

SADC GHS POLICY

Title page

United Nations Globally Harmonised System of Classification and Labelling of Chemicals (GHS)

Aim: One chemical, one label – worldwide

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Definitions

GHS	Globally Harmonized System for the Classification and Labelling of Chemicals
GRP	Good Regulatory Practice
ILO	International Labour Organization
IOMC	Inter-organization Programme for the Sound Management of Chemicals
OECD	Organization for Economic Cooperation and Development
RIA	Regulatory Impact Assessment
SADC	Southern African Development Community
SADCSTAN	SADC Cooperation in Standardization Committee
SADCTRLC	SADC Technical Regulations Liaison Committee
SDS	Safety Data Sheet
SQAM	Standardization, Quality assurance, Accreditation and Metrology
SQAMEG	SQAM Expert Group
TBT	Technical Barriers to Trade
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNECE	United Nations Economic Commission for Europe
UNSCEGHS	United Nations Economic and Social Council's Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals
UNSCETDG	United Nations Economic and Social Council's Sub-Committee of Experts on the Transport of Dangerous Goods
WSSD	World Summit for Sustainable Development
WTO	World Trade Organization

Executive Summary

An economic space, where goods, services, capital and labour can circulate freely, provides a foundation for prosperity in integrated markets. Finding it necessary to remove all barriers to free circulation of goods, Regional Economic Communities (RECs) have thus set about to reduce tariff and non-tariff measures between their member countries or economic jurisdictions. Typical non - tariff barriers to trade include non-harmonised standards, technical regulations and conformity assessment methods. Technical regulations in particular, can be major sources of trade barriers when countries enforce differing restrictive requirements on traded products.

In this document the background to the chemicals industry in the SADC region is analysed with a view to proposing a harmonised approach to the classification and labelling of chemicals within the region. Against this background, the possibility to adopt and apply an international guide for the classification and labelling of chemicals developed by the United Nations within the SADC region is evaluated and proposals for the way forward presented. The advantages and potential challenges for doing this are highlighted.

It is concluded that the Global Harmonised System for the Classification and Labelling of Chemicals is a solution to the challenges currently affecting the region in terms of the trade of chemical products as well as ensuring occupational health and safety in regional work environments. It is foreseen that the implementation of the proposed regulation in SADC would be in two phases: first the policy proposal should be formatted for presentation to SADC for Ministerial approval. This will then be followed by a technical implementation phase where the GHS elements are incorporated into national legislations in as harmonised a way as possible. In this regard the national representatives in the SADCTRLC will have a strong role to play. Lessons can be learnt from the four SADC Member States who have already started to implement GHS based regulations for chemicals management in their countries.

The roll out of the proposed GHS based technical regulations would support the aims of the Technical Barriers to Trade (TBT) Annex to the SADC Protocol on Trade which calls for the harmonisation of standards and technical regulations in the region to support trade.

The successful implementation of the GHS guidelines regionally will serve as an important test case for broader regional cooperation in the area of technical regulations in SADC; an important activity with respect to trade facilitation.

1 Introduction

Chemicals are beneficially used in many spheres of life. Alongside their benefits however, chemicals have the potential to adversely affect people, animals, plants and the environment if they are not handled properly during transportation, use and disposal. To minimise unintended effects of chemicals on life and the environment, many countries and organisations have over the years developed standards and/or regulations giving guidance on the correct handling of chemical products. In many cases, differences among these national standards have caused confusion for companies that market chemical products globally. It has been noted that whilst chemicals regulations may be similar in some respects, different countries do at times produce different regulations for the same chemicals such that a chemical may be considered as carcinogenic or flammable in one country but not so in another country. Decisions on when or how to communicate hazards on a product label or safety data sheet thus vary around the world and companies wishing to be involved in international trade must invest substantially in tracking the changes in these laws and regulations in various countries and prepare different labels and safety data sheets accordingly. In addition, many countries have no system at all.

The chemical sector is a large industry that operates in nearly every country in the world. It produces products that are used in everyday life and can be found in clothes, food, houses, transport, agriculture, medical and communication products. It employs over 10 million people globally and generates US\$ 1.7 trillion worth of global annual production. It is projected that world chemical production will increase by 63 % in real terms between 1996 and 2010; with a shift in production and use of the chemicals to non-OECD developing countries. This shift will increasingly place the burden of chemicals management on these developing countries.

Noting the reality of extensive global trade in chemicals, and the need to develop national and regional programmes to ensure their safe use, transport and disposal; it was recognised that an internationally harmonised approach to the classification and labelling of chemicals would greatly simplify their management. Once countries have consistent and appropriate information on the chemicals they import or produce in their own territories, the infrastructure to control chemical exposures and protect life and the environment can be established in a comprehensive and predictable manner.

