Annex XIII

AMENDMENT PROTOCOL ON TRADE IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

PREAMBLE

We, the Heads of State or Government of:

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

NOTING that the Protocol on Trade in the Southern African Development Community (SADC), hereinafter referred to as "the Protocol", entered into force on 25 January 2000;

DESIRING to implement the Protocol from 1 September 2000;

RECOGNISING that certain provisions of the Protocol require amendment;

HAVE AGREED, pursuant to Article 34 of the Protocol, read with Article 36(1) of the Treaty, upon the following amendments:

ARTICLE 1
AMENDMENT OF THE TABLE OF CONTENTS OF THE PROTOCOL

The Table of Contents of the Protocol is amended by adding the following after Annex V:

"ANNEX VI

CONCERNING THE SETTLEMENT OF DISPUTES BETWEEN THE MEMBER STATES OF THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

ANNEX VII

CONCERNING TRADE IN SUGAR IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY"

ARTICLE 2
AMENDMENT OF ARTICLE 1 OF THE PROTOCOL

Article 1 of the Protocol is amended by inserting the following definition between the definitions of "Non-Tariff Barriers" and "Originating Goods":

" "Protocol" means this instrument of implementation of the Treaty and includes any Annex or amendment thereof which form an integral part thereof;"

ARTICLE 3
AMENDMENT OF ARTICLE 9 OF THE PROTOCOL

Article 9 of the Protocol is amended by inserting the following new sub-paragraph after the existing sub-paragraph (i):

" (j) necessary to prohibit or control the importation or exportation of second-hand goods into or from its territory under this Protocol."

ARTICLE 4
AMENDMENT OF ARTICLE 31 OF THE PROTOCOL

Article 31 of the Protocol is amended by deleting sub-paragraph b) of paragraph 2 and renumbering the sub-paragraphs consequentially.

ARTICLE 5
AMENDMENT OF ARTICLE 32 OF THE PROTOCOL

Article 32 of the Protocol is amended by substituting paragraphs 1 to 6 with the following:

"The rules and procedures of Annex VI shall apply to the settlement of disputes between Member States concerning their rights and obligations under this Protocol.

ARTICLE 6
AMENDMENT OF ARTICLE 34 OF THE PROTOCOL

Article 34 of the Protocol is amended by:

a. the addition of the following new paragraphs 2 and 3:

"2. In the case of a proposal to amend an existing Annex or include a new Annex to this Protocol, the CMT shall adopt the proposal by consensus.
3. A proposal adopted by the CMT in accordance with paragraph 2 shall form an integral part of this Protocol."; and

b. the existing article becoming paragraph 1.

ARTICLE 7
AMENDMENT OF ANNEX I OF THE PROTOCOL

Annex I of the Protocol is repealed and substituted with the Annex contained in Annex I of this Amendment Protocol.

ARTICLE 8
AMENDMENT OF ANNEX II OF THE PROTOCOL

Annex II of the Protocol is amended by inserting the Appendix contained in Annex II of this Amendment Protocol after Article 12.

ARTICLE 9
INSERTION OF NEW ANNEXES

The two new Annexes contained in Annex III of this Amendment Protocol shall be inserted after Annex V of the Protocol as Annexes VI and VII.

ARTICLE 10
IMPLEMENTATION

1. Each Member State shall deposit an instrument of implementation, indicating the date upon which that Member State shall implement the Protocol, within six months after the date of entry into force of this Amendment Protocol. This Amendment Protocol and the Tariff Reduction Schedules, adopted by the CMT pursuant to Article 3(2) of the Protocol, shall be implemented by each Member State on a date not later than twelve months from the date of entry into force of this Amendment Protocol. No Member State shall be obliged to extend preferential treatment under this Protocol to another Member State which has not deposited an instrument of implementation as provided for in this paragraph.
2. No Member State shall deposit an instrument of implementation or accession to this Amendment Protocol unless it has previously or simultaneously deposited an instrument of ratification or accession to the Protocol.
3. Except as herein otherwise specifically provided, the Protocol shall remain of full force and effect.
4. This Amendment Protocol shall form an integral part of the Protocol.

ARTICLE 11
ENTRY INTO FORCE

This Amendment Protocol shall enter into force upon adoption by a decision of three-quarters of the Members of the Summit.

ARTICLE 12
ACCESSION

This Amendment Protocol shall remain open for accession by any Member State.

ARTICLE 13
DEPOSITORY

1. This Amendment Protocol and all instruments of implementation or accession shall be deposited with the Executive Secretary of SADC.
2. The Executive Secretary shall transmit certified true copies of this Amendment Protocol and instruments of implementation or accession to all Member States.
3. The Executive Secretary shall register this Amendment Protocol with the United Nations, the Organisation of African Unity and such other organisations as the Council may determine.

IN WITNESS WHEREOF, WE the Heads of State or Government or duly Authorised Representatives of SADC Member States have adopted this Amendment Protocol in Windhoek, Namibia this 7th day of August 2000 in three (3) original texts in the English, French and Portuguese languages, all texts being equally authentic.