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Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part – Protocol 1 concerning the definition of the concept of 'originating products' and methods of administrative cooperation – Protocol 2 on mutual administrative assistance in customs matters – Final Act – Declarations

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AGREEMENT

on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South

Africa, of the other part

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing THE EUROPEAN

COMMUNITY, hereinafter referred to as the "Member States", and

THE EUROPEAN COMMUNITY, hereinafter referred to as the "Community", of the one part, and

THE REPUBLIC OF SOUTH AFRICA, hereinafter referred to as "South

Africa", of the other part, hereinafter referred to as the "Parties",

CONSIDERING the importance of the existing links of friendship and cooperation between the Community, Member States and South Africa and the common values that the Parties share;

CONSIDERING that the Community, Member States and South Africa wish to further strengthen these links and to establish close and lasting relations based on reciprocity, partnership and co-development;

RECOGNISING the historical achievements of the South African people in abolishing the apartheid system and building a new political order based on the rule of law, human rights and democracy;

RECOGNISING the Community's and Member States' political and financial support to this process of political change and transition in South Africa;

RECALLING the firm commitment of the Parties to the principles of the United Nations Charter and to democratic principles and fundamental human rights as laid down in the Universal Declaration on Human Rights;

BEARING IN MIND the Cooperation Agreement between South Africa and the European Community which was signed on 10 October 1994;

RECALLING the wish of the Parties to establish the closest possible relationship between South Africa and the countries of the ACP-EC

Lom? Convention as reflected in the signing, on 24 April 1997, of the Protocol governing the accession of South Africa to the fourth

ACP-EC Convention of Lom?, as amended by the Agreement signed in

Mauritius on 4 November 1995;

TAKING ACCOUNT of the Parties' rights and obligations in terms of their membership of the World Trade Organisation (WTO), the need to contribute to the implementation of the results of the Uruguay

Round, and the efforts already made by both parties in this respect;

RECALLING the importance attached by the Parties to the principles and rules which govern international trade and to the need to apply them in a transparent and non-discriminatory manner;

CONFIRMING the Community's and Member States' support and encouragement for the process of trade liberalisation and economic restructuring currently under way in South Africa;

RECOGNISING the efforts by the South African Government to ensure economic and social development for the people of South Africa;

EMPHASISING the importance both the European Union and South Africa place on the successful implementation of the South African reconstruction and development programme;

CONFIRMING the commitment of the Parties to promote regional cooperation and economic integration between the countries of southern Africa, and to encourage the liberalisation of trade between those countries;

BEARING IN MIND the Parties' commitment to ensure that their mutual arrangements do not impede the process of restructuring the Southern African Customs Union (SACU), which links South Africa to four ACP States;

UNDERLINING the importance which the Parties attach to the values and principles set out in the Final Declarations of the

International Conference on Population and Development held in Cairo in 1994, of the World Summit for Social Development held in

Copenhagen in March 1995 and of the Fourth World Conference on Women held in Beijing in 1995;

REAFFIRMING the commitment of the Parties to economic and social development and the respect for the fundamental rights of workers, notably by promoting the relevant International Labour Organisation

(ILO) Conventions covering such topics as the freedom of association, the right to collective bargaining and non-discrimination; the abolition of forced labour and child labour;

RECALLING the importance of opening a regular political dialogue in bilateral and multilateral contexts on issues of common interest,

HAVE AGREED AS FOLLOWS:

TITLE I

GENERAL OBJECTIVES, PRINCIPLES AND POLITICAL DIALOGUE

Article 1

Article 1

Objectives

The objectives of this Agreement are:

- (a) to provide an appropriate framework for dialogue between the parties, promoting the development of close relations in all areas covered by this Agreement;
- (b) to support the efforts made by South Africa to consolidate the economic and social foundations of its transition process;
- (c) to promote regional cooperation and economic integration in the southern African region to contribute to its harmonious and sustainable economic and social development;
- (d) to promote the expansion and reciprocal liberalisation of mutual trade in goods, services and capital;
- (e) to encourage the smooth and gradual integration of South Africa into the world economy;
- (f) to promote cooperation between the Community and South Africa within the bounds of their respective powers, in their mutual interest.

Article 2

Article 2

Essential element

Respect for democratic principles and fundamental human rights as laid down in the Universal Declaration on Human Rights, as well as for the principles of the rule of law underpins the internal and international policies of the Community and of South Africa and constitutes an essential element of this Agreement.

The Parties also reaffirm their attachment to the principles of good governance.

Article 3

Article 3

1. If either Party considers that the other has failed to fulfil an obligation under this Agreement, it may take appropriate measures.

2. Before doing so it shall supply the other Party, within 30 days, with all relevant information required for a thorough examination of the situation, with a view to seeking a solution acceptable to the

Parties.

3. In circumstances of particular urgency, appropriate measures may be taken without prior consultations. These measures shall be immediately notified to the other Party and shall be a subject of consultations, if the other Party so requests. These consultations shall be convened within 30 days from the notification of the measures. If no satisfactory solution is found, the Party concerned may avail itself of the procedure relating to the settlement of disputes.

4. The Parties agree, for the purpose of the correct interpretation and practical application of this Agreement, that the term

"circumstances of particular urgency" in paragraph 3 means a case of the material breach of the Agreement by one of the Parties. A

material breach of the Agreement consists in:

(i) repudiation of the Agreement not sanctioned by the general rules of international law, or

(ii) violation of the essential element of the Agreement, as described in Article 2.

5. The Parties agree that the appropriate measures referred to in paragraph 1 of this Article are those taken in accordance with international law and in the selection of these measures, priority must be given to those which least disturb the functioning of this

Agreement.

Article 4

Article 4

Political dialogue¹. A regular political dialogue shall be established between the

Parties. It shall accompany and help consolidate their cooperation as well as contribute to the establishment of lasting links of solidarity and new forms of cooperation.

2. The political dialogue and cooperation are in particular intended to:

(a) promote greater mutual understanding between the Parties and a greater convergence of views;

(b) enable each party to consider the position and interests of the other;

(c) encourage the support for democracy, the rule of law and the respect of human rights;

(d) promote social justice and help create the necessary conditions to eliminate poverty and all forms of discrimination.

3. The political dialogue shall cover all issues of common interest to the Parties.

4. The political dialogue shall take place whenever necessary, notably:

(a) at ministerial level;

(b) at the level of senior officials representing South Africa, on the one hand, and the Presidency of the Council of the European

Union and the Commission of the European Communities, on the other;

(c) taking full advantage of all diplomatic channels, including regular briefings, consultations on the occasion of international meetings and contacts between diplomatic representatives in third countries;

(d) where appropriate, by any other means or at any other levels to be agreed between the Parties which would make a useful contribution to consolidating the dialogue and increasing its effectiveness.

5. In addition to the bilateral political dialogue provided for in the previous paragraphs, the Parties shall take full advantage of, and contribute actively to, the regional political dialogue between the European Union and the countries of Southern Africa, with a view in particular to promoting lasting peace and stability in the region.

The Parties shall also participate in the political dialogue in the larger ACP/EU framework, as foreseen and laid down in relevant

ACP/EC Treaties.

TITLE II

TRADE

SECTION A GENERAL

SECTION A GENERAL

Article 5

Article 5

Free trade area¹. The Community and South Africa agree to establish a Free Trade

Area (FTA) in accordance with the provisions of this Agreement and in conformity with those of the WTO.

2. The FTA will be established over a transitional period lasting, on the South African side, a maximum of 12 years and, on the

Community side, a maximum of 10 years starting from the entry into force of the Agreement.

3. The FTA covers the free movement of goods in all sectors. This

Agreement will also cover the liberalisation of trade in services and the free movement of capital.

Article 6

Article 6

Classification of goods

On the Community side, the combined nomenclature of goods shall apply to the classification of goods imported from South Africa. On the South African side, the harmonised system shall apply to the classification of goods imported from the Community.

Article 7

Article 7

1. For each product, the basic duty to which the successive reductions set out in the Agreement are to be applied shall be effectively applied on the day of entry into force of the Agreement.

2. The Community and South Africa shall communicate to each other their respective basic duties, in accordance with the standstill and rollback commitment agreed between the Parties, and the agreed derogations to these principles, as set out in Annex I.

3. In cases where the process of tariff dismantlement does not start at the entry into force of the Agreement (notably the products listed in Annex II,

lists 3, 4 and 5; Annex III, lists 2, 3, 4 and 6; Annex IV, lists 3, 4, 7 and 8; Annex V; Annex VI, lists 2, 3 and 5; Annex VII) the duty to which successive reductions set out in the

Agreement are to be applied shall be either the basic duty referred to in paragraph 1 of this Article, or the duty applied on an *erga omnes* basis on the starting day of the relevant tariff dismantlement schedule, whichever is the lower.

Article 8

Article 8

Customs duties of a fiscal nature

The provisions concerning the abolition of customs duties on imports shall also apply to customs duties of a fiscal nature, with the exception of non-discriminatory excise duties levied on both imported and locally-produced goods which are in accordance with the provisions of Article 21.

Article 9

Article 9

Charges having an equivalent effect to customs duties

The Community and South Africa shall abolish in their respective imports any charge having an effect equivalent to customs duties on imports on entry into force of the Agreement.

SECTION B INDUSTRIAL PRODUCTS

SECTION B INDUSTRIAL PRODUCTS

Article 10

Article 10

Definition

The provisions of this section apply to products originating in the Community and South Africa with the exception of the products covered by the definition of agricultural products under this Agreement.

Article 11

Article 11

Tariff elimination by the Community¹. Customs duties applicable on import into the Community of industrial products originating in South Africa other than those listed in Annex II shall be abolished on the entry into force of this Agreement.

2. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 1 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 75 % of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 50 % of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 25 % of the basic duty;

three years after the date of entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 2 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 86 % of the basic duty;

one year after the date of entry into force of this Agreement each duty shall

be reduced to 72 % of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 57 % of the basic duty;

three years after the date of entry into force of this Agreement each duty shall be reduced to 43 % of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 28 % of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 14 % of the basic duty;

six years after the date of entry into force of this Agreement the remaining duties shall be abolished.

4. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 3 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 75 % of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 50 % of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 25 % of the basic duty;

six years after the date of entry into force of this Agreement the remaining duties shall be abolished.

For a number of products indicated in this list, tariff elimination will start four years after the date of entry into force of this

Agreement. Tariff elimination of these products will take place in three equal annual reductions, to be concluded six years after the date of entry into force of the Agreement.

For a certain number of steel products indicated in this list, tariff reduction will be realised on a MFN basis, to arrive at a zero duty in the year 2004.

5. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 4 shall be abolished

within a maximum of 10 years after the date of entry into force of the Agreement.

For motor-car components indicated in this list, the applied tariff will be reduced by 50 % as from the entry into force of the Agreement.

The precise Community basic duties and tariff elimination schedule for the products on this list will be established in the second six months of the year 2000, after both parties have examined the prospects for a further liberalisation of South African imports of automotive products from the Community mentioned in Annex III, lists 5 and 6, in the light of, inter alia, the outcome of the South

African motor industry development programme review.

6. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex II, list 5 shall be reviewed in the fifth year of this Agreement in view of a possible elimination of tariffs.

Article 12

Article 12

1. Customs duties applicable on import into South Africa of industrial products originating in the Community other than those listed in Annex III shall be abolished upon the entry into force of this Agreement.

2. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 1 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 75 % of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 50 % of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 25 % of the basic duty;

three years after the date of entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 2 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 67 % of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 33 % of the basic duty;

five years after the date of entry into force of this Agreement the remaining duties shall be abolished.

4. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 3 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 90 % of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 80 % of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 70 % of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 60 % of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 50 % of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 40 % of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 30 % of the basic duty;

10 years after the date of entry into force of this Agreement each duty shall be reduced to 20 % of the basic duty;

11 years after the date of entry into force of this Agreement each duty shall be reduced to 10 % of the basic duty;

12 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

5. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 4 shall be progressively abolished in accordance with the following schedule:

five years after the date of entry into force of this Agreement each duty shall be reduced to 88 % of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 75 % of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 63 % of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 50 % of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 38 % of the basic duty;

10 years after the date of entry into force of this Agreement each duty shall be reduced to 25 % of the basic duty;

11 years after the date of entry into force of this Agreement each duty shall be reduced to 13 % of the basic duty;

12 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

6. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 5 shall be progressively reduced according to the schedule included in that

Annex.

7. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex III, list 6 shall be periodically reviewed in the course of the operation of the

Agreement in view of the further liberalisation of trade.

South Africa will inform the Community about the outcome of the

South African motor industry development programme review. It will present proposals for a further liberalisation of South African imports of automotive products from the Community mentioned in Annex

III, lists 5 and 6. The Parties will jointly examine these proposals in the second six months of the year 2000.

SECTION C AGRICULTURAL PRODUCTS

SECTION C AGRICULTURAL PRODUCTS

Article 13

Article 13

Definition

The provisions of this section apply to products originating in the

Community and South Africa covered by the WTO definition of agricultural products as well as fish and fisheries products

(Chapter 3, 1604, 1605 and products 0511 91 10, 0511 91 90, 1902 2010 and 2301 20 00).

Article 14

Article 14

Tariff elimination by the Community¹. Customs duties applicable on import into the Community of agricultural products originating in South Africa other than those listed in Annex IV shall be abolished on the entry into force of this Agreement.

2. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex IV, list 1 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 75 % of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 50 % of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 25 % of the basic duty;

three years after the date of entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex IV, list 2 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 91 % of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 82 % of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 73 % of the basic duty;

three years after the date of entry into force of this Agreement each duty shall be reduced to 64 % of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 55 % of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 45 % of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 36 % of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 27 % of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 18 % of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 9 % of the basic duty;

10 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

4. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex IV, list 3 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 87 % of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 75 % of the basic duty;

five years after the date of entry into force of this Agreement each duty shall be reduced to 62 % of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 50 % of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 37 % of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 25 % of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 12 % of the basic duty;

10 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

For certain products referred to in this Annex a duty free quota shall apply, in accordance with the conditions there mentioned, as from entry into force of the Agreement until the end of the tariff phase down for these products.

5. Customs duties applicable on import into the Community of products originating in South Africa listed in Annex IV, list 4 shall be progressively abolished in accordance with the following schedule:

five years after the date of entry into force of this Agreement each duty and charge shall be reduced to 83 % of the basic duty;

six years after the date of entry into force of this Agreement each duty and charge shall be reduced to 67 % of the basic duty;

seven years after the date of entry into force of this Agreement each duty and charge shall be reduced to 50 % of the basic duty;

eight years after the date of entry into force of this Agreement each duty and charge shall be reduced to 33 % of the basic duty;

nine years after the date of entry into force of this Agreement each duty and charge shall be reduced to 17 % of the basic duty;

10 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

For certain products referred to in this Annex a duty free quota shall apply, in accordance with the conditions there mentioned, as from entry into force of the Agreement until the end of the tariff phase-down for these products.

6. Customs duties applicable to processed agricultural products imported into the Community and originating in South Africa are listed in Annex IV, list 5 and shall be applied in accordance with the conditions mentioned therein.

The Cooperation Council may decide on:

(a) the extension of the list of processed agricultural products under Annex IV, list 5, and

(b) the reduction of the duties applying to processed agricultural products. This reduction of duties may take place when in trade between the Community and South Africa the duties applying to basic products are reduced or, in response to reductions resulting from the mutual concessions relating to processed agricultural products.

7. Reduced customs duties applicable to certain agricultural products imported into the Community and originating in South Africa are listed in Annex IV, list 6, and shall be applied as from entry into force of this Agreement and in accordance with the conditions mentioned in this Annex.

8. Customs duties applicable on import into the European Community of products originating in the Republic of South Africa listed in

Annex IV, list 7 shall be reviewed periodically in the course of the

operation of the Agreement on the basis of future developments in the common agricultural policy.

9. Tariff concessions on products listed in Annex IV, list 8 are not applicable as these products are covered by protected EU

denominations.

10. Tariff concessions applicable on import into the Community of products originating in South Africa listed in Annex V shall be applied in accordance with the conditions mentioned therein.

Article 15

Article 15

1. Customs duties applicable on import into South Africa of agricultural products originating in the Community other than those listed in Annex VI shall be abolished on the entry into force of this Agreement.

2. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex VI, list 1 shall be progressively abolished in accordance with the following schedule:

on the date of entry into force of this Agreement each duty shall be reduced to 75 % of the basic duty;

one year after the date of entry into force of this Agreement each duty shall be reduced to 50 % of the basic duty;

two years after the date of entry into force of this Agreement each duty shall be reduced to 25 % of the basic duty;

three years after the date of entry into force of this Agreement the remaining duties shall be abolished.

3. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex VI, list 2 shall be progressively abolished in accordance with the following schedule:

three years after the date of entry into force of this Agreement each duty shall be reduced to 67 % of the basic duty;

four years after the date of entry into force of this Agreement each duty shall be reduced to 33 % of the basic duty;

five years after the date of entry into force of this Agreement the remaining duties shall be abolished.

4. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex VI, list 3 shall be progressively abolished in accordance with the following schedule:

five years after the date of entry into force of this Agreement each duty shall be reduced to 88 % of the basic duty;

six years after the date of entry into force of this Agreement each duty shall be reduced to 75 % of the basic duty;

seven years after the date of entry into force of this Agreement each duty shall be reduced to 63 % of the basic duty;

eight years after the date of entry into force of this Agreement each duty shall be reduced to 50 % of the basic duty;

nine years after the date of entry into force of this Agreement each duty shall be reduced to 38 % of the basic duty;

10 years after the date of entry into force of this Agreement each duty shall be reduced to 25 % of the basic duty;

11 years after the date of entry into force of this Agreement each duty shall be reduced to 13 % of the basic duty;

12 years after the date of entry into force of this Agreement the remaining duties shall be abolished.

For certain products indicated in this Annex a duty free quota shall apply, in accordance with the conditions there mentioned, as from entry into force of the Agreement until the end of the tariff phasedown for these products.