2 Background and History of the UN Globally Harmonized System of Classification and Labelling of Chemicals (GHS)

2.1 Background to GHS System

"Globally Harmonized System of Classification and Labelling of Chemicals (GHS)" is a system created by the United Nations (UN) to address the classification of chemicals by types of hazard and to harmonize hazard communication elements, including labels and safety data sheets. Under GHS, it is anticipated that all chemicals will be uniformly classified, with a single system of hazard warning signs and statements used for Safety Data Sheets (SDS), product and shipping labels. This way information on physical hazards and toxicity from chemicals will be readily available in order to enhance the protection of human health and the environment during handling, transport and use of the chemicals. GHS also aims at providing a basis for harmonization of rules and regulations on chemicals at national, regional and worldwide level, an important factor for trade facilitation.

As an international agreement GHS is non-legally binding in the member countries of United Nations but many countries and regions have published their own regulations or standards to implement GHS. For example, the GHS criteria were introduced into Europe via the Regulation (EC) No 1272/2008 on the Classification, Labelling and Packaging of substances and mixtures also known as the CLP Regulation. The CLP Regulation was published in the European Union's official journal on 31 December 2008 and entered into legal effect on 20 January 2009 subject to a lengthy transitional period extending up to 1 June 2015 when its provisions will be gradually phased in. This is intended to help suppliers and users of chemicals to change from the old EU classification and labelling system to the new GHS based system. The new GHS Regulation replaces the Dangerous Substances Directive (67/548/EEC) and the Dangerous Preparations Directive (1999/45/EC).

2.2 *Historical development of the GHS*

Harmonization of classification and labelling of substances has been used by the transport sector for physical hazards and acute toxicity for many years but the requirements were often not harmonized with those of other sectors e.g. workplace and consumer sectors in many countries. In 1992, an international mandate to develop a globally harmonised system for hazard classification and labelling was adopted at the UN Conference on Environment and Development (UNCED) as reflected in Agenda 21, paragraph 19.27:

"A globally harmonised hazard classification and compatible labelling system, including material safety data sheets and easily understandable symbols, should be available, if feasible, by year 2000".

The work was coordinated and managed under the auspices of the Inter-organization Programme for the Sound Management of Chemicals (IOMC) Coordinating group for the Harmonization of Chemical Classification Systems (CG/HCCS). The technical focal points for completing the work were the International Labour Organization (ILO); the Organization for Economic Cooperation

and Development (OECD); and the United Nations Economic and Social Council's Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCETDG).

After 2001, the work was transmitted by the IOMC to the new United Nations Economic and Social Council's Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS). The UNSCEGHS is responsible for maintaining the GHS and promoting its implementation. The secretariat services are provided by the Transport Division of the United Nations Economic Commission for Europe (UNECE).

At its meeting in Johannesburg in September 2002 the World Summit on Sustainable Development (WSSD) encouraged countries to implement the GHS as quickly as possible with a view to having the system fully operational by 2008. Subsequently, the United Nations Economic and Social Council invited Governments to take the necessary steps through appropriate national procedures and/or legislation to implement the GHS as recommended by the WSSD. Countries were requested to amend their respective legal instruments addressing transport safety, workplace safety, consumer protection or the protection of the environment so as to give effect to the GHS through such instruments.

The first edition of the Globally Harmonised GHS, which was intended to serve as the initial basis for the global implementation of the system, was approved by the Committee of Experts at its first session (11-13 December 2002) and was published in 2003. The first revised edition of the GHS (GHS Rev.1) was published in 2005 and included the amendments to the first edition adopted by the Committee of Experts at its second session (10 December 2004). At its third session (14 December 2006), the Committee of Experts adopted a set of amendments to the first revised edition of the GHS, which are included in the second revised edition of the GHS (published in July 2007).

At its fourth session (12 December 2008), the Committee of Experts adopted a set of amendments to the second revised edition of the GHS, which were consolidated in document ST/SG/AC.10/36/Add.3. The third revised edition of the GHS (published in July 2009) takes into account all these amendments which concern, inter alia: new provisions for the allocation of hazard statements and for the labelling of small packagings; two new sub-categories for respiratory and skin sensitization; the revision of the classification criteria for long-term hazards (chronic toxicity) to the aquatic environment; and a new hazard class for substances and mixtures hazardous to the ozone layer.

