

RECUEIL DES INSTRUMENTS JURIDIQUES ET INSTITUTIONNELS
DE FACILITATION DU TRANSPORT ET DES ÉCHANGES
EN AFRIQUE SUBSAHARIENNE

ANNEXE VI-6

**PROTOCOL RELATING TO CUSTOMS COOPERATION WITHIN
THE PREFERENTIAL TRADE AREA FOR EASTERN AND
SOUTHERN AFRICAN STATES**

(LUSAKA 1981)

Article 13

**PROTOCOL RELATING TO CUSTOMS CO-OPERATION WITHIN
THE PREFERENTIAL TRADE AREA FOR EASTERN AND
SOUTHERN AFRICAN STATES**

PREAMBLE

THE HIGH CONTRACTING PARTIES

AWARE of the fact that divergencies between national customs laws and procedures and lack of co-operation in customs matters hamper trade among the Member States;

CONVINCED that the elimination or reduction of such divergencies in customs laws and procedures and the promotion of customs co-operation among the Member States can contribute to the development of such trade.

AWARE of the International Convention on mutual administrative assistance for the prevention, investigation and repression of Customs offences done at Nairobi on the 9th June 1977; the International Convention on the Simplification and Harmonization of customs procedures done at Kyoto on the 18th May 1973; the Customs Convention on the International Transit of Goods (ITI Convention) done at Vienna on the 7th June 1971; the Customs Convention on the ATA Carnet for the temporary admission of goods (ATA Convention) done at Brussels on the 6th December 1961; and other relevant international Customs Conventions; and

HAVING REGARD to item (x) of subparagraph (a) of paragraph 4 of Article 3 of the Treaty which requires that customs co-operation among the Member States shall be set out in a Protocol to be annexed to the Treaty:

HEREBY AGREE AS FOLLOWS:

ARTICLE 1

Interpretation

In this Protocol:

"Committee" means the Customs and Trade Committee established by Article 11 of the Treaty;

"customs law" means all the statutory provisions applied by the customs administration on the importation, exportation, transit or movement of goods whether or not they involve the collection of duties or taxes (or security thereof), on the enforcement of prohibitions, restrictions or control or exchange control regulations or on any other customs regime;

"customs offence" means any breach or attempted breach of customs law;

"customs territory" means the territory in which the customs law of a Member State or the Member States applies in full;

"free zone" means a part of the territory of a Member State where any goods introduced into that State are generally regarded, in so far as import duties are concerned, as being outside its customs territory and are not subject to the usual customs control;

"goods declaration" means a statement made in the form prescribed by the customs administration by which the persons concerned furnish the particulars which the customs administration requires to be declared for purposes of the application of the relevant customs procedure;

"import duties" means customs duties and any other charges of equivalent effect levied on or in connection with the importation of goods;

"temporary admission" means customs procedures under which certain goods brought within a customs territory are exempted from payment of import duties and are free of import prohibition and restrictions, on condition that they are within a specified period re-exported from, or finally consumed within, the Member State into which they were imported or from which they are re-exported after having undergone specified manufacturing, processing or repair.

ARTICLE 2

Scope and objectives

1. The provisions of this Protocol shall apply to any activity being undertaken in co-operation among the Member States in the field of customs management and organization of customs and shall include in particular:

- (a) matters concerning the preferential treatment of their exports and imports;
- (b) the simplification and harmonization of customs regulations and procedures with particular reference to such matters as the valuation of goods tariff classification, temporary admission, warehousing, re-exports, frontier trade and export drawback;
- (c) the prevention, investigation and repression of customs offences;
- (d) national and joint institutional arrangements; and
- (e) training facilities and programmes for customs officials.

2. The provisions of paragraph 1 of this Article shall not preclude co-operation in the gradual establishment of uniform external tariffs in respect of goods imported from third countries.

ARTICLE 3

Co-operation in preferential treatment of goods

1. The Member States undertake to co-operate in the implementation of the provisions of the Treaty concerning the preferential treatment of goods and more particularly those relating to:

- (a) the evolution of uniform national customs legislation and procedures;

- (b) the reduction or elimination of customs duties and non-tariff barriers on trade among themselves; and
 - (c) any other aspect of customs law and practice concerning the preferential treatment of goods.
2. The Member States shall through the Council and the Committee keep under constant review progress being made in the application of the provisions of this Protocol.
3. Nothing contained in or done under the authority of any law by any Member State shall be held to be inconsistent with or in contravention of the provisions of this Article to the extent that the law in question makes provision which is reasonably required by a Member State in the interests of defence, public policy, public safety, public order, public morality, public health or hygiene, the preservation of animal or plant life or health, the protection of national treasures possessing artistic, historic or archeological value, or the protection of industrial or commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or disguised restriction on trade by the Member States.

