

## ANNEX VII

### CONCERNING TRADE IN SUGAR

#### PREAMBLE

The High Contracting Parties:

**Having regard** to the objectives of this Protocol and of its importance as an instrument for facilitating the furtherance of the aims of regional economic integration and the creation of a single market through increased harmonisation of policies and liberalisation of tariffs and removal of NTBs on trade;

**Noting**, however, that the world sugar market is highly distorted and conscious of the fact that the world price for sugar is a dumped or subsidised price resulting in the continuing need for most sugar producing countries to impose tariff and non-tariff barriers against the free importation of sugar in order to protect their domestic industries;

**Recognising**, therefore, that for as long as the world sugar market remains highly distorted, sugar will be a product requiring special dispensation within the framework of the Protocol on Trade so that no sugar industry within SADC will suffer injury;

**Mindful** of the need to establish a stable investment climate leading to both growth and development of SADC economies and of the need to maintain the SADC Region as a reliable bloc of world competitive low cost sugar producers, well positioned to take advantage of the anticipated higher world prices once global liberalisation in sugar trade occurs;

**Acknowledging** accordingly the need to improve and maintain the efficiency of all sugar producers within the SADC region through the interchange of research, training and information;

**Hereby agree** as follows:

#### ARTICLE 1

##### DEFINITIONS

In this Annex, an expression that has been defined has that meaning and, unless the context indicates otherwise:

- “Marketing Year” means a period of twelve months commencing on 1 April and ending on 31 March, and “annual” and “annum” shall have a corresponding meaning;
- “MTTQ” means metric tons *tel quel*;
- “Net surplus producer” means a sugar producing Member State, which has a net surplus production;
- “Net surplus production” means the sugar wholly produced in any marketing year by a sugar producing member state in excess of the sugar required to satisfy its total domestic consumption and to fulfil its preferential quotas granted by the European Union and the United States of America and any similar preferential quota granted to it or which may be granted to it in the future by any other third country or bloc of third countries, and in the case of other member countries, the quantity of sugar per annum which are sold into SACU in terms of preferential trade agreements;
- “Preferential quota” means a tariff rate quota with preferential customs duties applying under the quota limit;
- “Sugar” means raw sugar, refined sugar and direct consumption crystal sugar;
- “Technical Committee on Sugar (TCS)” means the body comprising representatives of national governments and sugar industries in all Member States;
- “Ton” means a metric ton of sugar, *tel quel*.

#### ARTICLE 2

##### OBJECTIVES

The objectives of this agreement are:

- (a) to promote, within the Region, production and consumption of sugar and sugar- containing products according to fair trading conditions and an orderly regional market in sugar for the survival of the sugar industries in all sugar producing Member States, in anticipation of freer global trade;
- (b) in support of the long term objective set out in paragraph 1 of Article 3, to provide temporary measures to insulate Member States' sugar producing industries from the destabilising effects of the distorted global market, and in this regard to harmonise sugar policies and regulate its trade within the Region during the interim period until world trade conditions permit freer trade in sugar;
- (c) to create a stable climate for investment, leading to the growth and development of sugar industries in the Member States;
- (d) to improve the competitiveness of the sugar producing Member States in the world sugar market;
- (e) to facilitate the sharing of information, research and training with a view to improving the efficiency of growers, millers and refiners of sugar in the Member States;
- (f) to facilitate the development of small and medium sugar enterprises, and
- (g) to create stable market conditions in the Member States so as to encourage the rehabilitation and development of all sugar industries with a view to facilitating direct foreign investment and the creation of employment opportunities.

### **ARTICLE 3**

#### **RECIPROCAL MARKET LIBERALISATION**

1. The long term objective of this Annex is to establish full liberalisation of trade in the sugar sector in the SADC region after the year 2012 . Such liberalisation will be dependent on a positive review of conditions prevailing in the world sugar market five years after entry into force of this Annex in order to ascertain if the world sugar market has normalised sufficiently to make such liberalisation acceptable.
2. The liberalisation as contemplated in paragraph 1 will be on a reciprocal basis and will also involve the removal of non-tariff barriers in relation to SADC sugar trade. However, in the interim period, market access will be on a non-reciprocal basis into the SACU on the terms outlined in Articles 4, 5 and 6.