A fourth edition of the GHS has now been published and it contains a set of amendments to the third edition which were consolidated in document ST/SG/AC.10/38/Add.3. The fourth revised addition of the GHS takes into account new hazard categories for chemically unstable gases and non-flammable aerosols;

further rationalization of precautionary statements, and further clarification of some of the criteria to avoid differences in their interpretation.

The Committee of Experts used mainly the systems existing in Canada, the EU and the USA as the primary basis for GHS but also incorporated the best aspects of other countries systems to develop the final harmonised approach.

2.3 *How the GHS works*

The GHS itself is really not a regulation or a standard, rather a guide for countries to use as they develop national chemicals handling and use regulations. The GHS Document (referred to as “The Purple Book”) establishes agreed hazard classification and communication provisions with explanatory information on how to apply the system. The GHS aims at ensuring that information on physical hazards and toxicity from chemicals is available in order to enhance the protection of human health and the environment during the handling, transport and use of these chemicals. Target audiences for the GHS include the following:

- consumers;
- employers;
- workers using and handling chemicals in the workplace;
- workers in waste handling facilities;
- workers in the transport sector, and
- emergency responders.

The elements in the GHS provide a mechanism to meet the basic requirements of any hazard communication system, which is to decide if the chemical product produced and/or supplied is hazardous, and to prepare a label and/or Safety Data Sheet as appropriate. The GHS covers all hazardous chemicals. Classification in the GHS is criteria-based, not limiting coverage to a list that can become out-dated.

Regulatory authorities in countries adopting the GHS will thus take the agreed criteria and provisions, and implement them through their own regulatory process and procedures rather than simply incorporating the text of the GHS into their national requirements. The GHS also contains context and guidance for regulators and those in industry who will ultimately be implementing the requirements which have been adopted.

The GHS Document provides countries with the regulatory building blocks to develop or modify existing national programs that address classification of hazards and transmittal of information about those hazards and associated protective measures. This helps to ensure the safe handling and use of chemicals as they move through their product life cycle from “cradle to the grave.”

New criteria for categorisation will require companies to reassess virtually all of their products, ingredients, and impurities to ensure they are accurately classified and labelled. Companies will be required to revise their product SDS's to the new global

format, and will change their supply labels accordingly depending on the implementation timelines in each country. Some products that do not currently carry hazard warnings will require labelling under GHS.

3 SADC Strategic Context for GHS Implementation

3.1 Situation Analysis

The Declaration and Treaty establishing the Southern African Development Community (SADC) has as a central objective “the achievement of development and economic growth and enhancement of the standard and quality of life of the people of Southern Africa”. The Treaty provides for the negotiation and conclusion of Protocols spelling out the objectives and scope of, and institutional mechanisms for cooperation and integration. One such Protocol is the SADC Protocol on Trade which seeks to facilitate liberalisation of intra-regional trade in goods and services and the establishment of a Free Trade Area in SADC as a means to achieve enhanced regional socio-economic development. The Technical Barriers to Trade (TBT) Annex to the SADC Protocol on Trade establishes a framework for the removal of technical impediments to the movement of goods and services in the region through harmonization of standards and technical regulations.

Technical regulations are legitimately passed by governments for the protection of plant, animal and human life or health, and for the protection of the environment; but they can become serious obstacles to trade if not harmonised. The TBT Annex to the SADC Protocol on Trade and the WTO TBT Agreement suggest that technical regulations be based on international standards as a means to minimising the likelihood of their becoming barriers to trade.

SADC has a robust Chemicals industry (see Table 1) and chemicals are important trade products in their own right. Governments in SADC however, would want to ensure that chemicals production, transportation, use and their disposal are done safely. Adoption of the GHS is one way to ensure that the industry is given the space to grow, but at the same time the health and safety fears associated with it, are addressed. The GHS can also be implemented in accordance with the harmonization principles outlined in the SADC TBT Annex to the SADC Protocol on Trade.

3.2 GHS Implementation in SADC Member States

GHS has been received with enthusiasm globally and more than 65 countries are either implementing the system or actively developing or revising legislation for its implementation. This includes 7 countries in Africa with 4 of these (Madagascar, Mauritius, South Africa Zambia) being SADC Member States. According to the UN however, Mauritius and South Africa are implementing their national systems based on the first edition of the GHS. Madagascar and Zambia are still in the legislation development phase.

3.3 *Benefits of Implementing GHS*

The basic goal of hazard communication is to ensure that employers, employees and the public are provided with adequate, practical, reliable and comprehensible information on the hazards of chemicals, so that they can take effective preventive and protective measures for their health and safety. Thus, implementation of effective hazard communication provides benefits for governments, companies, workers, and members of the public.

