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VAT AS A PART OF REGIONAL TAX COOPERATION IN THE SADC REGION

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The contents are the personal opinions of the author do not necessarily reflect the policy or practices of the SADC Secretariat or the Member States. Any omissions or errors are the sole responsibility of the author David Hollinrake is a former employee of HM Revenue and Customs (UK) who has worked extensively on SADC Tax Cooperation issues over the last ten years including as a technical expert on the SADC/EU Regional Economic Integration Support (REIS) Programme since 2013.

INTRODUCTION

1. This paper seeks to provide information on tax cooperation amongst the Member States of the ¹Southern African Development Community (SADC) and in particular cooperation and coordination with regard to Value Added Taxes (VAT).
2. SADC Tax cooperation takes place in the context of a diverse mix of fifteen economies ranging from less developed to middle income, from very small to large with equally diverse tax regimes, within an organisation that is entirely consensus driven (no compulsion, no central directives).
3. A wealth of information on the SADC Member States can be obtained from the SADC Statistics Yearbook (see <http://www.sadc.int/information-services/sadc-statistics#Indicators>) however as an indicator of the relative wealth of SADC Member States - of 229 countries worldwide, the SADC Member States ²rank as follows in terms of GDP Per capita (2015 figures). It will be noted that seven Member States are amongst the fifty poorest countries in the world

Table 1. SADC Member States ranked by GDP Per Capita

Rank	Country	GDP Per Capita (USD mostly 2015)
70	Seychelles	\$26,300
87	Mauritius	\$19,500
98	Botswana	\$16,400
118	South Africa	\$13,200
130	Namibia	\$11,400
143	Swaziland	\$8,500
154	Angola	\$7,300
177	Zambia	\$3,900
189	Lesotho	\$3,000
191	Tanzania	\$2,900
202	Zimbabwe	\$2,100
217	Madagascar	\$1,500
220	Mozambique	\$1,200
223	Malawi	\$1,100
226	Congo, Democratic Republic of the	\$800

4. Although tax cooperation within SADC is effectively voluntary, the Member States recognise the benefits of cooperation and coordination in the area of taxation for both the Member States and Region and especially cooperation that is underpinned by the common application of “best practice”.
5. This paper will outline SADC regional tax cooperation and focus on progress made with regard to VAT cooperation, including the recently published “Guidelines for Cooperation in Value Added Taxes in the SADC Region”.

¹ See <http://www.sadc.int/>

² Central Intelligence Agency World Factbook

BACKGROUND

1. SADC is a regional development community that was formed in 1980 as the “Southern African Development Co-operation Conference” (SADCC) by nine of the current Member States. On August 17 1992 in Windhoek, Namibia, the SADCC was transformed into SADC with the signing of the ³SADC Declaration and Treaty. SADC currently has 15 Member States: Angola, Botswana, Democratic République du Congo DRC), Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe. Article 5 of the SADC Declaration and Treaty identifies the Organisation’s key objectives as:
 - to further the socio-economic integration of the Region and thus attain development and economic growth, the alleviation of poverty and an enhanced standard and quality of life;
 - to encourage political co-operation, evolve common political value systems and institutions; and to promote peace and security;
 - to encourage self-sustaining development on the basis of collective self-reliance and interdependence of Member States;
 - to advance complementary national and regional strategies and programmes;
 - to support and maximise productive employment and utilisation of resources within the Region; and
 - to achieve sustainability of natural resources and effective protection of the environment.
2. The Treaty aims are implemented primarily through Protocols that are legally binding international agreements committing Member States to the objectives and specific procedures stated within them. Currently, SADC has 26 Protocols, across a wide spectrum including Finance and Investment, Trade, Mining, employment, gender, etc
3. There are additional strategic documents that guide SADC’s activities towards regional integration including the ⁴Regional Indicative Strategic Development Plan (RISDP, 2003 – revised 2015 – publication awaited) that outlines an agenda for regional integration that includes a SADC Customs Union and a SADC Common Market.

³ See <http://www.sadc.int/documents-publications/sadc-treaty/>

⁴ The RISDP as adopted in 2005 was revised in 2015 and the revised draft was adopted by the SADC Council of Ministers in August 2016 – although publication is awaited. The original timelines were: completing negotiations for a Customs Union by 2010, a Common Market by 2015 and a common currency by 2018. The Revised RISDP 2015-2020 is based on the strategic direction enshrined in the RISDP which emphasises the need for deepening regional integration through pursuing and achieving key milestones, including Free Trade Area, Customs Union, Common Market, Monetary Union, Single Currency and Economic Union. Achieving these milestones remains relevant to the SADC economic integration agenda in the long term and may require re-setting of timelines.

4. SADC Institutions

- Summit of Heads of State or Government
- Summit Troika of the Organ
- SADC Tribunal
- SADC Council of Ministers
- Sectoral & Cluster Ministerial Committees
- Standing Committee of Senior Officials
- SADC Secretariat
- SADC National Committees
- SADC Parliamentary Forum

5. The Community is supported by the SADC Secretariat that is located in Gaborone, Botswana. SADC is a consensus-based organisation and the mandate of the Secretariat is facilitatory. Any disputes that cannot be resolved through diplomatic channels may be referred to the ⁵SADC Tribunal, although in practice formal disputes between Member States are rare.
6. Many of the SADC Member States are additionally members of other regional groupings including East African Community (EAC); Common Market for Eastern and Southern Africa (COMESA); and Southern African Customs Union (SACU). all of the SACU Member countries are also SADC Member States Namely South Africa, Botswana, Lesotho, Namibia and Swaziland.
7. SACU is a customs and excise union where revenues from both tax-types are re-distributed to the members using an agreed formula. Within SACU there is a grouping excluding South Africa (Botswana, Lesotho, Namibia and Swaziland) commonly referred to as the BLNS countries.
8. SADC established a ⁶Free Trade Area (FTA) in August 2008, after the implementation of the SADC Protocol on Trade in 2000 laid the foundation for its formation. Its original members were Botswana, Lesotho, Madagascar, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe with Malawi joining later. Of the 15 SADC Member States, only Angola, the Democratic Republic of Congo and Seychelles are not yet participating.
9. In October 2008, SADC joined with COMESA and the EAC to form the ⁷African Free Trade Zone (AFTZ), including all members of each organisation. The

⁵ <http://www.sadc.int/about-sadc/sadc-institutions/tribun/>

⁶ <http://www.sadc.int/about-sadc/integration-milestones/free-trade-area/>

⁷ <http://www.sadc.int/news-events/news/comesa-eac-sadc-tripartite-free-trade-area-launched/>

AFTZ consists of 26 countries with a GDP of an estimated \$624bn (2008). It was hoped that AFTZ agreement will ease access to markets and end problems relating to Member countries belong to multiple groups.

SADC ECONOMIC COOPERATION

1. This is being operationalised through three Protocols – The ⁸SADC Protocol on Trade; The ⁹ SADC Protocol on Trade in Services; and The ¹⁰SADC Protocol on Finance and Investment (FIP).
2. The Protocols on Trade and on Trade in Services fall under the responsibility of SADC Committee of Ministers of Trade and Industry that is supported by Senior Officials from Ministries of Trade; the FIP falls under the Committee of Ministers of Finance and Investment (MoF) supported by the SADC Committee of Senior Treasury Officials.
3. The FIP covers Investment; Macroeconomic Convergence; and Tax Cooperation as well as cooperation across the financial sector.
4. The separation of trade and finance in the SADC structures has led to the unintended consequence that tax cooperation does not include customs issues – as customs cooperation falls within the ambit of the Protocol on Trade.

SADC TAX COOPERATION

1. SADC tax cooperation was established as a priority area by the SADC Macroeconomic Subcommittee in 2000. The main drivers for regional tax cooperation included: domestic revenue enhancement (including to provide “fiscal-space” for reductions in customs duties in line with international trade agreements); reduced donor dependency; and to facilitate investment into the Region.
2. In 2001 the MoF mandated the formation of the SADC Tax Subcommittee to take forward tax cooperation in the Region.
3. The Tax Subcommittee is made up of senior tax officials from all Member States (both revenue administration and tax policy) and meets at least annually. Working Groups covering Tax Incentives, Tax Agreements and Indirect Taxes were established to take forward cooperation in these technical areas.

⁸ <http://www.sadc.int/documents-publications/show/816>

⁹ <http://www.sadc.int/documents-publications/show/1933>

¹⁰ <http://www.sadc.int/documents-publications/show/1009>

4. All SADC institutions are supported by the SADC Secretariat. The mandate of the Secretariat is to support and facilitate SADC institutions and the Secretariat has no powers to direct the Member States in any respect. The Tax Subcommittee is supported by the ¹¹ SADC Secretariat Directorate of Trade Industry Finance and Investment (TIFI) within the responsibility of the Senior Programme Officer Macroeconomic Policies and Convergence.
5. To establish a blueprint for regional tax cooperation, the Tax Subcommittee initially developed the SADC Memorandum of Understanding (MoU) "Cooperation in Taxation and Related Matters" (the Tax MoU) that was signed by the MoF in August 2002. The Tax MoU was later subsumed into the ¹²SADC Protocol on Finance and Investment (FIP) that was signed in 2006, as Annex 3. The FIP is a legally binding international agreement signed by the SADC Heads of State that provides a clear mandate for regional tax cooperation.
6. Although legally binding, it will be noted that that much of the language in the FIP is non-binding in style, consistent with the SADC's consensus-based mandate.
7. Annex 3 of the FIP *Co-operation in Taxation and Related Matters* - contains commitments by Member States to promote tax cooperation and coordination in the following areas: development of a SADC Tax Database; capacity building to enhance the expertise of tax officials; a common approach to tax incentives; promotion of tax agreements; coordination and harmonisation of indirect; and a mechanism for the settlement of tax disputes. Annex 3 is reproduced in full as Appendix 1.
8. The main focus areas of regional tax cooperation are: Tax Incentives; Tax agreements; and Indirect Taxes, briefly expanded as follows:
9. FIP Annex 3 Article 4: Application & treatment of tax incentives
 - (a) The main aims are: developing a common approach to the application and treatment of tax incentives; avoiding harmful tax competition between Member States; protecting both the Member States' and the Regional tax base – whilst encouraging sustainable investment.
 - (b) Frameworks include developing "guidelines" for tax incentives to be adopted by the Ministers; and to develop a "fiscal framework" for tax incentives including a cost-benefit model, to inform the effectiveness of tax incentives in the Member States.