5. Customs duties applicable on import into South Africa of products originating in the Community listed in Annex VI, list 4 shall be reviewed periodically in the course of the operation of the Agreement.

6. Customs duties applicable on import into South Africa of fisheries products originating in the Community listed in Annex VII

shall be progressively abolished in parallel with the elimination of customs duties of the corresponding tariff positions by the Community.

Article 16

Article 16

Agricultural safeguard

Notwithstanding other provisions of this Agreement and in particular

Article 24, if, given the particular sensitivity of the agricultural

Article 24, if, given the particular sensitivity of the agricultural

markets, imports of products originating in one Party cause or threaten to cause a serious disturbance to the markets in the other

Party, the Cooperation Council shall immediately consider the matter to find an appropriate solution. Pending a decision by the

Cooperation Council, and where exceptional circumstances require immediate action, the affected Party may take provisional measures necessary to limit or redress the disturbance. In taking such provisional measures, the affected Party shall take into account the interests of both Parties.

Article 17

Article 17

Accelerated tariff elimination by South Africa 1. If requested by South Africa,

the Community shall consider proposals relating to an accelerated timetable for tariff elimination for imports of agricultural products into South Africa, coupled with the elimination of all export refunds for exports to South Africa of the same products originating in the European Community.

2. If the Community replies positively to this request, the new timetables for tariff elimination and elimination of export refunds shall simultaneously apply as of a date to be agreed by the two

Parties.

3. In case of a negative response from the Community, the provisions of this Agreement on tariff elimination shall continue to be applicable.

Article 18

Article 18

Review clause

No later than five years after the entry into force of this

Agreement, the Community and South Africa shall consider further steps in the process of liberalisation of their reciprocal trade.

For this purpose, a review shall be undertaken of, in particular but not exclusively, the customs duties applicable to products listed in

Annex II, list 5, Annex III, lists 5 and 6, Annex IV, lists 5, 6 and 7, Annex V, lists 1, 2, 3 and 4, Annex VI, lists 4 and 5 and Annex

VII.

TITLE III

TRADE RELATED ISSUES

SECTION A GENERAL

Article 19

Article 19

Border measures¹. Quantitative restrictions on imports or exports and measures having equivalent effect on trade between South Africa and the Community shall be abolished on the entry into force of this Agreement.

2. No new quantitative restrictions on imports or exports or measures having equivalent effect shall be introduced in trade between the Community and South Africa.

3. No new customs duties on imports or exports or charges having equivalent effect shall be introduced, nor shall those already applied be increased, in the trade between the Community and South

Africa from the date of entry into force of this Agreement.

Article 20

Article 20

Agricultural policies¹. The Parties may have regular consultations in the Cooperation

Council on the strategy and practical modalities of their respective agricultural policies.

2. If either Party, in pursuit of their respective agricultural policies, considers it necessary to amend the arrangements laid down in this Agreement it will notify the Cooperation Council, which will decide on the requested modification.

3. If the Community or South Africa, in applying paragraph 2, amends the arrangements made by this Agreement for agricultural products, it shall make adjustments to be agreed on by the Cooperation Council also as to maintain the concessions on imports originating in the other Party at an equivalent level to that provided for in this

Agreement.

Article 21

Article 21

Fiscal measures¹. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products of one Party and products originating in the territory of the other Party.

2. Products exported to the territory of one of the Parties may not benefit from repayment of indirect internal taxation in excess of the amount of indirect taxation imposed on them directly or indirectly.

Article 22

Article 22

Customs unions and free-trade areas¹. The Agreement shall not preclude the maintenance or establishment of customs unions, free-trade areas or other arrangements between either of the Parties and third countries, except in so far as they alter the rights and obligations provided for in this Agreement.

2. Consultation between the Community and South Africa shall take place within the Cooperation Council concerning agreements establishing or adjusting customs unions or free-trade areas and, where required, on other major issues related to their respective trade policy with third countries. In particular, in the event of a third country acceding to the European Union, such consultations shall take place so as to ensure that account can be taken of the mutual interests of the Community and South Africa.

Article 23

Article 23

Anti-dumping and countervailing measures¹. Nothing in this Agreement shall prejudice or affect in any way the taking, by either Party, of anti-dumping or

countervailing measures in accordance with Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the GATT 1994, the Agreement on Subsidies and Countervailing Measures, annexed to the Marrakech Agreement establishing the WTO.

2. Before definitive anti-dumping and countervailing duties are imposed in respect of products imported from South Africa, the

Parties may consider the possibility of constructive remedies as provided for in the Agreement on Implementation of Article VI of the

GATT 1994 and the Agreement on Subsidies and Countervailing

Measures.

Article 24

Article 24

Safeguard clause 1. Where 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 the territory of one of the Contracting Parties, the

Community or South Africa, whichever is concerned, may take appropriate measures under the conditions provided for in the WTO

Agreement on Safeguards or the Agreement on Agriculture annexed to the Marrakech Agreement establishing the WTO and in accordance with the procedures laid down in Article 26.

2. Where any product is being imported in such increased quantities and under such conditions as to cause or threaten to cause serious deterioration in the economic situation of the European Union's outermost regions, the European Union, after having examined alternative solutions, may exceptionally take surveillance or safeguard measures limited to the region(s) concerned, in accordance with the procedures laid down in Article 26.

3. Where any product is being imported in such quantities and under such conditions as to cause or threaten to cause serious deterioration in the

economic situation of one or more of the other

Members of the Southern African Customs Union, South Africa, at the request of the country or countries concerned, and after having examined alternative solutions, may exceptionally take surveillance or safeguard measures in accordance with the procedures laid down in

Article 26.

Article 26.

Article 25

Article 25

Transitional safeguard measures¹. Notwithstanding the provisions of Article 24, exceptional measures of limited duration which derogate from the provisions of

Articles 12 and 15 may be taken by South Africa in the form of an

Articles 12 and 15 may be taken by South Africa in the form of an increase or reintroduction of customs duties.

2. These measures may only concern infant industries or sectors facing serious difficulties caused by increased imports originating in the Community as a result of the reduction of duties envisaged under Articles 12 and 15, particularly where these difficulties produce major social problems.

3. Customs duties on imports applicable in South Africa to products originating in the Community introduced by these measures may not exceed the level of the basic duty or the applied MFN rates of duty or 20 % ad valorem, whichever is the lower, and shall maintain an element of preference for products originating in the Community. The total value of all imports of the products which are subject to these measures may not exceed 10 % of total imports of industrial products from the Community during the last year for which statistics are available.

4. These measures shall be applied for a period not exceeding four years. They shall cease to apply at the latest on the expiry of the maximum transitional period of 12 years. These time limits may exceptionally be extended by decision of the Cooperation Council.

5. No such measures can be introduced in respect of a product if more than three years have elapsed since the elimination of all duties and quantitative restrictions or charges or measures having an equivalent effect concerning that product.

6. South Africa shall notify the Cooperation Council of the exceptional measures it intends to take and, at the request of the

Community, consultations shall be held on such measures before they are applied in order to reach a satisfactory solution. Its notification shall include an indicative schedule for the introduction and subsequent elimination of the customs duties to be imposed.

7. If no agreement on the proposed measures referred to in paragraph 6 has been reached within 30 days of such notification, South Africa may take the appropriate measures to remedy the problem and shall provide the Cooperation Council with the definite schedule for the elimination of the customs duties introduced under this Article.

This schedule shall provide for a phasing out of these duties at equal annual rates starting at the latest one year after their introduction. The Cooperation Council may decide on a different schedule.

Article 26

Article 26

Safeguard procedures¹. In the event of the Community or South Africa initiating a surveillance mechanism in respect of difficulties referred to in

Article 24 which has as its purpose the rapid provision of

Article 24 which has as its purpose the rapid provision of

information on the trend of trade flows, it shall inform the other

Party thereof and, if requested, enter into consultations with it.

2. In the cases specified in Article 24, before taking the measure provided for therein or, in cases to which subparagraph 5(b) of this

Article apply, the Community or South Africa, as the case may be,

Article apply, the Community or South Africa, as the case may be,

shall as soon as possible supply the Cooperation Council with all relevant information, with the view to seeking a solution acceptable to both Parties.

3. In the selection of measures, priority must be given to those which least disturb the functioning of this Agreement and they shall be limited to the extent necessary to prevent or remedy serious injury and to facilitate adjustment.

4. The safeguard measures shall be notified immediately to the

Cooperation Council and shall be the subject of periodic consultations within that body, particularly with a view to establishing a timetable for their abolition as soon as circumstances permit.

5. For the implementation of the previous paragraphs the following provisions shall apply.

(a) As regards Article 24, difficulties arising from the situation referred to in that Article shall be referred for examination to the

Cooperation Council, which may take any decision needed to put an end to such difficulties. If the Cooperation Council or the exporting Party has not taken a decision putting an end to the difficulties or no other satisfactory solution has been reached within 30 days of the matter being so referred, the importing Party may adopt appropriate measures to remedy the problem. Such measures should be taken for a period not exceeding three years and shall contain elements which would degressively lead to their elimination at the end of the set period, at the latest.

(b) Where exceptional circumstances requiring immediate action make prior

information or examination, as the case may be, impossible, the Community or South Africa, whichever is concerned, may, in the situations specified in Article 24, apply forthwith the precautionary measures necessary to deal with the situation and shall inform the other Party immediately thereof.

Article 27

Article 27

Exceptions

The Agreement shall not preclude prohibitions or restrictions on imports, exports, goods in transit or trade in used goods justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of intellectual, industrial and commercial property or rules relating to gold and silver. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary or unjustifiable discrimination where the same conditions prevail or a disguised restriction on trade between the

Parties.

Article 28

Article 28

Rules of origin

The rules of origin for the application of tariff preferences provided for in this Agreement are laid down in Protocol 1.

SECTION B INDUSTRIAL PRODUCTS

Article 29

Article 29

Reconfirmation of GATS obligations¹. In recognition of the growing importance

of services for the development of their economies, the Parties underline the importance of strict observance of the General Agreement on Trade in Services

(GATS), in particular its principle on most-favoured-nation treatment, and including its applicable protocols with annexed commitments.

2. In accordance with the GATS, this treatment shall not apply to:

(a) advantages accorded by either Party under the provisions of an agreement as defined in Article V of the GATS or under measures adopted on the basis of such an agreement;

(b) other advantages accorded pursuant to the list of most-favoured-nation exemptions annexed by either Party to the GATS.

3. The Parties reaffirm their respective commitments as annexed to the fourth Protocol to the GATS concerning basic telecoms and the fifth Protocol concerning financial services.

Article 30

Article 30

Further liberalisation of supply of services¹. The Parties will endeavour to extend the scope of the Agreement with a view to further liberalising trade in services between the

Parties. In the event of such an extension, the liberalisation process shall provide for the absence or elimination of substantially all discrimination between the Parties in the services sectors covered and should cover all modes of supply including the supply of a service:

(a) from the territory of one Party into the territory of the other;

(b) in the territory of one Party to the service consumer of the other;

(c) by a service supplier of one Party, through commercial presence in the territory of the other;

(d) by a service supplier of one Party, through presence of natural persons of that Party in the territory of the other.

2. The Cooperation Council shall make the necessary recommendations for the

implementation of the objective set out in paragraph 1.

3. When formulating these recommendations, the Cooperation Council shall take into account the experience gained by the implementation of the obligations of each Party under the GATS, with particular reference to Article V generally and especially paragraph 3(a)

thereof covering the participation of developing countries in liberalisation agreements.

4. The objective set out in paragraph 1 shall be subject to a first examination by the Cooperation Council at the latest five years after the entry into force of this Agreement.

Article 31

Article 31

Maritime transport 1. The Parties shall endeavour to apply effectively the principle of unrestricted access to the international maritime market and traffic based on fair competition on a commercial basis.

2. The Parties agree to extend to each other's nationals and the vessels registered in the territory of either of the Parties treatment no less favourable than that granted to the most favoured nation in respect of the maritime transport of goods, passengers or both, access to ports, the use of infrastructure and auxiliary maritime services of those ports and related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading, based on fair competition and on commercial terms.

3. The Parties agree to consider maritime transport, including intermodal operations, in the context of Article 30, without prejudice to nationality restrictions or agreements entered into by either Party, which exist at that time and which would be consistent with the Parties' rights and obligations under the GATS Agreement.

SECTION C AGRICULTURAL PRODUCTS

Article 32

Article 32

Current payments¹. Subject to the provisions of Article 34, the Parties undertake to allow all payments for current transactions between residents of the

Community and of South Africa to be made in freely convertible currency.

2. South Africa may take the necessary measures to ensure that the provisions of paragraph 1, which liberalise current payments, are not used by its residents to make unauthorised capital outflows.

Article 33

Article 33

Capital movements¹. With regard to transactions on the capital account of balance of payments, the Community and South Africa shall ensure, from the entry into force of this Agreement, that capital relating to direct investments in South Africa in companies formed in accordance with current laws can move freely, and that such investment and any profit stemming therefrom can be liquidated and repatriated.

2. The Parties shall consult each other with a view to facilitating and eventually achieving full liberalisation of the movement of capital between the Community and South Africa.

Article 34

Article 34

Balance of payment difficulties

Where one or more Member States of the Community, or South Africa, is in serious balance of payments difficulties, or under threat thereof, the Community or South Africa, as the case may be, may, in accordance with the conditions established under the General

Agreement on Tariffs and Trade and Articles VIII and XIV of the

Articles of Agreement of the International Monetary Fund, adopt

Articles of Agreement of the International Monetary Fund, adopt

restrictions on current transactions which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The Community or South Africa, as the case may be, shall inform the other Party forthwith and shall submit to it as soon as possible a timetable for the elimination of the measures concerned.

SECTION D COMPETITION POLICY

SECTION D COMPETITION POLICY

Article 35

Article 35

Definition

The following are incompatible with the proper functioning of this

Agreement, in so far as they may affect trade between the Community and South Africa:

(a) agreements and concerted practices between firms in horizontal relationships, decisions by associations of firms, and agreements between firms in vertical relationships, which have the effect of substantially preventing or lessening competition in the territory of the Community or of South Africa, unless the firms can demonstrate that the anti-competitive effects are outweighed by pro-competitive ones;

(b) abuse by one or more firms of market power in the territory of the Community or of South Africa as a whole or in a substantial part thereof.

Article 36

Article 36

Implementation

If, at the entry into force of this Agreement, either Party has not yet adopted the necessary laws and regulations for the implementation of Article 35, in their jurisdictions it shall do so within a period of three years.

Article 37

Article 37

Appropriate measures

If the Community or South Africa considers that a particular practice in its domestic market is incompatible with the terms of

Article 35, and:

Article 35, and:

(a) is not adequately dealt with under the implementing rules referred to in Article 36, or

(b) in the absence of such rules, and if such practice causes or threatens to cause serious prejudice to the interests of the other

Party or material injury to its domestic industry, including its services industry, the Party concerned may take appropriate measures consistent with its own laws, after consultation within the Cooperation Council, or after 30 working days following referral for such consultation. The appropriate measures to be taken shall respect the powers of the

Competition Authority concerned.

Article 38

Article 38

Comity. The Parties agree that, whenever the Commission or the South

African Competition Authority has reason to believe that anti-competitive practices, defined under Article 35, are taking place within the territory of the other authority and are substantially affecting important interests of the Parties, it may request the other Party's competition authority to take appropriate remedial action in terms of that authority's rules governing competition.

2. Such a request shall not prejudice any action under the requesting authority's competition laws that may be deemed necessary and shall not in any way encumber the addressed authority's decision-making powers or its independence.

3. Without prejudice to its respective functions, rights, obligations or independence, the competition authority so addressed shall consider and give careful attention to the views expressed and documentation provided by the requesting authority and, in particular, pay heed to the nature of the anti-competitive activities in question, the firm or firms involved, and the alleged harmful effect on the important interests of the aggrieved Party.

4. When the Commission or the Competition Authority of South Africa decides to conduct an investigation or intends to take any action that may have important implications for the interests of the other

Party, the Parties must consult, at the request of either Party and both shall endeavour to find a mutually acceptable solution in the light of their respective important interests, giving due regard to each other's laws, sovereignty, the independence of the respective competition authorities and to considerations of comity.

Article 39

Article 39

Technical assistance

The Community shall provide South Africa with technical assistance in the restructuring of its competition law and policy, which may include among others:

- (a) the exchange of experts;

(b) organisation of seminars;

(c) training activities.

Article 40

Article 40

Information

The Parties shall exchange information taking into account the limitations imposed by the requirements of professional and business secrecy.

SECTION E PUBLIC AID

SECTION E PUBLIC AID

Article 41

Article 41

Public aid¹. In so far as it may affect trade between the Community and South Africa, public aid favouring certain firms or the production of certain goods, which distorts or threatens to distort competition, and which does not support a specific public policy objective or objectives of either Party, is incompatible with the proper functioning of this Agreement.

2. The Parties agree that it is in their interests to ensure that public aid is granted in a fair, equitable and transparent manner.

Article 42

Article 42

Remedial measures¹. If the Community or South Africa considers that a particular practice is incompatible with the terms of Article 41, and that

such practice causes or threatens to cause serious prejudice to the interests of the other Party or material injury to its domestic industry, the Parties agree, where it is not adequately dealt with under existing rules and procedures, to enter into consultations with a view to finding a mutually satisfactory solution. Such consultations will be without prejudice to the Parties' rights and obligations in terms of their respective laws and international commitments.

2. Either Party may invite the Cooperation Council to examine, in the context of such consultation, the Parties' public policy objectives justifying the grant of public aid referred to in Article 41.

Article 43

Article 43

Transparency

Each Party shall ensure transparency in the area of public aid. In particular, where a Party so requests, the other Party shall provide information on aid schemes, on particular individual cases of public aid, or on the total amount and the distribution of aid given. The exchange of information between the Parties shall take into account the limitations imposed by either Party's laws relating to the requirements of business and professional secrecy.