From a global perspective, it is anticipated that application of the GHS will:

- Enhance the protection of human health and the environment by providing an internationally comprehensible system,
- Provide a recognized framework to develop regulations for those countries without existing systems,
- Provide one set of criteria for classification to be used for legislation and down-stream users,
- Facilitate international trade in chemicals whose hazards have been identified on an international basis,
- Reduce the need for testing and evaluation against multiple classification systems.

Tangible benefits to governments are:

- Fewer chemical accidents and incidents resulting in lower health care costs,
- Improved protection of workers and the public from chemical hazards,
- Reduced costs and easier coordination of legislation, implementation and monitoring,
- Improved support for inter-ministerial and inter-agency coordination and cooperation,
- Avoiding duplication of effort in creating national systems,
- Reduction in the costs of enforcement,
- Improved communication on chemical issues, both domestically and internationally.

Benefits to companies include:

- A safer work environment and transport of chemicals, and improved relations with employees,

- An increase in efficiency and reduced costs from compliance with hazard communication regulations,
- Application of expert systems resulting in maximizing expert resources and minimizing labour and costs,
- Facilitation of electronic transmission systems with international scope,
- Expanded use of training programs on health and safety,
- Reduced costs due to fewer accidents and illnesses,
- Improved corporate image and credibility.

Benefits to workers and members of the public include:

- Improved safety for workers, consumers and others through consistent and simplified communications on chemical hazards and practices to follow for safe handling and use,
- Greater awareness of hazards, resulting in safer use of chemicals in the workplace and in the home.

3.4 SADC GHS Harmonized Text

A SADC harmonized text has been developed and distributed for publication in the Member States. The standard is based on the South African standard adoption of the GHS, SANS 10234:2008 Edition 1.1. With the standard in place and adopted by all Member States, the GHS can be implemented as a regulation subject to the administrative requirements being put in place – *to be further developed*.

4 Proposed Regional Approach to GHS Implementation in SADC

4.1 Rationale

The chemicals industry in SADC, like many others, is a robust industry that is growing, generating employment, and contributing to socio-economic development and poverty reduction within the region. Chemical products are also being traded between countries in SADC and this trade is expected to grow. It is however universally recognised that the chemicals industry has the potential to negatively impact, people, animals and the environment. It is therefore accepted that the industry needs to be regulated so that its benefits are enjoyed but not at the cost of damage to the environment and/or life. As in all regulation however, it is important to ensure that the prescribed health and safety interventions do not choke the industry's potential to thrive. Regulations are frequently also accompanied by high compliance costs and burdensome administrative formalities.

Good Regulatory Practice (GRP)^{ref} checks can be instituted to determine whether it is really necessary to regulate in any given situation. The following questions can assist in making the decision as to whether implementing GHS as a regional technical regulation is justified or not.

Question 1: Is the problem to be addressed by the regulation correctly defined?

Answer: We have seen in the foregoing that whilst chemicals are beneficial, there is the potential for negative health and safety impact in their use, transportation and disposal.

Question 2: Is Government action justified?

Answer: It is the responsibility of Governments to protect the environment, plant, animal and human life or health.

Question 3: Is there a legal basis for regulation?

Answer: The TBT Annex of the SADC Protocol on Trade establishes the basis of a regional technical regulation framework. Member States have signed up to the Protocol and hence the legal basis for the implementation of GHS in SADC exists.

Question 4: Is regulation the best form of Government action?

Answer: The issues at stake are too important to leave to market driven or voluntary interventions. Government driven intervention through regulation ensures compliance by stakeholders and protection of the environment and life.

Question 5: Do the benefits of regulation justify the costs?

Answer: The potential damage to the environment by chemicals can cost much more than the investment of regulation; especially considering that some chemicals have the potential to inflict permanent damage on the environment, humans and animals. Governments might however want to examine if there may be disproportionate effects of cost distribution among the affected stakeholders. For example, SMEs or certain regions may need to be given special considerations.

Question 6: Is the regulation clear, consistent, comprehensible and accessible to users?

Answer: The GHS is an international guide for the classification and labelling of chemicals that is already being applied in many countries throughout the world. SADC through a committee of experts has already developed a regional standard based on the GHS. Through national

standards bodies or contact points, the documentation can be readily available in every Member State.

Question 7: Have all interested parties had the opportunity to present their views?

Answer: This is a very important consideration. When the regional standard on GHS was developed, a team of regional experts was involved. It would be important however when the regulation is developed to ensure that wider consultation is instituted. This should be done internally within SADC and also externally in order to comply with WTO TBT Agreement requirements.

