

GENERAL EXPLANATORY NOTE:

[] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

_____ Words that are underlined with a solid line, indicate insertions in the existing rules

DRAFT AMENDMENT OF RULES
in terms of the Customs and Excise Act, 1964

The following amendments are proposed in terms of sections 49 and 120:

(a) By the insertion after the rules numbered 49D of the following rules:

“Preferential Trade Agreement between the Common Market of the South (MERCOSUR) and the Southern African Customs Union (SACU)

Part D of the Schedule to General Notes to Part 1 of Schedule No. 1: Annex III: Concerning the definition of the concept of “originating products” and methods of administrative co-operation

49E.01 **(a)** **The rules numbered 49E are rules contemplated in section 49(6)(b) in respect of the Preferential Trade Agreement between the Common Market of the South (MERCOSUR) and the Southern African Customs Union (SACU). The MERCOSUR States comprise the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay and SACU comprises of the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland.**

(b) **Where any rule reflects a number or numbers in brackets after a serial number, for example, 49E.02(1), the number in brackets**

refers to the Article number or numbers of Annex III entitled “Definition of the Concept of ‘Originating Products’ and Arrangements for Administrative Co-operation” of the said Agreement to which the rule relates.

(c) Any expression used in these rules with reference to the Annex or the Agreement shall, unless the context otherwise indicates, have the meaning assigned thereto in Annex III or provisions of the Act relating to such Annex or in the said Agreement or in the Notes to Part D of the Schedule to the General Notes to Schedule No. 1.

(d) The expression–

- (i) “Article” refers to the specified numbered article of Annex III;
- (ii) “Agreement” means the Preferential Trade Agreement between the Common Market of the South (MERCOSUR) and the Southern African Customs Union (SACU);
- (iii) “SACU-MERCOSUR Certificate of Origin” includes according to the context, for export purposes, the set of forms comprising the SACU-MERCOSUR Certificate of Origin, the application form and copy of the application form referred to in rule 49E.15(15.16); and
- (iv) “goods” as used in these rules means, depending on the context, “goods” or “products” or “materials” as defined in Annex III;

(e) (i) Subject to section 3(2), any power, duty or function contemplated in section 49(6), is delegated in terms of section 49(6)(b)(vi) to the extent specified in these rules to the Senior Manager: Trade Administration, the Controller or any officer designated to perform such function;

(ii) For the purposes of subparagraph (i) any officer authorised by the Senior Manager: Trade Administration or by any Controller may exercise any power or duty or function conferred or imposed on customs authorities in Annex III or on any officer in terms of any other provision of this Act for the

purpose of verification of the originating status of goods or the fulfillment of the other requirements of Annex III.

(f) Registration of exporter and producer

For the purposes of section 49(6) and section 59A–

(a) every exporter and producer of goods to be exported to any of the member states of the MERCOSUR shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of–

(i) an exporter, Annexure DA 185.4A2

(ii) a producer, Annexure DA 185.4A7;

(b) if the exporter is also the producer of the goods concerned, application for registration as exporter, as well as a producer, must be so submitted.

ANNEX III

TITLE 1 - GENERAL PROVISIONS

49E.02(1) Article 1 - Definitions

No rule.

TITLE II - DEFINITION OF THE CONCEPT OF “ORIGINATING PRODUCTS”

49E.03(2) Article 2 – General requirements

Goods originating in SACU are considered of single SACU origin, and the certificate of origin must accordingly reflect “SACU Origin”.

49E.04(3) Article 3 – Bilateral cumulation of origin

Whenever originating status is claimed for any product in which materials originating in any MERCOSUR State or any SACU State have been incorporated, the exporter shall, in addition to any other documentation that may be elsewhere specified in Annex III or in these rules, keep available for inspection all appropriate records to prove compliance with the conditions for cumulation as contemplated in Article 3.

49E.05(4) Article 4 - Wholly obtained products

Goods wholly obtained must be so declared on the certificate of origin and any entry or declaration for export.

49E.06(5), (6) Article 5 - Sufficiently worked or processed products

Article 6 - Insufficient working or processing

Any record kept to prove the originating status of goods exported shall reflect the nature of the working or processing carried out in a MERCOSUR State or in SACU in order to distinguish the operations for the purposes of Articles 5 and 6.