Article 44

Article 44

Review 1. In the absence of any rules or procedures for the implementation of Article 41, the provisions of Article VI and XVI of the General

Agreement on Tariffs and Trade 1994 as well as the WTO Agreement on

Subsidies and Countervailing Measures shall apply to public aid or subsidies.

2. The Cooperation Council shall periodically review the progress made in these matters. In particular it shall continue to develop cooperation and understanding on the measures taken by each Party with regard to the operation of Article 41.

SECTION F OTHER TRADE-RELATED PROVISIONS

SECTION F OTHER TRADE-RELATED PROVISIONS

Article 45

Article 45

Government procurement1. The Parties agree to cooperate to ensure that access to the

Parties' procurement contracts is governed by a system which is fair, equitable and transparent.

2. The Cooperation Council shall periodically review the progress made in this matter.

Article 46

Article 46

Intellectual property1. The Parties shall ensure adequate and effective protection of intellectual property rights in conformity with the highest international standards. The Parties apply the WTO Agreement on

Trade Related Aspects of Intellectual Property Rights (TRIPs) from 1

January 1996 and undertake to improve, where appropriate, the protection provided for under that Agreement.

2. If problems in the area of intellectual property protection affecting trading conditions were to occur, urgent consultations shall be undertaken, at the request of either Party, with a view to reaching mutually satisfactory solutions.

3. The Community and its Member States confirm the importance they attach to the obligations arising from the:

(a) Protocol to the Madrid Agreement concerning the International Registration of Marks (Madrid 1989);

(b) International Convention for the Protection of Performers, Producers of Phonogram and Broadcasting Organisations (Rome 1961);

(c) Patent Cooperation Treaty (Washington 1979 as amended and modified in 1984).

4. Without prejudice to the obligations arising from the WTO

Agreement on TRIPs, South Africa could favourably consider accession to the multilateral conventions referred to in paragraph 3.

5. The Parties confirm the importance they attach to the following instruments:

(a) the provisions of the Nice Agreement concerning the

International Classification of Goods and Services for the Purposes of the Registration of Marks (Geneva 1977 and amended in 1979);

(b) Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971);

(c) International Convention for the Protection of New Varieties of Plants (UPOV) (Geneva Act, 1978);

(d) Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure (1977 modified in 1980);

(e) Paris Convention for the Protection of Industrial Property (Stockholm Act, and amended in 1979) WIPO;

(f) WIPO Copyright Treaty (WCT), 1996.

6. In order to facilitate the implementation of this Article, the

Community may provide, on request and on mutually agreed terms and conditions, technical assistance to South Africa in, among other things, the preparation of laws and regulations for the protection and enforcement of intellectual

property rights, the prevention of the abuse of such rights, the establishment and reinforcement of domestic offices and other agencies involved in enforcement and protection, including the training of personnel.

7. The Parties agree that for the purpose of this Agreement, intellectual property includes in particular copyright, including the copyright on computer programmes and neighbouring rights, utility models, patents, including biotechnical inventions, industrial designs, geographical indications, including appellations of origin, trade marks and service marks, topographies of integrated circuits, as well as the legal protection of databases and the protection against unfair competition as referred to in Article 10bis of the Paris Convention for the Protection of Industrial

Property and protection of undisclosed information on know-how.

Article 47

Article 47

Standardisation and conformity assessment

The Parties will cooperate in the field of standardisation, metrology, certification and quality assurance in order to reduce differences between the Parties in these areas, remove technical barriers and facilitate bilateral trade. This cooperation shall include:

(a) measures, in accordance with the provisions of the WTO TBT

Agreement, to promote greater use of international technical regulations, standards and conformity assessment procedures, including sector specific measures;

(b) developing agreements on mutual recognition of conformity assessment in sectors of mutual economic interest;

(c) cooperation in the area of quality management and assurance in selected sectors of importance to South Africa;

(d) facilitation of technical assistance for southern African capacity building initiatives in the fields of accreditation, metrology and standardisation;

(e) developing practical links between South African and

European standardisation, accreditation and certification organisations.

Article 48

Article 48

1. The Parties shall promote and facilitate cooperation between their customs services in order to ensure that the provisions on trade are observed and to guarantee fair trade. The cooperation shall give rise, among other things, to the exchange of information and training schemes.

2. Without prejudice to other forms of cooperation envisaged in this

Agreement, in particular under Article 90, the Contracting Parties'

administrative authorities shall provide mutual assistance in accordance with the provisions of Protocol 2 of this Agreement.

Article 49

Article 49

Statistics

The Parties agree to cooperate in this field. The cooperation will be geared mainly to the harmonisation of statistical methods and practice to enable processing, according to mutually agreed bases, of data on trade in goods and services and, more generally, on any field covered by the Agreement lending itself to statistical treatment.

TITLE IV

ECONOMIC COOPERATION

Article 50

Article 50

Introduction

The Parties agree to develop and promote cooperation on economic and industrial matters to their mutual advantage and in the interest of the southern African region as a whole, by diversifying and strengthening their economic links, promoting sustainable development in their economies, supporting patterns of regional economic cooperation, promoting cooperation between small and medium-sized enterprises, protecting and improving the environment, promoting the economic empowerment of historically disadvantaged groups, including women, protecting and promoting worker and trade union rights.

Article 51

Article 51

Industry

The aim of cooperation in this area is to facilitate the restructuring and modernisation of the South African industry while fostering its competitiveness and growth and to create conditions favourable to mutually beneficial cooperation between South African and Community industry.

The aim of the cooperation shall be, inter alia:

- (a) to encourage cooperation between the Parties' economic operators (companies, professionals, sectoral and other business organisations, organised labour, etc.);
- (b) to back the efforts of South Africa's public and private sectors to restructure and modernise industry, under conditions ensuring environmental protection, sustainable development and economic empowerment;
- (c) to foster an environment which favours private initiatives, with the aim of stimulating and diversifying output for the domestic and export markets;
- (d) to promote improved utilisation of South Africa's human resources and industrial potential through, inter alia, the facilitation of access to credit and investment finance and support to industrial innovation, technology transfer, training, research and technological development.

Article 52

Article 52

Investment promotion and protection

Cooperation between the Parties shall aim to establish a climate which favours and promotes mutually beneficial investment, both domestic and foreign, especially through improved conditions for investment protection, investment promotion, the transfer of capital and the exchange of information on investment opportunities.

The aims of cooperation shall be, inter alia, to facilitate and encourage:

- (a) the conclusion, where appropriate, between the Member States and South Africa of agreements for the promotion and protection of investment;
- (b) the conclusion, where appropriate, between the Member States and South Africa of agreements to avoid double taxation;
- (c) the exchange of information on investment opportunities;
- (d) work towards harmonised and simplified procedures and administrative practices in the field of investment;
- (e) support, through appropriate instruments, the promotion and encouragement of investment in South Africa and in the Southern African region.

Article 53

Article 53

Trade development¹. The Parties undertake to develop, diversify and increase trade between them and to improve the competitiveness of South African production on domestic, regional and international markets.

2. Cooperation in the field of trade development shall in particular focus on the following:

- (a) drawing up appropriate trade development strategies and creation of a trade environment supportive of competitiveness;
- (b) capacity building and development of human resources and professional skills in the field of trade and support services in both the public and private sector, including labour;
- (c) exchanges of information on market requirements;
- (d) know-how and technology transfer through investment and joint ventures;
- (e) development of the private sector, in particular small and medium-sized enterprises engaged in trade;
- (f) establishment, adaptation and strengthening of organisations concerned with the development of trade and support services;
- (g) regional cooperation for the development of trade and trade-related infrastructure and services in southern Africa.

Article 54

Article 54

Micro-enterprises and small and medium-sized enterprises

The Parties shall aim to develop and strengthen micro enterprises

(MEs) and small and medium-sized enterprises (SMEs) in South Africa, as well as to promote cooperation between SMEs in the Community and in South Africa and the region in a manner that is sensitive to gender equality. The Parties shall, inter alia:

- (a) cooperate, where appropriate, in the creation of enabling legal, administrative, institutional, technical, tax and financial frameworks for the setting up and expansion of MEs and SMEs;
- (b) provide assistance required by MEs and SMEs, whatever their legal status, in areas such as financing, skills training, technology and marketing;
- (c) provide assistance to companies, organisations, policy makers and agencies providing services referred to under paragraph b through appropriate technical

support, information exchange and capacity building;

(d) establish and facilitate appropriate links between South

African, southern African and Community private sector operators in order to improve the flow of information (relating to strategy formulation and implementation, business trends and opportunities, networking, joint ventures and transfer of skills).

Article 55

Article 55

Information society – telecommunications and information technology¹. The Parties agree to cooperate in the area of information and communication technology (ICT) which they consider as key sectors of modern society and which are vital to economic and social development and to the development of an information society.

Communication in this context encompasses post, broadcasting, telecommunications, information technologies. The aim of cooperation shall be to:

(a) improve the access of South African public and private entities to means of communications, electronics and information technologies through support to the development of infrastructural networks, human resources and appropriate information society policies in

South Africa;

(b) support cooperation between the countries of the southern

African region in this area, in particular in the context of satellite technology;

(c) address the challenges of globalisation, new technologies, institutional and sector restructuring, and the developing gap in basic information services and in advanced services.

2. Cooperation shall include among others:

(a) dialogue on different aspects of information society, including regulatory

aspects and communications policy;

(b) information exchanges and possible technical assistance on regulation, standardisation, conformity testing and certification of information and communications technologies and the use of frequencies;

(c) dissemination of new information and communication technologies, and the development of new facilities, particularly in relation to interconnection of networks and interoperability of applications;

(d) promotion and implementation of joint research, technological development on projects in the field of new technologies related to the information society;

(e) access for South African organisations to Community projects or programmes on the basis of the arrangements applying in the various fields concerned, and access for European Union organisations to operations initiated by South Africa under the same conditions.

Article 56

Article 56

Postal cooperation

Cooperation in this area shall include:

(a) exchange of information and dialogue on postal matters in relation to, inter alia, regional and international activities, regulatory aspects and policy decisions;

(b) technical assistance on regulation, operational standards and human resource development;

(c) promotion and implementation of joint projects, including research, on technological development in this sector.

Article 57

Article 57

Energy1. Cooperation in this area shall include the aim of cooperation in this area shall be:

- (a) to improve the access of South Africans to affordable, reliable and sustainable sources of energy;
- (b) to reorganise and modernise the energy producing, distributing and consuming subsectors so that appropriate services are provided on optimum terms of economic efficiency, social development and environmental acceptability;
- (c) to support cooperation between countries in the southern African region to exploit locally available energy resources in an efficient and environmentally friendly manner.

2. Cooperation shall specifically aim:

- (a) to support the development of appropriate energy policies and infrastructure in South Africa;
- (b) to diversify energy supplies in South Africa;
- (c) to improve energy operators performance standards in technical, economic and financial terms especially in the electricity and liquid fuels sectors;
- (d) to facilitate capacity building of local expertise especially by general and technical training;
- (e) to develop new and renewable forms of energy and support infrastructure especially for rural energy power supply;
- (f) to improve the rational use of energy notably by the promotion of energy systems' efficiency;
- (g) to promote transfer and use of environmentally friendly technologies;
- (h) to promote regional energy cooperation in southern Africa.

Article 58

Article 58

Mining and minerals1. The aim of cooperation in this area is, inter alia:

- (a) to support and promote policy measures that improve health and safety standards in the mining industry as well as conditions of employment;
- (b) to make mineral resources and geoscience information accessible for exploration and mining investment. The cooperation should also create a mutually beneficial climate for attracting investment in the sector, including SMEs (and previously disadvantaged communities);
- (c) to support policies which ensure that mining activities take place with due consideration for the environment and sustainable development, taking into account the specific circumstances in the country and nature of mining;
- (d) to cooperate on mining and minerals technology research and development.

2. Cooperation will include South African activities undertaken within the framework of the Southern African Development Community

(SADC) Mining Coordination Unit.

Article 59

Article 59

Transport 1. The aim of the cooperation in this area shall be:

- (a) to improve the access of South Africans to affordable, safe and reliable modes of transport and to facilitate the flow of goods in the country through the support to the development of intermodal infrastructure networks and transport systems, that are economically and environmentally sustainable;
- (b) to support cooperation between the countries of the southern

African region in order to create a sustainable transport network for regional needs.

2. Cooperation shall specifically focus on:

- (a) contributing to the restructuring and modernisation of road, rail, port and airport infrastructure;
- (b) gradually improving the conditions of air transport, rail, road and multimodal transit, as well as the management of roads, railways, ports and

airports, and maritime and air traffic;

(c) improving the safety of air and maritime traffic by improving aids to navigation and training to enable efficient programmes.

Article 60

Article 60

1. The Parties will cooperate with the aim of strengthening the development of a competitive tourism industry. In this context the

Parties in particular agree:

- (a) to promote the development of the tourism industry as a generator of economic growth and empowerment, employment and foreign exchange;
- (b) to seek to establish a strategic alliance involving public, private and community interests in order to ensure the sustainable development of tourism;
- (c) to carry out joint operations in such areas as the development of products and markets, human resources and institutional structures;
- (d) to cooperate on tourism training and capacity building in order to improve service standards;
- (e) to cooperate in promoting and developing community-based tourism through pilot projects in rural areas;
- (f) to facilitate liberal movement of tourists.

2. The Parties agree that cooperation in the field of tourism will be based, inter alia, on the following guidelines:

- (a) respecting the integrity and interests of local communities, particularly in rural areas;
- (b) stressing the importance of cultural heritage;
- (c) facilitating training, know-how transfer and awareness creation in the wider community;
- (d) providing positive interaction between tourism and

environmental preservation;

(e) promoting regional cooperation in southern Africa.

Article 61

Article 61

Agriculture¹. Cooperation in this area shall be aimed at the promotion of integrated, harmonious and sustainable rural development in South

Africa. Cooperation will in particular be geared:

(a) to modernise and restructure, where appropriate, the agricultural sector through methods including the modernisation of infrastructure and equipment, the development of packaging and storage techniques and the improvement of private distribution and marketing chains;

(b) to facilitate the development and the enhancement of competitiveness of farmers from previously disadvantaged communities and the provision of appropriate agricultural services in this regard;

(c) to diversify and develop output and external markets;

(d) to achieve and develop cooperation in animal health, plant health and agricultural production techniques;

(e) to examine measures to harmonise standards and rules on animal and plant health, with a view to facilitating trade, taking into account the legislation in force for both Parties and in conformity with the rules of the WTO.

2. Cooperation will take place, inter alia, through the transfer of know-how, the establishment of joint ventures and capacity building programmes.

Article 62

Article 62

Fisheries

Cooperation in this area shall aim at promoting sustainable management and use of fisheries resources in the long-term interest of both Parties. This will be achieved by exchanges of information and the design and implementation of agreed arrangements which may address the economic, commercial, developmental, scientific and technical aspirations of the Parties. These arrangements will be set out in a separate mutually beneficial fisheries agreement which the Parties undertake to seek to complete as soon as possible.

Article 63

Article 63

Services

The Parties agree to foster cooperation in the services sector in general and in the area of banking, insurance and other financial services in particular, through, inter alia:

- (a) encouraging trade in services;
- (b) exchanging, where appropriate, information on rules, laws and regulations governing the services sector in the Parties;
- (c) improving accounting, auditing, supervision and regulation of financial services and financial monitoring, for example through the facilitation of training schemes.

Article 64

Article 64

Consumer policy and protection of consumer health

Parties shall start cooperation in the area of consumer policy and consumer health protection, in particular aiming at:

- (a) establishing systems of mutual information on domestically prohibited and dangerous products;

- (b) exchanging information and experience on the establishment and operation of post-market surveillance of products and products safety;
- (c) improving information provided to consumers especially on prices, characteristics of products and services offered;
- (d) encouraging exchanges between consumer interest representatives;
- (e) increasing the compatibility of consumer policies and systems;
- (f) exchange of information on increasing consumer awareness through information and education;
- (g) notifying enforcements and cooperation between the Parties in investigating harmful or unfair business practices;
- (h) exchange of information on effective ways of redressing any wrongs to consumers victimised by illegal activities.

TITLE V

DEVELOPMENT COOPERATION

SECTION A GENERAL

Article 65

Article 65

1. Development cooperation between the Community and South Africa shall be conducted in a context of policy dialogue and partnership, and shall support the policies and reforms carried out by the national authorities.
2. In particular, development cooperation shall contribute to South Africa's harmonious and sustainable economic and social development and to its insertion into the world economy and to consolidate the foundations laid for a democratic society and a state governed by the rule of law in which human rights in their political, social and cultural aspects and fundamental freedoms are respected.
3. Within this context, priority shall be given to supporting operations, which help the fight against poverty.

Article 66

Article 66

1. The areas of development cooperation will mainly concern the following:

(a) support for policies and instruments towards the progressive integration of the South African economy into the world economy and trade, for expansion of employment, for development of sustainable private enterprises, for regional cooperation and integration. In this context, special attention will be given to providing support to the adjustment efforts occasioned in the region by the establishment of the free-trade area under this Agreement, especially in the SACU;

(b) enhancement of living conditions and delivery of basic social services;

(c) support to democratisation, the protection of human rights, sound public management, the strengthening of civil society and its integration in the development process.

2. Dialogue and partnership between public authorities and non-governmental development partners and actors will be promoted.

3. Programmes shall be focused on the basic needs of the previously disadvantaged communities and reflect the gender and environmental dimensions of development.

Article 67

Article 67

Eligible beneficiaries

Cooperation partners eligible for financial and technical assistance shall be national, provincial and local authorities and public bodies, non-governmental organisations and community-based organisations, regional and international organisations, institutions and public or private operators. Any other body could be made eligible if so designated by both Parties.

Article 68

Article 68

Means and methods¹. The means that may be deployed under the cooperation operations referred to in Article 66 shall include in particular studies, technical assistance, training or other services, supplies and works, and also evaluation and monitoring audits and missions.