¹¹<http://www.sadc.int/sadc-secretariat/directorates/office-deputy-executive-secretary-regional-integration/trade-industry-finance-investment/>

10. FIP Annex 3 Article 5: Tax treaties

- (a) The main aims are: to promote the uptake of tax agreements in the Region including establishing a network of Double Taxation Avoidance Agreements (DTAAs) between all the Member States; establishing a common negotiation policy through the development of a SADC Model DTAA and Commentary thereto; and facilitating the implementation of the SADC Agreement for Assistance in Tax Matters (AATM) that provides for mutual assistance and information exchange between the Member States.

11. Article 6: Indirect taxes

- (a) The main aims are to: promote the use of indirect taxes (mainly VAT and Excise Taxes) and especially broad based consumption taxes, to provide fiscal space for reductions in tariffs; including through effective co-ordination and harmonisation of revenue administration; minimising smuggling/counterfeiting protect tax bases and reduce tax gaps; harmonising excise rates; harmonising VAT regimes; setting minimum standard VAT rates; and harmonising VAT zero-rating & exemption.

IMPLEMENTATION OF FIP ANNEX 3 – THE GUIDELINES APPROACH

1. The FIP provides a blueprint for regional tax cooperation, but contains limited detail on how it should be achieved. For indirect taxes it is left open for Member States to decide how to cooperate, harmonise and coordinate. An approach taken by SADC customs officials was to develop regional model law – a model SADC customs act – intended to encourage Member States to cooperate around a common legal framework. Following this example, the Indirect Taxes Working Group (ITWG) began a process of developing regional model VAT law with reference to regional VAT legislation and other documents such as the EU 6th Directive etc.
2. It transpired that the wide variance in complexity of existing VAT legislation suggested that a model SADC VAT act would inevitably be a compromise document, that would be unlikely to be of use in practice and risked being a “white elephant”.
3. In July 2010 The Chairperson of the ITWG (Malawi) proposed that a fresh approach be taken whereby *Guidelines* based on best practice should be developed for VAT and Excise cooperation as frameworks for the Member States to use to underpin indirect tax cooperation and coordination.
4. This approach was approved by the MoF in early 2011 after which Member State Task Teams supported by the Secretariat met to develop the concept of Guidelines.
5. This was a novel approach because in terms of its’ legal framework, SADC had hitherto relied on Protocols and MoUs as the frameworks for cooperation. There were no existing SADC guidelines to provide a template, so this was a ground-

breaking initiative for SADC driven by the SADC Secretariat and the Tax Subcommittee.

6. The VAT and Excise Guidelines were developed in parallel some 6 months apart and the initial skeleton drafts were approved by a full meeting of the ITWG in 2013.
7. A final significant development in the VAT Guidelines process came in 2014 where recognising the benefits of including explanatory material the Guidelines, the VAT Sub-Group decided to split the emerging Guidelines document into two parts - Guidelines and supporting Commentary. The aim being that the Guidelines would contain principles for cooperation and the Commentary could be flexible in providing detailed explanations and technical information. This also enabled the Guideline for Excise and Tax Incentives that were in parallel to be similarly presented. It is expected that the Guidelines will remain unchanged for a significant period – but that the supporting Commentaries will be expanded and improved incrementally.
8. VAT Guidelines development was financially supported by the European Union (EU). The technical input was provided by the officials of the Member States, supported by the SADC Secretariat, with additional technical input by the OECD, David Child (an independent consultant) and Professor Rebecca Millar of Sydney Law School.

The SADC Guidelines for VAT Excise and Tax Incentives and supporting Commentaries were approved in principle by the SADC MoF in August 2015 and after “polishing” by the VAT Task Team the SADC VAT Guidelines were published in May 2016.

SADC VAT GUIDELINES – AS A BASIS FOR TAX COOPERATION AND CONVERGENCE

1. The Guidelines are designed to provide a framework for cooperation and convergence amongst the Member States. It was also intended that they would be utilised by Member State to inform their internal tax policy and revenue administration, by providing a best practice benchmark. It is expected that in time the Member States will implement the Guidelines and that will in turn deliver convergence around best-practice. However, as a minimum, in the meantime it is expected that the Guidelines will limit further *divergence* on VAT issues in the Region. E.G. whatever the current extent of VAT exemptions in a Member State (be it few or many), the Guidelines should help curtail further exemption-creep.
2. The SADC VAT Guidelines and Commentary are provided separately from this paper in PDF format. The Guidelines are summarised (and paraphrased) as follows: -
 - (a) **The Preamble** affirms that the Guidelines are a framework for co-operation in the design and application of VAT whilst recognising that:
 - the Member States are at different stages of economic development;

- the VAT regimes in Member States are similarly diverse;
- the Guidelines are not binding on Member States and hence do not require Member States to undertake or refrain from any actions;
- Member States are determined to co-operate with each other with regard to indirect taxes; and
- Member States agree to the Guidelines and endeavour to implement them.

(b) Guideline 1 - principles applicable to vat in the SADC region:

- each Member State shall implement a VAT as its primary broad-based indirect tax on consumption;
- the VAT should be designed to achieve:
 - a broad tax base; revenue generation; economic neutrality; administrative efficiency; similarity; equity; certainty; and simplicity;
- the VAT should be:
 - a multi-stage transaction tax applied to all of the stages of the production and distribution of goods;
 - applied to the provision of services used, consumed or supplied; and
 - calculated by the tax credit method.

(c) Guideline 2 - minimum standard vat rates:

- Member States agree to set a VAT standard rate of not less than ten per cent.

(d) Guideline 3 - multiple positive vat rates:

- Member States agree to avoid the use of multiple positive VAT rates.

(e) Guideline 4 - zero-rating and exemption:

- Member States agree that it is best practice that exemptions and zero-rating (other than for exports consistent with the destination principle), should be minimised; and
- to develop as a benchmark for the Region, a standardised minimum list of exemptions and zero-rates.

(f) Guideline 5 – reliefs:

- Member States agree to limit the granting of relief from VAT to:
 - diplomatic immunities and privileges legislation;
 - international agreements, conventions or treaties; and
 - public benefit or similar charitable organisations.

(g) Guideline 6 - supply of goods and services:

- Member States agree to a common approach to the supply of goods and services including:

- time of supply; and
- place of taxation.

(h) Guideline 7 - entitlement to input tax:

- Member States agree that a credit of input tax should in principle be given on:
 - acquisitions made in the course or furtherance of making taxable supplies;
 - acquisitions made prior to making taxable supplies; and
 - assets held at the time of registration.

(i) Guideline 8 - special schemes:

- Member States agree to strive to coordinate the design and application of VAT special schemes across the Region.

(j) Guideline 9 - harmonised approach to vat administration:

- Member States agree to take a common approach to VAT administration including the management of VAT and:
 - registration and de-registration (Guideline 10);
 - record keeping, return requirements and payments (Guideline 11);
 - refunds (Guideline 12);
 - powers of revenue administration officials (Guideline 13); and
 - compliance (Guideline 14).

(k) Guideline 10 - registration and de-registration:

- Member States agree to a common approach to VAT registration and de-registration including:
 - that a threshold for compulsory registration that maximises the number of registered taxpayers, whilst taking account of the capacity of the revenue administration, the compliance costs to persons compulsorily registered and revenue efficiency;
 - specific registration requirements for selected activities;
 - voluntary registrations should be permitted; and
 - that persons situated outside a Member State supplying services that are consumed in the Member State, may be required to register for VAT;
- Member States agree that common principles should be applied to:
 - setting the VAT compulsory registration threshold; and
 - de-registration.

(l) Guideline 11 - record keeping, return requirements and payments:

- Member States agree to adopt:
 - uniform VAT return periods;
 - a VAT return model;
 - standardised periods of grace for returns and payments;
 - common arrangements for VAT at importation;
 - a model for VAT invoices;
 - common rules for the records required to be maintained and the periods of retention; and
 - common requirements to produce records.

