



**AGREEMENT**

**AMENDING**

**ARTICLE 20 OF THE SOUTHERN AFRICAN DEVELOPMENT  
COMMUNITY**

**PROTOCOL ON TRADE**

## **TABLE OF CONTENTS**

**Preamble**

**Article 1            Definitions**

**Article 2            Amendment of Article 20 of the Protocol on Trade**

**Article 3            Entry into Force**

**Article 4            Depository**

**AGREEMENT AMENDING ARTICLE 20 OF THE SOUTHERN AFRICAN  
DEVELOPMENT COMMUNITY PROTOCOL ON TRADE**

**PREAMBLE**

WE, the Heads of State or Government of:

The Republic of Angola  
The Republic of Botswana  
The Democratic Republic of Congo  
The Kingdom of Lesotho  
The Republic of Madagascar  
The Republic of Malawi  
The Republic of Mauritius  
The Republic of Mozambique  
The Republic of Namibia  
The Republic of South Africa  
The kingdom of Swaziland  
The United Republic of Tanzania  
The Republic of Zambia  
The Republic of Zimbabwe

**NOTING** that the Protocol on Trade (hereinafter referred to as the Protocol) entered into force on 25 January 2000;

**HAVING UNDERTAKEN** to progressively liberalise intra-regional trade in goods and services on the basis of fair, mutually equitable and beneficial arrangements;

**AND HAVING REGARD** to the provisions of Article 20 of the Protocol;

**CONSCIOUS** of the need to make provision for provisional safeguard measures;

**HEREBY AGREE** as follows;

**ARTICLE 1  
DEFINITIONS**

In this Agreement, the terms and expressions defined in Article 1 of the Protocol shall bear the same meaning unless the context otherwise requires.

“provisional safeguard measures” means measures imposed in accordance with Article 20 *bis* of this Protocol;

**ARTICLE 2**  
**AMENDMENT OF ARTICLE 20 OF THE PROTOCOL**

The Protocol is amended by inserting immediately after Article 20 the following new Article:

**“ARTICLE 20 BIS**  
**PROVISIONAL SAFEGUARD MEASURES**

1. Where a Member State is of the opinion that any product is being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers of like or directly competitive products in its territory, that Member State shall be entitled, subject to paragraph 2, to impose a provisional safeguard measure, to the extent necessary to prevent or remedy the injury. In no circumstances shall such a measure be imposed for a period exceeding 200 days.
  
2. A Member State shall provide the Executive Secretary with a written notification of its intention to impose a measure in terms of paragraph 1 prior to taking such a measure. Such notification shall contain the following information:
  - (a) the product subject to the proposed provisional safeguard measure.;
  - (b) the proposed provisional safeguard measure;
  - (c) the proposed date of introduction of the provisional safeguard measure;
  - (d) the expected duration of the provisional safeguard measure, if any decision on the duration of the measure has been made; and
  - (e) the basis for:

- (i) making a preliminary determination, that increased imports have caused or are threatening to cause serious injury; and
  - (ii) determining that there are critical circumstances where delay would cause damage which it would be difficult to repair.
- 3. The Executive Secretary shall call an urgent meeting of the CMT to take place within a period of 20 days from the date of receipt of the notification to decide on the proposed imposition of the provisional safeguard measure.
- 4. Unless the CMT decides by consensus to disapprove the imposition of such measure, the notifying Member State may proceed with the imposition of the measure. The CMT may only disapprove the measure if the notifying Member State fails to provide the basis for such measure as contemplated in paragraph 2(e).
- 5. In the event that the CMT fails to make a decision regarding the approval of the proposed imposition of the provisional safeguard measure within 30 days from the date of notification, the notifying Member State shall be entitled to proceed with the imposition of the provisional safeguard measure in accordance with the information provided in the said notification.
- 6. The CMT may request additional information as it considers necessary from the notifying Member State.
- 7. A provisional safeguard measure shall not be applied against a product originating in a Member State as long as its share of imports of the product concerned in the notifying Member State does not exceed 7 per cent, provided that Member States with less than 7 per cent import

share collectively account for not more than 15 per cent of total imports of the product concerned.

8. A provisional safeguard measure shall take the form of tariff increases only.
9. Any duties collected as a result of the imposition of a provisional safeguard measure shall be promptly refunded if no subsequent investigation referred to in Article 20 is proceeded with after the imposition of the provisional safeguard measure, or if the subsequent investigation does not determine that increased imports have caused or threatened to cause serious injury to a domestic industry.”

### **ARTICLE 3 ENTRY INTO FORCE**

This Agreement shall enter into force on the date of its adoption by three-quarters of the Member States that are Parties to the Protocol..

### **ARTICLE 4 DEPOSITARY**

1. The original texts of this Agreement shall be deposited with the Executive Secretary of SADC, who shall transmit copies to all Member States.
2. The Executive Secretary shall register this Agreement with the Secretariat of the United Nations Organization and the Commission of the African Union.

**IN WITNESS WHEREOF, WE**, the Heads of State or Government, or our duly authorised representatives, have signed this Agreement.

*Johannesburg*  
Done at .....A....., Republic of South Africa, this *17* day of August 2008, in three (3) original texts in the English, French and Portuguese languages, all texts being equally authentic.

*[Signature]*  
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REPUBLIC OF ANGOLA

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DEMOCRATIC REPUBLIC OF CONGO

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REPUBLIC OF MADAGASCAR

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REPUBLIC OF MAURITIUS

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REPUBLIC OF NAMIBIA

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KINGDOM OF SWAZILAND

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REPUBLIC OF BOTSWANA

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KINGDOM OF LESOTHO

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REPUBLIC OF MOZAMBIQUE

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REPUBLIC OF SOUTH AFRICA

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UNITED REPUBLIC OF TANZANIA

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REPUBLIC OF ZIMBABWE