2. Community financing, in local or foreign currency, depending on the needs and nature of the operation, may cover:

- (a) government budget expenditures to support reforms and policy implementation in the priority sectors identified through a policy dialogue;
- (b) investment (with the exception of the purchase of buildings) and equipment;
- (c) in certain cases and in particular where a programme is implemented by a non-government partner, recurrent expenditure.

3. Contribution from the partners defined in Article 67 shall in principle be required for each cooperation operation. The nature and amount of this contribution shall be adapted to the possibilities of the partner and the nature of operations.

4. Opportunities may be sought for coherence and complementarity with other providers of funds, particularly the Member States of the

European Union.

5. Appropriate steps will be taken by both Parties to ensure that the Community character of development cooperation under this

Agreement is made known to the general public.

Article 69

Article 69

Programming¹. Multiannual indicative programming based on specific objectives derived from the priorities in Article 66 and indicating

modalities for the preparation, implementation and monitoring of the development cooperation and resulting operations during a reference period shall be carried out in the context of close contacts between the Community and the South African Government with the contribution of the European Investment Bank. The outcome of programming discussions shall be set out in a multiannual indicative programme designed by both Parties.

2. Detailed operational procedures and provisions for implementation and monitoring of the development cooperation shall be attached to the multiannual indicative programme.

Article 70

Article 70

Project identification, preparation and appraisal¹. The identification and preparation of development operations shall be the responsibility of the Government of South Africa

National Authorising Officer as defined in Article 80, or any other eligible beneficiary defined in Article 67.

2. Project or programme dossiers submitted for financing by the

Community must contain all the information necessary for their appraisal. Such dossiers shall be officially transmitted to the Head of Delegation by the National Authorising Officer or the other eligible beneficiaries.

3. The appraisal of development operations shall be undertaken jointly by the National Authorising Officer and/or the other eligible beneficiaries and the Community.

Article 71

Article 71

Financing proposal and decision¹. The conclusions of the appraisal shall be summarised by the Head of Delegation in a financing proposal prepared in close collaboration with the National Authorising Officer and/or the requesting partner.

2. The Commission shall finalise the financing proposal and forward it to the Community's decision-making body.

Article 72

Article 72

Financing agreements1. Any project or programme approved by the Community shall be covered by:

(a) either a financing agreement drawn up between the Commission, acting for the Community, and the National Authorising Officer acting for the Government of South Africa, or the eligible beneficiary;

(b) or a contract with international organisations or legal bodies, physical persons or any other operator defined in Article 67 responsible for carrying out the project or programme.

2. All financing agreements or contracts shall provide for on-the-spot checks by the Commission and the European Court of

Auditors.

SECTION B INDUSTRIAL PRODUCTS

Article 73

Article 73

Eligibility of contractors and supplies1. Participation in invitations to tender and contracts shall be open on equal terms to all natural and legal persons in the Member

States of the European Union, South Africa and the ACP States.

Participation may be extended to include other developing countries in duly substantiated cases and in order to ensure the best cost-effectiveness ratio.

2. Supplies shall originate in the Member States, South Africa or the ACP States. In duly substantiated exceptional cases, they may originate in other countries.

Article 74

Article 74

Contracting authority¹. Works, supply and service contracts shall be prepared, negotiated and concluded by the eligible beneficiary, in agreement and in collaboration with the Commission.

2. The eligible beneficiary may request the Commission to prepare, negotiate and conclude service contracts on their behalf, directly or through its relevant agency.

Article 75

Article 75

Procurement procedures

Procedures for procurement or for contracts financed by the

Community are laid down in the general clauses attached to the financing agreements.

Article 76

Article 76

General regulations and conditions

The award and performance of works, supply and service contracts financed by the Community shall be governed by this Agreement and by the respective general regulations for works, supply and service contracts and general conditions as adopted by decision of the

Cooperation Council.

Article 77

Article 77

Settlement of disputes

Any dispute arising between South Africa and a contractor, supplier or provider of services during the performance of a contract financed by the Community shall be settled by arbitration according to the procedural rules on conciliation and arbitration of contracts as adopted by decision of the Cooperation Council.

Article 78

Article 78

Fiscal and customs arrangements 1. The South African Government shall apply to all contracts financed by the Community a full exemption from fiscal and customs duties and/or taxes or charges having an equivalent effect.

2. The details of the arrangements, referred to in paragraph 1 shall be established by means of an Exchange of Letters between the South

African Government and the Commission.

Article 79

Article 79

Chief authorising officer

The Commission will appoint a chief authorising officer who shall be responsible for managing resources made available by the Community for development cooperation with South Africa.

Article 80

Article 80

National authorising officer and paying agent¹. The South African Government shall appoint a national authorising officer to represent it in all operations relating to projects financed by the Commission which are the subject of a financing agreement between South Africa and the Community. A paying agent shall also be appointed.

2. Obligations and tasks of the chief authorising officer and the national authorising officer and the paying agent shall be established by way of an exchange of instruments between the South

African Government and the Commission in accordance with the provisions of the financial regulations of the Commission applicable to preferential agreements.

Article 81

Article 81

Head of Delegation¹. The Commission is represented in South Africa by the Head of

Delegation who ensures, together with the national authorising officer, the implementation, monitoring and follow-up of the financial and technical cooperation in conformity with the principles of sound financial management and the provisions of this

Agreement. In particular, the Head of Delegation shall be granted powers to facilitate and expedite the preparation, appraisal and execution of projects and programmes.

2. The South African Government shall accord to the Head of

Delegation and the officials from the Commission appointed in South

Africa privileges and immunities in accordance with the Vienna

Convention on Diplomatic Relations of 1961.

3. In defining the tasks and obligations of the national authorising officer and the head of delegation, the Parties shall seek to ensure the greatest degree of local management of projects and programmes as well as compatibility and coherence with practices applying in the other ACP States.

Article 82

Article 82

1. The objective of monitoring and evaluation shall consist in the external assessment of development operations (preparation, implementation and subsequent operation), with a view to improving the development effectiveness of ongoing and future operations. This work shall be done jointly by South Africa and the Community.

2. Monitoring and evaluation of the cooperation shall be done jointly by South Africa and the Community. Annual consultations may be held to assess progress and agree on the measures to be taken to adapt and improve implementation of the multiannual indicative programme and to prepare for future operations.

TITLE VI

COOPERATION IN OTHER AREAS

Article 83

Article 83

Science and technology

The Parties undertake to intensify scientific and technological cooperation. Detailed arrangements for the implementation of this objective have been set out in a separate agreement, which entered into force in November 1997.

Article 84

Article 84

1. The Parties will cooperate to pursue sustainable development through the rational use of non-renewable natural resources and the sustainable use of renewable natural resources, thus promoting protection of the environment, prevention of its deterioration and the control of pollution. The Parties will aim to improve the quality of the environment and work

together to combat global environmental problems.

2. The Parties will give special consideration to the development of capacity in environmental management. There will be dialogue on the identification of environmental priorities. The impact of past South

African policies on the state of the environment will be reviewed and addressed where possible.

3. The cooperative relationship will involve, inter alia, matters relating to urban development and land use for agricultural and non-agricultural purposes; desertification; management of waste, including hazardous and nuclear waste; management of dangerous chemicals; conservation and sustainable use of biological diversity;

the sustainable management of forestry resources; water quality control; control of pollution from industrial and other sources;

control of coastal and marine pollution and the management of marine resources; integrated water catchment management, including management of international river basins; water demand management and issues surrounding the reduction of greenhouse gas emissions.

Article 85

Article 85

1. The Parties undertake to cooperate in the sphere of culture in order to promote a thorough knowledge and better understanding of cultural diversities within South Africa and the European Union.

Parties will clear obstacles to intercultural communication and cooperation, and will stimulate awareness of the interdependence of peoples of different cultures. They will foster participation by the population of South Africa and the European Union in the process of reciprocal cultural enrichment.

2. Cultural contacts will aim at preserving and enhancing the cultural heritage and producing and disseminating cultural goods and services. The widest possible use shall be made of national, regional and interregional communications media and infrastructure to facilitate cultural contacts, while promoting respect for copyright and related rights.

3. The Parties will cooperate in cultural events and exchanges

among institutions and associations from South Africa and the European Union.

Article 86

Article 86

1. The Parties will engage in a dialogue on social cooperation. This shall include, but not necessarily be limited to, questions relating to the social problems of post-apartheid society, poverty alleviation, unemployment, gender equality, violence against women, children's rights, labour relations, public health, safety at work and population.

2. The Parties consider that economic development must be accompanied by social progress. They recognise the responsibility to guarantee basic social rights, which specifically aim at the freedom of association of workers, the right to collective bargaining, the abolition of forced labour, the elimination of discrimination in respect of employment and occupation and the effective abolition of child labour. The pertinent standards of the ILO shall be the point of reference for the development of these rights.

Article 87

Article 87

Information

The Parties shall take appropriate measures to promote and encourage an effective mutual exchange of information. Priority shall, inter alia, be given to ensuring the spread of information on cooperation between South Africa and the Community. In addition, the Parties shall endeavour to provide basic information about South Africa and the European Union for the general public, and specialised information about European Union policies for specific audiences in

South Africa as well as specialised information about South African policies for specific audiences in the European Union.

Article 88

Article 88

Press and audiovisual media

The Parties shall encourage cooperation in the field of press and audiovisual media, in order to support the further development and fostering of independence and pluralism in the media. Cooperation shall be sought, inter alia, through:

- (a) promotion of the development of human resources, in particular through training and exchange programmes for journalists and media professionals;
- (b) encouragement of wider access to sources of information for the media;
- (c) exchange of technical know-how and information;
- (d) production of audiovisual programmes.

Article 89

Article 89

Human resources¹. The Parties shall cooperate in order to enhance the value of human resources in South Africa in all areas covered by the

Agreement. Cooperation shall aim to strengthen institutional capacity in the government's key human resource development areas, paying special attention to the most disadvantaged sections of the population.

2. In order to develop the level of expertise of senior staff in the public and private sectors, the Parties shall step up their cooperation on education and vocational training and cooperation between educational institutions and firms. Particular attention shall be paid to promote the establishment of permanent links between specialised bodies in the European Union and South Africa so as to encourage the pooling and exchange of experience and technical resources.

3. The Parties shall encourage the exchange of information in order to foster cooperation on the recognition of degrees and diplomas by the relevant authorities.

4. The parties shall encourage linkage and cooperation between institutions of higher learning, for example universities.

Article 90

Article 90

Fight against drugs and money laundering

The Parties undertake to cooperate in the fight against drugs and money laundering by:

(a) promoting the South African drugs control master plan and enhancing the effectiveness of South African and southern African regional programmes to counter the illegal abuse of narcotic drugs and psychotropic substances as well as the production, supply and trafficking of these substances, based on the relevant international

UN Drugs Control Conventions;

(b) preventing the use of their financial institutions to launder capital arising from criminal activities in general and from drug trafficking in particular on the basis of standards equivalent to those adopted by international bodies, in particular the Financial

Action Task Force (FATF), and

(c) preventing the diversion of precursor chemicals and other essential substances used for the illicit production of narcotic drugs and psychotropic substances on the basis of the standards adopted by international authorities concerned, notably those of the

Chemical Action Task Force (CATF).

Article 91

Article 91

Data protection¹. The Parties shall cooperate to improve the level of protection to the processing of personal data, taking into account

international standards.

2. Cooperation on personal data protection may include technical assistance in the form of exchanges of information and experts and the establishment of joint programmes and projects.
3. The Cooperation Council shall periodically review the progress made in this regard.

Article 92

Article 92

1. The Parties shall cooperate to improve the mental and physical health of populations by promoting health, and preventing disease.

2. In the field of public health the Parties shall cooperate by sharing knowledge and experience on programmes which, inter alia, disseminate information, improve the education and training of public health professionals, monitor disease and develop health information systems, decrease risks from lifestyle related diseases, prevent and control HIV/AIDS and other communicable diseases.

3. Cooperation in the field of safety and health at work shall include exchange of information on legislative and non-legislative measures to prevent accidents, occupation related diseases and occupation related health risks.

4. Cooperation in the pharmaceutical field may include support in the evaluation and registration of medicinal products.

TITLE VII

FINANCIAL ASPECTS OF COOPERATION

Article 93

Article 93

Objective

In order to achieve the objectives of this Agreement, South Africa shall benefit from financial and technical assistance from the

Community in the form of grants and loans to support its socioeconomic development needs.

Article 94

Article 94

Grants

Financial assistance in the form of grants shall be covered by:

(a) a special financial facility established under the Community budget, in support of the development cooperation activities referred to in Articles 65 and 66;

(b) other financial resources made available from other Community budget lines for development and international cooperation activities falling within the scope of those budget lines. The procedure for presentation and approval of requests, implementation, and monitoring/evaluation will be in accordance with the general conditions relating to the budget line in question.

Article 95

Article 95

Loans

As regards financial assistance in the form of loans, the European

Investment Bank could consider, at the request of the Council of the

European Union, the extension of its financing of investment projects in South Africa by means of long-term loans, within the limits of maximum amounts and periods of validity to be determined in application of the relevant dispositions of the Treaty establishing the European Community.

Article 96

Article 96

Regional cooperation

The financial assistance from the Community referred to in the previous Articles may be used to fund projects or programmes of national or local interest in South Africa as well as the participation of South Africa in regional cooperation activities which it undertakes together with other developing countries.

TITLE VIII

FINAL PROVISIONS

Article 97

Article 97

Institutional set-up¹. The Parties agree on the establishment of a Cooperation Council which will perform the following functions:

- (a) to ensure the proper functioning and implementation of the Agreement and the dialogue between the Parties;
- (b) to study the development of trade and cooperation between the Parties;
- (c) to seek appropriate methods of forestalling problems which might arise in areas covered by the Agreement;
- (d) to exchange opinions and make suggestions on any issue of mutual interest relating to trade and cooperation, including future action and the resources available to carry it out.

2. The composition, frequency, agenda and venue of Cooperation

Council meetings shall be agreed on through consultation between the

Parties.

3. The Cooperation Council referred to above shall have the power to take decisions in respect of all matters covered by this Agreement.

4. The Parties agree to encourage and facilitate regular contacts between their respective Parliaments on the various areas of cooperation covered by the Agreement.

5. The Parties will also encourage contacts between other similar and relevant institutions in South Africa and the European Union such as the Economic and Social Committee of the European Community and the National Economic Development and Labour Council (NEDLAC) of

South Africa.

Article 98

Article 98

Tax carve-out clause 1. The most-favoured-nation treatment granted in accordance with the provisions of this Agreement, or any arrangements adopted under this

Agreement, do not apply to tax advantages which South Africa and the

Member States of the European Union are providing or may provide in the future on the basis of agreements to avoid double taxation or other tax arrangements, or domestic fiscal legislation.

2. Nothing in this Agreement, or in any arrangements adopted under this Agreement, may be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements, or domestic fiscal legislation.

3. Nothing in this Agreement, or in any arrangements adopted under this Agreement, shall be construed to prevent the Member States of the European Union or South Africa from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence, or with regard to the place where their capital is invested.

Article 99

Article 99

Duration

This Agreement shall be valid for an unlimited period. Either Party may denounce this Agreement by notifying the other Party in writing.

The Agreement shall cease to apply six months after the date of such notification.

Article 100

Article 100

Non-discrimination

In the fields covered by this Agreement, and without prejudice to any special provisions contained therein;

(a) the arrangements applied by South Africa in respect of the Community shall not give rise to any discrimination between the Member States, their nationals, or their companies or firms;

(b) the arrangements applied by the Community and the Member States in respect of South Africa shall not give rise to any discrimination between South African nationals or its companies or firms.

Article 101

Article 101

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the

Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, and, on the other hand, in respect of South Africa, to the territories as defined in the South African Constitution.

Article 102

Article 102

Future developments

The Parties may, by mutual consent and within their respective spheres of competence, expand the Agreement in order to enhance the level of cooperation and add to it by means of agreements on specific sectors or activities.

Within the framework of this Agreement, either of the Parties may put forward suggestions for expanding the scope of the cooperation, taking into account the experience gained in its application.

Article 103

Article 103

Review

The Parties will review this Agreement within five years of its entering into force in order to address the possible implications of other arrangements which may affect this Agreement. Further reviews may be mutually agreed on.

Article 104

Article 104

Dispute settlement 1. Each Party may refer to the Cooperation Council any dispute relating to the application or interpretation of this Agreement.

2. The Cooperation Council may settle any dispute by means of a decision.

3. Each Party shall be bound to take the measures involved in carrying out the

decision referred to in paragraph 2.

4. In the event of it not being possible to settle the dispute in accordance with paragraph 2, either Party may notify the other of an appointment of an arbitrator; the other Party must then appoint a second arbitrator within two months of the appointment of the first arbitrator.

5. The Cooperation Council shall appoint a third arbitrator within six months of the appointment of the second arbitrator.

6. The arbitrators' decisions shall be taken by majority vote within 12 months.

7. Each Party to the dispute must take the steps required to implement the decision of the arbitrators.

8. The Cooperation Council shall establish the working procedures for arbitration.

9. In the case of disputes arising under Titles II and III of this

Agreement, the following procedures shall apply:

(a) the appointment of a second arbitrator must be made within 30 days;

(b) the Cooperation Council shall appoint a third arbitrator within 60 days of the appointment of the second arbitrator;

(c) the arbitrators shall, as a general rule, submit their findings and decisions to the Parties and to the Cooperation Council not later than six months from the date of the composition of the arbitration panel. In cases of urgency, including those involving perishable goods, the arbitrators shall aim to issue their report to the parties within three months;

(d) the Party concerned shall inform the other Party and the

Cooperation Council within 60 days of its intentions in respect of implementation of the findings and decisions of the Cooperation

Council or the arbitrators, as the case may be;

(e) If it is impractical to comply immediately with the findings and decisions of the Cooperation Council or the arbitrators, the Party concerned shall be afforded a reasonable period of time to do so.

The reasonable period of time shall not exceed 15 months from the date of

submission of the findings and decisions to the Parties.