Question 8: How will compliance be achieved?

Answer: All SADC countries have government departments with a direct interest in GHS matters e.g. Occupational Health and Safety, Transport, Environment etc. Some countries already have regulatory structures dealing with these issues but perhaps not in a way fully compliant to the GHS guide. It should therefore not be too problematic to implement GHS at regional level.

It can be concluded therefore that the rationale for regional implementation of the GHS exists and the benefits to be accrued justify the costs of putting the system in place.

4.2 *Regulatory Impact Assessment*

Many countries have introduced the obligation to carry out a Regulatory Impact Assessment (RIA) for different kinds of regulations, especially for proposed technical regulations. In part such an exercise would address some of the questions raised in 4.1, but an RIA is ostensibly instituted to assess the impact of a proposed regulation with regard to its costs, benefits and adverse effects.

The RIA is a complex exercise and can be quite costly and time consuming. It would be recommended that for countries in SADC, efforts be made to access the RIA results of countries that have already done this with respect to the GHS and use these to formulate their own local implementation plans.

4.3 *Legal Framework*

It has already been pointed out that SADC is a legal entity and operates in terms of its Declaration and Treaty as well as several Protocols that are binding on Member States. The TBT Annex to the Protocol on Trade's objective is to *“establish a common technical regulation framework, whose objective is the identification, prevention and elimination of unnecessary TBTs amongst the Member States and between SADC and other Regional and International Trading Blocks through harmonized standards, technical regulations and conformity assessment procedures*

in order to facilitate and increase trade in goods and services.” This is the legal background against which common GHS technical regulations can be implemented in SADC.

4.4 Institutional Arrangements

The implementation of GHS in each SADC Member State will of necessity include several players. National Standards Bodies or contact points will be expected to play an important role in the adoption of the harmonised standard and its dissemination in their territories. They are also well placed to carry out the awareness creation functions that would enable stakeholders to familiarise with the technical document.

Business or professional associations whose membership includes the players in the chemical industry would be expected to assist in ensuring that their constituents are made aware of the GHS regulation and what steps they would need to take in their own specific area to comply with the regulation.

Government would have to establish the most cost effective way to actually enforce the regulation. In some countries it may be possible to extend the responsibilities of an existing regulator to also take care of GHS; in others there may be the need to establish a completely new regulator. Whatever the approach chosen, there will be need for close cooperation at the SADCTRLC level to ensure a harmonised approach so that trade is not disrupted.

4.5 Implementation framework

In SADC regional agreements can only take effect at national level once incorporated into domestic legislation. Implementation of agreed technical regulations is thus done in two stages: first agreement at regional level must be reached and this has been done. At their meeting held on 25 April 2009 in Gaborone, the SADCTRLC agreed to prioritise the development of a SADC technical regulation on the classification and labelling of chemicals and resolved to request SADCSTAN to start work on the harmonization of standards in the area of classification and labelling of chemicals. As part of the activities related to this, SADCTRLC established a working group; SADC GHS Expert Working Group; to develop a draft GHS policy proposal and a framework for a model regulation. The first policy draft was produced in January 2010 following which the committee decided to contract out further development of the policy document to a preferred service provider. Once finalised the draft policy will be presented to Ministers for approval. Being a multi-sectoral subject, the policy document may need to be presented to more than one sectoral committee of Ministers. This issue will need to be discussed with legal advisors.

The second stage in the process would be the assimilation of the agreed policy into domestic or national legislations. This process can be driven by members of the SADCTRLC in their countries. It is expected that many awareness raising activities

and stakeholder consultations at the national level will also be carried out at this stage. Training will be a key component of the overall GHS approach and should incorporate information as it is introduced into the workplace. Employees and emergency responders will need to be trained on all new program elements, from hazard statements to pictograms.

The administrative architecture of the regulation's implementation will be entirely up to each Member State. SADCTRLC should however still have oversight roles to ensure that broad implementation procedures are harmonised in all countries, especially where there may be an impact on trade.

4.6 Implementation challenges

By nature legislative processes are slow and bureaucratic. It would be very difficult to set a common implementation schedule for the GHS in SADC for all countries. In 2002 the UN indicated a desire to see full adoption of the GHS by its Members by 2008. Even the more developed economies like the United States and European Union could not achieve this and the EU for example, has given its Member States until 2015 to comply with the new GHS based chemicals classification and labelling rules. It is more likely that SADC countries will domesticate the SADC GHS at differing pace depending on their technical and financial capacity to regulate.

