a Customs Offence:
 - (a) examine in the offices of the Requested Administration the documents, registers and other relevant data to extract any Information in respect of that Customs Offence;
 - (b) be provided with copies of the documents, registers and other data relevant in respect of that Customs Offence;
 - (c) be present during an enquiry conducted by the Requested Administration and relevant to the Requesting Administration.
2. Where the Requested Administration considers it useful or necessary for an Official of the Requesting Administration to be present when, pursuant to a request, measures of assistance are carried out, it shall inform the Requesting Administration accordingly.

Article 15

Arrangements for Visiting Officials

1. When, in the circumstances provided for by this Annex, Officials of a Member State are present in the territory of another Member State, they must at all times be able to

furnish proof of their Official identity and status in their Customs Administration and of their Official status as granted in the territory of the Requested Administration.

2. The Officials so designated shall be present in an advisory role only and may not exercise the powers conferred on Officials of the Requested Administration by the domestic law of the requested Member State. The Officials shall, however, for the sole purpose of the enquiry being carried out and in the presence of and through Officials of the Requested Administration, have access to the same premises and same documents as those Officials of the Requested Administration.
3. The Officials shall, while in the territory of another Member State, enjoy the protection accorded to Customs Officials of the requested Member State, in accordance with the domestic law of the requested Member State, and be responsible for any offence they might commit. The Officials shall not be in uniform and shall not carry arms.

Article 16

Joint, One-stop or Juxtaposed Border Post

The Customs Administrations of the Member States may, in accordance with their respective Customs Law, enter into an arrangement for the establishment of a joint, one-stop or juxtaposed border post. The arrangement shall set out the rules for the establishment and operation of such border post and shall be subject to review by the competent authorities of the Customs Administrations as and when considered necessary.

Article 17

Hot Pursuit

1. Officials of a Member State pursuing in their State's territory an individual observed in the act of committing a Customs Offence that could give rise to extradition, or participating in such an offence, may continue pursuit in the territory of another Member State, subject to a prior request, authorisation and any conditions the requested Member State may impose.
2. If for particularly urgent reasons, it has not been possible to inform the competent authorities of another Member State prior to entry into its territory or where those authorities have not been able to engage in active pursuit, the pursuit may be continued without prior authorisation.
3. Where pursuit is continued without prior authorisation, the competent authorities of the Member State in whose territory the pursuit is continued, shall be immediately informed of the crossing of the border and a formal request for authorisation, outlining the grounds for crossing the border without prior authorisation, shall be submitted as soon as possible.
4. At the request of the pursuing Officials, the competent authorities of the Member State where the pursuit is taking place shall challenge the pursued individual so as to establish his or her identity or to detain him or her.
5. Where the pursuit takes place on the sea, it shall, where it extends to the high sea, be carried out in conformity with the international law of the sea as reflected in the United Nations Convention on the Law of the Sea.
6. Member States shall develop and agree on procedures governing implementation of this clause.

Article 18
Cross-Border Surveillance

1. Officials of a Member State, keeping under surveillance in their State's territory a Person about whom there are serious grounds to believe that he or she is involved in a Customs Offence, may continue the surveillance in the territory of another Member State subject to a prior request, authorisation and any conditions the requested Member State may impose.
2. If, for particularly urgent reasons, prior authorisation cannot be requested, surveillance pursuant to paragraph 1 of this Article may be continued provided that the competent authorities of the Member State in whose territory the surveillance is to be continued, are immediately informed of the crossing of the border and a formal request for authorisation, outlining the grounds for crossing the border without prior authorisation, is submitted as soon as possible.

Article 19
Covert Investigations

1. A requested Member State may authorise Officials of a requesting Member State to investigate in its territory, under cover of false identities, to ascertain or clarify facts about a Customs Offence where it would be extremely difficult to do so otherwise. The Officials in question shall be authorised to collect Information and to make contact with the subjects of investigations or other Persons associated with them in the course of their investigative activities.
2. Such investigations shall be carried out in accordance with the domestic law and procedures of the Member State in whose territory the investigations are being conducted.

Article 20

Joint Control and Investigation Teams

1. Member States may establish joint control or investigation teams to detect and prevent particular types of Customs Offences requiring simultaneous and co-ordinated activities.
2. Such teams shall operate in accordance with the domestic law and procedures of the Member State in whose territory the activities are being carried out.

Article 21

Means of Obtaining Information

1. If the Requested Administration does not have the Information requested, it shall take any necessary measures to obtain such Information. If necessary, the Requested Administration may be assisted by another competent authority of the requested Member State in providing the assistance. However, answers to requests shall be conveyed solely by the Requested Administration.
2. In cases where the Requested Administration is not the appropriate authority to comply with a request, it shall either promptly transmit the request to the appropriate authority, which shall act upon the request according to its powers under the domestic law of the requested Member State, or advise the Requesting Administration of the appropriate procedure to be followed regarding such a request.
3. Any enquiry under paragraph 1 of this Article may include the taking of statements from Persons from whom Information is sought in connection with a Customs Offence and from witnesses and experts.

Article 22

Use of Information

1. Any Information received under this Annex shall be used only by the Customs Administration for which it was intended and solely for the purpose of administrative assistance under the terms set out in this Annex.
2. On request, the Member State that supplied the Information may, notwithstanding paragraph 1 of this Article, authorise its use by other authorities or for other purposes, subject to any terms and conditions it may specify. Such use shall be in accordance with the domestic law and administrative provisions of the Member State which seeks to use the Information. The use of Information for other purposes includes its use in criminal investigations, prosecutions or proceedings.