However, that period of time may, by mutual consent of the Parties, be reduced or extended, depending on the particular circumstances.

10. Without prejudice to their right to have recourse to WTO dispute settlement procedures, the Community and South Africa shall endeavour to settle disputes relating to specific obligations arising under Titles II and III of this Agreement through recourse to the specific dispute settlement provisions of this Agreement.

Arbitration proceedings established under this Agreement will not consider issues relating to each Party's WTO rights and obligations, unless the Parties agree to refer any such issues to the arbitration.

Article 105

Article 105

Clause on bilateral agreements

Except in so far as it creates equivalent or greater rights for the

Parties involved, this Agreement shall not affect rights contained in existing Agreements binding one or more Member States, on the one hand, and South Africa, on the other.

Article 106

Article 106

Amendment clause 1. Any Party desirous of amending this Agreement may put forward its proposal for the amendment, together with its submissions in motivation of the proposed amendment, to the Cooperation Council for consideration and decision.

2. In the event that the other Party considers that the proposed amendment could detrimentally impact on its rights in terms of the

Agreement, it may submit a proposal for compensatory adjustments of the

Agreement to the Cooperation Council for consideration and decision.

Article 107

Article 107

Annexes

Protocols and Annexes shall form an integral part of the Agreement.

Article 108

Article 108

Languages and number of originals

This Agreement is drawn up in duplicate in the Danish, Dutch,

English, Finnish, French, German, Greek, Italian, Portuguese,

Spanish and Swedish languages and the official languages of South

Africa, other than English, namely Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, isiNdebele, isiXhosa and isiZulu, each of these texts being equally authentic.

Article 109

Article 109

Entry into force

This Agreement shall enter into force on the first day of the month following that during which the Contracting Parties have notified each other of the completion of the necessary procedures.

If pending the entry into force of the Agreement, the Parties decide to apply it provisionally, all references to the date of entry into force shall be deemed to refer to the date such provisional application takes effect.

Hecho en Pretoria, el once de octubre de mil novecientos noventa y nueve.

Udf?rdiget i Pretoria, den ellefte oktober nitten hundrede og nioghalvfems.

Geschehen zu Pretoria am elften Oktoberneunzehnhundertneunundneunzig.

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>ISO_1>Done at Pretoria on the eleventh day of October in the year one thousand
nine hundred and ninety-nine.

Fait ? Pretoria, le onze octobre mil neuf cent quatre-vingt-dix-neuf.

Fatto a Pretoria, add..1 undici ottobre millenovecentonovantanove.

Gedaan te Pretoria, de elfde oktober negentienhonderd negennegentig.

Feito em Pret?ria, em onze de Outubro de mil novecentos e noventa e nove.

Tehty Pretoriassa yhdenentoista p...-iv...-n...- lokakuuta
vuonna tuhatyhdeks...nsataayhdeks...nkymment...yhdeks...n.

Som skedde i Pretoria den elfte oktober nittonhundranittionio.

Por la Comunidad Europea/For Det Europ?iske F?llesskab/F?r die

Europ...-ische Gemeinschaft/>ISO_7>??..? ???? ??????..?..±??

?..B??????..?/>ISO_1>For the European Community/Pour la Communaut?

europ?enne/Per la Comunit? europea/Voor de Europese Gemeenschap/Pela

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Pour le Royaume de Belgique/Voor het Koninkrijk Belgi...±/F?r das

K?nigreich Belgien

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Cette signature engage également la Communauté française, la

Communauté flamande, la Communauté germanophone, la Région wallonne, la Région flamande et la Région de Bruxelles-Capitale. /Deze handtekening verbindt eveneens de Vlaamse Gemeenschap, de Franse

Gemeenschap, de Duitstalige Gemeenschap, het Vlaamse Gewest, het

Waalse Gewest en het Brussels Hoofdstedelijk Gewest. /Diese

Unterschrift verbindet zugleich die deutschsprachige Gemeinschaft, die flämische Gemeinschaft, die französische Gemeinschaft, die

Wallonische Region, die flämische Region und die Region

Brüssel-Hauptstadt.

For Kongeriget Danmark

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Für die Bundesrepublik Deutschland

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Por el Reino de España

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Pour la République française

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Thar ceann na h-Éireann/For Ireland

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Per la Repubblica italiana

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Pour le Grand-Duché de Luxembourg

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Voor het Koninkrijk der Nederlanden

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Für die Republik Österreich

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Pela República Portuguesa

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Suomen tasavallan puolesta/Für Republiken Finland

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Für Konungariket Sverige

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For the United Kingdom of Great Britain and Northern Ireland

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For the Republic of South Africa/wa Repaboliki ya Afrika Borwa

Ya Repaboliki ya Afrika Borwa

Wa Repaboliki ya Aforika Borwa

WeRiphabliki yaseNingizimu Afrikawa Rephabuliki ya Afurika Tshipembe

Wa Riphabliki ra Afrika-Dzonga

Vir die Republiek van Suid-Afrika

WeRiphabhliki yeSewula Afrika

WeRiphablikhi yoMzantsi Afrika

WeRiphabhulikhi yaseNingizimu Afrika

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ANNEX I

REPUBLIC OF SOUTH AFRICA

LIST OF AGREED DEROGATIONS TO STANDSTILL AND ROLLBACK

Introduction

The Community and the Republic of South Africa agree that any increase of the applied most favoured nation (MFN) tariff or any other trade restrictive or distorting measures taken after 1 July 1996 will be eliminated vis-à-vis the other side at the latest the day of entry into force of the Agreement.

At the request of the South African side and bearing in mind the particular nature of the Republic of South Africa's economic transformation and the specific stage of adaptation of its tariff system within the framework of its WTO obligations, the Community has agreed to consider, on an exceptional basis, specific requests for derogations to rollback.

As a result of this process, both sides agree that for the purpose of implementation of Article 7 of this Agreement, the tariff levels listed below will replace the tariffs effectively applied as of 1

July 1996 as the standstill reference for the products mentioned in this Annex.

>TABLE POSITION>

ANNEX II

EUROPEAN COMMUNITY

List 1

Industrial Products

EU offer

Annex II - List 1

>TABLE POSITION>

ANNEX II
EUROPEAN COMMUNITY

List 2

Industrial Products

EU offer

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FISHERIES PRODUCTS

List 1

Introduction

Tariff concessions contained in List 1 to 4 of this Annex shall only take

effect once the Fisheries Agreement referred to in Article 62 of this Agreement has entered into force. Concessions will be implemented according to the following schedule:

- Tariffs of products on List 1 will be eliminated immediately.
- Tariffs of products on List 2 will be eliminated in equal annual steps within three years after the entry into force of the Fisheries

Agreement;

- Tariffs of products on List 3 will be eliminated in equal annual steps starting at the beginning of the fourth year after the entry into force of the Fisheries Agreement;
- Tariffs of products on List 4 will be eliminated in equal annual steps starting at the beginning of the sixth year after the entry into force of the Fisheries Agreement.

Tariff concessions applicable on import into the European Community of products originating in the Republic of South Africa listed in

List 5 of this Annex shall be envisaged in the light of the content and continuity of the Fisheries Agreement referred to in Article 62 of this Agreement.

The Fisheries Agreement should enter into force, and the appropriate

Community trade concessions on fisheries products should be fully implemented within a transitional period of 10 years from the entry into force of this Agreement

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Fish Products

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ANNEX VIII

COMPETITION

The European Community shall assess any practices contrary to

Article 35 of this Agreement on the basis of criteria arising from

Article 35 of this Agreement on the basis of criteria arising from the application of the rules of Articles 81 and 82 of the Treaty establishing the European Community, including secondary legislation.

The Republic of South Africa shall assess any practices contrary to

Article 35 of this Agreement on the basis of criteria arising from the application of the rules of South African competition law.

ANNEX IX

Without prejudice to the Parties' rights and obligations in terms of their respective laws and international commitments, and to the measures taken by the Parties in implementation of Article 41 of this Agreement, it is accepted that:

(a) The provisions of Title III, Section E of this Agreement should not obstruct the performance in law or in fact of the operation of services of general economic interest assigned to public undertakings.

(b) Public aid provided, for example, by way of programmes or schemes in support of public objectives such as, inter alia, regional development, industrial restructuring and development, promotion of the micro enterprises and small and medium-sized enterprises, the advancement of previously disadvantaged persons or affirmative action programmes is, as a general rule, compatible with the proper functioning of this Agreement.

(c) Public aid provided to support the public policy objectives listed below is, as a general rule, also compatible with the proper functioning of this Agreement:

- employment,
- environmental protection,
- rescue and restructuring of firms in difficulty,
- research and development,

- support to firms in deprived urban areas, and

- training.

(d) Public aid will not be exempted from action under GATT 1994 unless adequate measures are taken for the implementation of Article 41 of this Agreement.

ANNEX X

EXCHANGE OF LETTERS IN RELATION TO THE WINES AND SPIRITS AGREEMENT

BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF SOUTH AFRICA

A. Letter from the Community

Sir,

I refer to the Agreement on Trade, Development and Cooperation signed today and confirm our agreement with the elements of a commitment between the European Community and the Republic of South

Africa on port and sherry that you attached to this letter.

The commitments between the European Community and the Republic of

South Africa on port and sherry will be worked out in further detail in the context of a Wines and Spirits Agreement which will be concluded as soon as possible and no later than September 1999.

I would be obliged if you could confirm the agreement of the

Republic of South Africa with the content of this letter and its attachment.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the European Community

Attachment 1. The Republic of South Africa reconfirms that the names "port" and "sherry" are not and will not be used for its exports to the European Community.

2. The Republic of South Africa will phase out the use of the "port"

and "sherry" names on all export markets within 5 years, except in the case on non-SACU SADC countries, where an 8 year phase-out period would apply.

3. For the purpose of the Wines and Spirits Agreement, the South African domestic market is defined to cover SACU (South Africa, Botswana, Lesotho, Namibia and Swaziland).

4. South African products may be marketed as "port" and "sherry" on the South African domestic market during a 12 year transitional period. Beyond that period the new denominations of these products which shall be used on the South African domestic market will be jointly agreed between the Republic of South Africa and the European Community.

5. From entry into force of the Agreement, the European Community will provide a duty free quota for wines covering the current level of trade of 32 million litres of South African exports to the

European Community, with allowance for the future growth of this quota.

6. As an additional effort to the main objectives agreed for the development programme for the Republic of South Africa to be funded by the European Community, the European Community will provide assistance of EUR 15 million for the restructuring of the South

African wines and spirits sector and for the marketing and distribution of South African wines and spirits products. Such assistance will commence at the entry into force of the Wines and

Spirits Agreement.

7. A Wines and Spirits Agreement between South Africa and the

European Community will be concluded as soon as possible and no later than in September 1999, in order to ensure that the entry into force of the Wines and Spirits Agreement will take place before or in January 2000.

B. Letter from the Republic of South Africa

Sir,

I acknowledge receipt of your letter of today's date which reads as follows: "I refer to the Agreement on Trade, Development and

Cooperation signed today and confirm our agreement with the elements of a commitment between the European Community and the Republic of

South Africa on port and sherry that you attached to this letter.

The commitments between the European Community and the Republic of

South Africa on port and sherry will be worked out in further detail in the context of a Wines and Spirits Agreement which will be concluded as soon as possible and no later than September 1999.

I would be obliged if you could confirm the agreement of the

Republic of South Africa with the content of this letter and its attachment."

I confirm that my Government is in agreement with the contents of this letter and its attachment.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Government of the Republic of South Africa

PROTOCOL 1 concerning the definition of the concept of "originating products" and methods of administrative cooperation

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TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Protocol:

(a) "manufacture" means any kind of working or processing including assembly or

specific operations;

(b) "material" means any ingredient, raw material, component or part, etc., used in the manufacture of the product;

(c) "product" means the product being manufactured, even if it is intended for later use in another manufacturing operation;

(d) "goods" means both materials and products;

(e) "customs value" means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the General

Agreement on Tariffs and Trade (WTO Agreement on customs valuation);

(f) "ex-works price" means the price paid for the product ex works to the manufacturer in the Community or South Africa in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported;

(g) "value of materials" means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the Community or South Africa;

(h) "value of originating materials" means the value of such materials as defined in subparagraph g applied mutatis mutandis;

(i) "added value" shall be taken to be the ex-works price minus the customs value of each of the materials incorporated which originate in the other countries referred to in Article 3 or, where the customs value is not known or cannot be ascertained, the first price verifiably paid for the products in the Community or South Africa;

(j) "chapters" and "headings" mean the chapters and the headings

(four-digit codes) used in the nomenclature which makes up the

Harmonised Commodity Description and Coding System, referred to in this Protocol as "the Harmonised System" or "HS";

(k) "classified" refers to the classification of a product or material under a particular heading;

(l) "consignment" means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

(m) "territories" includes territorial waters;

(n) "ACP States" refers to the African, Caribbean and Pacific States that are Contracting Parties to the Fourth ACP-EC Convention, signed at Lomé on 15 December 1989, as amended by the Agreement signed at

Mauritius on 4 November 1995;

(o) "SACU" refers to the Southern African Customs Union.

TITLE II

DEFINITION OF THE CONCEPT OF "ORIGINATING PRODUCTS"

Article 2

General requirements 1. For the purpose of implementing this Agreement, the following products shall be considered as originating in the Community:

(a) products wholly obtained in the Community within the meaning of

Article 4 of this Protocol;

Article 4 of this Protocol;

(b) products obtained in the Community incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the Community within the meaning of Article 5 of this Protocol.

2. For the purpose of implementing this Agreement, the following products shall be considered as originating in South Africa:

(a) products wholly obtained in South Africa within the meaning of

Article 4 of this Protocol;

(b) products obtained in South Africa incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in South Africa within the meaning of Article 5 of this Protocol.

Article 3

Cumulation of origin

Bilateral cumulation¹. Materials originating in the Community shall be considered as materials originating in South Africa when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 6 of this Protocol.

2. Materials originating in South Africa shall be considered as materials originating in the Community when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in Article 6 of this Protocol.

Cumulation with ACP States³. Subject to the provisions of paragraphs 5 and 6, materials originating in an ACP State shall be considered as originating in the Community or South Africa when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing.

4. Any working or processing carried out within SACU shall be considered as having been carried out in South Africa, when further worked or processed there.

5. Products which have acquired originating status by virtue of paragraph 3 shall only continue to be considered as products originating in the Community or South Africa when the value added there exceeds the value of the materials used originating in any one of the ACP States. If this is not so, the products concerned shall be considered as originating in the ACP State which accounts for the highest value of originating materials used. In the allocation of origin, no account shall be taken of materials originating in the

ACP States which have undergone sufficient working or processing in the Community or South Africa.

6. The cumulation provided for in paragraph 3 may only be applied where the ACP materials used have acquired the status of originating products by an application of the rules of origin contained in the

Fourth ACP-EC Convention. The Community and South Africa shall provide each other, through the European Commission with details of agreements and their corresponding rules of origin which have been concluded with the ACP States.

7. Once the requirements laid down in paragraph 6 have been fulfilled, and a date for the entry into force of these provisions has been agreed, each party shall fulfil its own notification and information obligations.

Article 4

Wholly obtained products¹. The following shall be considered as wholly obtained in the

Community or South Africa:

- (a) mineral products extracted from their soil or from their seabed;
- (b) vegetable products harvested there;
- (c) live animals born and raised there;
- (d) products from live animals raised there;
- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other products taken from the sea outside the territorial waters of the Community or South Africa by their vessels;
- (g) products made aboard their factory ships exclusively from products referred to in subparagraph f;
- (h) used articles collected there fit only for the recovery of raw materials, including used tyres fit only for retreading or for use as waste;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;

(k) goods produced there exclusively from the products specified in subparagraphs a to j.

2. The terms "their vessels" and "their factory ships" in paragraph 1(f) and (g) shall apply only to vessels and factory ships:

(a) which are registered or recorded in an EC Member State or in South Africa;

(b) which sail under the flag of an EC Member State or of South Africa;

(c) which are owned to an extent of at least 50 % by nationals of EC Member States or of South Africa, or by a company with its headoffice in one of these States, of which the manager or managers, Chairman of the Board of Directors or the Supervisory Board, and the majority of the members of such boards are nationals of EC Member

States or of South Africa and of which, in addition, in the case of partnerships or limited companies, at least half the capital belongs to those States or to public bodies or nationals of the said States;

(d) of which the master and officers are nationals of EC Member States or of South Africa; and

(e) of which at least 75 % of the crew are nationals of EC Member States or of South Africa.

At the entry into force of tariff concessions for fishery products, paragraphs 2(d) and 2(e), will be replaced by: "(d) of which at least 50 % of the crew, masters and officers included, are nationals of EC Member States or of South Africa".

Article 5

Sufficiently worked or processed products¹. For the purposes of Article 2, products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Annex II are fulfilled.

The conditions referred to above indicate, for all products covered by this Agreement, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. Accordingly, it follows that if a product, which has acquired originating status by fulfilling the conditions set out in the list is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

2. Notwithstanding paragraph 1, non-originating materials which, according to the conditions set out in the list, should not be used in the manufacture of a product may nevertheless be used, provided that:

(a) their total value does not exceed 15 % of the ex-works price of the product, except for products falling within Chapters 3 and 24 and HS Headings 1604, 1605, 2207 and 2208 where the total value of the non-originating materials does not exceed 10 % of the ex-works price of the product;

(b) any of the percentages given in the list for the maximum value of non-originating materials are not exceeded through the application of this paragraph.

This paragraph shall not apply to products falling within Chapters 50 to 63 of the Harmonised System.

3. Paragraphs 1 and 2 shall apply except as provided in Article 6.

Article 6

Insufficient working or processing operations¹. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of

Article 5 are satisfied:

Article 5 are satisfied:

(a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in

salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;

(c) (i) changes of packaging and breaking up and assembly of packages;

(ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packaging operations;

(d) affixing marks, labels and other like distinguishing signs on products or their packaging;

(e) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this Protocol to enable them to be considered as originating in the Community or South Africa;

(f) simple assembly of parts to constitute a complete product;

(g) a combination of two or more operations specified in subparagraphs a to f;

(h) slaughter of animals.

