



SADC Transit Management System Legal Provisions

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TRANSIT LEGAL INSTRUMENTS

- Annex IV of the SADC Protocol on Trade;
- SADC Transit regulations
- SADC Regional Customs Chain Transit Bond Guarantee Agreement
- SADC Model Customs Act



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

General Provisions

- Member States undertake to grant all transit traffic freedom to traverse their respective territories by means of transport suitable for that purpose unless otherwise restricted or prohibited.

(SPT Annex IV Article 2 arw Reg. 4)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Extra Territorial Recognition

- There shall be mutual recognition and acceptance of surety and transit declaration lodged in the country of departure such shall be deemed to have been lodged in the transiting country

(Reg. 6)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Licensing of Transitors and Carriers

- Any person intending to be engaged in the operation of transit traffic shall be registered by the competent authority in the territory of residents or establishment. The competent authority shall inform all other Member states of all such persons.

(SPT Annex IV Article 4 (1-3) arw Reg. 10



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Identification of Transit Removers

- All licensed carriers shall affix plates bearing the letters “SADC-TRANSIT” on the front and rear of the means of transport.

SPT Annex IV Article 11(3) arw Reg. 9(3)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Approval of Means of Transport

- Means of transport used in transit trade shall be licensed by the competent authority of the Member State in accordance with its laws.

(SPT Annex IV Article 5 arw reg 9(1))



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Bonds and Sureties

- All transit traffic operations shall be covered by a customs bond. The principal bond holder shall provide a guarantee to cover duty and any other charges payable before goods can be released under transit procedure.

(SPT Annex IV Article 6 arw Reg. 8)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Transit Documentation

- All transit traffic shall be covered by specified documentation and shall be presented to customs offices of commencement, transit and destination. For the purpose of transit declaration the SADC-CD, transit control form, transit manifest shall be the prescribed documents.

(SPT Annex IV Article 7 arw Reg. 7)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Transit Procedures

- Means of transport, together with their cargo, shall be presented at customs offices of commencement, transit offices and destination offices for examination.
- During transit there shall be no loading or offloading or substitution of cargo.
- Transit shipments shall only have one customs office of destination

KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Obligations of Member States

- Transfer of funds: Member States financial systems shall facilitate transfer of funds to reimburse claims by designated representative upon approval by the customs authority where the representative is established
- Liability to cover goods enumerated in the SADC-transit control document

(SPT Annex IV Article 10 arw Reg. 5)

KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Record keeping

- Any person registered and licensed to operate transit traffic shall keep records and documentation relating to goods placed under transit procedure for at least five years from the date of conclusion of such transit

(Reg. 11)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Form of Surety

- Surety shall be in the form of Cash or a bond by guarantor
- The principal bond holder shall give in writing on a prescribed form an undertaking that he will pay the duties and any other charges in the event such a situation arises in the course of the transit procedure.

(Reg. 12)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Validity of Guarantee

- Guarantee provided by the Principal bond holder shall be valid in all transiting Member States

Types of Guarantee

- Single transaction guarantee
- Single user guarantee
- Multiple/comprehensive guarantee



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Comprehensive Guarantee

- A Multiple/comprehensive guarantee shall cover several transactions up to the reference amount
- No Principal bond holder shall be allowed to lodge a comprehensive guarantee unless he meets stipulated criteria

(Reg. 15)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Calculation of reference amount

- Reference amount shall be sufficient to cover duty at stake at any given time during transit procedure and shall take into account transit transactions envisaged by the principal bond holder over a three months period

(Reg. 16)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Domicile of the Principal bond holder and Guarantor

- Principal bond holder and guarantor must be established in the Member State where the guarantee is furnished approved by the competent authority in that member state.
- The principal bond holder and the guarantor shall not be the same person

(Reg.17)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Cancellation of Guarantee

- The guarantee shall be revoked or cancelled by the office of guarantee or by the principal bond holder or the guarantor
- Office of guarantee shall retain the guarantee document for at least one year from the date of notification to cancel after revocation or cancellation before effective

(Reg. 20)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Carriage of goods under transit

- Goods placed under transit procedure shall be placed on a single means of transport, dispatched from one port of departure to one port of destination under a transit documentation and a single transit manifest.

(Reg. 23)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Designation of transit routes

- The port of departure or transit office may prescribe a transit route and carrier shall be obliged to use that route

Where the transit route is not prescribed the carrier shall transit along the most economically justifiable route

(Reg. 27)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Prescription of time limits

- The port of departure or transit office may set time within which the goods shall be presented at the port of destination or exit

(Reg. 28)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Incidents Affecting Transit Procedure

- Where incidents occur during transit procedure the carrier shall inform immediately the nearest customs office

(Reg. 30)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Sealing of Goods and Means of Transport

- To ensure identification of goods transported under transit the goods and the means of transport shall be customs sealed where feasible.

(Reg. 33)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Computerized Transit System

- Use of computerised system shall not change the transit procedure requirements
- Electronic lodgement of customs documents shall be allowed

(Reg. 34-40)

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KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Offences

- Offences: breaking of seals, diversion, failure to keep records, false declarations, obstruction of duty, bribery
(Reg. 41 – 49)



KEY LEGAL PROVISIONS OF THE SADC TRANSIT MANAGEMENT SYSTEM

Penalties

- As prescribed for in national legislation.
- Forfeiture

(Reg 50 – 51)



THANK YOU

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