### **ARTICLE 4**

#### **NON-RECIPROCAL ACCESS TO THE SACU MARKET BASED ON MARKET GROWTH**

1. A portion of the SACU sugar market, based on the annual growth in that market, will be allocated to each SADC net surplus producer according to each producer's relative net surplus production.
2. The denominator for the calculation of each net surplus producer's share will be the total SADC net surplus production.
3. Annual growth of the SACU market will be deemed to be 45 000 tons in marketing year one, 91000 tons in marketing year two and 138000 tons in marketing year three. In marketing years four and five the growth shall be reviewed on the basis of the actual growth in the SACU market during the prior three marketing years, with minimum access for these marketing years set at 138000 tons.

### **ARTICLE 5**

#### **ADDITIONAL NON-RECIPROCAL ACCESS TO NON-SACU SADC SURPLUS SUGAR PRODUCING COUNTRIES**

1. Duty free access to the SACU sugar market of 20000 tons of sugar per annum shall be available to the non-SACU SADC surplus sugar producing countries and will be allocated according to each producer's relative net surplus production.

2. The denominator for the calculation of each net surplus producer's share will be the total non-SACU SADC net surplus production.
3. In the event of the non-SACU SADC net surplus production being less than 20000 tons, then the duty-free access to the SACU market shall be limited to the actual net surplus production.

## **ARTICLE 6**

### **GENERAL PROVISIONS RELATING TO MARKET ACCESS**

1. Access will be established through duty-free quotas extended to net surplus sugar producers.
2. Duty-free quotas, as contemplated in paragraph 1, will be calculated in each marketing year on the basis of production, consumption and export forecasts for the year in question. Initial forecasts will be submitted in February of each year based on production, consumption and export forecasts for the coming marketing year, and reviewed at the end of June of that year. Access thus established will be adjusted in the succeeding marketing year or as soon as possible thereafter on the basis of actuals. Submitted forecasts will be reviewed by the SADC TCS in consultation with the Member States.
3. The determined allocations are not transferable between countries. In the case of *force majeure*, the quantities not supplied will be redistributed according to actual production, consumption and export figures of the remaining net surplus producers.
4. Quantities will be measured in MTTQ.
5. Any new sugar producer in SADC will be accommodated in this Annex.

## **ARTICLE 7**

### **CO-OPERATION IN AREAS OF COMMON INTEREST**

1. Co-operation in areas of common interest as identified by the TCS will be aimed at facilitating a balanced expansion of national industries with the ultimate objective of promoting the development of a regional competitive industry. Co-operation in the following areas shall be established with a view to increasing efficiencies of all SADC sugar producers.
  - (a) The TCS established in terms of Article 9 will initiate dialogue on the usage and upgrading of infra-structure, and adopt rules on the transfer of information in relation to sugar technology and research, training, promotion and marketing.
  - (b) Recognising established official customs co-operation arrangements, the TCS will make recommendations to such bodies on issues related to cross-border trade in sugar in the region aimed at improving information flow on trade in sugar in the region and improving border control.
  - (c) Information on the nature and performance of existing national initiatives will be shared. Information on similar initiatives in other parts of the world will be collected and considered. Such information could be used to design appropriate strategies for small medium enterprise development.
  - (d) Developments occurring in the rest of the world which have implications for sugar industries in SADC will be identified and monitored, and pro-active regional strategies will be pursued.
2. The TCS will establish terms of reference relating to the implementation of actions in the identified and new areas of co-operation, and may appoint technical working groups to obtain related information and submit recommendations.

## **ARTICLE 8**

### **IMPLEMENTATION**

1. Market access as provided for in Article 4 will be effected on the 1<sup>st</sup> of April following the implementation of this Annex.

2. Market access as provided for in Article 5 will be effected upon implementation of this Agreement but the access tonnage will be established pro rata to the period remaining to 31 March following the implementation of this Annex.
3. Co-operation in areas of common interest will be effected upon implementation of this Annex.

## **ARTICLE 9**

### **INSTITUTIONAL FRAMEWORK**

1. The TCS will be established to manage the agreed terms for market access and to co-ordinate actions in the areas of cooperation outlined in Article 7.
2. The TCS will establish and maintain a secretariat, the functions of which will be to implement and monitor the market access arrangements, procure and collate statistical information concerning sugar from Member States, disseminate such information amongst Member States, and supply secretarial services to the SADC Sugar Committee and its appointed Working Groups.