2. All the operations carried out in either the Community or South

Africa on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

Article 7

Unit of qualification¹. The unit of qualification for the application of the provisions of this Protocol shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonised System.

Accordingly, it follows that:

(a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification;

(b) when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this Protocol.

2. Where, under General Rule 5 of the Harmonised System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 8

Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 9

Sets

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

Article 10

Neutral elements

In order to determine whether a product originates, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;

(d) goods which do not enter and which are not intended to enter into the final composition of the product.

TITLE III

TERRITORIAL REQUIREMENTS

Article 11

Principle of territoriality¹. The conditions set out in Title II relative to the acquisition of originating status must be fulfilled without interruption in the

Community or South Africa, except as provided for in Article 3.

2. If originating goods exported from the Community or South Africa to another country are returned, except in so far as provided for in

Article 3, they must be considered as non-originating, unless it can

Article 3, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

(a) the goods returned are the same goods as those exported, and

(b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

Article 12

Direct transport¹. The preferential treatment provided for under the Agreement applies only to products, satisfying the requirements of this

Protocol, which are transported directly between the Community and

South Africa, or through the territories of the other countries referred to in Article 3. However, products constituting one single consignment may be

transported through other territories with, should the occasion arise, transshipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

Originating products may be transported by pipeline across territory other than that of the Community or South Africa.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing country by the production of:

(a) a single transport document covering the passage from the exporting country through the country of transit; or

(b) a certificate issued by the customs authorities of the country of transit:

(i) giving an exact description of the products,

(ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used, and

(iii) certifying the conditions under which the products remained in the transit country, or

(c) failing these, any substantiating documents.

Article 13

Exhibitions 1. Originating products, sent for exhibition in a country other than those referred to in Article 3 and sold after the exhibition for importation in the Community or South Africa shall benefit on importation from the provisions of the Agreement provided it is shown to the satisfaction of the customs authorities that:

(a) an exporter has consigned these products from the Community or

South Africa to the country in which the exhibition is held and has exhibited them there;

(b) the products have been sold or otherwise disposed of by that exporter to a person in the Community or South Africa;

(c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition, and

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A proof of origin must be issued or made out in accordance with the provisions of Title IV and submitted to the customs authorities of the importing country in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

TITLE IV

PROOF OF ORIGIN

Article 14

General requirements 1. Products originating in the Community shall, on importation into

South Africa and products originating in South Africa shall, on importation into the Community benefit from this Agreement on submission of either:

(a) an EUR.1 movement certificate, a specimen of which appears at

Annex III; or

(b) in the cases specified in Article 19(1), a declaration, the text of which appears at Annex IV, given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified (hereinafter referred to as the "invoice declaration").

2. Notwithstanding paragraph 1, originating products within the meaning of this Protocol shall, in the cases specified in Article 24, benefit from this Agreement without it being necessary to submit any of the documents referred to above.

Article 15

Procedure for the issue of an EUR.1 movement certificate. An EUR.1 movement certificate shall be issued by the customs authorities of the exporting country on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorised representative.

2. For this purpose, the exporter or his authorised representative shall fill out both the EUR.1 movement certificate and the application form, specimens of which appear at Annex III. These forms shall be completed in one of the languages in which this

Agreement is drawn up and in accordance with the provisions of the domestic law of the exporting country. If they are handwritten, they shall be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

3. The exporter applying for the issue of an EUR.1 movement certificate shall be prepared to submit at any time, at the request of the customs authorities of the exporting country where the EUR.1 movement certificate is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. An EUR.1 movement certificate shall be issued by the customs authorities of an EC Member State or South Africa if the products concerned can be considered as products originating in the

Community, South Africa or in one of the other countries referred to in Article 3 and fulfil the other requirements of this Protocol.

5. The issuing customs authorities shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Protocol. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate. The issuing customs authorities shall also ensure that the forms referred to in paragraph 2 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.

6. The date of issue of the EUR.1 movement certificate shall be indicated in box 11 of the certificate.

7. An EUR.1 movement certificate shall be issued by the customs authorities and made available to the exporter as soon as actual exportation has been effected or ensured.

Article 16

EUR.1 movement certificates issued retrospectively¹. Notwithstanding Article 15(7), an EUR.1 movement certificate may exceptionally be issued after exportation of the products to which it relates if:

(a) it was not issued at the time of exportation because of error or involuntary omissions or special circumstances; or

(b) it is demonstrated to the satisfaction of the customs authorities that an EUR.1 movement certificate was issued but was not accepted at importation for technical reasons.

2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the EUR.1 movement certificate relates, and state the reasons for his request.

3. The customs authorities may issue an EUR.1 movement certificate retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.

4. EUR.1 movement certificates issued retrospectively must be endorsed with one of the following phrases:

"NACHTR?GLICH AUSGESTELLT", "D··|LIVR··| A POSTERIORI", "RILASCIATO A

POSTERIORI", "AFGEGEVEN A POSTERIORI", "ISSUED RETROSPECTIVELY",

"UDSTEDT EFTERF?LGENDE", ">ISO_7>???????? ?? ··-?? ?··?··-????",

>ISO_1>EXPEDIDO A POSTERIORI", "EMITIDO A POSTERIORI", "ANNETTU

J?LKIK?TEEN", "UTF?RDAT I EFTERHAND".

5. The endorsement referred to in paragraph 4 shall be inserted in the "Remarks" box of the EUR.1 movement certificate.

Article 17

Issue of a duplicate EUR.1 movement certificate. In the event of theft, loss or destruction of an EUR.1 movement certificate, the exporter may apply to the customs authorities which issued it for a duplicate made out on the basis of the export documents in their possession.

2. The duplicate issued in this way must be endorsed with one of the following:

"DUPLIKAT", "DUPLICATA", "DUPLICATO", "DUPLICAAT", "DUPLICATE",

">ISO_7>??·-·-·|?????", ">ISO_1>DUPLICADO", "SEGUNDA VIA",

"KAKSOISKAPPALE".

3. The endorsement referred to in paragraph 2 shall be inserted in the "Remarks" box of the EUR.1 movement certificate.

4. The duplicate, which must bear the date of issue of the original

EUR.1 movement certificate, shall take effect as from that date.

Article 18

Issue of EUR.1 movement certificates on the basis of a proof of origin issued or made out previously

When originating products are placed under the control of a customs office in the Community or South Africa, it shall be possible to replace the original proof of origin by one or more EUR.1 movement certificates for the purpose of sending all or some of these products elsewhere within the Community or South Africa. The replacement EUR.1 movement certificate(s) shall be issued by the customs office under whose control the products are placed.

Article 19

Conditions for making out an invoice declaration. An invoice declaration as referred to in Article 14(1) (b) may be made out:

(a) by an approved exporter within the meaning of Article 20, or

(b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed EUR 6000.

2. An invoice declaration may be made out if the products concerned can be considered as products originating in the Community, South

Africa or in one of the other countries referred to in Article 3 and fulfil the other requirements of this Protocol.

3. The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the customs authorities of the exporting country, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Protocol.

4. An invoice declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the declaration, the text of which appears at Annex IV, using one of the linguistic versions set out in that Annex and in accordance with the provisions of the domestic law of the exporting country. If the declaration is handwritten, it shall be written in ink in printed characters.

5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 20 shall not be required to sign such declarations provided that he gives the customs authorities of the exporting country a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.

6. An invoice declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing country no longer than two years after the importation of the products to which it relates.

Article 20

Approved exporter¹. The customs authorities of the exporting country may authorise any exporter who makes frequent shipments of products under this

Agreement to make out invoice declarations irrespective of the value of the products concerned. An exporter seeking such authorisation must offer to the satisfaction of the customs authorities all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this

Protocol.

2. The customs authorities may grant the status of approved exporters subject to any conditions which they consider appropriate.
3. The customs authorities shall grant to the approved exporter a customs authorisation number which shall appear on the invoice declaration.
4. The customs authorities shall monitor the use of the authorisation by the approved exporter.
5. The customs authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, does not fulfil the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

Article 21

Validity of proof of origin 1. A proof of origin shall be valid for four months from the date of issue in the exporting country, and must be submitted within the said period to the customs authorities of the importing country.

2. Proofs of origin which are submitted to the customs authorities of the importing country after the final date for presentations specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.

3. In other cases of belated presentation, the customs authorities of the importing country may accept the proofs of origin where the products have been submitted before the said final date.

Article 22

Submission of proof of origin

Proofs of origin shall be submitted to the customs authorities of the importing country in accordance with the procedures applicable in that country. The said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the

Agreement.

Article 23

Importation by instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonised System falling within Sections XVI and XVII or heading Nos 7308 and 9406 of the Harmonised System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

Article 24

Exemptions from proof of origin

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Protocol and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration can be made on the customs declaration C2/CP3 or on a sheet of paper annexed to that document.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

3. Furthermore, the total value of these products shall not exceed

EUR 500 in the case of small packages or EUR 1200 in the case of products forming part of travellers' personal luggage.

Article 25

Supplier's declaration

1. When a proof of origin is made out in South Africa for originating products, in the manufacture of which goods coming from

SACU have been used and which have undergone working or processing there without having obtained preferential originating status, account shall be taken of suppliers' declarations given for these goods in accordance with this

Article.

2. The supplier's declaration referred to in paragraph 1 shall serve as the evidence of the working or processing undergone in SACU by the goods concerned for the purpose of determining whether the products in the manufacture of which these goods are used, can be considered as originating in South Africa and fulfil the other requirements of this Protocol.

3. A separate supplier's declaration shall be made out by the supplier for each consignment of goods in the form prescribed in

Annex V on a sheet of paper annexed to the invoice, the delivery note or any other commercial document describing the goods concerned in sufficient detail to enable them to be identified. The declaration shall be drawn up in accordance with the provisions of the domestic law of the country where it is made out and shall bear the original signature of the supplier in manuscript.

4. South Africa shall request the competent authorities in SACU to carry out verifications of supplier's declarations at random or whenever the customs authorities have reasonable doubts as to the authenticity or accuracy of the information given.

5. South Africa shall make the necessary administrative arrangements with the competent authorities in SACU to ensure that the provisions of paragraph 4 are fully implemented.

Article 26

Supporting documents

The documents referred to in Articles 15(3) and 19(3) used for the purpose of proving that products covered by an EUR.1 movement certificate or an invoice declaration can be considered as products originating in the Community, in South Africa, or in one of the other countries referred to in Article 3 and fulfil the other requirements of this Protocol may consist, inter alia, of the following:

(a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal bookkeeping;

(b) documents proving the originating status of materials used, issued or made

out in the Community, South Africa or in one of the other countries referred to in Article 3, where these documents are used in accordance with domestic law;

(c) documents proving the working or processing of materials in the Community or South Africa, issued or made out in the Community or

South Africa, where these documents are used in accordance with domestic law;

(d) EUR.1 movement certificates or invoice declarations proving the originating status of materials used, issued or made out in the

Community or South Africa in accordance with this Protocol, or in one of the other countries referred to in Article 3, in accordance with that Article;

(e) suppliers' declarations proving the working or processing undergone in SACU of materials used, in accordance with Article 3.

Article 27

Preservation of proof of origin, suppliers' declarations and supporting documents¹. The exporter applying for the issue of an EUR.1 movement certificate shall keep for at least three years the documents referred to in Article 15(3).

2. The exporter making out an invoice declaration shall keep for at least three years a copy of this invoice declaration as well as the documents referred to in Article 19(3).

3. The supplier making out a supplier's declaration shall keep for at least three years copies of the declaration and of the invoice, delivery note or other commercial document to which this declaration is annexed as well as all appropriate documents proving that the information given on this declaration is correct.

4. The customs authorities of the exporting country issuing an EUR.1 movement certificate shall keep for at least three years the application form referred to in Article 15(2).

5. The customs authorities of the importing country shall keep for at least three years the EUR.1 movement certificates and the invoice declarations submitted to them.

Article 28

Discrepancies and formal errors¹. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not, ipso facto, render the proof of origin null and void if it is duly established that this document does correspond to the products submitted.

2. Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

Article 29

Amounts expressed in euro¹. Amounts in the national currency of the exporting country equivalent to the amounts expressed in euro shall be fixed by the exporting country and communicated to the importing countries through the European Commission.

2. When the amounts exceed the corresponding amounts fixed by the importing country, the latter shall accept them if the products are invoiced in the currency of the exporting country. When the products are invoiced in the currency of another EC Member State, the importing country shall recognise the amount notified by the country concerned.

3. The amounts to be used in any given national currency shall be the equivalent in that national currency of the amounts expressed in euro as at the first working day in October 1999.

4. The amounts expressed in euro and their equivalents in the national currencies of the EC Member States and South Africa shall be reviewed by the Cooperation Council at the request of the

Community or South Africa. When carrying out this review, the

Cooperation Council shall ensure that there will be no decrease in the amounts to be used in any national currency and shall furthermore consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in euro.

TITLE V

ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

Article 30

Mutual assistance. The customs authorities of the EC Member States and of South

Africa shall provide each other, through the European Commission, with specimen impressions of stamps used in their customs offices for the issue of EUR.1 movement certificates and with the addresses of the customs authorities responsible for verifying those certificates and invoice declarations.

2. In order to ensure the proper application of this Protocol, the

Community and South Africa shall assist each other, through the competent customs administrations, in checking the authenticity of the EUR.1 movement certificates or the invoice declarations and the correctness of the information given in these documents.

Article 31

Verification of proofs of origin. 1. Subsequent verifications of proofs of origin shall be carried out at random or whenever the customs authorities of the importing country have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Protocol.

2. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the importing country shall return the

EUR.1 movement certificate and the invoice, if it has been submitted, the invoice declaration, or a copy of these documents, to the customs authorities of the exporting country giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the proof or origin is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the customs authorities of the exporting country. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.

4. If the customs authorities of the importing country decide to suspend the granting of preferential treatment to the products concerned while awaiting the

results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.

5. The customs authorities requesting the verification shall be informed of the results of this verification as soon as possible.

These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in the Community or in South Africa and fulfil the other requirements of this Protocol.

6. If in cases of reasonable doubt there is no reply within 10 months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting customs authorities shall, except in exceptional circumstances, refuse entitlement to the preferences.

Article 32

Dispute settlement 1. Where disputes arise in relation to the verification procedures of Article 31 which cannot be settled between the customs authorities requesting a verification and the customs authorities responsible for carrying out this verification or where they raise a question as to the interpretation of this Protocol, they shall be submitted to the Cooperation Council.

2. In all cases the settlement of disputes between the importer and the customs authorities of the importing country shall be under the legislation of the said country.

Article 33

Penalties

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential treatment for products.

Article 34

Free zones 1. The Community and South Africa shall take all necessary steps to ensure that products traded under cover of a proof of origin which in the course of transport use a free zone situated in their territory, are not

substituted by other goods and do not undergo handling other than normal operations designed to prevent their deterioration.

2. By means of an exemption to the provisions contained in paragraph 1, when products originating in the Community or South Africa are imported into a free zone under cover of a proof of origin and undergo treatment or processing, the authorities concerned shall issue a new EUR.1 certificate at the exporter's request, if the treatment or processing undergone is in conformity with the provisions of this Protocol.

TITLE VI

CEUTA AND MELILLA

Article 35

Application of the Protocol. The term "Community" used in Article 2 does not cover Ceuta and

Melilla.

2. Products originating in South Africa, when imported into Ceuta or

Melilla, shall enjoy in all respects the same customs regime as that which is applied to products originating in the customs territory of the Community under Protocol 2 of the Act of Accession of the

Kingdom of Spain and the Portuguese Republic to the European

Communities. South Africa shall grant to imports of products covered by the Agreement and originating in Ceuta and Melilla the same customs regime as that which is granted to products imported from and originating in the Community.

3. For the purpose of the application of paragraph 2 concerning products originating in Ceuta and Melilla, this Protocol shall apply, *mutatis mutandis*, subject to the special conditions set out in Article 36.

Article 36

Special conditions. 1. Providing they have been transported directly in accordance with the provisions of Article 12, the following shall be considered as:

1. products originating in Ceuta and Melilla:

(a) products wholly obtained in Ceuta and Melilla;

(b) products obtained in Ceuta and Melilla in the manufacture of which product other than those referred to in (a) are used, provided that:

(i) the said products have undergone sufficient working or processing within the meaning of Article 5 of this Protocol; or that

(ii) those products originate in South Africa or the Community within the meaning of this Protocol, provided that they have been submitted to working or processing which goes beyond the insufficient working or processing referred to in Article 6(1);

2. products originating in South Africa:

(a) products wholly obtained in South Africa;

(b) products obtained in South Africa, in the manufacture of which products other than those referred to in (a) are used, provided that:

(i) the said products have undergone sufficient working or processing within the meaning of Article 5 of this Protocol; or that

(ii) those products originate in Ceuta and Melilla or the Community within the meaning of this Protocol, provided that they have been submitted to working or processing which goes beyond the insufficient working or processing referred to in Article 6(1).

2. Ceuta and Melilla shall be considered as a single territory.

3. The exporter or his authorised representative shall enter "South

Africa" and "Ceuta and Melilla" in Box 2 of EUR.1 movement certificates or on invoice declarations. In addition, in the case of products originating in Ceuta and Melilla, this shall be indicated in Box 4 of EUR.1 movement certificates or on invoice declarations.

4. The Spanish customs authorities shall be responsible for the application of this Protocol in Ceuta and Melilla.

TITLE VII

FINAL PROVISIONS

Article 37

Amendments to the Protocol

The Cooperation Council may decide to amend the provisions of this Protocol.

Article 38

Implementation of the Protocol

The Community and South Africa shall each take the steps necessary to implement this Protocol.