49E.07(7) Article 7 - Unit of qualification

No rule.

49E.08(8) Article 8 - Accessories, spare parts and tools

No rule.

49E.09(9) Article 9 - Sets

Any proof of origin kept of goods exported shall contain sufficient details for verification of the heading and other characteristics of the goods for the purpose of application of these Articles.

49E.10(10) Article 10 – Containers and packing materials for transport

No rule.

49E.11(11) Article 11 – Neutral elements

No rule.

TITLE III - TERRITORIAL REQUIREMENTS

49E.12(12) Article 12 - Principle of territoriality

Where originating status is claimed for goods that have been exported for outward processing the exporter must produce before exportation all relevant documents including any SAD form declaring the goods on importation under item 409.07 of Schedule No. 4 to the Controller for verification whether the provisions of Article 12 have been complied with.

49E.13(13) Article 13 - Direct transport

- (a) "Transported directly" means goods invoiced to an importer in SACU by an exporter in a MERCOSUR State (or by a person in another country) and transported directly from the MERCOSUR State to that importer, arriving in the same ship, aircraft or container on which they were loaded in the MERCOSUR State.
- (b) The evidence contemplated in paragraph 2 of Article 13 in respect of goods which otherwise qualify for preferential treatment, but which have not been transported directly between a MERCOSUR State and a SACU State shall be produced to the Controller at the time of entry together with the certificate of origin and other documents contemplated in section 39.
- (c) If the Controller is not satisfied with the evidence and provided no false statement or a statement suspected on reasonable grounds to be false is produced, the Controller may release the goods on the furnishing of a provisional payment or other security as contemplated in and subject to the provisions of section 49(9).
- (d) Documents providing the facts specified in paragraph 1 of Article 13 may include a declaration by the exporter supported by a statement by the customs authorities of the MERCOSUR State that according to their investigations the facts contained in the declaration are correct or to the extent that although all the facts have not been verifiable they have no reason to doubt their correctness.

49E.14(14) Article 14 - Exhibitions

In addition to the proof of origin referred to in paragraph 2 of Article 14 the importer must produce on entry of the goods imported–

(a) an invoice from the exporter in the MERCOSUR State endorsed with the statement “these goods were consigned to you from (name and place of exhibition)”; and

(b) a statement from–

(i) the exporter confirming the particulars specified in paragraphs 1(a) to (d) of Article 14; and

(ii) if the Senior Manager: Trade Administration so requires, the customs authorities in the country of exhibition stating that the goods–

(aa) were consigned by the exporter from a MERCOSUR State to the exhibition;

(bb) were used solely for exhibition or demonstration; and

(cc) remained under customs control during their stay in the country of exhibition

TITLE IV - CERTIFICATE OF ORIGIN

49E.15(15), (16) Article 15 - General requirements

Article 16 - Procedure for the issue of a certificate of origin

(a) Numbered sets of certificates of origin (pages 1 - 2) and the Application For A Certificate Of Origin (pages 3 - 4) with a duplicate application form (page 5) have been printed in accordance with the provisions of Appendix III to Annex III and are available on application from the South African Revenue Service at the offices of Controllers specified in paragraph 200.03 of the Schedule to the Rules on application by any exporter who wishes to export originating products to a MERCOSUR State.

- (b) (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller.
- (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss.
- (iii) The certificate of origin, export SAD form and supporting documents shall be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Senior Manager: Trade Administration otherwise determines.
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the certificate of origin and the application form.
- (d) The authorisation must be completed on the exporter's own letter-headed paper and confirm full details of the agent's name and address and the full names of the staff who will complete and sign the said forms.
- (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in Annex III and a certified duplicate set has been furnished to the agent.
- (f) The letter of authority shall be submitted together with the completed certificate of origin and application form and will be retained by the Controller.
- (g) Completion of a certificate of origin is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of Annex III:

(h) The certificate of origin must be completed to be authentic in accordance with the instructions in Article 16, the notes to the certificate and the following requirements:

- (i) If the certificate is being made out in manuscript, it must be made out in ink and capital letters must be used throughout;
- (ii) the numbered boxes of the certificate must be completed as follows:

Box 1

The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic. In addition to the name and address of the exporter, also insert the registration number referred to in rule 39.08.