(m) Guideline 12 – refunds:

- Member States agree to have sufficient powers - including:
 - to determine the requirements for registration and de-registration for VAT;
 - to require the production of and to inspect records, stocks and assets including at business premises;
 - to make inspections at any time announced or unannounced;
 - to be able to access records of third parties including suppliers, customers and contractors;
 - to raise assessments for tax due;
 - to counter tax avoidance, including tax avoidance schemes, contrived VAT refunds or manipulation of input tax in respect of exempt supplies; and
- Member States agree where fraud or evasion is suspected, to:
 - impose financial penalties (including by compounding);
 - enter, inspect and search premises, equipment and vehicles;
 - take goods as evidence;
 - freeze bank accounts and or seize assets;
 - arrest (either directly or in collaboration with another government agency); and
 - seal or close-down premises;
- Member States agree to ensure that its officials comply with legislation including instituting:
 - safeguards and sanctions against improper actions by officials;
 - procedures governing requests for reconsideration and appeals; and
 - accessible and independent complaints procedures;
- Member States agree to ensure that powers procedures complaints, requests for reconsideration and appeals, are clear transparent and are published.

(n) **Guideline 14 – Compliance:**

- Member States agree that revenue administrations have in place a VAT compliance strategy that:
 - includes a commitment to the promotion of voluntary compliance; and
 - sets out how the revenue administration will enforce compliance and address non-compliance;
- Member States agree that revenue administrations encourage compliance by actively seeking to reduce the cost of compliance and by providing quality services to taxpayers including:
 - electronic channels of communication;
 - accessible information facilities to taxpayers and consumers including accessible web-based information; and publishing;
 - a charter setting out the rights and obligations of taxpayers and VAT service standards;
 - public rulings;
- Member States agree that revenue administrations maintain professional standards by providing and supporting capacity building for revenue administration officials;
- Member States agree that in addressing non-compliance, revenue administrations should:
 - adopt procedures that minimise the occurrence and level of VAT debt by registered persons;
 - implement standardised and effective penalties and sanctions to discourage non-compliance;
 - be cognisant that where penalties or sanctions are imposed they should be proportionate and reflect behaviour; and
 - deter criminal behaviour such as fraudulent claims of refunds by prosecution in the criminal courts.

(o) **Guideline 15 - exchange of information and mutual assistance:**

- Member States agree to share information and mutually assist each other to protect revenues and combat non-compliance such as fraud and smuggling, including:
 - using existing agreements and mutual assistance channels;
 - entering into new agreements for mutual assistance or sharing information and intelligence including on inter-jurisdictional transactions;
 - establishing standardised VAT registration databases and making standardised arrangements for the routine transfer of data between revenue administrations; and verification of specific transactions.

SADC VAT GUIDELINES IN ACTION

1. The Guidelines are multi-purpose: they are a
 - (a) framework providing a mandate and benchmark for cooperation and convergence of regional VAT under Article 6 of Annex 3 of the FIP;
 - (b) capacity building resource (explaining technical issues and demonstrating best practice);
 - (c) policy and administration tool that can be used to inform domestic policies and practices especially to enhance domestic revenue mobilisation; and
 - (d) resource to facilitate and benchmark regional VAT *convergence* and curtail further regional *divergence*.

Notwithstanding that they are non-binding there is already evidence of Member States are using the VAT Guidelines to help tackle policy challenges e.g. the following extract from the 2016 Budget Statement of Malawi (http://www.finance.gov.mw/index.php?option=com_docman&task=cat_view&qid=90&Itemid=55) specifically cites the SADC VAT Guidelines in addressing the extent of VAT zero-rating and exemptions. The Statement is also informative with regard to the realities of administering a VAT in a developing economy environment.

2016 - 2017 Budget Statement presented by the Minister of Finance, Economic Planning & Development Honourable Goodall E. Gondwe

“Value Added Tax Measures:

80. Mr. Speaker, Sir, over the last decade, 32 African counties have introduced Value added Tax (VAT) as their main broad-based consumption tax. Malawi introduced VAT in August, 2005. SADC Member States are developing Guidelines for VAT's best practices. VAT has therefore gained popularity because it is considered to be a revenue-efficient⁶¹ tax with a self-policing mechanism through the credit method - where one's input-tax is another's output-tax. Some scholars have termed VAT as the workhorse for governments in domestic resource mobilization. The January 2016 review of the Malawi tax policy conducted by the IMF has strongly recommended shift in the reliance of domestic revenue from taxes that fall on labour and investment to taxes that fall mainly on consumption. VAT is one such consumption tax and SADC has also made a similar recommendation for its Member States.

81. Mr. Speaker, Sir, Malawi's VAT, unfortunately, has failed to live up to the expectations of being a productive, stable and efficient source of government revenue since it was introduced, on account of many reasons. One of the reasons is that VAT has been used in Malawi as a social security tool through the introduction of numerous exemptions and zero-ratings on goods and services deemed to be used by low income earners in society.

82. The numerous exemptions and zero-ratings on goods and services have not only eroded the tax base and compromised revenue generation capabilities, but they have also acted as subsidy to consumers who have purchased the zero-rated goods and services. Due to our inability to ring-fence goods such as laundry soap, the higher income earners have also had access to zero-rated goods. Effectively, low income earners have subsidized high income earners. The fallacy of exemptions and zero-ratings is that the exempted or zero-rated product or service is not really cheap as, in the case of exemptions, exempted goods or service will always come with VAT that is not claimable and ends up being passed on to the final consumer...”

SADC VAT GUIDELINES - EARLY IMPLEMENTATION ACTIONS

1. At its 2016 meeting, the Tax Subcommittee established a Task Team of six Member States to begin work on implementing priority areas of the Guidelines including developing common maximum (minimised) lists of VAT zero-rates and exemptions (under Guideline 4). The intention being to curtail exemption creep and to begin reducing the extent of zero-rate and exemptions in the Region that are widely perceived to be undermining the effectiveness of the tax. The task team met 3 times between January and June 2016.
2. The work of the VAT Task Team was informed by questionnaires completed by most Member States. These questionnaire responses focus on zero-rate and exemptions applicable in the Member States but provide other useful information. Those questionnaires that can be reproduced are provided to the Symposium separately in PDF format for information (although it is stressed that these are purely informative documents produced by volunteer officials and are not to be taken to be official documents of the Member States).
3. The Guidelines clearly state that zero-rate and exemption should be minimised but recognising the practical and political realities of reducing exemptions, and the wide variance in their application in the region, the Task Team recommended a staged approach – a transitional “pragmatic” list as a first target and a minimum list as the ultimate aim. The initial draft suggestions of the Task Team are attached as Appendix 2 and 3 but it is stressed that these are unapproved drafts for information that should not be cited, circulated or published.
4. Addressing zero-rating is relatively straightforward in policy terms whereas exemptions are more complex - as they are often used as a “halfway house” in that they do secure some revenue through denied input tax and also exemptions are utilised to simplify revenue administration in “difficult to tax” areas.
5. Zero-rating or exemption - lesser of the evils?
 - (a) The Task Team discussions around minimising zero-rating and exemptions in the Region revealed an interesting dynamic amongst regional tax officials. When considering the question - that if relief from VAT standard rating is needed (for whatever reason) - is zero-rating or exemption the better option?
 - exemption was strongly preferred over zero-rating by revenue administration officials as there is a double benefit (from the administrator’s point of view) that exemption does secure some (largely unquantifiable) revenue (that is the core objective of a revenue agency) and critically – exemptions remove refund claims that would result from using zero-rating as an alternative;
on the other hand;
 - policy makers (Ministry of Finance officials) tended to prefer zero-rating to exemption, citing it as more transparent, quantifiable and

keeps transactions “within the system” – thereby supporting economic neutrality.

- (b) Many Member States have switched between zero-rating and exemption and vice versa since the introduction of VAT and some Member States (e.g. Tanzania) have replaced all zero-rates other than on export - by exemptions - primarily as a revenue/refund reduction measure. Yet best practice – in public policy terms is not clear in this regard – in SADC anyway.
- (c) *A question for the VAT symposium – where relief from VAT is required e.g. for political reasons what, in economic terms, is best practice between zero rating or exemption?*

6. For information the following shows VAT implementation dates and rates of the SADC Member States.

Date of VAT becoming effective			
Country	Date VAT effective	Standard VAT rate at introduction	Standard VAT rate in 2016
Angola	No VAT	-	-
Botswana	July 2002	10	12
DRC	January 2012	16	16
Lesotho	July 2003	14	14
Madagascar	January 2008	20	20
Malawi	September 2002	30	16.5
Mauritius	September 1998	12	15
Mozambique	June 1999	17	17
Namibia	November 2000	15	15
South Africa	September 1991	10	14
Seychelles	January 2013	15	15
Swaziland	1 April 2012	14	14
Tanzania	July 1998	20	18
Zambia	July 1995	20	16
Zimbabwe	January 2004	15	15

CONCLUSION

1. SADC Tax cooperation and especially indirect tax coordination is an ambitious project. This is especially so given the diversity of the SADC Member States and the SADC consensus/non-binding mandate e.g. the Guidelines are non-binding and there are no sanctions for non-adherence.
2. In this context the SADC attempts at tax cooperation and coordination could be viewed as hopeless and somewhat of a waste of time (and resources). However, it could be argued that even where legally binding directives can be introduced to ensure conformity, the desire of countries to retain fiscal sovereignty with regard to their tax regimes can negate the process such as through derogations from or dilution of the design of such directives, or flat refusal to implement.

3. Is it not as reality that if a country does not want to cooperate or coordinate on tax issues it will find a way not to, whatever the binding nature of the initiative or the sanctions faced? Conversely, is it not also true, that if a country wants to cooperate and coordinate, it will, whatever the framework? If this is the case, the SADC tax cooperation initiative should be viewed as positively as any other.
4. Certainly the officials in the Member States welcome the opportunities created through the SADC initiatives, to share information and learn from each other. Whatever the progress, capacity is undoubtedly raised and the principles of best practice and good governance are embedded.