Article 39

Goods in transit or storage

The provisions of the Agreement may be applied to goods which comply with the provisions of this Protocol and which on the date of entry into force of the Agreement are either in transit or are in the

Community or in South Africa or, in temporary storage in bonded warehouses or in free zones, subject to the submission to the customs authorities of the importing state, within four months of that date, of an EUR.1 certificate endorsed retrospectively by the competent authorities of the exporting state together with the documents showing that the goods have been transported directly.

ANNEX I

INTRODUCTORY NOTES TO THE LIST IN ANNEX II

Note 1:

The list sets out the conditions required for all products to be considered as sufficiently worked or processed within the meaning of

Article 5 of the Protocol.

Article 5 of the Protocol.

Note 2:

2.1. The first two columns in the list describe the product obtained. The first column gives the heading number or chapter number used in the Harmonised System and the second column gives the description of goods used in that system for that heading or chapter. For each entry in the first two columns a rule is specified in columns 3 or 4. Where, in some cases, the entry in the first column is preceded by an "ex", this signifies that the rules in columns 3 or 4 apply only to the part of that heading as described in column 2.

2.2. Where several heading numbers are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rules in columns 3 or 4 apply to all products which, under the Harmonised System, are classified in headings of the chapter or in any of the headings grouped together in column 1.

2.3. Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rules in columns 3 or 4.

2.4. Where, for an entry in the first two columns, a rule is specified in both columns 3 and 4, the exporter may opt, as an alternative, to apply either the rule set out in column 3 or that set out in column 4. If no origin rule is given in column 4, the rule set out in column 3 has to be applied.

Note 3:

3.1. The provisions of Article 5 of the Protocol concerning products having acquired originating status which are used in the manufacture of other products apply regardless of whether this status has been acquired inside the factory where these products are used or in another factory in the Community or in South Africa.

Example:

An engine of heading No 8407, for which the rule states that the value of the non-originating materials which may be incorporated may not exceed 40 % of the ex-works price, is made from "other alloy steel roughly shaped by forging" of

heading No ex 7224.

If this forging has been forged in the Community from a non-originating ingot, it has already acquired originating status by virtue of the rule for heading No ex 7224 in the list. The forging can then count as originating in the value calculation for the engine regardless of whether it was produced in the same factory or in another factory in the Community. The value of the non-originating ingot is thus not taken into account when adding up the value of the non-originating materials used.

3.2. The rule in the list represents the minimum amount of working or processing required and the carrying out of more working or processing also confers originating status; conversely, the carrying out of less working or processing cannot confer originating status.

Thus if a rule provides that non-originating material at a certain level of manufacture may be used, the use of such material at an earlier stage of manufacture is allowed and the use of such material at a later stage is not.

3.3. Without prejudice to Note 3.2 where a rule states that

"materials of any heading" may be used, materials of the same heading as the product may also be used, subject, however, to any specific limitations which may also be contained in the rule.

However, the expression "manufacture from materials of any heading, including other materials of heading No ..." means that only materials classified in the same heading as the product of a different description than that of the product as given in column 2 of the list may be used.

3.4. When a rule in the list specifies that a product may be manufactured from more than one material, this means that any one or more materials may be used. It does not require that all be used.

Example:

The rule for fabrics of heading Nos 5208 to 5212 provides that natural fibres may be used and that chemical materials, among other materials, may also be used. This does not mean that both have to be used; it is possible to use one or the other or both.

3.5. Where a rule in the list specifies that a product must be manufactured from a particular material, the condition obviously does not prevent the use of other materials which, because of their inherent nature, cannot satisfy the rule. (See also Note 6.2 below in relation to textiles).

Example:

The rule for prepared foods of heading No 1904 which specifically excludes the use of cereals and their derivatives does not prevent the use of mineral salts, chemicals and other additives which are not products from cereals.

However, this does not apply to products which, although they cannot be manufactured from the particular materials specified in the list, can be produced from a material of the same nature at an earlier stage of manufacture.

Example:

In the case of an article of apparel of ex Chapter 62 made from non-woven materials, if the use of only non-originating yarn is allowed for this class of article, it is not possible to start from non-woven cloth, even if non-woven cloths cannot normally be made from yarn. In such cases, the starting material would normally be at the stage before yarn, that is the fibre stage.

3.6. Where, in a rule in the list, two percentages are given for the maximum value of non-originating materials that can be used, then these percentages may not be added together. In other words, the maximum value of all the non-originating materials used may never exceed the highest of the percentages given. Furthermore, the individual percentages must not be exceeded in relation to the particular materials they apply to.

Note 4:

4.1. The term "natural fibres" is used in the list to refer to fibres other than artificial or synthetic fibres. It is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres that have been carded, combed or otherwise processed but not spun.

4.2. The term "natural fibres" includes horsehair of heading No 0503, silk of heading Nos 5002 and 5003 as well as the wool fibres, fine or coarse animal hair of heading Nos 5101 to 5105, the cotton fibres of heading Nos 5201 to 5203 and the other vegetable fibres of heading Nos 5301 to 5305.

4.3. The terms "textile pulp", "chemical materials" and

"paper-making materials" are used in the list to describe the materials not classified in Chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.

4.4. The term "man-made staple fibres" is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of heading Nos 5501 to 5507.

Note 5:

5.1. Where for a given product in the list a reference is made to this note, the conditions set out in column 3 shall not be applied to any basic textile materials, used in the manufacture of this product, which, taken together, represent 10 % or less of the total weight of all the basic textile materials used. (See also Notes 5.3 and 5.4.)

5.2. However, the tolerance mentioned in Note 5.1 may only be applied to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials:

- silk,
- wool,
- coarse animal hair,
- fine animal hair,
- horsehair,
- cotton,
- paper-making materials and paper,
- flax,
- true hemp,
- jute and other textile bast fibres,
- sisal and other textile fibres of the genus Agave,
- coconut, abaca, ramie and other vegetable textile fibres,
- synthetic man-made filaments,
- artificial man-made filaments,

- synthetic man-made staple fibres of polypropylene,
- synthetic man-made staple fibres of polyester,
- synthetic man-made staple fibres of polyamide,
- synthetic man-made staple fibres of polyacrylonitrile,
- synthetic man-made staple fibres of polyimide,
- synthetic man-made staple fibres of polytetrafluoroethylene,
- synthetic man-made staple fibres of polyphenylene sulphide,
- synthetic man-made staple fibres of polyvinyl chloride,
- other synthetic man-made staple fibres,
- artificial man-made staple fibres of viscose,
- other artificial man-made staple fibres,
- yarn made of polyurethane segmented with flexible segments of polyether whether or not gimped,
- yarn made of polyurethane segmented with flexible segments of polyester whether or not gimped,
- products of heading No 5605 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film,
- other products of heading No 5605.

Example:

A yarn of heading No 5205 made from cotton fibres of heading No 5203 and synthetic staple fibres of heading No 5506 is a mixed yarn.

Therefore, non-originating synthetic staple fibres that do not satisfy the origin rules (which require manufacture from chemical materials or textile pulp) may be used up to a weight of 10 % of the yarn.

Example:

A woollen fabric of heading No 5112 made from woollen yarn of heading No 5107 and synthetic yarn of staple fibres of heading No 5509 is a mixed fabric. Therefore synthetic yarn which does not satisfy the origin rules (which require manufacture from chemical materials or textile pulp) or woollen yarn that does not satisfy the origin rules (which require manufacture from natural fibres, not carded or combed or otherwise prepared for spinning) or a combination of the two may be used provided their total weight does not exceed 10 % of the weight of the fabric.

Example:

Tufted textile fabric of heading No 5802 made from cotton yarn of heading No 5205 and cotton fabric of heading No 5210 is only a mixed product if the cotton fabric is itself a mixed fabric being made from yarns classified in two separate headings or if the cotton yarns used are themselves mixtures.

Example:

If the tufted textile fabric concerned had been made from cotton yarn of heading No 5205 and synthetic fabric of heading No 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is accordingly a mixed product.

Example:

A carpet with tufts made from both artificial yarns and cotton yarns and with a jute backing is a mixed product because three basic textile materials are used. Thus, any non-originating materials that are at a later stage of manufacture than the rule allows may be used, provided their total weight does not exceed 10 % of the weight of the textile materials of the carpet. Thus, both the jute backing and/or the artificial yarns could be imported at that stage of manufacture, provided the weight conditions are met.

5.3. In the case of products incorporating "yarn made of polyurethane segmented with flexible segments of polyether whether or not gimped" this tolerance is 20 % in respect of this yarn.

5.4. In the case of products incorporating "strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of an adhesive between two layers of plastic film", this tolerance is 30 % in respect of this strip.

Note 6:

6.1. In the case of those textile products which are marked in the list by a footnote referring to this note, textile materials, with the exception of linings and interlinings, which do not satisfy the rule set out in the list in column 3 for the made-up product concerned may be used provided that they are classified in a heading other than that of the product and that their value does not exceed 8 % of the ex-works price of the product.

6.2. Without prejudice to Note 6.3, materials which are not classified within Chapters 50 to 63 may be used freely in the manufacture of textile products, whether or not they contain textiles.

Example:

If a rule in the list provides that for a particular textile item, such as trousers, yarn must be used, this does not prevent the use of metal items, such as buttons, because buttons are not classified within Chapters 50 to 63. For the same reason, it does not prevent the use of slide-fasteners even though slide-fasteners normally contain textiles.

6.3. Where a percentage rule applies, the value of materials which are not classified within Chapters 50 to 63 must be taken into account when calculating the value of the non-originating materials incorporated.

Note 7:

7.1. For the purposes of heading Nos ex 2707, 2713 to 2715, ex 2901, ex 2902 and ex 3403, the "specific processes" are the following:

- (a) vacuum distillation;
- (b) redistillation by a very thorough fractionation process (1);
- (c) cracking;
- (d) reforming;
- (e) extraction by means of selective solvents;
- (f) the process comprising all the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolorisation and purification with

naturally active earth, activated earth, activated charcoal or bauxite;

(g) polymerisation;

(h) alkylation;

(i) isomerisation.

7.2. For the purposes of heading Nos 2710, 2711 and 2712, the

"specific processes" are the following:

(a) vacuum distillation;

(b) redistillation by a very thorough fractionation process (2);

(c) cracking;

(d) reforming;

(e) extraction by means of selective solvents;

(f) the process comprising all the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride;

neutralisation with alkaline agents; decolorisation and purification with naturally active earth, activated earth, activated charcoal or bauxite;

(g) polymerisation;

(h) alkylation;

(ij) isomerisation;

(k) in respect of heavy oils falling within heading No ex 2710 only, desulphurisation with hydrogen resulting in a reduction of at least 85 % of the sulphur content of the products processed (ASTM D

1266-59 T method);

(l) in respect of products falling within heading No 2710 only, deparaffining by a process other than filtering;

(m) in respect of heavy oils falling within heading No ex 2710 only, treatment with hydrogen at a pressure of more than 20 bar and a temperature of more than

250 °C with the use of a catalyst, other than to effect desulphurisation, when the hydrogen constitutes an active element in a chemical reaction. The further treatment with hydrogen of lubricating oils of heading No ex 2710 (e.g.

hydrofinishing or decolorisation) in order, more especially, to improve colour or stability shall not, however, be deemed to be a specific process;

(n) in respect of fuel oils falling within heading No ex 2710 only, atmospheric distillation, on condition that less than 30 % of these products distil, by volume, including losses, at 300 °C by the ASTM

D 86 method;

(o) in respect of heavy oils other than gas oils and fuel oils falling within heading No ex 2710 only, treatment by means of a high-frequency electrical brush-discharge.

7.3. For the purposes of heading Nos ex 2707, 2713 to 2715, ex 2901, ex 2902 and ex 3403, simple operations such as cleaning, decanting, desalting, water separation, filtering, colouring, marking, obtaining a sulphur content as a result of mixing products with different sulphur contents, any combination of these operations or like operations do not confer origin.

(1) See additional explanatory note 4(b) to chapter 27 of the Combined Nomenclature.

(2) See additional explanatory note 4(b) to chapter 27 of the Combined Nomenclature.

ANNEX II

LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON

NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN

OBTAIN ORIGINATING STATUS

The products mentioned in the list may not all be covered by the

Agreement. It is therefore necessary to consult the other parts of the Agreement.

>TABLE POSITION>

ANNEX III

EUR.1 movement certificate and application for an EUR.1 movement certificate

Printing instructions 1. Each form shall measure 210 x 297 mm; a tolerance of up to minus 5 mm or plus 8 mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 25 g/m². It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

2. The competent authorities of the Member States of the Community and of South Africa may reserve the right to print the forms themselves or may have them printed by approved printers. In the latter case, each form must include a reference to such approval.

Each form must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.

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>PIC FILE= "L_1999311EN.039401.TIF">

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ANNEX IV

INVOICE DECLARATION

The invoice declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

English version

The exporter of the products covered by this document (customs authorisation No ... (1)) declares that, except where otherwise clearly indicated, these products are of ... preferential origin (2).

Spanish version

contraire, ces produits ont l'origine pr?f?rentielle

... (12).

Italian version

L'esportatore delle merci contemplate nel presente documento

(autorizzazione doganale n. ... (13)) dichiara che, salvo indicazione contraria, le merci sono di origine preferenziale ... (14).

Dutch version

De exporteur van de goederen waarop dit document van toepassing is

(douanevergunning nr. ... (15)) verklaart dat, behoudens uitdrukkelijke andersluidende vermelding, deze goederen van preferenti...le ... oorsprong zijn (16).

Portuguese version

O abaixo assinado, exportador dos produtos cobertos pelo presente documento (autoriza??o aduaneira n.o ... (17)), declara que, salvo expressamente indicado em contr...rio, estes produtos s...o de origem preferencial ... (18).

Finnish version

T...ss...-asiakirjassa mainittujen tuotteiden viej...- (tullin lupano ... (19)) ilmoittaa, ett...-n...-m...-tuotteet ovat, ellei toisin oleselv...-sti merkitty, etuuskohteluun oikeutettuja ...

alkuper...-tuotteita (20).

Swedish version

Export?ren av de varor som omfattas av detta dokument

(tullmyndighetens tillst?nd nr. ... (21)) f?rs...-krar att dessa varor, om inte annat tydligt markerats, har f?rm?nsber...-ttigande ...

ursprung (22).

South African versions

Bagwebi ba go romela ntle ditsweletswa tseo di akaretswago ketokumente ye (Nomoro ya ditswantle ya tumelelo ... (23)) ba ipolelagore ntle le moo go laeditswego, ditsweletswa tse ke tsa go tswa

... (24) ka tlhago.

Moromelli wa sehlahiswa ya sireleditsweng ke tokomane ena (tumelloya thepa naheng No ... (25) e hlalosa hore, ka ntle ha eba hohlalositse ka tsela e nngwe ka nepo, dihlahiswa tsena ke tsa ...

tshimoloho e kgethilweng (26).

Moromelantle wa dikuno tse di tlhagelelang mo lokwalong le (lokwalolwa tumelelo ya kgethiso No ... (27)) o tlhomamisa gore, ntle le fago tlhagisitsweng ka mokgwa mongwe, dikuno tse ke tsa ... dinaga tsemi thokegang (28).

Umtfumeli ngaphandle walemikhicito lebalwe kulomculu (ngeligunyalalokutfunyelwa ngaphandle Nombolo ... (29)) lophakamisa kutsi, ngaphandle kwalapho lekubonise khona ngalokucacile, lemikhicito ...

ngeyendzabuko lebonelelwako (30).

Muvhambadzi wa zwibveledzwa mashangoni a nnda, (zwibveledzwa) zwinezwa vha zwo ambiwaho kha ili linwalo (linwalo la u nea maanda lamithelo ya zwitundwannda kana zwirumelwannda la vhu ... (31)), likhou buletshedza uri, nga nnda ha musi zwo ambiwa nga inwendila-vho, zwibveledzwa hezwi ndi zwa ... vhubwo hune ha khoufuneswa kana u takaleleswa (32).

Muxavisela-vambe wa swikumiwa leswi nga eka tsalwa leri (Xibalo xaswitundziwa xa Nomboro (33) u boxa leswaku, handle ka laha swikombisiweke, swikumiwa leswi i swa ntiyiso swa xilaveko xa le henhlaswinene (34).

Die uitvoerder van die produkte gedek deur hierdie dokument

(doeanemagtiging No ... (35)) verklaar dat, uitgesonderd waarandersins duidelik aangedui, hierdie produkte van ...

voorkeuroorsprong (36) is.

Umthumelli-phandle wemikhiqizo ebalwe kilencwadi (inomboro ... (37)

egunyaza imikhiqizo ephumako) ubeka uthi, ngaphandle kobanakutjengiswe ngendlela ethileko butjhatjhalazi, lemikhiqizo ine ...

mwelaphi enconyiswako (38).

Umthumeli weempahla ngaphandle kwelizwe wemveliso equkwa lolu xwebhu

(iirhafu zempahla zesigunyaziso Nombolo ... (39) ubhengeza ukuthi, ngaphandle kwalapho kuboniswe ngokucacileyo, ezi mveliso ...

zezemvelaphi eyamkelekileyo kunezinye (40).

Umthumeli wempahla ebhaliwe kulo mqulu iNombolo ... yokugunyazayentela yempahla (41) uyamemezela ukuthi, ngaphandle kokuthikukhonjisiwe ngokusobala, le mikhiqizo iqhamuka ... endaweniekhethekileyo (42).

... (43)

(Place and date)

... (44)

(Signature of the exporter; in addition the name of the personsigning the declaration has to be indicated in clear script)

(1) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(2) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in Ceuta and

Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(3) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(4) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in Ceuta and

Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(5) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(6) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in Ceuta and

Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(7) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(8) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in Ceuta and

Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(9) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(10) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(11) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the

approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(12) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(13) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(14) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(15) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(16) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(17) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(18) Origin of products to be indicated. When the invoice declaration relates

in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(19) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(20) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(21) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(22) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(23) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(24) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(25) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(26) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(27) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(28) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(29) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(30) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(31) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(32) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(33) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(34) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(35) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(36) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(37) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(38) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is

made out by means of the symbol "CM".

