

5. To establish a Free Trade Area in the SADC Region.

## **PART TWO**

### **TRADE IN GOODS**

#### **Article 3**

##### **ELIMINATION OF BARRIERS TO INTRA-SADC TRADE**

1. The process and modalities for the phased elimination of tariffs and non-tariff barriers shall be determined by the Committee of Ministers responsible for trade matters (CMT) having due regard to the following:-
  - (a) The existing preferential trade arrangements between and among the Member States.
  - (b) That the elimination of barriers to trade shall be achieved within a time frame of eight (8) years from entry into force of this Protocol.
  - (c) That Member States which consider they may be or have been adversely affected, by removal of tariffs and non-tariff barriers (NTBs) to trade may, upon application to CMT, be granted a grace period to afford them additional time for the elimination of tariffs and (NTBs). CMT shall elaborate appropriate criteria for the consideration of such applications.
  - (d) That different tariff lines may be applied within the agreed timeframe for different products, in the process of eliminating tariffs and NTBs.
  - (e) The process and the method of eliminating barriers to intra-SADC trade, and the criteria of listing products for special consideration, shall be negotiated in the context of the Trade Negotiating Forum (TNF).
2. The agreed process and modalities for eliminating barriers to intra-SADC trade shall upon adoption, be deemed to form an integral part of this Protocol.

#### **Article 4**

##### **ELIMINATION OF IMPORT DUTIES**

1. There shall be a phased reduction and eventual elimination of import duties, in accordance with Article 3 of this Protocol, on goods originating in Member States.
2. The process should be accompanied by an industrialisation strategy to improve the competitiveness of Member States.

3. The CMT shall adopt such measures as may be necessary to facilitate adjustment arising from the application of this Article. The CMT shall review such measures from time to time.
4. Pursuant to paragraph 1, Member States shall not raise import duties beyond those in existence at the time of entry into force of this Protocol.
5. Nothing in Paragraph 4 of this Article shall be construed as preventing the imposition of across-the-board internal charges.
6. This Article shall not apply to fees and similar charges commensurate with costs of any services rendered.

## **Article 5**

### **ELIMINATION OF EXPORT DUTIES**

1. Member States shall not apply any export duties on goods for export to other Member States.
2. This Article shall not prevent any Member State from applying export duties necessary to prevent erosion of any prohibitions or restrictions which apply to exports outside the Community, provided that no less favourable treatment is granted to Member States than to third countries.

## **Article 6**

### **NON-TARIFF BARRIERS**

Except as provided for in this Protocol, Member States shall, in relation to intra-SADC trade:

- (a) adopt policies and implement measures to eliminate all existing forms of NTBs.
- (b) refrain from imposing any new NTBs.

## **Article 7**

### **QUANTITATIVE IMPORT RESTRICTIONS**

1. Member States shall not apply any new quantitative restrictions and shall in accordance with Article 3, phase out the existing restrictions on the import of goods originating in Member States, except where otherwise provided for in this Protocol.
2. Notwithstanding the provisions of paragraph 1 of this Article, Member States may apply a quota system provided that the tariff rate under such a quota system is more favourable than the rate applied under this Protocol.

## **Article 8**

### **QUANTITATIVE EXPORT RESTRICTIONS**

1. Member States shall not apply any quantitative restrictions on exports to any other Member State, except where otherwise provided for in this Protocol
2. Member States may take such measures as are necessary to prevent erosion of any prohibitions or restrictions which apply to exports outside the Community, provided that no less favourable treatment is granted to Member States than to third countries.

## **Article 9**

### **GENERAL EXCEPTIONS**

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Member States, or a disguised restriction on intra-SADC trade, nothing in Articles 7 and 8 of this Protocol shall be construed as to prevent the adoption or enforcement of any measures by a Member State:

- (a) necessary to protect public morals or to maintain public order;
- (b) necessary to protect human, animal or plant life or health;
- (c) necessary to secure compliance with laws and regulations which are consistent with the provisions of the WTO;
- (d) necessary to protect intellectual property rights, or to prevent deceptive trade practices;
- (e) relating to transfer of gold, silver, precious and semi-precious stones, including precious and strategic metals;
- (f) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (g) necessary to prevent or relieve critical shortages of foodstuffs in any exporting Member State;
- (h) relating to the conservation of exhaustible natural resources and the environment; or
- (i) necessary to ensure compliance with existing obligations under international agreements.

## **Article 10**

### **SECURITY EXCEPTION**

1. Nothing in this Protocol shall prevent any Member State from taking measures which it considers necessary for the protection of its security interests or for the purpose of maintaining peace.
2. The concerned Member State shall notify the CMT of any such measures.

## **Article 11**

### **NATIONAL TREATMENT**

Member States shall accord, immediately and unconditionally, to goods traded within the Community the same treatment as to goods produced nationally in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.

## **PART THREE**

### **CUSTOMS PROCEDURES**

## **Article 12**

### **RULES OF ORIGIN**

Originating goods shall be eligible for Community treatment, in accordance with the provisions of Annex 1 of this Protocol.

## **Article 13**

### **COOPERATION IN CUSTOMS MATTERS**

Member States shall, as provided for in Annex II of this Protocol, take appropriate measures, including arrangements regarding customs administration cooperation, to ensure that the provisions of this Protocol are effectively and harmoniously applied.

## **Article 14**

### **TRADE FACILITATION**

Member States shall, as provided for in Annex III of this Protocol, take such measures as are necessary to facilitate the simplification and harmonisation of trade documentation and procedures.