ARTICLE 4

Simplification and harmonization of customs procedures

1. The Member States undertake to promote the simplification and harmonization of customs laws, regulations and procedures to facilitate the movement of goods and services across their common frontiers.
2. For the purpose of paragraph 1 of this Article the Member States undertake to:
- (a) adopt uniform, comprehensive and systematic tariff classification of goods with a common and specific basis of description and interpretation in accordance with internationally accepted standards;
 - (b) adopt a standard system of valuation of goods based on principles of equity, uniformity and simplicity of application in accordance with internationally accepted standards and guidelines;
 - (c) agree on common terms and conditions governing temporary admission procedures including the list or range of goods to be covered and the nature of manufacturing or processing to be authorized;
 - (d) implement the customs requirement for the re-exportation of goods affected by Annex IV of the Treaty;
 - (e) implement the customs requirements for the transit of goods as prescribed in Annex V of the Treaty.
 - (f) harmonize and simplify customs formalities and documents in accordance with the provisions of Annex X of the Treaty; and
 - (g) adopt common procedures for the establishment and operation of free zones, free ports, customs supervised factories and export drawbacks.
3. The Member States undertake to use the Customs Co-operation Council Nomenclature as a basis for the classification of goods in their customs tariffs and may accordingly set up sub-headings covering

4. *The Member States undertake to harmonize their customs and statistical nomenclature and standardize their foreign trade statistics to ensure comparability and reliability of the relevant information.*

ARTICLE 5

Communication of customs information

1. The Member States shall exchange information on matters relating to customs and more particularly the following:
 - (a) changes in customs legislation, procedures and duties and commodities subject to import or export restrictions;
 - (b) information relating to the prevention, investigation and repression of customs offences as set out in Article 6 of this Protocol; and
 - (c) any other information deemed necessary by the Committee.
2. For the purposes of paragraph 1 of this Article, the Member States agree to adopt loose-leaf editions of national customs tariff schedules.

ARTICLE 6

Prevention and investigation of customs offences

1. The Member States undertake to co-operate in the prevention, investigation and repression of customs offences.
2. For the purposes of paragraph 1 of this Article, the Member States undertake to:
 - (a) exchange lists of goods and publications the importation of which is prohibited in their respective territories;
 - (b) prohibit the exportation of goods and publications referred to in subparagraph (a) of this paragraph to each other's customs territories;
 - (c) communicate among themselves lists of goods known to be the subject of illicit traffic between their customs territories and maintain special surveillance over the movement of such goods;
 - (d) take such steps as may be deemed appropriate to ensure that goods exported or imported through common frontiers pass through the competent and recognized Customs Offices and along approved routes;
 - (e) communicate among themselves lists of Customs Offices located along common frontiers, details of the powers of such offices, their working hours and any changes in these particulars for the effective operation of the provisions of subparagraph (d) of this paragraph;
 - (f) endeavour to correlate the powers and working hours of their corresponding Customs Offices

for home use in the other Member State, have been duly cleared for home use in that State;

- (iii) whether goods imported into the territory of the requesting Member State have been lawfully exported from that of the exporting Member States;
 - (iv) whether goods exported from the territory of the requesting Member State have been lawfully imported into that of the importing Member States, and in accordance with the importer's declaration; and
 - (v) special documents which may be issued by the customs authorities of the exporting Member State for surrender to the customs authorities of the importing Member State in order that they may certify that the goods were lawfully exported.
4. Each Member State undertakes, whenever expressly requested by another Member State, to:
- (a) make enquiries, record statements and obtain evidence concerning a customs offence under investigation in the requesting Member State and transmit the results of the enquiry as well as any documents or other evidence, to the requesting Member State; and
 - (b) notify the competent authorities of the requesting Member State of actions and decisions taken by the competent authorities of the Member State where the customs offence took place in accordance with the law in force in that Member State.

ARTICLE 7

Implementation arrangements

For the effective implementation of the provisions of this Protocol, the Member States undertake to:

- (a) encourage co-operation between their respective national customs administrations and the Committee; and
- (b) establish joint training facilities and arrangements or programmes for the training of personnel engaged in customs administration.

ARTICLE 8

The Committee

The functions of the Committee shall include:

- (a) all activities relating to customs co-operation among the Member States as set out in paragraph 1 of Article 2 of this Protocol; and
- (b) the undertaking of studies and the making of recommendations on the practical aspects of customs co-operation among the Member States, including those relating to joint training for personnel engaged in customs administration.

ARTICLE 9

Regulations

The Council may make regulations for the better carrying out of the provisions of this Protocol.