APPENDIX 1

ANNEX 3 OF THE FIP - CO-OPERATION IN TAXATION AND RELATED MATTERS

PREAMBLE

The High Contracting Parties:

RECALLING the provisions of Chapter Four of the Protocol which require co-operation on taxation and related matters;

RECOGNISING the need to take such steps as are necessary to maximise the co-operation of State Parties in taxation matters and to co-ordinate the tax regimes of the State Parties; and

DETERMINED to take such steps as are necessary to maximise the co-operation of the State Parties in taxation matters;

HEREBY AGREE as follows:

ARTICLE 1

DEFINITIONS

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

“customs duty”;	means a tax normally applied to imported goods
“direct tax”	means a tax levied under its domestic laws, by a country on persons (including juristic persons), in respect of income, capital gains, net worth, property, donations and gifts and includes estate duties
“double taxation”	means an imposition of similar taxes by two or more tax jurisdictions on the same taxpayer in respect of the same income or capital
“e-Customs Clearance” or “e-commerce, e-billing,	means the conduct of financial transactions, or customs clearance, by electronic means
“exceptional cases”	means, in relation to tax incentives, those exceptions to the Guidelines envisaged in Article 4 agreed to by State Parties
“excise duty”	Means a duty imposed by a country under its domestic law on certain goods manufactured or produced in the country or imported into that country, being a tax levied on a specific basis, either on the basis of the weight or

		volume of the goods, or on an <i>ad valorem</i> basis, or on a profit basis
“harmful tax competition”		means a situation where the tax systems of a jurisdiction are designed in such a way that they erode the tax bases of other jurisdictions and attract investments or savings which originate elsewhere, facilitating the avoidance of taxes in such other jurisdictions
“indirect tax”		means any tax (other than a direct tax) that a country imposes on consumption or transactions under domestic law, and includes VAT, sales taxes, excise duties, stamp duties, services taxes, registration duties and financial transaction taxes
“levy”		means a tax in respect of specific items, transactions, or events, and which tax is levied at a fixed or flat rate
“luxury goods and services”		means goods and services with an income elasticity of greater than one
“mutual agreement”		means the procedure envisaged in Article 25 of the Model Tax Convention on Income and on Capital of the Organisation for Economic Co-operation and Development
“mutual assistance”		means such arrangements as are made between two countries or jurisdictions in order to improve the efficiency of their respective taxation systems
“SADC Tax Database”		means the tax database into which State Parties shall deposit information on tax on a continuous basis, as contemplated in Article 2
“SADC Model Tax Agreement”		means templates, as adopted by the Committee of Ministers for Finance and Investment, for bilateral agreements for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, or agreements for mutual assistance with regard to indirect taxes, to be used by State Parties between or amongst themselves or with countries outside the Community as contemplated in Article 5 (4)
“sales tax”	means	a tax imposed as a percentage of the price of goods or services and which is ordinarily borne by the buyer but the liability for rendering payment of the tax to the authorities is placed on the supplier of the goods or services
“tax”		means a compulsory unrequited financial contribution imposed by a government or jurisdiction
“tax incentives”		means, in relation to a State Party, fiscal measures that are used to attract local or foreign investment capital to certain economic activities or particular areas in a

country and, without limiting the generality of the foregoing, includes those measures contemplated in Article 5 (2)

“Tax Sparing Arrangement “

means an arrangement in terms of which the government of residence of an international investor recognises tax incentives granted by a host country for purposes of attracting investments and providing relief from income tax under the domestic laws of that government, as if normal tax had been imposed in respect of that investor in the host country

“Tax Agreement”

means any bilateral agreement concluded by State Parties between or amongst themselves or with countries outside the Community, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital or for mutual assistance with regard to indirect taxes

“VAT”

means a value added tax imposed on goods or services, which is levied at each stage in the production and distribution process and is borne by the final consumer of such goods or services, but, where the liability for rendering payment of such tax to the authorities is placed upon the supplier of the goods or services

ARTICLE 2

SADC TAX DATABASE

1. In the interests of SADC, State Parties shall put in place a comprehensive sadc tax database which is publicly accessible within the Region.
2. State Parties shall, collectively, take such steps as are necessary to further develop the SADC Tax Database and to provide the Secretariat with such information as is required to maintain the SADC Tax Database.
3. The developed SADC Tax Database shall, in relation to each State Party, include details in respect of that State Party of:
 - (a) all direct taxes, indirect taxes and levies, including applicable rates, implementation dates, exemptions and allowances;
 - (b) all tax incentives offered, including implementation dates and conditions imposed;
 - (c) all Tax Agreements and their respective implementation dates; and
 - (d) appropriate statistics on revenue collection and the revenue importance of various instruments including:
 - (i) the sales volumes or value of products and services that are subject to Indirect Taxes, and the revenue collected from such products and services; and

- (ii) the revenue collected from direct taxes.
- 4. Each State Party shall provide at least on an annual basis and when significant changes occur, information in regard to that State Party as is required by the Secretariat to update the SADC Tax Database.

ARTICLE 3

CAPACITY BUILDING

1. State Parties shall, in the interests of SADC, develop the professionalism and expertise of tax officials throughout the Region, and develop an effective enabling environment that:
 - (a) is supportive of life-long training, development of skills and learning for the State Parties' personnel in respect of tax design, policy development and revenue administration;
 - (b) will effectively equip such personnel to utilise their expertise to protect the respective individual tax bases of State Parties against the practices of tax avoidance or evasion by domestic and international taxpayers operating within their respective jurisdictions; and
 - (c) will enable such personnel to introduce, develop, maintain and engender taxation best practices in their respective State Parties.
2. In order to fully implement the wide-ranging steps envisaged in this Annex, each State Party shall:
 - (a) actively support initiatives aimed at developing skills and taxation best practices across the Region, including the exchange of personnel and information, and the provision of mutual assistance, training workshops, seminars, and training events; and
 - (b) (make provision (from the internal budget of that State Party and/or appropriate co-operating partner support) for resources to defray the costs of ongoing training development and the interaction of the tax officials of that State Party across all capacities or disciplines.
3. State Parties shall meet the information technology and digital challenges faced by State Parties, and work together in responding to such challenges, including the review of issues relating to e-commerce, e-billing, or e-customs clearance, and the impact that e-commerce, e-billing, or e-customs clearance may have on tax revenue collection and on the flow of goods and services.

ARTICLE 4
APPLICATION AND TREATMENT OF TAX INCENTIVES

1. State Parties shall endeavour to achieve a common approach to the treatment and application of tax incentives and shall, amongst other things, ensure that tax incentives are provided for only in tax legislation.
2. Tax incentives may include any one or more of the following:
 - (a) investment allowances in addition to full depreciation allowances;
 - (b) an investment tax credit where a certain percentage of the acquisition cost is deducted, in addition to normal depreciation deductions, from the tax liability;
 - (c) the full cost of acquisition of the asset is allowed as a deduction from the taxable profits of the year in which the relevant investment was made;
 - (d) accelerated depreciation allowances;
 - (e) declining balance depreciation allowances;
 - (f) tax privileged export processing or enterprise zones; and
 - (g) tax holidays.
3. State Parties shall, in the treatment and application of tax incentives, endeavour to avoid:
 - (a) harmful tax competition as may be evidenced by:
 - (i) zero or low effective rates of tax;
 - (ii) lack of transparency;
 - (iii) lack of effective exchange of information;
 - (iv) restricting tax incentives to particular tax payers, usually non-residents of that State Party;
 - (v) promotion of tax incentives as a vehicle for tax minimisation; or
 - (vi) the absence of substantial activity in the jurisdiction of that State Party to qualify for a tax incentive; and
 - (b) introducing tax legislation that prejudices another State Party's economic policies or activities of, or the regional mobility of goods, services, capital or labour.
4. State Parties shall, collectively, through the (Committee of) Ministers responsible for Finance and Investment, develop and adopt Guidelines for tax incentives in the Region, including provision for exceptional cases.
5. In order to advance a competition policy within the Region, State Parties shall collectively develop a fiscal framework for tax incentives that will, among other things, focus on:

- (a) the effectiveness of proposed tax incentives in achieving their Stated policy goals;
- (b) the revenue costs likely to be suffered by the fiscus of each of the State Parties as a result of the application of proposed tax incentives;
- (c) the extent to which the absence of Tax Sparing Arrangements in Tax Agreements between State Parties reduce the effectiveness of tax incentives, particularly those aimed at attracting foreign direct investments;
- (d) the impact that proposed tax incentives will have on the collective costs of, or collective burden on, tax administration in the Region; and
- (e) the effects that tax incentives have on the overall distribution of the tax burden within each State Party.

ARTICLE 5

TAX AGREEMENTS

1. State Parties shall, collectively, develop a common policy for the negotiation of Tax Agreements between or amongst themselves or with countries outside the Region.
2. Each State Party shall, in accordance with its constitutional procedures, strive to ensure the speedy negotiation, conclusion, ratification and effective implementation of Tax Agreements.
3. State Parties shall, collectively, take such steps as are necessary to establish amongst themselves a comprehensive network of agreements for the avoidance of double taxation that will assist in expediting the effective exchange of information, mutual agreement procedures and co-operation amongst themselves.
4. State Parties shall, in pursuit of a common policy for dealing with Tax Agreements, develop a Model Tax Agreement for SADC that, among other things, takes account of the particular socio-economic development needs of each State Party.
5. State Parties shall, on completion of the Model Tax Agreement referred to in paragraph 4, draw up Guidelines for the effective exchange of information, the implementation of Mutual Agreement procedures.