Full uptake of the new regulations will depend on the pace at which stakeholders understand and are able to use the new regulations. Therefore, educating employees, consumers, emergency responders on the updated chemical and product classifications and related pictograms, signal words, hazard statements and precautionary measures will present a huge training challenge.

The GHS itself does not include requirements for testing substances or mixtures. Therefore, there is no requirement under the GHS to generate test data for any hazard class. Test data already generated for the classification of chemicals under existing systems should be accepted when classifying these chemicals under the GHS, thereby avoiding duplicative testing and the unnecessary use of test animals. This is fine for countries that have always had reasonably well advanced classification systems and credible data is available. In SADC the quality infrastructure is still under development and the use of test data under the new GHS system may still be contestable between parties.

4.7 Transitional arrangements

A transitional period for the implementation of the GHS regulation in SADC will be required. The challenges outlined above immediately suggest that transitional arrangements may be complicated as our countries are quite diverse in terms of technical development status. However, what is important is that all countries agree to start implementing the GHS regulation at the same time. At least then, the intention to comply is established and trade/commercial forces may actually move

those countries that have a strong interest in the issue to progress towards implementation quicker. Still, a ‘*smart*’ regional objective could be to stipulate a time period based on select products (i.e. apply the regulations for agreed range of chemicals e.g. fertilizers and fuels which are very strongly traded).

External trade, i.e. export to SADC of chemicals from countries that are already implementing UN GHS may serve to accelerate implementation of the new regulations in the region.

5 Summary/Way Forward

5.1 Policy Proposal

5.1.1 SADC, through its Technical Regulations Liaison Committee (SADCTRLC) has established the need to put in place a regionally acceptable mechanism for the classification and labelling of chemicals in the region. The Committee has identified the UN GHS guide as a suitable basis for regional regulation of chemicals in the region.

5.1.2 Regional regulation of chemicals has benefits to the regional chemical industry, government, workers and consumers as outlined in section 3.3. Additionally, implementation of the GHS facilitates trade by simplifying labelling symbols and safety data sheets presentation through harmonization. As the GHS is being implemented globally, chemicals exported from the region to other parts of the world will be more readily accepted when they are classified and labelled in accordance with UN GHS guidelines.

Prior to SADCTRLC resolving to implement chemicals technical regulations based on the UN GHS in the region, four SADC countries had already started work on its implementation in their jurisdictions with two of them aligning their chemicals regulations management to the first edition of the UN GHS.

5.1.3 To implement the GHS regionally, the SADTRLC has already worked with SADCSTAN to develop a harmonised regional GHS standard upon which the regional GHS technical regulations will be based.

5.1.4 This policy proposal will be submitted to the relevant SADC Ministerial Committees for approval before work to implement it at national level begins. It is also recommended that the proposal be considered by SADC Secretariat legal officers who should advise on the appropriate way forward. In particular it will be important to know which Ministers to present the proposal to since the issues are cross cutting between Trade, Transport, Labour and perhaps even Environmental departments. Confirmation of whether it needs to be cleared through the Ministers of Justice will also be required.

5.1.5 The successful implementation of the GHS technical regulation regionally will serve as an important test case for broader regional cooperation in the area of technical regulations in SADC; an important activity with respect to trade facilitation.

5.2 *Technical Implementation Phase*

5.2.1 Once the policy paper is approved, the important second phase of rolling out the technical elements of GHS implementation can start. This will include among other things:

- identification of the products to be classified,
- determination of their hazard classes,
- implementation of the new hazard codes,
- the construction of SDSs for each chemical,
- awareness building and training of workers, emergency responders and the regulators themselves,
- resource mobilization and financing, and
- monitoring and evaluation

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- South African National Standard SANS 10234:2008 Edition 1.1 (Draft Updated With Proposed Changes for SADC Harmonization - Dec 2010) - Globally Harmonized System of Classification and Labelling of Chemicals (GHS)
- GHS - full text of the United Nations standard (classification criteria, labels, & SDS) http://www.unece.org/trans/danger/publi/ghs/ghs_rev01/01files_e.html
- GHS Purple Book (3rd Edition) The UN published the 3rd revised edition of the GHS "Purple Book" in July 2009. Major revisions include: the addition of respiratory and skin sensitization 1A & 1B subcategories; addition of ozone layer hazardous substance class; and revision of aquatic chronic toxicity classification criteria.
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Table 1: THE CHEMICAL INDUSTRY IN SADC