Article 23

Confidentiality of Information

1. Any Information received under this Annex shall be treated as confidential and shall, at least, be accorded protection and confidentiality similar to that accorded to the same kind of Information under the domestic law and administrative provisions of the receiving Member State.
2. Personal data exchange between two or more Member States under this Annex shall not begin until the Member States concerned have, by mutual arrangement in accordance with paragraph 2 of Article 28, agreed that such data will be afforded, in the territory of the receiving Member State, a level of protection that satisfies the requirements of the domestic law of the supplying Member State.
3. The Customs Administration of the receiving Member State may, in accordance with the purposes and within the scope

of this Annex, in its records of evidence, reports, and testimonies, and in proceedings and charges brought before the courts, use as evidence Information and documents obtained in accordance with this Annex.

Article 24

Personal Data Protection

1. Personal data shall only be supplied to a Customs Administration. The supply of Personal data to any other authority shall only be allowed after prior approval by the Customs Administration supplying the data concerned.
2. On request, the Customs Administration receiving Personal data shall inform the Customs Administration which supplied that data of the use made of it and the results achieved.
3. Personal data supplied under this Annex shall be kept only for the time necessary to achieve the purpose for which it was supplied.
4. The Customs Administration supplying Personal data shall, to the extent possible, ensure that this data has been collected fairly and lawfully and that it is accurate and up to date and not excessive in relation to the purposes for which it is supplied.
5. If Personal data supplied is found to be incorrect or should not have been exchanged, this shall be notified immediately. The Customs Administration that has received such data shall amend or delete it.
6. The Customs Administrations shall record the supply or receipt of Personal data exchanged under this Annex.
7. The Customs Administrations shall take the necessary

security measures to protect Personal data exchanged under this Annex from unauthorised access, amendment or dissemination.

8. A Member State shall be liable, in accordance with its domestic law and administrative provisions, for damage caused to a Person through its use of Personal data exchanged under this Annex. This shall also be the case where the damage was caused by a Member State supplying inaccurate data or supplying data that is contrary to this Annex.
9. If the Member State found liable for damage under paragraph 8 of this Article is not the Member State that supplied the Personal data, the Member States concerned shall agree on the terms and conditions of reimbursement to the liable Member State of any sums it paid out in compensation.

Article 25

Exemptions from Obligation to Render Assistance

1. Where any assistance requested under this Annex may infringe the sovereignty, laws and treaty obligations, or the security, public policy or any other essential national interests of a requested Member State, or might in the opinion of that Member State involve violation of industrial, commercial or professional secrecy, or would be inconsistent with its domestic law and administrative provisions, it may refuse to provide assistance or it may provide the assistance only if certain conditions are met.
2. If the Requesting Administration has requested assistance which it would not itself be able to give if requested by the Requested Administration, it shall draw attention to the fact in the request. Compliance with such a request shall be entirely within the discretion of the Requested Administration.

3. Assistance may be postponed if there are grounds to believe that it will interfere with an ongoing investigation, prosecution or proceedings. In such a case, the Requested Administration shall consult with the Requesting Administration to determine if assistance can be given subject to such terms or conditions as the Requested Administration may specify.
4. If the Requested Administration considers that the effort required to fulfill a request is clearly disproportionate to the perceived benefit to the Requesting Administration, it may decline to provide the requested assistance.
5. Where assistance is refused or postponed, the decision and the reasons for the refusal or postponement shall be notified in writing to the Requesting Administration without delay.

Article 26

Costs

1. Subject to paragraphs 2 and 3 of this Article, the costs incurred in the application of this Annex shall be borne by the requested Member State.
2. Expenses and allowances paid to experts and witnesses, as well as costs of translators and interpreters, other than Government employees, shall be borne by the requesting Member State.
3. If expenses of a substantial or extraordinary nature are or will be required to execute a request, the Member States shall consult to determine the terms and conditions under which the request shall be executed as well as the manner in which the costs shall be borne.

Article 27

Territorial Application of the Annex

This Annex shall apply to the territory of the Southern African Customs Union.

Article 28

Implementation and Application of the Annex

1. In applying this Annex, the Member States shall take the necessary measures to ensure, to the extent possible, that their Officials responsible for the investigation or combating of Customs Offences maintain Personal and direct relations with each other.
2. Two or more Member States may decide on the mutual arrangements to facilitate the implementation and application of this Annex between them.
3. Member States shall attach, on the notice to the Secretariat of completion of national processes, procedures for implementing cross border co-operation in each Member State.

Article 29

Amendments to the Annex

1. Any Member State desirous of amending this Annex shall put forward its proposal for such amendment, together with its submission in motivation of the proposed amendment, to Council for consideration and decision.
2. Any amendment to this Annex shall be adopted by a decision of the Council in accordance with Article 43 of the Agreement.

Article 30

Settlement of Disputes

1. The Customs Administrations shall endeavour to resolve, by mutual agreement and through SACU structures, any disputes as to the interpretation or application of this Annex and shall make every effort, through co-operation and consultation, to arrive at a mutually satisfactory agreement.
2. Any disputes that cannot be settled through consultation shall be referred to Council which shall consider the dispute and make a decision for its settlement.

Article 31

General

Council shall jointly determine the detailed arrangements for the implementation of this Annex.

Article 32

Entry into Force

This Annex shall enter into force (30) days after confirmation from each Member State that national processes have been complied with.