ARTICLE 6

INDIRECT TAXES

1. State Parties shall effectively co-operate in the harmonisation of the administration of indirect taxes.

2. Each State Party shall, in line with the World Trade Organisation agreements, gradually substitute taxes on internationally traded goods and services with broad-based indirect taxes on consumption.
3. State Parties shall, collectively, explore areas of possible co-ordination for policy formulation and administration in respect of excise duties on:
 - (a) tobacco products;
 - (b) alcoholic beverages;
 - (c) non-alcoholic beverages;
 - (d) fuel products;
 - (e) luxury goods and services; and
 - (f) any other excisable goods and services.
4. Each State Party shall, as far as is possible, promote the use of excise duty on an *ad valorem* basis on luxury goods and services as an alternative to the application of multiple VAT rates or sales tax rates; provided that it is accepted that the classification of goods and services as being luxury goods and services may, due to shifts in economic and social conditions, change from time to time.
5. State Parties shall, in an effort to minimise incidents of smuggling, take such steps as are necessary to harmonise the application of excise duty rates, with particular regard to tobacco products, alcoholic beverages and fuel products.
6. State Parties shall take such steps as are necessary to exchange information among themselves, and to engage in such programmes of mutual assistance and co-operation as may be appropriate, in order to prevent unlawful activities and, in particular, the smuggling of goods and the importation of counterfeit items.
7. State Parties shall in an effort to combat cross-border smuggling activities, identify areas of co-operation and agreement for: (i) the protection of their respective tax bases; and (ii) addressing the problem of tax leakage and gaps in tax compliance.
8. State Parties shall give consideration to entering into bilateral agreements with each other, based on a SADC model tax agreement in order to deal with, among other things, the exchange of information on VAT and sales tax and to make provision for mutual assistance on matters such as effective revenue collection.
9. State Parties shall identify and explore areas of possible co-ordination and co-operation in the formulation of policy on, and the administration of, VAT and sales tax.
10. State Parties shall take such steps as are necessary to harmonise their VAT regimes and shall:

- (a) set minimum standard VAT rates; and
- (b) harmonise, over time, the application of zero-rating and VAT exemption of goods and services.

ARTICLE 7
SETTLEMENT OF DISPUTES

1. State Parties shall develop mechanisms and procedures for the settlement of tax disputes between State Parties, including the establishment of a SADC body for the settlement of such tax disputes.
2. Until such time as the mechanisms and procedures for the settlement of tax disputes between State Parties are developed, and the SADC body for the settlement of such tax disputes is established, as envisaged in paragraph 1, State Parties shall settle any dispute or difference arising from the interpretation, application or implementation of this Annex 3 in accordance with Article 24 of the Protocol.

APPENDIX 2

DRAFT SADC ZERO RATE MAXIMUM (MINIMISED) LIST

Background

1. The overall guiding principle is that zero-rating other than for exports undermines the destination principle and as a result narrows the tax base and increases the tax administrative burden which, amongst others, include verification of tax refunds.
2. In order to minimise the list of zero-rated goods and services, the Task Team recommends the following minimised list for consideration by Member States:
 - Exports of goods and services;
 - supply of a going concern; and
 - Petroleum products.
3. Having regard to the social, political or economic realities of each Member State, the Team recognised that it may not be practical to immediately implement the “minimised list of zero-rated goods and services” (Annex 1). The Team has therefore recommended a “Transitional list of zero-rated goods and services” (Annex 2) which is the list that may be more practical to implement in the shorter term.

Annex 1: Minimised List of goods and services

1. The Task Team recommends that zero-rating should be limited to the following goods and services:
 - Exports of goods and services
 - Supply of a going concern
 - Petroleum products

Notes on the above minimised list

2. **Exports of goods and services** are zero-rated in line with the destination principle of the Value Added Tax and also to ensure competitiveness of exports on the international market and the zero-rate includes, inter alia:
 - International transport of goods or passengers;
 - Services supplied to a “foreign going” aircraft or ship;
 - Goods temporarily imported for repairs;
 - Goods supplied by duty free shops;
 - Services rendered directly in connection with land situated in an export country; and
 - Services physically rendered in an export country.
3. **Supply of a “going concern”** is zero-rated to alleviate the financial burden on the business where the VAT gain to the fiscus is nil.

4. **Petroleum products** (petrol, diesel and paraffin) include levies in some Member States and are zero-rated to avoid placing a further financial burden on the consumers and to stabilise the economy. However, Lesotho is currently standard rating but there is a corresponding subsidy to the Petroleum Fund, thereby boosting the economy as a whole. In Lesotho's example this has led to petroleum products being cheaper than in other Member States.

SUMMARY TABLE ON THE PROPOSED MINIMISED LIST OF ZERO RATED GOODS AND SERVICES

Goods or Services	Social consideration	Economic	Political Consideration	Destination principle
Exports of goods or services				Yes
Supply of a going concern		Yes		
Petroleum products		Yes		

Annex 2: Transitional minimised list

1. Export of goods or services includes, inter alia:
 - International transport of goods or passengers;
 - Services supplied to a “foreign going” aircraft or ship;
 - Goods temporarily imported for repairs;
 - Goods supplied by duty free shops;
 - Services rendered directly in connection with land situated in an export country; and
 - Services physically rendered in an export country.
2. Basic Foodstuffs
 - Bread
 - Grains
 - Maize meal (Maize flour) and Sorghum Meal, mahango
 - Wheat/bread flour, mahango
 - Fresh Milk
 - Eggs
 - Samp
 - Fresh Fruits and Vegetables
 - Edible Legumes (beans, groundnuts, etc.)
3. Agricultural Inputs
 - Fertilisers
 - Seeds
 - Herbicides, Pesticides/insecticides for agricultural purposes
 - Animal feeds
 - Animal remedies
4. Piped Water supplied for domestic use.
5. Medicines/ Pharmaceutical Products
6. Supply of a “going concern”.
7. Petroleum products (Petrol, diesel, Paraffin).

NOTES ON THE TRANSITIONAL MINIMISED LIST

1. **Exports of goods and services** are zero-rated in line with the destination principle of VAT, i.e. goods and services are taxed in the jurisdiction of final consumption. Exports of goods and services are also zero-rated to ensure international competitiveness and include inter alia:
 - (a) International transport of goods or passengers;
 - (b) Services supplied to a “foreign going” aircraft or ship;
 - (c) Goods temporarily imported for repairs;
 - (d) Goods supplied by duty free shops;
 - (e) Services rendered directly in connection with land situated in an Export country; and
 - (f) Services physically rendered in an export country.
2. **Basic foodstuffs** zero-rating is intended to address the regressivity of the VAT system (the perceived disproportionate tax burden on the less well off). The following food items are predominantly consumed by the poor and the needy:
 - (a) Plain brown or white bread
 - (b) Grains include Maize, Sorghum, Millet, Rice and Wheat, Mahango provided that these are not processed;
 - (c) Maize meal/ maize flour and Sorghum meal (uncooked), Mahango;
 - (d) Wheat/bread flour;
 - (e) Milk that has not been concentrated, condensed, evaporated, sweetened, flavoured, cultured or subjected to any process other than homogenisation or preservation by pasteurisation ultra-high temperature treatment, sterilisation chilling or freezing;
 - (f) Samp which is uncooked or not further processed;
 - (g) Fresh fruits and unprocessed vegetables (this needs to be fully defined) excluding dried, frozen, canned, bottled and cooked;
 - (h) Edible legumes shall include dried beans, groundnuts, peas and lentils to the extent that they are not canned, frozen or processed.
 - (i) The zero-rating of basic food stuffs shall not apply where any of the goods mentioned are supplied in the course of carrying out any agreement for the furnishing or serving of any meal, refreshment, cooked or prepared food or any drink, as the case may be, so as to be ready for immediate consumption when so supplied.

3. **Agricultural Inputs** are zero-rated for socio-economic reasons and to support the agricultural sector. The following products are recommended for zero-rating:
 - (a) Fertiliser;
 - (b) Seeds in a form used for cultivation;
 - (c) Herbicides, pesticides/insecticides;
 - (d) Animal feeds excluding pet food; and
 - (e) Animal remedies for diagnosis, prevention, cure treatment of livestock, poultry, fish and wild animals.
4. **Piped water** is zero-rated if supplied for domestic use and shall exclude bottled water.
5. **Medicine and Pharmaceutical products** are zero-rated for socio-economic reasons.
6. **Supply of a “going concern”** is zero-rated to alleviate the financial burden on the business where the VAT gain to the fiscus is nil.
7. **Petroleum products** (petrol, diesel and paraffin) include levies in some Member States and are zero-rated to avoid placing a further financial burden on the consumers and to stabilise the economy. However, Lesotho is currently standard rating but there is a corresponding subsidy to the Petroleum Fund, thereby boosting the economy as a whole. In Lesotho’s example this has led to petroleum products being cheaper than in other Member States.