	COUNTRY	CHEMICAL INDUSTRY	COMMENTS
1	Angola		
2	Botswana	Salt, Soda ash	The chemicals industry in Botswana has experienced a high rate of expansion over the last ten to fifteen years.
3	DRC		
4	Lesotho	Pharmaceuticals and medicines	
5	Madagascar	Pharmaceuticals and medicines	
6	Malawi		
7	Mauritius	Fertilizers	
8	Mozambique	Gas, metals, detergents	
9	Namibia		A cement plant, with a capacity of 200 000 tons, began operating in 1991 but later closed down. Talk of oil and gas discoveries off shore.
10	Seychelles		
11	South Africa:	<p><u>Base chemicals</u> ->Oil, acrylonitrile and acrylic fibres, polypropylene, higher-value phenolics, alpha olefins, alkylamines, as well as higher-value ketones, xenon and kryptonite, ethylene, propylene, butadiene, benzene, toluene, xylenes, and methanol; ammonia, caustic soda, sulphuric acid, chlorine, sulphur, soda ash, bromine, fluorine and phosphoric acid; benzene and other aromatics; metals</p> <p><u>Intermediate chemicals</u> ->ammonia, waxes, solvents, phenols, tars, plastics, and rubbers.</p> <p><u>Chemical end-products</u> including processible plastics, paints, explosives,</p>	<p>(1) The chemicals industry in South Africa has a long history, having been founded in the latter part of the nineteenth century as a result of the demand for explosives and chemicals to support the mining industry.</p> <p>(2)South Africa's chemical industry is of substantial economic significance to the country, contributing around 5% to GDP and approximately 25% of its manufacturing sales.</p> <p>(3)South Africa's chemical industry is highly complex and widely diversified, with end products often being composed of a number of chemicals which have been combined in some way to provide the required properties and</p>

		and fertilisers. <u>Speciality chemical end-products</u> tend to be lower volume, higher added-value chemical products e.g. pharmaceuticals, agro-chemicals, bio-chemicals, food-, fuel- and plastics - additives fall into this category.	characteristics. It can be divided into four broad categories: Base chemicals; Intermediate chemicals; Chemical end-products; Speciality end-products.
12	Swaziland	Plastics and synthetic rubber in primary forms, Pharmaceuticals and medicines	
13	Tanzania	Cement, ammonia/urea, fertilisers, pharmaceutical products, oxygen and carbon dioxide	Talk f discovery of natural gas and oil
14	Zambia	Adhesives, cement, fertilisers, ammonium nitrate, nitric acid, ammonium sulphate, methanol, liquid carbon dioxide, blended lubricants	Zambia's chemical industry contributed 11 % of the country's total manufacturing revenue in 1992
15	Zimbabwe	Xylene, naphthas, road tars, toluene and benzene from crude benzol. Cement, fertilizers, detergents, metals, phosphates,	

[Information derived from MBENDI INFORMATION SERVICES: www.mbendi.com]

ANNEX 1.



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TERMS OF REFERENCE

DEVELOPMENT OF A DRAFT POLICY PAPER FOR THE USE AND IMPLEMENTATION OF THE GLOBALLY HARMONISED SYSTEM OF CLASSIFICATION AND LABELING OF CHEMICALS (GHS) IN REGULATIONS FOR OCCUPATIONAL HEALTH AND SAFETY AND TRANSPORT IN THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

1. PURPOSE

To appoint a preferred service provider that will be responsible for the development of a SADC Globally Harmonised System of Classification and Labelling of chemicals (GHS) draft policy paper to assist the SADC GHS Extended Working Group

committee to finalise the SADC GHS draft policy paper which will be submitted to the SADC Trade and Industry Ministers for their consideration.

The SADC GHS policy will guide legislative processes in SADC in order to implement common GHS technical regulations based on the SADC GHS Harmonised Text 10234 that is also based on the United Nations Globally Harmonised System of Classification and Labeling of Chemicals (GHS) known as the Purple Book.

The SADC GHS Policy will also allow SADC member states to start developing and implementing national regulations that will be guided by the policy paper.

2. BACKGROUND

Presently, many different countries including SADC countries have different systems for classification and labelling. In addition, several different systems can exist even within the same country. This situation has been expensive for governments to regulate and enforce. It is also costly and confusing for companies who have to comply with many different systems, and confusing for workers who need to understand the hazards of a chemical to work safely. The Globally Harmonized System Classification and Labeling of Chemicals promises to deliver several distinct benefits. Among them are; promoting regulatory efficiency, facilitating trade, easing compliance, reducing costs, providing improved, consistent hazard information, encouraging the safe transport, handling and use of chemicals promoting better emergency response to chemical incidents and reducing the need for animal testing.