(39) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(40) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(41) When the invoice declaration is made out by an approved exporter within the meaning of Article 20 of the Protocol, the authorisation number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

(42) Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in

Ceuta and Melilla within the meaning of Article 36 of the Protocol, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

(43) These indications may be omitted if the information is contained in the document itself.

(44) See Article 19(5) of the Protocol. In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

ANNEX V

Supplier's declaration

The supplier's declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

SUPPLIER'S DECLARATION

for goods which have undergone working or processing in SACU without having obtained preferential originating status

I, the undersigned, supplier of the goods covered by the annexed document, declare that:

1.

>TABLE POSITION>

...

(Place and date)

...

...

...

(Address and signature of the supplier; in addition the name of the person signing the declaration has to be indicated in clear script)

2. all the other materials used in SACU to produce these goods originate in SACU.

Joint Declaration on Annex II to the Protocol on rules of origin

Both Parties agree with the processing requirements contained in

Annex II, subject to a limited number of amendments requested by South Africa which both Parties undertake to address before the entry into force of the Agreement.

Joint Declaration concerning the Protocol on rules of origin

For the implementation of Article 37 of this Protocol, the

Commission is prepared to examine any request from South Africa for derogations from the rules of origin after the signature of the

Agreement.

Joint Declaration concerning the Republic of San Marino¹. Products originating

in the Republic of San Marino shall be accepted by South Africa as originating in the Community within the meaning of this Agreement.

2. Protocol 1 shall apply mutatis mutandis for the purpose of defining the originating status of the abovementioned products.

Joint Declaration concerning the Principality of Andorra. Products originating in the Principality of Andorra falling within Chapters 25 to 97 of the Harmonised System shall be accepted by South Africa as originating in the Community within the meaning of this Agreement.

2. Protocol 1 shall apply, mutatis mutandis, for the purpose of defining the originating status of the abovementioned products.

Commission declaration on cumulation with South Africa under the fourth ACP-EC Convention

On the basis of the cumulation provisions included in the Protocol concerning the definition of the concept of "originating products"

and methods of administrative cooperation of the Agreement on Trade,

Development and Cooperation between the European Community and its

Member States, of the one part, and the Republic of South Africa, of the other part, the European Commission will propose adequate provisions to the Member States of the European Union and to the ACP

States under Article 34 of Protocol No 1 of the Fourth ACP-EC

Convention concerning cumulation with South African materials and goods.

PROTOCOL 2 on mutual administrative assistance in customs matters

Article 1

Definitions

For the purposes of this Protocol:

(a) "customs legislation" shall mean any legal or regulatory provisions applicable in the territories of the Contracting Parties governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;

(b) "applicant authority" shall mean a competent administrative authority which has been designated by a Contracting Party for this purpose and which makes a request for assistance on the basis of this Protocol;

(c) "requested authority" shall mean a competent administrative authority which has been designated by a Contracting Party for this purpose and which receives a request for assistance on the basis of this Protocol;

(d) "personal data" shall mean all information relating to an identified or identifiable individual;

(e) "operation in breach of customs legislation" shall mean any violation or attempted violation of customs legislation.

Article 2

Scope 1. The Contracting Parties shall assist each other, in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of the customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.

2. Assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Contracting

Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.

3. Assistance to recover duties, taxes or fines is not covered by this Protocol.

Article 3

Assistance on request 1. At the request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure that customs legislation is correctly applied, including information regarding activities noted or planned which are or could be operations in breach of customs legislation.

2. At the request of the applicant authority, the requested authority shall inform it:

(a) whether goods exported from the territory of one of the

Contracting Parties have been properly imported into the territory of another Contracting Party, specifying, where appropriate, the customs procedure applied to the goods;

(b) whether goods imported into the territory of one of the

Contracting Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.

3. At the request of the applicant authority, the requested authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure special surveillance of:

(a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

(b) places where stocks of goods have been or may be assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;

(c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation;

(d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

Article 4

Spontaneous assistance

The Contracting Parties shall assist each other, at their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation, particularly by providing information obtained pertaining to:

- activities which are or appear to be operations in breach of customs legislation and which may be of interest to another

Contracting Party,

- new means or methods employed in carrying out operations in breach of customs legislation,

- goods known to be subject to operations in breach of customs legislation,

- natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation,

- means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.

Article 5

Delivery, notification

At the request of the applicant authority, the requested authority shall, in accordance with legal or regulatory provisions applicable to the latter, take all necessary measures in order:

- to deliver any documents, or

- to notify any decisions, emanating from the applicant authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the requested authority.

Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority.

Article 6

Form and substance of requests for assistance. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.

2. Requests pursuant to paragraph 1 shall include the following information:
 - (a) the applicant authority;
 - (b) the measure requested;
 - (c) the object of and the reason for the request;
 - (d) the legal or regulatory provisions and other legal elements involved;
 - (e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations;
 - (f) a summary of the relevant facts and of the enquiries already carried out.
3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority.

This requirement shall not apply to any documents that accompany the request under paragraph 1.

4. If a request does not meet the formal requirements set out above, its correction or completion may be requested; in the mean time precautionary measures may be ordered.

Article 7

Execution of requests¹. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Contracting Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out.

This provision shall also apply to any other authority to which the request has been addressed by the requested authority when the latter cannot act on its own.

2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Contracting Party.

3. Duly authorised officials of a Contracting Party may, with the agreement of

the other Contracting Party involved and subject to the conditions laid down by the latter, be present to obtain in the offices of the requested authority or any other concerned authority in accordance with paragraph 1, information relating to activities that are or may be operations in breach of customs legislation which the applicant authority needs for the purposes of this Protocol.

4. Duly authorised officials of a Contracting Party may, with the agreement of the other Contracting Party involved and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

Article 8

Form in which information is to be communicated. 1. The requested authority shall communicate results of enquiries to the applicant authority in writing together with relevant documents, certified copies or other items.

2. This information may be in computerised form.

3. Original documents shall be transmitted only on request in cases where certified copies would be insufficient. These originals shall be returned at the earliest opportunity.

Article 9

Exceptions to the obligation to provide assistance. 1. Assistance may be refused or may be subject to the satisfaction of certain conditions or requirements, in cases where a Party is of the opinion that assistance under this Protocol would:

(a) be likely to prejudice the sovereignty of South Africa or that of a Member State which has been requested to provide assistance under this Protocol; or

(b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under

Article 10 (2) ; or

Article 10 (2) ; or

(c) violate an industrial, commercial or professional secret.

2. Assistance may be postponed by the requested authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons therefor must be communicated to the applicant authority without delay.

Article 10

Information exchange and confidentiality¹. Any information communicated in whatsoever form pursuant to this

Protocol shall be of a confidential or restricted nature, depending on the rules applicable by each of the Contracting Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Contracting Party that received it and the corresponding provisions applying to the Community authorities.

2. Personal data may be exchanged only where the Contracting Party which may receive them undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the Contracting Party that may supply them. To that end, Contracting

Parties shall communicate to each other information on their applicable rules, including, where appropriate, legal provisions in force in the Member States of the Community.

3. The use, in judicial or administrative proceedings instituted in respect of operations in breach of customs legislation, of information obtained under this Protocol, is considered to be for the purposes of this Protocol. Therefore, the Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol. The competent authority which supplied that

information or gave access to those documents shall be notified of such use.

4. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Contracting Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information.

Such use shall then be subject to any restrictions laid down by that authority.

Article 11

Experts and witnesses

An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such objects, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

Article 12

Assistance expenses

The Contracting Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses, and those to interpreters and translators who are not public service employees.

Article 13

Implementation. 1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of South Africa and on the other hand to the competent services of the Commission of the European

Communities and the customs authorities of the Member States as appropriate. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in particular in the field of data protection. They may recommend to the competent bodies amendments which they consider should be made to this Protocol.

2. The Contracting Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this

Protocol.

Article 14

Other agreements¹. Taking into account the respective competencies of the European

Community and the Member States, the provisions of this Protocol shall:

- not affect the obligations of the Contracting Parties under any other international agreement or convention,
- be deemed complementary to agreements on mutual assistance which have been or may be concluded between individual Member States and

South Africa,

- not affect the Community provisions governing the communication between the competent services of the Commission of the European

Communities and the customs authorities of the Member States of any information obtained under this Protocol which could be of interest to the Community.

2. Notwithstanding the provisions of paragraph 1, the provisions of this Protocol shall take precedence over the provisions of any bilateral agreement on mutual assistance which has been or may be concluded between individual Member States and South Africa in so far as the provisions of the latter are incompatible with those of this Protocol.

3. In respect of questions relating to the applicability of this

Protocol, the Contracting Parties shall consult each other to resolve the matter in the framework of the Cooperation Council setup under Article 97 of this Agreement.

FINAL ACT

The plenipotentiaries of

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the EUROPEAN

COMMUNITY, hereinafter referred to as the "Member States", and THE EUROPEAN COMMUNITY, hereinafter referred to as the

"Community", of the one part, and the plenipotentiary of

THE REPUBLIC OF SOUTH AFRICA, hereinafter referred to as "South

Africa", of the other part meeting at Pretoria this eleventh day of October in the year one thousand nine hundred and ninety-nine for the signature of the

Agreement on Trade, Development and Cooperation between the European

Community and its Member States, on the one part, and the Republic of South

Africa, on the other part, hereafter referred to as the

"Agreement" have adopted the following texts:

The Agreement including its Annexes and the following Protocols:

Protocol 1 concerning the definition of the concept of "originating products" and methods of administrative cooperation,

Protocol 2 on mutual administrative assistance in customs matters.

The plenipotentiaries of the Community and its Member States and the plenipotentiary of South Africa have adopted the texts of the Joint

Declarations listed below and attached to this Final Act:

Joint Declaration in relation to non-execution

Joint Declaration in relation to export refunds

Joint Declaration in relation to accelerated tariff elimination by

South Africa

Joint Declaration on agricultural quotas

Joint Declaration in relation to public aid

Joint Declaration in relation to fisheries

Joint Declaration in relation to bilateral agreements

Joint Declaration in relation to illegal immigration

The plenipotentiary of South Africa has taken note of the declarations listed below and attached to this Final Act:

Community Declaration in relation to the essential element

Community Declaration in relation to financial aspects of cooperation

Declaration by the European Investment Bank (EIB) in relation to financial aspects of cooperation

?··B??????·?/>ISO_1>For the European Community/Pour la Communaut?

europ?enne/Per la Comunit? europea/Voor de Europese Gemeenschap/Pela

Comunidade Europeia/Euroopan yhteis?n puolesta/P? Europeiskagemenskapens v··-gnar

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Pour le Royaume de Belgique/Voor het Koninkrijk Belgi··±/F?r das

K?nigreich Belgien

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Cette signature engage ?galement la Communaut? fran??aise, la

Communaut? flamande, la Communaut? germanophone, la R?gion wallonne, la R?gion flamande et la R?gion de Bruxelles-Capitale./Dezehandtekening verbindt eveneens de Vlaamse Gemeenschap, de Franse

Gemeenschap, de Duitstalige Gemeenschap, het Vlaamse Gewest, het

Waalse Gewest en het Brusselse Hoofdstedelijke Gewest./Diese

Unterschrift verbindet zugleich die Deutschsprachige Gemeinschaft, die Fl··-mische Gemeinschaft, die Franz?sische Gemeinschaft, die

Wallonische Region, die Fl··-mische Region und die Region

Br?ssel-Hauptstadt.

For Kongeriget Danmark

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F?r die Bundesrepublik Deutschland

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Por el Reino de España

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Pour la République française

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Thar ceann na h-Éireann/For Ireland

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Per la Repubblica italiana

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Pour le Grand-Duché de Luxembourg

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Voor het Koninkrijk der Nederlanden

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Für die Republik Österreich

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Pela República Portuguesa

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Suomen tasavallan puolesta/För Republiken Finland

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För Konungariket Sverige

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For the United Kingdom of Great Britain and Northern Ireland

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For the Republic of South Africa/wa Repapoliki ya Afrika Borwa

Ya Rephaboliki ya Afrika Borwa

Wa Rephaboliki ya Aforika Borwa

WeRiphabliki yaseNingizimu Afrikawa Rephabuliki ya Afurika Tshipembe

Wa Riphabliki ra Afrika-Dzonga

Vir die Republiek van Suid-Afrika

WeRiphabhliki yeSewula Afrika

WeRiphablikhi yoMzantsi Afrika

WeRiphabhulikhi yaseNingizimu Afrika

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Joint Declaration in relation to non-execution

The Parties agree that the violation of the essential elements of the agreement referred to at Article 3(3) of this Agreement shall only consist of a grave violation of democratic principles or fundamental human rights or the serious interruption of the rule of law, creating an environment not conducive for consultations or where a delay would be detrimental to the objectives or interests of the Parties to this Agreement.

The Parties also agree that the appropriate measures referred to at

Article 3 (1), (3) and (5) of this Agreement must be proportional to

Article 3 (1), (3) and (5) of this Agreement must be proportional to

the violation. In the selection and implementation of these measures, the Parties will pay particular attention to the circumstances of the most vulnerable groups of the population and will ensure that they are not unduly penalised.

Joint Declaration in relation to export refunds¹. In drawing up the trade components of the Agreement, the Parties have examined on a case-by-case basis, the potential impact of export refund mechanisms on the process of trade liberalisation.

2. The Community states for its part that further examination of the future export refunds in connection with trade with South Africa will take place when the present discussions on agricultural reform have been completed.

Joint Declaration in relation to accelerated tariff elimination by South Africa

The Parties agree to anticipate the application of the procedures provided in Article 17 of this Agreement during the interim period before the entry into force of the Agreement in order to allow the possible application of an accelerated timetable for tariff elimination and elimination of export refunds on the date of entry into force of the Agreement.

Joint Declaration on agricultural quotas¹. The annual growth factors set out in Annex IV, list 6 and Annex

VI, lists 3 and 4 of this Agreement will be periodically examined and reconfirmed starting no later than five years after entry into force of the Agreement.

2. Concerning in particular prepared fruits (peaches, pears and apricots), South Africa agrees to manage its exports to the Community in a balanced way.

Joint Declaration in relation to public aid

The Parties agree that the South African economy and its interaction with the economies in the Southern African Development Community are undergoing a substantial restructuring that will be facilitated by the Government of South Africa.

Joint Declaration in relation to fisheries

The Parties will make their best endeavours to negotiate and conclude the Fisheries Agreement referred to in Article 62 of this

Agreement no later than the end of the year 2000.

Joint Declaration in relation to bilateral agreements

Notwithstanding any implication to the contrary in this Agreement, any such rights of one or more Member States of the European Union contained in such existing agreements shall not be construed to have been extended to the other Member States.

Joint Declaration in relation to illegal immigration

The Parties, recognising the importance of cooperating together for the prevention and control of illegal immigration, declare their readiness to pursue these issues in exchanges within the framework of the Cooperation Council with a view to seeking solutions to problems which might arise in this sector.

Community declaration in relation to the essential element

In the context of a political and institutional environment respectful of human rights, democratic principles and the rule of law, the Community considers good governance as meaning the transparent and accountable management of all a country's human, natural, and internal and external economic and financial resources for the purposes of equitable and sustainable development.

Community declaration in relation to financial aspects of cooperation

In the past a special financial facility was established as the

European programme for reconstruction and development (EPRD), under

Council Regulation (EC) No 2259/96. The Community earmarked about

ECU 500 million for this facility over the period 1996 to 1999 in support of the policies of the Government of South Africa and agreements were signed on this basis. This amount covers four annual appropriations, which are subject to approval by the Community budget authority. The Community declares its willingness to maintain its financial cooperation with South Africa at a substantial level, and will take the necessary decisions in this respect on the basis of a proposal by the Commission.

Other appropriate financial instruments (e.g. in the framework of the EC/ACP Cooperation Agreement) could be made available after this

Agreement has entered into force. In this context, the Community would be

willing to consider the possibility of channelling part of its future assistance, in a targeted manner (e.g. emerging entrepreneurs), in the form of risk capital or of interest rate subsidies on European Investment Bank (EIB) own-resources lending.

Declaration by the European Investment Bank (EIB) in relation to financial aspects of cooperation

As set out in the Framework Agreement signed between South Africa and the EIB on 12 September 1995, the EIB was authorised by its

Board of Governors on 19 June 1995 to make loans up to a total of

ECU 300 million on the Bank's own resources in South Africa over the two-year period from 19 June 1995 to 19 June 1997. Under a second authorisation by the Bank's Board of Governors on 12 June 1997 and a supplementary Framework Agreement signed between South Africa and the EIB on 6 March 1998, a further ECU 375 million has been authorised for the period June 1997 to December 1999.

The Article refers to the possible extension of these activities of the Bank at the end of this period.

Within its mandate, the EIB would be willing to consider loans to

South African borrowers for projects in South Africa, and, on a case by case basis, for projects in the SADC region.

Declaration by South Africa in relation to the essential element

Good governance is understood on the South African side as compliance with the South African Constitution (Act 108 of 1996), in particular the provisions related to the transparent, equitable and accountable management of her human, natural, economic and financial resources for the purpose of economic growth and sustainable development.

Declaration by South Africa in relation to sanitary and phytosanitary measures

The South African Government wishes to stress that the smooth and efficient functioning of the mechanism for the implementation of sanitary and phytosanitary measures is vital for the successful and effective implementation of this Agreement. In this regard, South

Africa urges the Community to treat South Africa, as preferred trade partner, as a priority country in its sanitary and phytosanitary dealings.

Declaration by South Africa in relation to financial aspects of cooperation

The South African Government anticipates that the present level of financial cooperation with respect to funding beyond 1999 shall be at least maintained at the same levels.

AGREED MINUTES

The Contracting Parties agreed that:

At Article 4a regular political dialogue between the Parties shall commence at the moment that the provisional application of this Agreement enters into effect.



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