SUMMARY TABLE ON MINIMISED LIST OF ZERO RATED GOODS OR SERVICES

Goods or services	Social	Economic	Political	Destination	Common in Member States
Exports of goods or services		Yes		Yes	Yes
Basic food stuffs	Yes	Yes	Yes		Yes
Agricultural inputs	Yes	Yes			Yes
Piped water supply for domestic use	Yes		Yes		No(mostly exempt)
Medicines/ Pharmaceutical Products	Yes	Yes			No (50% exempt, 50% zero-rate)
Supply of a going concern		Yes			Yes
Petroleum products	Yes	Yes			No (40% exempt and 40% zero-rate)

Current VAT Treatment of goods and services listed under the Transitional List

	Zero Rated Product	Angola	Botswana	DRC	Lesotho	Madagascar	Malawi	Mauritius	Mozambique	Namibia	Seychelles	South Africa	Swaziland	Tanzania	Zambia	Zimbabwe					
1	Exports of goods and services		Yes		Yes		Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes					
2	Basic Food Stuff																				
	a. Bread		Yes for brown bread		Yes		No (Exempt)	No (Exempt)		Yes		Yes only brown, (white standard rate)	Yes, only brown	No (Exempt)	Yes	Yes					
	b. Grains (Maize, Sorghum, millet, rice, mahango,wheat)		Yes		Yes for maize, Sorghum and wheat		No (Exempt)	Yes		Yes, only for maize and mahango		Yes, only for maize and rice, (otherwise standard rate)	Yes for maize and rice	No (Exempt)	Yes for wheat	No (Exempt)					
	c. Maize meal (Maize flour) and Sorghum Meal, mahango		Yes		Yes		No (Standard rate)	No (Standard rate)		Yes, only for maize , mahango and wheat flour		Yes, only for maize meal,(otherwise standard rate)	Yes	No (Exempt)	No (Exempt)	No (Exempt)					
	d. Wheat / bread Flour		Yes		Yes		No (Exempt)	Yes		Yes		Yes	No (Standard rate)	No (Exempt)	Yes	No (Exempt)					
	e. Fresh Milk		Yes		Yes		No (Exempt)	Yes		Yes		Yes	Yes	No (Exempt)	No (Exempt)	No (Exempt)					
	f. Eggs		No (Standard rate)		Yes		No (Exempt)	Yes		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	No (Exempt)					
	g. Samp		Yes		Yes		No (Standard rate)	No (Standard rate)		Yes		Yes	Yes	No (Exempt)	No (Exempt)	No (Exempt)					
	h. Fresh Fruits and Vegetables		Yes		No (Standard rate)		No (Standard rate)	No (Exempt)		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	No (Exempt)					
	j. Edible Legumes (beans, groundnuts, lentils, peas)		Yes but not for Gnuts		Yes, except for Gnuts		No (Standard rate)	No (Exempt)		Yes for beans and lentils		Yes	Yes for beans	No (Exempt)	No (Exempt)	No (Exempt)					
3	Agricultural Inputs																				
	a. Fertilisers		Yes		Yes		Yes	Yes		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	Yes					
	b. Seeds		No (Standard rate)		Yes		No (Exempt)	No (Exempt)		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	Yes					
	c. Herbicides, Pesticides/insecticides for agricultural purposes.		Yes		Yes		Yes	No (Exempt)		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	Yes					
	d. Animal feeds		No (Standard rate)		Yes		No (Standard rate)	Yes		No (Standard rate)	Yes	Yes	Yes	No (Exempt)	No (Exempt)	Yes					
	e. Animal remedy		No (Standard rate)		No (Standard rate)		No (Standard rate)	No (Exempt)		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	Yes					
4	Piped Water supplied for domestic use		Yes up to 5000 litres		No (Exempt)		No (Exempt)	Yes		Yes		No (Standard rate)	No (Exempt)	No (Exempt)	No (Exempt)	No (Exempt)					
5	Medicines/ Pharmaceutical Products		No(Exempt)		No (Exempt)		Yes	Yes		No (Exempt)		No (Standard rate)	Yes	No (Exempt)	Yes	Yes					
6	Supply of a “going concern” between taxable persons (alleviate financial burden on the business where the VAT gain to the fiscus is nil)		Yes		Yes		Yes	No (Standard rate)		Yes	Yes	Yes	No (Exempt)	No (Standard rate)	No (Standard rate)	Yes					
7	Petroleum products (Petrol, diesel, Paraffin)		Yes		No, (standard rate) except for paraffin		No (Exempt)	No,(Standard rate) except for kerosene		Yes	Yes	Yes	Yes for paraffin	No (Exempt)	No (exempt for paraffin)	No(Exempt)					
	Number other Zero rated Products			2		1		14		34		10		12		1	0		5		13

Original list

Zero Rated Product	Angola	Botswana	DRC	Lesotho	Madagascar	Malawi	Mauritius	Mozambique	Namibia	Seychelles	South Africa	Swaziland	Tanzania	Zambia	Zimbabwe
1 Exports of goods and services		Yes		Yes		Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes
2 Basic Food Stuff															
a. Bread		Yes for brown bread		Yes		No (Exempt)	No (Exempt)		Yes		Yes only brown, (white standard rate)	Yes, only brown	No (Exempt)	Yes	Yes
b. Grains (Maize, Sorghum, millet, rice, mahango,wheat)		Yes		Yes for maize, Sorghum and wheat		No (Exempt)	Yes		Yes, only for maize and mahango		Yes, only for maize and rice, (otherwise standard rate)	Yes for maize and rice	No (Exempt)	Yes for wheat	No (Exempt)
c. Maize meal (Maize flour) and Sorghum Meal, mahango		Yes		Yes		No (Standard rate)	No (Standard rate)		Yes, only for maize , mahango and wheat flour		Yes, only for maize meal,(otherwise standard rate)	Yes	No (Exempt)	No (Exempt)	No (Exempt)
d. Wheat / bread Flour		Yes		Yes		No (Exempt)	Yes		Yes		Yes	No (Standard rate)	No (Exempt)	Yes	No (Exempt)
e. Fresh Milk		Yes		Yes		No (Exempt)	Yes		Yes		Yes	Yes	No (Exempt)	No (Exempt)	No (Exempt)
f. Eggs		No (Standard rate)		Yes		No (Exempt)	Yes		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	No (Exempt)
g. Samp		Yes		Yes		No (Standard rate)	No (Standard rate)		Yes		Yes	Yes	No (Exempt)	No (Exempt)	No (Exempt)
h. Fresh Fruits and Vegetables		Yes		No (Standard rate)		No (Standard rate)	No (Exempt)		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	No (Exempt)
i. Cooking oil		No (Standard rate)		No (Standard rate)		No (Standard rate)	Yes		Yes		Yes, including coconut oil(standard rate olive oil)	Yes	No (Exempt)	No (Standard rate)	Yes
j. Edible Legumes (beans, groundnuts, lentils, peas)		Yes but not for Gnuts		Yes, except for Gnuts		No (Standard rate)	No (Exempt)		Yes for beans and lentils		Yes	Yes for beans	No (Exempt)	No (Exempt)	No (Exempt)
3 Agricultural Inputs															
a. Fertilisers		Yes		Yes		Yes	Yes		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	Yes
b. Seeds		No (Standard rate)		Yes		No (Exempt)	No (Exempt)		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	Yes
c. Herbicides, Pesticides/insecticides for agricultural purposes.		Yes		Yes		Yes	No (Exempt)		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	Yes
d. Animal feeds		No (Standard rate)		Yes		No (Standard rate)	Yes		No (Standard rate)	Yes	Yes	Yes	No (Exempt)	No (Exempt)	Yes
e. Animal remedy		No (Standard rate)		No (Standard rate)		No (Standard rate)	No (Exempt)		No (Standard rate)		Yes	Yes	No (Exempt)	No (Exempt)	Yes
Piped Water supplied for domestic use		Yes up to 5000 litres		No (Exempt)		No (Exempt)	Yes		Yes		No (Standard rate)	No (Exempt)	No (Exempt)	No (Exempt)	No (Exempt)
Medicines/ Pharmaceutical Products		No(Exempt)		No (Exempt)		Yes	Yes		No (Exempt)		No (Standard rate)	Yes	No (Exempt)	Yes	Yes
Supply of a “going concern” between taxable persons (alleviate financial burden on the business where the VAT gain to the fiscus is nil)		Yes		Yes		Yes	No (Standard rate)		Yes	Yes	Yes	No (Exempt)	No (Standard rate)	No (Standard rate)	Yes
Petroleum products (Petrol, diesel, Paraffin)		Yes		No, (standard rate) except for paraffin		No (Exempt)	No,(Standard rate) except for kerosene		Yes	Yes	Yes	Yes for paraffin	No (Exempt)	No (exempt for paraffin)	No(Exempt)
Number other Zero rated Products		2		1		14	34		10		12	1	0	5	13