Box 2

Insert SACU in the first line and the name of the MERCOSUR State of destination in the second line.

Box 3

Insert the name of the consignee, and for exports to any exhibition outside a MERCOSUR State which are later to be sent to a MERCOSUR State, also insert the name and address of the exhibition.

Box 4

Insert "X" in the appropriate box.

Box 5

Insert "X" in the appropriate box.

Box 6

Insert the details which will be inserted on the export SAD form.

Box 7

Insert any of the following endorsements where necessary; otherwise leave the box blank–

“Duplicate” (where application is made for a duplicate as contemplated in Article 18).

“Issued retrospectively” (where the goods have been exported before application is made for a certificate and application is made for retrospective issue thereof as contemplated in Article 17).

“Replacement of certificate of origin” - Issued in(insert the country in which the certificate of origin was issued - to be issued in the circumstances contemplated in Article 19).

If applicable, the particulars required in terms of Note 4 to the certificate of origin.

Box 8

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

- 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.

- No space must be left between items.

- State identifying marks and numbers on the packages.

- If the packages are addressed to the consignee state the address.

- If they are not marked state “No marks and numbers”.

- For goods in bulk which are not packed insert “In bulk”

- The quantity stated must agree with the quantities on the invoice, for example, 100 cartons.

- The goods must be identified by giving a reasonably full commercial description and in order that the

appropriate tariff heading can be determined, for example, electric insulators (8546) or watch cases and parts (9111). The heading must be stated next to the description.

- If both originating and non-originating goods are packed together describe only the originating goods and add at the end "Part contents only."
- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be marked with an asterisk on the invoice and the following statement put in Box 8, below the description of the goods:
 - "Goods marked * on the invoice are non-originating and are not covered by this certificate of origin.
 - Draw a horizontal line under the only or final item in box 8 and rule through the unused space with a Z-shaped line or otherwise cross it through.

Box 9

Insert metric measures.

Box 10

Invoices must–

- be serially numbered and the dates and numbers reflected in this box:
- reflect the certificate of origin number or mention the office and date of issue:
- contain a full description of the goods, the tariff heading and reference numbers or other particulars for identification of the goods in the exporter's records; and
- state the country in which the goods originate.

Box 11

- The initials and surname and capacity of the person signing the certificate must be stated below the signature.

- If the certificate is signed on behalf of a clearing agent the name of the clearing agent must be stated below the signature.
- The signature must not be mechanically reproduced or made with a rubber stamp.

Box 12

- Insert the SAD form number and date.
- The officer must print his or her initials and surname below his or her signature and date-stamp the certificate in the space provided by imprinting thereon the special stamp issued to him or her for that purpose.

(jii) No certificate shall be valid—

- (i) If any entered particulars are incorrect and not in accordance with these rules;
- (ii) if it contains any erasures or words written over one another;
- (iii) 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.

(k) For the purposes of verification of the originating status of goods declared in the application for certificate of origin (page 4 of the set of forms) the exporter, whether the manufacturer in whose undertaking the last working or processing was carried out or an exporter who has bought in the goods from a manufacturer for exportation in the same state or who re-exports in the same state goods imported from a MERCOSUR State must produce to an officer at any time including at the time of presentation of such application, as the officer may require documents proving the originating status of the goods exported, including—

- (i) in accordance with the provisions of Article 24, accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned, certificates of origin and invoice declarations (if applicable) proving the originating status of materials used and supplier's declarations;
- (ii) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
- (iii) documents proving the value of materials used and added value;
- (iv) costing records showing the calculation of the ex-works price defined in Annex III.

(l) The requirements for signing the declaration on the certificate of origin are also applicable in respect of the application form which—

- (i) must bear the original signature of the person signing the declaration;
- (ii) must be signed by the same person who signed the declaration on the certificate of origin;

(m) In the space where is stated "Specify as follows the circumstances which have enabled these goods to meet the above conditions" the exporter must state—

- (i) If exported goods are manufactured or wholly obtained by the exporter:

"The goods shown on the certificate of origin were manufactured or wholly obtained by the exporter and are classified under (4 figure tariff heading). They fulfill the appropriate qualifying provisions of origin of Annex III."