The African Region identified the implementation of the GHS as a priority during their 2006 meeting in Cairo, Egypt and reconfirmed the priority at the African Core group meeting in Nairobi, Kenya in August 2009 and recommended a sub-regional approach.

The SADC Technical Barriers to Trade Stakeholders Committee (SADCTBTSC) held a meeting on 25 April 2009 in Gaborone and resolved to request SADC Standards (SADCSTAN) to start work on the harmonization of standards in the area of classification and labeling of chemicals in 2009. A resolution was also made by the above mentioned meeting that SADC Technical Regulations Liaison Committee (SADCTRLC) should develop technical regulations on the classification and labeling of chemicals. SADCTRLC agreed to prioritise the

development of a SADC technical regulation on the classification and labeling of chemicals also called the SADC GHS.

The GHS was developed as a result of the Agenda 21 and agreed in 1992 at the Rio Summit. The first edition of the GHS, which was intended to serve as the initial basis for the global implementation of the system, was approved by the United Nations Committee of Experts at its first session (11-13 December 2002) and published in 2003. The first revised edition of the GHS (GHS Rev.1) was published in 2005 and included the amendments to the first edition adopted by the United Nations Committee of Experts at its second session (10 December 2004). At its third session (14 December 2006), the United Nations Committee of Experts adopted a set of amendments to the first revised edition of the GHS, which are included in the second revised edition of the GHS (published in July 2007).

At its fourth session (12 December 2008), the United Nations Committee of Experts adopted a set of amendments to the second revised edition of the GHS, which were consolidated in document ST/SG/AC.10/36/Add.3. The third revised edition of the GHS (published in July 2009) takes into account all these amendments which concern, inter alia: new provisions for the allocation of hazard statements and for the labelling of small packagings; two new sub-categories for respiratory and skin sensitization; the revision of the classification criteria for long-term hazards (chronic toxicity) to the aquatic environment; and a new hazard class for substances and mixtures hazardous to the ozone layer.

SADCSTAN has used the work of the committee of experts to develop and finalize a SADC Harmonized Text for GHS in May 2011.

The SADC Harmonized Text for GHS covers classification criteria, labeling, packaging and safety data sheet requirement of hazardous substances and mixtures including waste.

3. SCOPE OF WORK

The preferred service provider will be required to develop a draft SADC GHS Policy Paper. A first draft has been developed by the SADCTRLC, however a more comprehensive policy proposal is required. The above-mentioned draft and other sources of information as recommended by the extended working group are specified in item 7. The preferred service provider will also be required to present the SADC GHS Policy Paper to the SADC GHS

extended working group. The SADC GHS extended working group meeting is planned for October 2011.

4. TERMS OF CONTRACT

The draft SADC GHS Policy Paper needs to be discussed for approval by the SADC GHS extended working group. A meeting of the SADC GHS extended working group to discuss the draft policy paper will be in October 2011. The work must be completed by 15 October 2011.

The preferred service provider must enter into an agreement with PTB to carry out the duties of developing the draft SADC GHS Policy. The SADCTRLC Chairperson and the Regional Coordinator, in consultation with the SADC GHS extended working group will oversee the work of the preferred service provider.

The Briefing Session will take place during the SADCTRLC working group meeting to be held in South Africa, Pretoria on 4-5 August 2011 which the preferred service provider needs to attend. The preferred service provider needs to present his approach and research methodology to the SADCTRLC Chairperson and Regional Coordinator as well as the timeline by 23 August 2011.

The policy paper needs to be in Microsoft Word format. The preferred service provider will also prepare a powerpoint presentation.

5. CRITICAL ELEMENTS

The policy proposal should include the following sections:

Situation analysis; Vision, Rationale; Guiding Principles; Objectives; Measures; and Implementation Framework, Institutional Arrangement, Legal Framework, Monitoring and Evaluation, Resource Mobilisation and Financing

The policy paper should also consider:

- The background and history of the GHS
- Strategy Objectives of the SADC GHS Policy

- Necessity to implement GHS
- Importance of the SADC GHS Policy
- SADC GHS Harmonized Text
- Current Status of GHS Implementation in member states
- Transitional Arrangement
- Recommendation and guidance for Implementation of SADC GHS

6. REPORTING

The preferred service provider will be required to report and forward the draft policy paper to the SADCTRLC Regional Coordinator and the SADCTRLC Chairperson for final approval.

7. SOURCE DOCUMENTS

- Draft SADC GHS Policy Proposal
 - SADC TBT Annex
 - United Nations GHS (Purple Book)
 - Strategic Approach to International Chemicals Management (SAICM)
 - SADC Harmonized Text for GHS
 - Any other relevant documents
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