APPENDIX 3 - MINIMUM EXEMPTION LISTS

OVERARCHING PRINCIPLES FOR DETERMINING THE LIST OF EXEMPTIONS

1. In a perfect VAT system there would be no exemptions or zero-rated items other than zero-rating of exports and all supplies would be subject to VAT at the standard rate. exemptions (and zero-rating) are nonetheless introduced for a number of reasons, summarised in four major categories:
 - (a) difficult to tax;
 - (b) difficult to administer;
 - (c) social consideration; and
 - (d) political consideration.
2. The introduction of exemptions often results in the cascading of VAT which creates distortions in the tax system. The cascading effect is amplified when exemptions are introduced in the early stages of the supply chain as every subsequent supply would include the hidden VAT in its cost. Production decisions are often impacted and as a result, businesses may opt to self-supply or in-source to reduce the VAT cost that would arise from outsourcing and incurring irrecoverable VAT. Such distortions are an anathema in respect of a VAT regime that is designed to be a tax on consumption that is economically neutral on the supply chain.
3. It is often perceived that by exempting a supply or item it would be free of VAT and consequently cheaper to the consumer. However, the implication of classifying a supply as exempt is that the supplier may not charge VAT on the supply of goods or services and is prohibited from deducting any input tax relating to the acquisition and supply. This leads to non-claimable (non-deductible) input tax being embedded in the value of the supply and this trapped or hidden VAT then forms part of the cost. As such it should be noted that VAT exemptions do not signify the absence of taxation as the supplier will now charge a price with a cost structure inclusive of some VAT when supplying the goods or services to the consumer. This is illustrated by the fact that in Australia such supplies are described as “input taxed”.
4. Businesses that make both taxable and exempt supplies (partially exempt suppliers) face complexities both in establishing what supplies should be taxed or exempted and also what input tax they may deduct/claim (offset against output tax) in respect of those supplies. The principle they are to apply is that full input tax may be deducted where it relates to a taxable supply and no input tax may be deducted/claimed where it relates to an exempt supply. Challenges arise where inputs relate to both exempt and taxable supplies e.g. accountancy costs that relate to the entirety of business

activities. In these instances, methods need to be found that satisfactorily apportion the input tax so that a fair credit is given in respect of taxable supplies. A simple example would be that if half the supplies made by a business are taxable and half exempt, accountancy costs may be apportioned by 50% in respect of input tax.

5. This complexity means that partially exempt suppliers often incur additional costs for consulting in order to obtain assistance in determining apportionment ratios, attributing expenditure and classifying supplies, especially in respect of complex business structures or accounting systems.
6. Some of these aspects are dealt with in the Commentary to the Guidelines under Guideline 4. And we briefly consider these categories in relation to exemptions prevalent in the SADC region.
 - (a) **Difficult to tax** - Where it is difficult to determine the value added or assess the tax base upon which to apply the tax, which therefore makes it hard to tax e.g. long-term insurance and banking services.
 - (a) **Difficult to administer** - Where there is lack of a clear audit trail in some industries e.g. cash businesses such as gambling and taxis.
 - (a) **Social consideration** - A social consideration for introducing exemptions includes attempts to address income distribution or pursuits of distributional objectives e.g. agricultural, fuel, educational and health exemptions and the view that certain supplies are in themselves eligible for exemption i.e. meritorious supplies such as postal services, funeral services, infant food etc.
 - (b) The objective is usually to either:
 - promote growth in a certain industry or sector that is in effect adapting the VAT regime to provide a tax incentive; or
 - assist consumers by reducing the tax burden especially on supplies consumed by the poor to offset the perceived regressivity of VAT that is in effect adapting the VAT regime to provide social support.
 - (c) It should also be noted that many such “social exemptions” are politically driven e.g. to make the tax acceptable to the public or take account of public opinion.
 - (a) **Political consideration** - These fall into two broad categories, exemptions in line with international agreements or practices and exemptions motivated by internal political factors – expanded as follows:
 - Donor funded projects and diplomatic missions are common examples of political exemptions imposed to align with international agreements between countries. These projects are normally a form of economic or social assistance

and the rationale for exemption from VAT (and other taxes) is that all the donated funds should be applied to the project and not be subjected to tax in the recipient country.

- Politically motivated exemptions commonly arise from the activities of lobby groups who persuade government to make tax concessions for whatever reason. In some Member States such exemptions are granted contrary to the core principles for granting exemptions and consequently provide a tax benefit to specific groups sectors or businesses within society, thereby distorting the tax regime in its aim of being a broad based consumption tax that is neutral on the supply chain.

DEVELOPING MINIMUM LISTS

1. An analysis of the lists of exempt supplies in the SADC region (from data provided in questionnaires by the Member States in early 2016) by the Task Team revealed a total of 42 items.
2. Recognising the challenges of reducing exemption and especially for those Member States that have extensive exempt supplies, it was proposed that rather than developing a single minimum list, (that would be very short) rather produce two lists:
 - (a) a maximum “transitional list” of exempt items which should be politically acceptable in the region and provide a realistic goal for Member States in the short term; and an
 - (b) “ideal” minimum list which all Member States should strive for in the longer term.
3. Certainly no Member State that is currently at or above the items in the transitional list should further increase exemptions.
4. In reducing the lists of exempted items it is recognised that two main factors are at play: those that are difficult to tax/administer and those that are political/social. These are each considered as follows: -
 - (a) **Reducing the number of exemptions that are difficult to tax/administer** will require a willingness to invest in the capacity to enable taxation as well as a careful analysis of the context of each Member State to decide if the item is worth taxing. For example, taxing financial services may require investment in additional technical and infrastructure capacity and each Member State will need to balance the likely revenue gain against the cost (*both to business and revenue administration*) and the effort of collection in the light of other priorities. That said, as technology improves something that was hard to tax ten years ago may now not be – so periodic re-evaluation is also required. It may also be that even though capacity issues are manageable, the additional revenue gain balanced against the cost and effort of implementation may not justify a change – for

example if a country has a very small gambling industry adapting the VAT regime to tax it may not be efficient compared to simpler taxation e.g. through an excise.

- (b) **Reducing social or political exemptions** is more a clearer cut (but not necessarily easy) decision. The Guidelines and Commentary make it clear that using the VAT regime as tax incentives or subsidies is inefficient, distortionary and bad practice. Public opinion and lobbying, especially around perceived impacts on the poor are however important political realities for regional leaders and a long term approach might include offering alternative tangible benefits, such as direct targeted social support as a trade-off against taxation of goods consumed by the poor.
- (c) In considering the items to be included in the lists, the following items were considered and removed as discussed below:
- Water and electricity should be taxable, ideally at the standard rate although some Member States apply a lower positive rate as an alternative. The supply to each household is measurable and can better be subsidised by other means such as supplying a portion free. This will result in water boards, electricity suppliers and municipalities being able to deduct the input tax on their expenditure, which will encourage large capital investment and offset the cost of supply.
 - Live animals for foodstuffs should be taxable at the standard rate. They are often exempted as a consequence of the treatment of meat which is either zero-rated or exempt. If these were zero-rated there would be substantial administrative costs including refunds. The concern raised was that the poorest of the poor, especially those in rural areas would face increased costs of acquiring these items as a result of standard rating. It was highlighted however that the supply of meat would only be taxed when supplied by a supplier (registered/taxable person) i.e. large butchers or supermarkets that the poor do not frequent, as the sale thereof by anyone else e.g. street vendors or subsistence farmers, will be outside the scope of VAT. The supply of both live animals and meat should therefore be taxed at the standard rate.
 - Basic foodstuffs should be taxable at either the standard or zero-rate and as such is dealt with in the annexure relating to zero-rated supplies.
 - Government grants are ideally treated as outside the scope of VAT as they are not generally provided by way of business/enterprise i.e. although there is a transfer of monies, there is not corresponding supply of services (there is consideration but no supply). However, this topic needs special consideration as it is possible they may be considered as exempt supplies or even taxable (e.g. in South Africa and Namibia).
 - If a supplier who makes taxable supplies receives a government grant which is classified as exempt income (an exempt output) the supplies made would contain a VAT cost due to un-claimable input tax which would increase the cost

of making the required supplies. As a result, the funding required to give effect to the purpose of the grant would need to be increased. This is because the effect on the supplier is that, as a result of the exempt income, the suppliers is required to apportion expenditure which results in an increase in its overhead costs and consequently supplies made to customers and government.

- An option is that such grant income be considered as a zero-rated supply, as this would allow the supplier to deduct input tax in the course of applying the grant and not have an adverse effect on the taxable status of the supplier. It should be noted, however, that where a supplier provides services to government these should be subject to VAT at the standard rate.
- Petroleum products are zero-rated in the SACU region but exempt in other Member States such as Malawi and Zimbabwe, while Zambia standard rates these supplies. As the preponderance of treatment is taxable (either zero or standard rated), this item is discussed in the annexure relating to zero-rated supplies.



Transitional minimum list of exempt items

	Item	Difficult to		Reasons		Common in most Member States
		tax	administer	Social	Political	
1.	Financial services	✓				✓
2.	Transport of fare-paying passengers by road or rail		✓	✓		✓
3.	Educational services and materials			✓		✓
4.	Supply of accommodation in a dwelling under a contract of letting or hiring			✓		✓
5.	Medical services			✓		✓
6.	Medical (prescription drugs, goods incidental to medical services)			✓		✓
7.	Funeral services			✓		✓
8.	Gambling/short term insurance	✓	✓			✓
9.	Supplies by unions/employee organisations of services for which consideration is in the form of membership fees				✓	✓
10.	Supplies political parties of services for which consideration is in the form of membership fees				✓	✓
11.	Agricultural – implements and foreign produce to promote local supplies and farming			✓	✓	✓
12.	Supply by associations not for gain of donated goods or goods manufactured using donated goods			✓		✓
13.	Postal services (State owned)			✓	✓	x



DEVELOPMENT OF AN IDEAL MINIMUM LIST

1. **Items to be excluded** - This part considers items that were included in the transitional minimum list which have been excluded from the ideal minimum list. After due consideration, it was found that many of the exemptions on the transitional list are not effective in achieving their desired objectives (in most cases a subsidy to the consumer) and in fact could result in a greater cost to the consumer.