- (ii) If the exporter has bought in goods for export in the same state—

(aa) Goods manufactured or wholly obtained in the

SACU

“The goods shown on the certificate of origin were manufactured or wholly obtained (delete which is not applicable) in the SACU and are classified under (4 figure tariff heading). Evidence of their originating status as required by Annex III is held by me;” or

(bb) Goods manufactured or wholly obtained in a MERCOSUR State.

“The goods were imported from..... (name of MERCOSUR State) under cover of attached.....(state certificate of origin number and date) and are being exported in the same state. The goods are classified under(4 figure tariff heading).”

(iii) In the case of subparagraphs (i) and (ii) (aa), the applicable list rule in the Appendix II of Annex III.

(n) “Supporting documents” must include–

(i) a copy of the bill of lading, air waybill or other transport document, a copy of the export invoice or packing list which must bear reference numbers or other particulars sufficient to allow them to be identified in the exporter’s records;

(ii) the documents referred to in paragraph (d)

(o) The origin administration officer may refuse to certify certificate of origin if he has reasonable doubts about the correctness of the statements made in this form.

49E.16(17) Article 17 – Certificate of origin issued retrospectively

(a) The exporter may only apply for the issue of a certificate of origin after exportation–

(i) within six months after the date of exportation; and

(ii) at the office of the Controller where the goods were exported.

- (b) The application shall be in writing, stating fully the reasons for the request and shall be supported by–
- (i) a completed certificate of origin and its application form of which–
 - (aa) Box 7 shall be endorsed “issued retrospectively”; and
 - (bb) if a certificate of origin has not been issued previously for the goods concerned, the declaration by the exporter shall include a statement to this effect:
 - (ii) copies of the export SAD form, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
 - (iii) proof that the goods comply with the provisions of origin of Annex III;
 - (iv) full reasons of the circumstances in which a retrospectively issued certificate of origin is required.
- (c) Before such application is considered an examination of the exporter’s file must be conducted as contemplated in paragraph 3 of Article 17.
- (d) The application for the issue of a certificate of origin retrospectively shall be considered by the officer responsible for origin administration.

49E.17(18) Article 18 – Issue of a duplicate certificate of origin

- (a) The exporter shall furnish to the officer designated to perform such function at the office of the Controller where the original certificate of origin was issued–
- (i) a written statement giving reasons why a duplicate is required and the number and date of the original certificate of origin;
 - (ii) a completed certificate of origin and application form reflecting the word “Duplicate” and the number and date of the original form in Box No. 7;
 - (iii) copies of the export SAD form, export invoice, bill of lading, air waybill or other transport documents together with any

other supporting evidence produced when the original certificate was issued.

(b) The officer responsible for origin administration shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts or circumstances considered when the original certificate of origin was issued.

(c) If the officer responsible for origin administration decides to certify the duplicate certificate of origin, the officer shall stamp and sign it in the same way as any other certificate of origin, but in Box 11 after the word "Date" the officer shall insert the words "from which this Duplicate certificate of origin is valid" and thereafter the date of the original certificate of origin.

49E.18(19) Article 19 – Issue of a certificate of origin on the basis of a proof of origin issued or made out previously (herein referred to as a "Replacement certificate of origin")

(a) Any replacement certificate of origin may only be issued in respect of goods which have not been delivered for home consumption, have not undergone further processing and are under customs control.

(b) Application for the replacement certificate or certificates of origin may be in respect of–

(i) all or part of a consignment covered by the original certificate of origin; or

(ii) a collection of goods covered by several original certificates of origin issued in the same country of origin.

(c) The application must–

(i) be made in writing to the officer designated to perform such function at the office of the Controller where the goods are under customs control stating the reasons for the application;

(ii) be accompanied by the completed certificate or certificates of origin and application form marked in Box 4 with the country

of origin and endorsed in Box 7 with the statement “Replacement of certificate of origin of(insert the number and date) in”(the country in which the certificate of origin to be replaced was issued) together with any special statement which appear on the original document;

(iii) include a declaration that the goods are the same goods or formed part of the consignment of the goods for which the certificate of origin was issued;

(iv) include the original certificate of origin.

(d) The original certificate of origin and the application form for the replacement certificate or certificates of origin will be retained by the officer.

49E.19(20) Article 20 – Validity of certificate of origin

(a) Any goods imported for which originating status for the purpose of qualifying for a preferential rate of duty specified in Part 1 of Schedule No. 1 is claimed shall, if no proof of origin is available, be subject to the provisions of section 49(9).

(b) Any application for acceptance of proof of origin after the final date of presentation for the purpose of applying preferential treatment as contemplated in paragraph 2 of Article 20 shall be in writing addressed to the Senior Manager: Trade Administration stating fully the exceptional circumstances on which the application is based.

(c) For the purposes of paragraph 3 of Article 20, any proof of origin belatedly presented will be accepted only if the goods have been duly entered before expiry of the period of validity of four months from the date of issue referred to in paragraph 1 of Article 20.

49E.20(21) Article 21 – Submission of certificates of origin

(a) (i) Any person who intends to claim preferential tariff treatment must when clearing goods electronically reflect the certificate

of origin number and date of issue in the relevant field provided for that purpose on the bill of entry.

(b) Any proof of origin including supporting documents in respect of imported goods must, as circumstances require—

(aa) be produced at the time of entry for home consumption;

(bb) if entered as contemplated in section 49(9), be submitted upon request to the Controller within the time indicated in such request; or

(cc) if a refund application as contemplated in section 76(2)(h), be submitted with the application for refund.

(c) Every certificate of origin produced in respect of imported goods shall have attached to it a statement by the importer to the effect that the goods specified therein meet the conditions required for fulfilment of the requirements of Annex III.

49E.21(22) Article 22 – Importation by installments

(a) Where any importer requests approval to import goods contemplated in Article 22 by installments application shall be in writing and—

(i) in the case of any machine provided for in Additional Note 1 of Section XVI of Part 1 of Schedule No. 1, apply to the Manager: Tariff Policy in Head Office and forward a copy of the application to the Senior Manager: Trade Administration;

(ii) in the case of other dismantled or non-assembled products referred to in Article 22, the application shall be made to the Senior Manager: Trade Administration stating a full description of the goods, the tariff heading, the number of consignments and include *pro-forma* invoices of each.

(b) Copies of the proof of origin shall be presented with each SAD form for the importation of consignments subsequent to the first

installment and such SAD form shall reflect the number and date and place of entry of the first SAD form.

49E.22(23) Article 23 – Exemptions from certificate of origin

- (a) A certificate of origin is not required if the goods are sent as small packages from private persons to private persons, or form part of a traveller's personal baggage and are admissible under the provisions of rebate items 407.01 and 407.02 or 412.10.
- (b) The following general conditions provided for in Article 23 apply to exemptions from production of a certificate of origin in respect of the importations concerned, where–
- (i) the value of such goods does not exceed the limit of ZAR 1400 in the case of small packages or ZAR 25000 in the case of goods forming part of travellers' personal baggage;
 - (ii) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of travellers' personal luggage; and
 - (iii) the goods have been declared as meeting the requirements of Annex III and there is no reason to doubt the veracity of such declaration.
- (c) The following additional conditions apply for private postal imports–
- (i) the goods have been sent by one private individual to another direct from the preference country in question;
 - (ii) the sender declares in writing that the origin conditions are satisfied.
- (d) The values of goods forming part of a traveller's personal baggage or sent as small packages from private persons to private persons to a MERCOSUR State must not exceed those determined by the national legislation of that State.

49E.23(24) Article 24 - Supporting documents

- (a) In addition to the documents referred to in Article 24 and in the rules for Articles 15 to 16 every exporter who completes a certificate of origin in respect of goods exported shall keep all the supporting documents proving the originating status of the goods concerned.
- (b) The invoiced price is not acceptable as the ex-works price, and may be determined by the Senior Manager: Trade Administration, where–
- (i) different terms apply, for example, CIF price;
 - (ii) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchasers for similar goods;
 - (iii) goods are invoiced by manufacturers to purchasers at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;
 - (iv) a discount has been granted subject to conditions, for example, payment to be made within six months of sale to a distributor, in which case it should be ignored when calculating the ex-works price;
 - (v) any other instances where the invoiced price is not an ex-factory price.
- (c) Any accounting records kept for providing evidence of the originating status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for proving the originating status of the goods and for fulfilling the other requirements of Annex III.
- (d) A unique Consignment Reference must be generated for each export consignment as required in terms of rule 38.15.