- (a) **Medical services and supplies** (items 5 and 6) - The supply of services by government to the public is generally excluded from the definition of business/enterprise (business or commercial activity). Government entities supplying these services are generally known as public authorities. All the public authorities which do not directly compete with the private sector are then included in a list for exclusion from VAT. **Public hospitals** should form part of this list as there is no link between the amounts paid by patients and the value of the supply of the services. Listing this exemption creates the impression that the same supplies are being treated differently based on whether the State or private entities are making the supply when in fact the supplies by the State are not in the realm of business activity/enterprise and therefore does not need to be specifically excluded by means of an exemption. Consider the supply of medical supplies and private medical services to be taxable at the standard rate and government can utilize funds to subsidise Government supplied medical services.
- (b) **Funeral services** (item 7) - It is acknowledged that funeral services are generally exempted for social reasons, as especially in rural regions and high density areas (areas populated by the poor and needy), the cost is borne by the community. As such the coffin alone should be exempt and all the other associated services should be taxable e.g. Hearse, wreaths, funeral parlour services.
- (c) **Gambling and short term insurance** (Item 8) are often exempted on the premise that they are difficult to tax as jurisdictions that have taxed them have generally done so by applying systems outside the normal rules and practices as they are difficult to tax using the normal rules. In these instances, all bets placed are deemed to include output tax, whereas pay-outs in the specified period are deemed to be inclusive of input tax

Total premiums received/bets placed	= 1000X10/110	90.91
Total pay-outs/winning bets	= 700X10/110	63.64
VAT liability		27.27

In gambling it is impractical to issue tax invoices to consumers for each transaction and consequently tax invoices are not issued by or to consumers.



Output tax is calculated by adding the sum of betting slips issued, which are used as source documents instead of tax invoices.

Although it may be practicable to issue tax invoices for short term insurance premiums, indemnity pay-outs are often complex in that they may be in cash or in terms of repaired items or compensation and may be impacted by excesses, no claims bonuses, partial or full recovery and or sale of damaged or recovered items, compensation for injury etc. and it is impractical to issue or receive tax invoices with regard to indemnity settlements. Jurisdictions which tax indemnity payments effectively do so on a payments basis and only tax cash payments. No output tax liability arises in the hands when repairs are effected or when assets are replaced

- (d) **Agricultural** (Item 11) – implements and foreign produce to promote local supplies and farming should be standard/zero-rated. Farming should rather be subsidized by way of targeted subsidies. The practice of exempting supplies of the implements could result in a higher cost to farmers.

E.G. A farmer acquires earth moving equipment from a dealer who has acquired it as part of his business for 1 000 000 and VAT at 14% of 140 000. The dealer has to reverse the input tax when supplying to the farmer and will as a result charge him the mark up of 10% on his full cost of 1 140 000 resulting in a total cost of 1 254 000 which will feed directly into the cost of the goods supplied by the farmer.

If the farmer was VAT registered, he would have acquired the machine at a cost of 1 100 000 as the dealer would have charged him a 10% mark up on the 1 000 000 and the farmer would have deducted the input tax on the supply.

- (e) **Post Office services** (item 14) - Because of the array of services offered by the Post Office which are in competition with the private sector it does not make sense for postal services to be exempt. This creates an unfair competitive advantage for the Post Office. Perhaps specific supplies made by the Post Office could be classified as exempt e.g. Stamps.

2. **Items to be included** - the following lists the items that should be included in the ideal minimum list (with explanation):

- (a) **Financial Services** (including long term insurance, banking services, Provision of credit, supply of shares/members interest/stock/bonds) supply of a debt security.) The supply of financial services is listed as an exempt supply as it is difficult to determine the value added in relation to these supplies. However, most jurisdictions have introduced legislation to tax identifiable



elements of these services to the extent that there is a fee charged (whether in the form of an actual charge for the service or a commission).

- (b) **Transport of fare-paying passengers** – the supply by a person in the course of a transport business of passengers by road, rail or, if applicable, ferries is ordinarily exempt in the region. The value added on the majority of these supplies can be determined and as such consideration was given whether to remove especially rail and ferries from the exempt list. However, in light of the fact that the suppliers are public authorities it would result in a circular flow of funds and the transition of these entities to taxable could result in a fiscal cost due to change in use adjustments. In RSA municipalities were prohibited from claiming such deductions for assets acquired prior to the promulgation date when property rates were changed from exempt to taxable. However, in light of the fact that these entities are heavily subsidized by government it is recommended that the item remains exempt.
- (c) **Fees in educational establishments for teaching and incidental services** are exempt. Educational services are defined as education and hostel facilities (the supply of board and/or lodging) provided to students and scholars by pre-primary, primary, secondary schools, tertiary colleges and universities. The definition further includes intra-curricular and extra-curricular activities provided by these institutions.

Consideration was given to removing **private schools** from the exemption list due to the profit driven nature of these entities. However, it was agreed that we could not differentiate between entities making the same supplies as the exemption relates to the supply not the entity. To give effect to such a change in legislation would require us to remove public schools from the definition of business activity/enterprise. It is recommended that the supply of education by pre-primary, primary, secondary schools, tertiary colleges remains exempt.

There were further discussions about whether Universities should be removed from this exemption. Universities have changed their strategies and are now focused on increasing funding derived from research and development as well as consulting with industries. The increase in these activities has resulted in more business activity/enterprise related expenditure and an overlap between the supply of these activities and the supply of the educational services. As such consideration must be given to making the supply of education by universities taxable. It is doubted that there would be resistance from the sector but resistance would come from the student population. As such it is recommended the universities remain exempt in the interim with the view to standard rate these supplies in the near future.



- (d) **The provision of accommodation under a contract of rental or lease in a dwelling** (any building, premises, structure or place used predominantly as a place of residence or boarding for any natural person or which is intended for use as a place of residence) is exempt.
- (e) **The supply of services by trade unions/employee organisations** to the extent services are borne out of membership fees should remain exempt.
- (f) **Supply by associations not for gain of donated goods or goods manufactured using donated goods** should remain exempt. Taxing these supplies would result in the association not for gain having to charge VAT on supplies generally made to non-suppliers increasing the cost while the output tax would not be reduced by an input tax deduction. This results in the association not for gain having reduced funds to achieve its objectives.

MINIMUM (IDEAL) LIST OF EXEMPT ITEMS

Item		Difficult to		Reasons		Common in most Member States
		tax	administer	Social	Political	
1.	Financial services Long term insurance Banking services Provision of credit supply of shares/members interest/stock/bonds supply of a debt security	✓				✓
2.	Transport of fare-paying passengers by road or rail	✓	✓	✓		✓
3.	Educational services and materials			✓		✓
4.	Supply of accommodation in a dwelling under a contract of letting or hiring			✓		✓
5.	Supplies by trade unions /employee organisations when consideration is in the form of membership fees				✓	✓
6.	Supply by associations not for gain of donated goods or goods manufactured using donated goods			✓		x

NOTES - LIST OF EXEMPT ORGANISATIONS / PEOPLE / BODIES

1. The following organisations are exempt from VAT as a result of international treaties or VAT legislation. The supplies made to these organisations are subject to normal VAT rules but effect is given to the exemption through the refund mechanisms existing in the Member State.
 - Diplomatic missions
 - Foreign donor funded projects
 - President / King
2. There is no reason for supplies made to the president / king to be exempt from VAT. The majority of expenses incurred will be incurred by the State. All other supplies made to State institutions such as public authorities are subject to normal VAT rules and these supplies should be no different.

NOTES - OUT OF SCOPE SUPPLIES

1. Out of scope supplies, being supplies that fall out of the scope of the VAT legislation, essentially mirror the effect of exempt supplies. These supplies bear embedded input tax in the same manner as exempt supplies as the law in SADC Member States only allows input tax to the extent that the expense is incurred directly in the course of making taxable supplies.
2. The following represent common examples of out of scope supplies:
 - (a) Business activity/enterprises that do not meet the compulsory registration threshold.
 - (b) Business activity/enterprises or persons specifically excluded by legislation. Examples of these are public authorities.
 - (c) Business activity/enterprises excluded from the definition of business activity/enterprise due to a narrow definition or judicial interpretation of business activity/enterprise.
3. It is important to note that these supplies are not consciously “untaxed” for the purposes of providing relief.
4. We have to acknowledge that out of scope supplies will vary from one country to another and this will not be universally applied in SADC Member States.
5. Some examples of out of scope supplies include:
 - (a) Donations/gifts
 - (b) Damages paid outside of a contract of insurance
 - (c) Supplies that are not part of normal business such as income from leisure activities or hobbies

- (d) statutory fees and services, charges, tolls, welfare services.
 - (e) Cash grants paid by government
 - (f) Supplies of goods or services specifically excluded from the definition of business activity/enterprise (as defined in each Member State)
 - (g) Cancellation charges
 - (h) Refundable deposits other than deposits on returnable containers
 - (i) Fines and penalties
 - (j) Services by employee to employer
6. Examples of out of scope entities include:
- (a) Bodies specifically excluded from registering such as Public sector bodies (public authorities)
 - (b) SMMEs which do not meet the registration threshold
 - (c) Non-business entities such as churches