49E.24(25) Article 25 - Preservation of certificate of origin and supporting documents

Documents shall be preserved as provided in rule 101.02.

49E.25(26) Article 26 - Discrepancies and formal errors

- (a) Slight discrepancies in proof of origin documents referred to in Article 26(1) submitted at the time of entry of imported goods may include–
- (i) spelling or typing mistakes or other minor errors not corrected;
 - (ii) amendments which have no direct bearing on the validity of the declaration of origin;
 - (iii) valid and accurate information, but not in correct box;
 - (iv) exporter declaration box not dated;
 - (v) other discrepancies as determined by the Senior Manager: Trade Administration.
- (b) Any proof of origin document submitted with slight discrepancies or formal errors as contemplated in this Article may be accepted provided the documents comply with the conditions contemplated in this Article.

TITLE V – ARRANGEMENTS FOR ADMINISTRATIVE CO-OPERATION

49E.26(27) Article 27 - Notifications

- (a) The stamp provided for issuing certificates of origin must be used only for that purpose and only such stamp shall be used for such forms.
- (b) The Senior Manager: Trade Administration shall be responsible for rendering the assistance contemplated in Article 27 to the customs administrations of the MERCOSUR States.

49E.27(28) Article 28 – Verification of certificate of origin

- (a) Any certificate of origin in respect of imported goods shall be submitted for verification to the customs authorities of a MERCOSUR State for verification by the Senior Manager: Trade Administration.
- (b) If any origin administration officer has reasonable doubts about the certificate of origin, the originating status of the goods concerned or the fulfillment of the other requirement of Annex III, such officer may, unless the Senior Manager: Trade Administration otherwise determines, allow release only on the furnishing of adequate security pending a report by the customs authorities of a MERCOSUR State on the originating status of the goods.
- (c) If a request is received from the customs authorities in a MERCOSUR State, the exporter, supplier or any other person contemplated in section 4(12A) shall produce all documents and furnish the information necessary to determine the authenticity of certificates of origin, the originating status of the goods concerned or the fulfillment of the other requirements of Annex III.
- (d) The Senior Manager: Trade Administration shall determine whether or not to refuse entitlement to preferences in the circumstances contemplated in Article 28(7).

49E.28(29) Article 29 – Dispute settlement

- (a) Any person involved in a dispute as contemplated in Article 29(2) concerning any decision or determination in respect of the application or interpretation of any provision of origin may, before any appeal to court as contemplated in section 49(7)(b), submit an internal appeal to the Commissioner within three months of the decision or determination concerned.
- (b) Application for internal appeal shall be made on the appeal form obtainable from the Senior Manager: Trade Administration and shall

state all the facts and circumstances relating to the dispute in such form which shall be supported by available documentary evidence including the documents in respect of the relevant customs and excise procedure and legal argument to substantiate the viewpoint expressed in the application.

49E.29(30) Article 30 - Penalties

No rule.

49E.30(31) Article 31 – Free zones

If a certificate of origin is issued for goods which use a free Zone in the course of transport, the exporter must, include with the supporting documents referred to in rule 49E.23(24), a declaration to this effect and stating that the goods were not substituted by other goods and did not undergo handling other than normal operations designed to prevent their deterioration.

TITLE VI – FINAL PROVISIONS

49E.31(32) Article 32 – Review

No rule.

49E.32(33) Article 33 – Transitional provisions for goods in transit or storage

- (a) The provisions of Article 33 may be applied in respect of goods complying with the provisions of Annex III which are exported from a MERCOSUR State and either in transit to or in a customs and excise warehouse in the Republic on 1 April 2016.
- (b) The provisions of section 49(9) shall apply if no proof of origin is available at the time of entry for home consumption of such goods.
- (c) In order to qualify for such benefit a valid retrospectively issued certificate of origin and proof of direct transport shall be submitted to the Controller where the goods have been entered by not later than 30 September 2016.

(d) For the purposes of goods exported to a MERCOSUR State the retrospective issue of certificates of origin may be applied for if supported by–

(i) proof–

(aa) of the originating status of the goods;

(bb) that the goods were directly transported;

(cc) were in transit to or in temporary bonded warehouses or in free zones in a MERCOSUR State on the said date;

(ii) a copy of the export SAD form and other export documentation.

49E.33 Article 33 - Appendix

No rule.

49E.34 Supplier's declarations

No rule.

49E.35 General

Documents to be submitted and procedures to be followed on presentation of SAD forms for goods in respect of which preferential treatment is claimed.

49E.35.01 (a) Import and export SAD forms must be endorsed with the number of the certificate of origin and date of issue.

(b) If the goods are entered electronically the number and date of the certificate of origin must be endorsed in the relevant field provided for that purpose on the bill of entry in terms of rule 49E.20(21)(a).

49E.35.02 Any person entering any imported goods or goods for export for which preferential treatment is claimed shall include with the clearance documents in respect of–

(a) imported goods–

(i) if the goods are entered for home consumption, the certificate of origin and, a copy of the bill of lading, air waybill or other transport document, for retention by the Controller;

- (ii) if the goods are entered for storage in a customs and excise warehouse for subsequent entry for home consumption, the certificate of origin and any other document required for allowing preferential treatment when the goods are entered for home consumption.
- (b) goods for export–
- (i) duly completed certificate of origin where required; and
- (ii) for retention by the Controller, the application form for certificate of origin and a copy of the export invoice, a copy of the packing list, a copy of the bill of lading, air waybill or other transport document, and the proof of origin;
- (c) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter's records.
- (d) Where goods for export are invoiced in a foreign currency the rate of exchange for the purposes of determining whether they qualify under the rules of origin shall be that applying at the time of shipment as contemplated in rule 120.09A.
- (e) (i) If used and secondhand goods exported should bear marks or origin, such marks may be accepted.
- (ii) If such goods bear no mark of origin, a declaration about the country of manufacture by an acknowledged expert in the trade may be accepted.
- (iii) Private persons
- (aa) The certificate of origin for second hand motor vehicles and boats exported by private persons must reflect where appropriate the make and type, chassis or body number, engine number and registration number.
- (bb) The exporter must in addition produce for inspection the invoice or a copy covering the purchase.

(cc) The export declaration of the application for the certificate of origin need not be completed and in such a case, the exporter may be shown as resident outside the Republic, if applicable.

49E.36 Imports into SACU of goods subject to annual tariff quotas in terms of Annex II to the Agreement

For the purposes of Notes 1 and 2 to Annex II–

(a) a certificate of origin for goods subject to annual tariff rate quotas must state the remarks contemplated in Note 2 in block 7 of the certificate; and

(b) (i) the quantities imported from the exporter must not exceed the quantities available for that exporter according to SARS controls.

(ii) if the balance on any tariff rate quota is inadequate for any importation, duty at the rate otherwise applicable thereto must be paid before release is authorised.

(c) For the purposes of this rule–

(i) "annual" means one calendar year from the first day of January to the last day of December of that year;

(ii) any unused tariff rate quotas during any year may not be carried over to the following year;

(iii) the Agreement is effective from 1 April 2016 and the tariff quotas must be applied proportionately from that date for this year.

(b) By the substitution in item 202.00 of the Schedule to the rules for forms DA 185, DA 185.4A2 and DA 185.4A7 of the following forms:

DA 185 Application form: Registration/Licensing of Customs and Excise Clients

DA 185.4A2 Registration Client Type 4A2 - Exporter (Local or Foreign)

DA 185.4A7 Registration Client Type 4A7 – Producer

DA 185.4A11 Client type 4A11 - Special Economic Zone Operator (SEZ) and/or designation of a Customs Controlled Area (CCA) – (Sections 21A, 59 and Rule 21A.04)

DA 185.4B9 Client type DA 185.4B9 - Special Storage Warehouse (Customs Controlled Area Enterprise) - (Sections 19A, 21, 21A, 60, 61 and Rule 21A.10)

DA 185.4B10 Client type DA 185.4B10 - Manufacturing Warehouse (Customs Controlled Area Enterprise) - (Sections 19A, 21A, 27, 59A and Rule 21A.10)

DRAFT